



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 05 Nollaig 2013*

*Thursday, 05 December 2013*

Chuaigh an Ceann Comhairle i gceannas ar 09.30 a.m.

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*Paidir.*  
*Prayer.*

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## Ceisteanna - Questions

### Priority Questions

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** I wish to clarify that we have no difficulty with Deputy Éamon Ó Cuív taking Question No. 1 on behalf of Deputy Barry Cowen.

**An Ceann Comhairle:** It has already been ruled that it is not possible to do that under the new Standing Orders. There is no provision for Deputy Éamon Ó Cuív to take the question. I had to refuse Deputy Shane Ross recently on the same issue.

**Deputy Fergus O'Dowd:** May I read the reply?

**An Ceann Comhairle:** It can be circulated. I am sorry, but that is what is stated in Standing Orders.

**Deputy Éamon Ó Cuív:** I am sorry to interrupt, a Cheann Comhairle, but do you mean the question cannot be taken at all?

**An Ceann Comhairle:** It cannot be taken at all.

**Deputy Éamon Ó Cuív:** Therefore, there will be no answer.

**An Ceann Comhairle:** No.

**Deputy Éamon Ó Cuív:** It will be answered in writing.

**Deputy Fergus O'Dowd:** The question was to ask the Minister-----

**An Ceann Comhairle:** No, we are not taking the question.

**Deputy Fergus O'Dowd:** And I cannot read the answer.

**An Ceann Comhairle:** It cannot be taken.

**Deputy Fergus O'Dowd:** Is Question Time cancelled?

**An Ceann Comhairle:** No, that question cannot be taken.

*Question No. 1 replied to with Written Answers.*

### **Water and Sewerage Schemes Funding**

2. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government the progress made in the past 12 months on phase 2 and phase 3 of the Mountmellick sewage scheme; and the progress in having those houses in the town that are using septic tanks connected to the mains network. [51817/13]

**Deputy Brian Stanley:** Shall I read the question?

**An Ceann Comhairle:** If the Deputy wishes, he has 30 seconds in which to make a comment about his question prior to the Minister's reply.

**Deputy Brian Stanley:** Do the same rules apply as previously?

**An Ceann Comhairle:** The Minister has two minutes in which to reply; the Deputy has one minute in which to put a supplementary question and the Minister has one minute in which to reply.

**Deputy Brian Stanley:** Therefore, the Minister is first.

**An Ceann Comhairle:** If he so wishes, the Deputy has the right to address his question for 30 seconds before the Minister responds. That is provided for in the new Standing Orders.

**Deputy Phil Hogan:** I thank the Ceann Comhairle for his clarification.

Mountmellick sewerage scheme, phases 2 and 3, is listed in the current water services investment programme 2010–13 as a scheme to progress through planning. The scheme aims to improve the wastewater infrastructure to meet the needs of existing development within the town. Phase 2 will involve the upgrade and expansion of the existing collection network and treatment facilities, while phase 3 will look to the long-term ultimate development of Mountmellick, including a new sewage collection system to serve undeveloped areas within the town boundaries.

An Bórd Pleanála granted conditional planning permission for the scheme in May 2012. A preliminary report has been submitted to my Department for the scheme and is under review. The council is reviewing certain areas within the town boundaries with regard to properties served by septic tanks. In addition, an application for a wastewater discharge licence has been made to the Environmental Protection Agency. The outcome of the council's review and the decision on the application for a wastewater discharge licence will feed into the assessment of the preliminary report.

From 1 January 2014, Irish Water will be responsible for the delivery of water services capital infrastructure. Accordingly, it is preparing a capital investment plan for the period 2014 to 2015 which will provide for the transition of projects included in the water services investment programme 2010-13.

**Deputy Brian Stanley:** I thank the Minister for his reply. The reason I raise the issue is the takeover by Uisce Éireann of services from 1 January 2014. I note that it is putting in place a capital investment plan for 2014. I hope the project can be included, given that there are 80 houses with septic tanks in various parts of the town. There are others in the Garoon, Mount Manor, Pond Lane, Debicot and Chapel Lane areas. Clearly, there is a health and environmental issue, as there is poor percolation, given the number of septic tanks within such a small area. There is a high water table in the Mountmellick area and also a problem with the existing network. This is acknowledged by virtue of the fact that phase 2 of the scheme is supposed to lead to the upgrade of the network. The Minister is correct in saying that in May 2012 conditional planning permission for the scheme was granted by An Bord Pleanála. In my question I asked what progress had been made in the past 12 months, but according to the reply it appears that not much progress has been made. The design work has been done for the scheme. If Mountmellick, the second largest town in the county, is to develop in a sustainable way and it is to attract industry, it needs a proper drainage and sewerage system.

**Deputy Phil Hogan:** We are making progress. Mountmellick sewerage scheme is included in the programme for the period 2010 to 2013. As I said, the Environmental Protection Agency has to adjudicate on the application for a wastewater discharge licence. It is an independent agency and I cannot interfere in that process. The application was lodged just a few months ago arising following the decision by An Bord Pleanála to grant planning permission. The process is taking its course and I hope the decision can be made in the next couple of months.

**Deputy Brian Stanley:** I understand the application for the wastewater discharge licence has been with the EPA for the past four or five months. I understand it is one of the necessary pieces of the jigsaw to be put in place. At this point there should not be any further delay. My information is that the council has supplied all of the necessary information and that the project is ready to proceed. The design work has been done. All that is required is for the wastewater discharge licence application to be sorted out as the sewerage plant has been upgraded. I have a letter, dated 17 September 2007, issued during the boom and sent by a former Minister to local people stating no less than €12 million had been allocated. I recognise that this is not the Minister's fault, but I highlight the fact that it was not done. As the town is expanding, it needs this infrastructure. When Uisce Éireann opens for business, we must try to have it include this as one of its capital projects in the period 2014 to 2015.

**Deputy Phil Hogan:** I have just told the Deputy that all of the projects listed in the water services investment programme 2010-13 will transfer to Irish Water on 1 January 2014; therefore, the project will be included in the capital investment plan for the period 2014 to 2015. We cannot progress the project any further until we receive the EPA licence. It will not move backwards when responsibility is transferred to Irish Water. I hope it will progress much more quickly than in 2007.

### **Homeless Accommodation Provision**

3. **Deputy Maureen O'Sullivan** asked the Minister for the Environment, Community and

Local Government if he will provide an update on supported temporary accommodation; if he will further provide details of matters outstanding on the pathways to home programme; if he has had any discussion with the Department with responsibility for addiction on the need for distinct drug-free accommodation; and if he will make a statement on the matter. [52069/13]

**Deputy Maureen O’Sullivan:** My question relates to the homeless situation. We have the pathways to home model and I am focusing in particular on the support of temporary accommodation aspect of the model. I seek an update on the position because we know about the crisis in the situation, in particular for those coming out of drug treatment or those still in addiction.

**Deputy Phil Hogan:** My Department’s role in respect of homelessness involves the provision of a national framework of policy, legislation and funding to underpin the role of housing authorities in addressing homelessness at local level.

Statutory responsibility for the provision of accommodation for homeless persons and related services rests with housing authorities. It is a matter for individual authorities to determine the level and category of accommodation to be included in their funding programmes. Emergency accommodation options may include hostel, bed-and-breakfast type accommodation and temporary supported arrangements.

The Government’s homelessness policy statement, which was published by my colleague, the Minister of State, Deputy O’Sullivan, earlier this year emphasises a housing-led approach to homelessness. This is about accessing permanent housing as the primary response to all forms of homelessness and it should reduce the amount of time spent in homeless services, especially emergency accommodation.

Homelessness is a complex phenomenon and measures to address it require an integrated approach across Government. The combined forum of the cross-departmental team on homelessness and national homelessness consultative committee provides an opportunity for all statutory and non-statutory stakeholders to discuss and consider appropriate approaches to tackling homelessness. The Health Service Executive and the Department of Health are represented on this forum.

As the lead authority for homelessness in the Dublin region, Dublin City Council works in partnership with a range of voluntary and statutory agencies to deliver services to people experiencing homelessness under the pathway to home model. The Dublin region has been implementing an integrated model of service provision to homeless people which includes supported temporary accommodation. More than 1,500 beds are provided nightly to homeless people in Dublin and of these approximately 80 beds have been provided under the current cold weather initiative.

The delivery of care, personal and health supports for recovering drug misusers is not the responsibility of my Department or housing authorities. It is a matter within the competence of the Health Service Executive.

**Deputy Maureen O’Sullivan:** I thank the Minister for that answer. Part of the problem is that accommodation for those in recovery from addiction is falling between two stools, the Minister’s Department and the Department of Health. My question relates to the difficulty with drug-free accommodation especially in the Dublin area generally. Anyone who has worked with those in addiction knows that we need the optimum circumstances for those who are in recovery to continue in recovery.

There are difficulties at the moment with some of the hostel accommodation. Since there is a crisis, those who are currently using are being put in the same accommodation as those who are drug-free. I met a group of young men recently in one of these hostels. It is a matter between Dublin City Council, Depaul Ireland, YMCA and the HSE and they are working on this together. However, it simply does not make sense for these young men and women who are in recovery. They have come through the rehabilitation process and are linked with projects. They have their lives back on track and are doing remarkably well. Now, that recovery is being made vulnerable because those currently using and living chaotic lives are moving into the same accommodation. Where is the drug-free accommodation? Where are we on that?

**Deputy Phil Hogan:** I agree with Deputy O'Sullivan that it is a serious issue. The need to continue to have in place abstinence-based facilities and programmes for people exiting drug and alcohol rehabilitation centres is acknowledged. Dublin City Council is working in partnership with the HSE and the non-governmental service providers to increase the quantum of units required for abstinence-based residential facilities. It is expected that approximately 50 units will be brought on stream early next year. Part of the work required is to develop protocols for the discharge of people that are exiting residential treatment to ensure a homeless prevention approach is taken. However there is, and will continue to be, abstinence-based homeless accommodation provided in the region. If Deputy O'Sullivan has any further information on how we can assist people further, in addition to the 50 units we have provided for early next year, I would be pleased to speak to her about the individual circumstances she has outlined.

**Deputy Maureen O'Sullivan:** I am pleased to hear the support for and commitment to the abstinence-based approach. Another group for which this is relevant are those who are coming out of prison who managed to use the facilities in prison to become drug-free. Given that we have a housing crisis in Dublin this particular group are further down the pecking order.

I will go back and discuss the projects with the groups and whether there are any further information or suggestions that they can propose. Anyway, a recent example of how the matter was handled was not good. The first the young people in the accommodation knew of it was when they saw other young people coming in with their chaotic lives. I recognise, ultimately, that recovery from addiction is a personal responsibility but we can assist it. The last thing anyone wants is for people who are in recovery to relapse because they are the people who are at the highest risk of suicide from overdoses.

**Deputy Phil Hogan:** I understand there is a management transfer arrangement seeking to be worked out between Depaul Ireland and Dublin YMCA. The discussions about this have been going on for many years. There is hope that this particular agreement can be worked out. The transfer is being supported by Dublin City Council and the HSE.

### **Leader Programmes Expenditure**

4. **Deputy Éamon Ó Cuív** asked the Minister for the Environment, Community and Local Government the total allocation for projects under the Leader programme 2007-2013; the latest date for companies to submit payment claims to his Department under the programme; the spend to date in actual amount and as a percentage of the allocation; and if he will make a statement on the matter. [52067/13]

**Deputy Éamon Ó Cuív:** My question relates to the spend under the Leader programme.

What spend has been achieved to date? Now that we are entering the home straight, how we can to ensure a full spend under the programme?

**Deputy Phil Hogan:** During 2011, the European Commission approved a change in the maximum co-funding rate from 55% to 85% in respect of Leader. This has had the effect of reducing overall funding available under the programme. The overall value of the Leader elements of the Rural Development Programme is currently €370 million. Of that up to 20% can be spent on administration, leaving a minimum of €296 million available for projects and animation activities. Several local development companies have indicated that they will spend less than the 20% allowed under the regulations for administration and this money can be diverted into funding for projects.

To date €285.5 million has been committed with a further 30 projects to the value of €9.1 million still under assessment. My Department is in ongoing contact with the relevant development companies to resolve outstanding issues as quickly as possible. These issues can be procurement or planning or whatever. I expect that this process will be finalised in the coming weeks. In addition, projects to the value of €1.8 million are currently under appeal.

Under EU regulations expenditure can continue under the programme up to the end of 2015. However, I anticipate that most local development companies will complete their expenditure before the end of 2014, with a small number completing them in early 2015.

The total project spend under axes 3 and 4 of the programme is currently €175 million, which represents 59% of the estimated project funding available. In addition, I anticipate that up to a further €8 million will be spent on projects before the end of 2013. The LDCs also administer a food measure under axis 1 of the programme. To date almost €2.2 million has been committed under this measure with expenditure of €318,172.

**Deputy Éamon Ó Cuív:** The Minister said 59% of the money has been spent. Will he clarify whether that includes project money and administrative money? Will the Minister provide the percentage of project money? Allowing that there is €300 million for project money, what percentage of the project money has been spent? I understand that a high percentage of the administrative money has been spent as we come to the end of the programme.

When looking at the Exchequer returns I noticed that there was an under spend of €172 million in gross capital expenditure by the Department. How much of the under-spend relates to the Leader programme? With an €8 million spend between now and the end of the year, how much does the Minister anticipate will relate to Leader by the end of the year? Will the Minister be able to carry forward all of the under-spend to 2014?

**Deputy Phil Hogan:** As Deputy Ó Cuív knows better than anyone, it is a multi-annual funding programme, which has regularly underspent the annual allocations since it began in 2009. The Department has been in a position to carry over significant amounts of unspent money into the following year and the same will happen on this occasion. Leader spending has increased each year since 2009 and I anticipate that in the order of €50 million will become available to carry forward in 2014 to fund Leader projects.

Final decisions will be made in a wider context of the Department's overall capital allocation as published in the Revised Estimates Volume. I assure Deputy Ó Cuív that in respect of the figures I referred to there is a draw down in the order of 59%. I was keen to ensure that 100% commitments would be made in the programme. There was a major problem with that

throughout 2013 whereby people were inclined to be slow about making those commitments. The measures and action we took ensured that we focused their attention on getting projects in and getting them over the line in respect of any difficulties they might have with regard to planning and procurement. There are still some issues to be resolved but I have adopted a flexible approach to ensure that we have the maximum commitment.

**Deputy Éamon Ó Cuív:** I understand that Europe is more flexible than it has been in the past about deadlines and that is useful.

**Deputy Phil Hogan:** We are nicer to them than the Deputy was.

**Deputy Éamon Ó Cuív:** I got on very well with them. It would allow the Minister to ensure there is a full spend, which is important. The Minister said he would be carrying forward €50 million into next year. The basic allocation was €96 million for Leader in the Estimate. There was a huge underspend in his Department, which I cannot believe. Imagine all the economic activity it could have achieved. Some €172 million of economic activity is being put aside, but that is a question for another day.

Will the Minister confirm that there will be a big drive to try to get as much money as possible out before the end of the year and that every application ready to be funded will be funded by the end of the year? In other words, where the work is done and the application comes in for the payout, those payouts should be expedited and, as much as possible, paid out before the end of the year. Does that mean the Minister will have achieved an expenditure of €81 million under Leader by the end of the year, if he is only carrying forward €50 million? I take it all of this underspend relates to water and sewerage schemes and other things.

**Deputy Phil Hogan:** Deputy Ó Cuív can take it I am doing everything I possibly can to move projects in the Leader programme. There are just 30 outstanding projects to be assessed between now and the end of the year.

**Deputy Éamon Ó Cuív:** I am talking about the spend.

**Deputy Phil Hogan:** I have no difficulty paying out. I do not delay anybody in getting money. We have sufficient moneys for the projects in the system currently. There are 30 outstanding projects, some of which are in the Deputy's consistency, that are waiting for assessment. If I get any project approval and submission for over €150,000, I do not delay anybody in regard to-----

**Deputy Éamon Ó Cuív:** If somebody actually completes the project and applies for the cheque, will the money be transferred before the end of the year?

**Deputy Phil Hogan:** If everything is in order, there will be no difficulty. There will be no time lag in regard to paying out any moneys available. The underspend does not apply to the Leader programme.

### **Traveller Accommodation**

5. **Deputy Mick Wallace** asked the Minister for the Environment, Community and Local Government if, in view of the €50 million underspend by local authorities relating to Traveller accommodation discussed at committee level in May and the current crisis in Traveller accom-

modation, he will now exercise his powers under section 111 of the Housing Act 1966 to order local authorities to perform these housing functions within a specified period of time; in the event of non-compliance, if he will invest himself with those powers of performance; if not, if he will set out his plans to sort out Traveller accommodation with just €3 million for 34 councils in 2014. [52159/13]

**Deputy Mick Wallace:** The State has failed the Traveller community and probably never more so than over the past few years with austerity. In light of the €50 million underspend by local authorities on Traveller accommodation, will the Minister exercise his powers under section 111 of the Housing Act 1966 to order local authorities to perform their housing functions within a specific period of time, or invest himself with the powers to make it happen?

**Deputy Phil Hogan:** In accordance with the provisions of the Housing (Traveller Accommodation) Act 1998, responsibility for the assessment of the accommodation needs of Travellers and the preparation, adoption and implementation of multi-annual Traveller accommodation programmes designed to address these needs rests with individual housing authorities. The Department pays up to 100% of the cost of providing and maintaining Traveller-specific accommodation, designed to meet the needs of Traveller families.

The vast majority of Traveller families have opted for, and are accommodated in, standard housing provided by local authorities and financed under my Department's housing programme, or in private rented accommodation with rent supplement support. It is open to Travellers to opt for any form of accommodation, and local authority Traveller accommodation programmes are intended to reflect these preferences.

Over the past ten years, €282 million was paid to housing authorities from a capital budget of €343 million, amounting to about 80% of the available funding, resulting in a quantifiable improvement in the standard of living of Travellers. In 1999, prior to the first Traveller accommodation programme, the number of Traveller families was estimated at 4,790. Approximately 25% of these families then lived on unauthorised sites. Last year's annual count of Travellers identified a total of 9,991 families in the State. Notwithstanding the doubling of the numbers since 1999, only 3.3% of families were living on unauthorised sites in 2012. That said, more remains more to be done, and I expect the next round of the Traveller accommodation programme for the period 2014 to 2018 will address this need.

There are robust monitoring procedures already in place and I have no plans to change the existing arrangements for the delivery of Traveller-specific housing. The national Traveller accommodation consultative committee, comprised of Traveller representatives, local authority elected members and officials, an official from the Northern Ireland Housing Executive and an independent chair, is specifically tasked with overseeing the implementation of Traveller accommodation programmes and with advising me on policy or any particular issue which the committee feels should be brought to my attention.

My Department will continue to review progress by housing authorities in adopting their new programmes in 2014 and in implementing the strategies contained in these programmes. Housing authorities will also be required to carry out a mid-term review of their programmes and to identify obstacles to delivery and ways of overcoming these.

**Deputy Mick Wallace:** The State's efforts in this whole area have been toothless and ineffective. The Minister spoke about private accommodation being available to Travellers. Since

the recession, the State has reduced capital spending for construction of social housing for all people, sending people into the private rental market and expecting them to organise housing through that means. This causes major problems for members of the Traveller community because they do not have the same access to the private rental market that settled people have. Even among marginalised groups Travellers are at the bottom of the pile, and much of the time they end up living in sub-standard accommodation that no one else will take and in locations where there are no facilities. If, as many people would argue, we think we have problems with the Traveller community, they are of our own making. We are not doing enough to integrate them into normal society. The Government's policies discriminate against this marginalised group.

**Deputy Phil Hogan:** I do not agree with Deputy Wallace, because the position on the ground is clearly different from he has said. The position is clearly evident in the results of the 2011 assessment of housing needs. Of the 1,824 families on the housing list at that time, 1,789 opted for a standard house while only 18 opted for a bay on a halting site. Six families opted for group housing. Local authorities are doing everything they possibly can for Travellers in the same way as they are for any other group on the housing list in order to get them standard housing accommodation. If Traveller representative groups disagree with any of these conclusions, they have an opportunity through the national Traveller accommodation consultative committee to bring forward evidence that this not the case. I would certainly be prepared to review the situation if I got evidence.

**Deputy Mick Wallace:** If the Minister is saying that what I said is not true, will he tell me why 11% of Travellers are homeless, why they have a suicide rate of 10% and why psychologists say that Government policies are adding to their identity problem and causing mental health issues as well as depression and suicide? Will the Minister consider the Irish Traveller Movement's position in which it argues for a national agency to deal with Traveller accommodation issues instead of relying on local councillors who are concerned about losing votes in the next election and having to deal with planning objections by residents who are blatantly discriminatory or concerned about the value of their properties dropping? Traveller housing is a difficult, complex and multi-layered issue, but this does not mean that local councils can shirk their duties to provide social housing to a marginalised sector of society which has a high level of homelessness. As far as I can see, the Minister is shirking his responsibility. He has a statutory duty and he is not recognising or fulfilling it.

**Deputy Phil Hogan:** I do not share Deputy Wallace's opinion. We have provided additional funding for Traveller accommodation, and the Minister of State, Deputy Jan O'Sullivan, has said on a regular basis that if additional funding is required, particularly in an emergency, we will look at it in the same way as any other application for housing in a particular area. Everybody has a responsibility to try to help out people who are less well off in our community. Traveller representatives on the national Traveller accommodation consultative committee regularly brief the Minister of State, Deputy Jan O'Sullivan, and if the evidence about which Deputy Wallace is talking is reflected in their contribution at this committee, we will certainly look at it.

## Other Questions

## **Unfinished Housing Developments**

6. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government the number of housing units in ghost estates that are to be demolished; the location of same; the criteria for same; and cost of these demolitions. [51819/13]

**Deputy Phil Hogan:** The national co-ordinating committee, chaired by the Minister of State with responsibility for housing and planning, was established as a response to the report of the advisory group on unfinished housing developments and has harnessed the expertise and goodwill of the construction and banking sectors, local authorities, residents' representatives and NAMA.

Local authorities are continuing to pursue developers and others to comply with their obligations under planning regulations. Developer-, funder- or receiver-funded site resolution processes will remain the main vehicle for tackling unfinished developments. Five hundred and fifty three developments have been brought to a resolution point in this way over the past 12 months. It is expected that such processes will continue to make significant inroads into the remaining 992 inhabited unfinished developments.

Additionally, my Department has available a special resolution fund of €10 million, which was provided in budget 2014, to address the completion of infrastructure in developments which could not be resolved because of absences of, or inadequacies in, planning securities and other unforeseen cost and risk issues. The fund will be operated by the local authorities and will be carefully targeted mainly to address difficulties with public infrastructure that have arisen in certain developments included in the Department's national housing development survey 2013.

*10 o'clock*

It is also necessary to explore resolution of these developments which appear to be commercially unviable owing to location, build quality, commercial demand or other factors and where the most prudent course of action may be to seek the agreement of owners or funders to clear all or part of the site. Accordingly, the national co-ordinating committee established a group to oversee the development of a strategy for these residual developments and work with stakeholders in identifying and agreeing such sites for full or partial clearance, thereby improving the lives of existing residents and removing dangerous structures from public access. Some 40 such developments have been initially identified and fall to be addressed by the relevant owners, receivers and funders. The estates identified by the funders have not been identified to my Department for commercially sensitive reasons. The costs associated with this strategy are equally sensitive and I do not hold this information. Responsibility for the clearance of unviable estates remains with the funders and I welcome their participation in this pragmatic approach which will further underscore a return to a properly functioning property market.

**Deputy Brian Stanley:** I thank the Minister for his reply. There has been progress on the unfinished estates on which people live. If the money allocated is used in the same way as the €5 million already used, it will go a long way to sorting out some of the bad cases.

The no hope ghost estates are part of the legacy of the economic illiteracy in the State for many years. They blight the landscape and some are dangerous. There are apartments built in places where they will never be required. Imagine, there are apartments in Borris-on-Ossory where there would not be a huge demand for unfinished apartments, but there is a demand for

two, three and four bedroom houses. I do not want to see anything being demolished that does not have to be. The criteria need to be clearer for anything that can be put to use. The Balcon site on the Dublin Road in Portlaoise is appalling. I want to talk to the Minister about it.

**Deputy Phil Hogan:** The Deputy is being very parochial today-----

**Deputy Brian Stanley:** I have to be.

**Deputy Phil Hogan:** -----in moving from Borris-on-Ossory to Mountmellick.

**Deputy Brian Stanley:** Portlaoise.

**Deputy Phil Hogan:** I agree with the Deputy that there are some serious issues to be resolved and that 40 such developments have been identified to be partially or fully cleared. I hope that work will be done early in 2014. The Minister for Public Expenditure and Reform has sanctioned a new round of funding in the budget which will allow the Minister of State at my Department with responsibility for housing and planning, Deputy Jan O'Sullivan, to draw up lists in conjunction with local authorities of places where we can make further progress. We have made money available to deal with public safety issues to make these particular unsavoury locations safe. We need to resolve certain issues; some are in receivership, some are in liquidation, while in some cases there are no owners or funding available. Bonds will accommodate only part of the solution. We will ask local authorities early in the new year to give us their priority lists to identify where we can apply some of the €10 million to advance some of these projects.

**Deputy Brian Stanley:** On the site on the Dublin Road that I mentioned there are cables in the trenches with water. It will have to be levelled. It will be difficult to return some of these sites to agricultural use. The Minister has mentioned some where there is no developer or funder and no one is responsible. There is a huge need for local authority housing and there will be a need for sites, but land will become expensive again. If these sites were cleared and the State and local authorities have to step in, the Minister might take on board an idea I heard this morning, that where the State has to pick up the tab on estates on which there is some infrastructure, it acquire the sites, especially if NAMA is involved. This would be cost-neutral and the sites could be used for the development of affordable and social housing.

**Deputy Phil Hogan:** I agree with the Deputy. We will work with local authorities, particularly if projects are in NAMA, to get the best value for the taxpayer but also to provide much needed social housing for many people on waiting lists. If local authorities come forward with proposals along these lines, we will be glad to consider them.

**Deputy Brian Stanley:** It would help to pay back some of the €10 million the taxpayer is putting in.

**Deputy Phil Hogan:** I agree.

### **Homeless Accommodation Provision**

7. **Deputy Dessie Ellis** asked the Minister for the Environment, Community and Local Government his plans to deal with the very large increase in homelessness; and the deadline for the proposed delivery of 450 National Asset Management Agency for dealing with homeless-

ness. [51922/13]

37. **Deputy Barry Cowen** asked the Minister for the Environment, Community and Local Government the steps he is taking to address the rise in homelessness here; and if he will make a statement on the matter. [51925/13]

**Deputy Dessie Ellis:** As the Minister knows, there has been a huge increase in the number of people who are homeless. There are approximately 5,000 people who are homeless; 1,400 in emergency accommodation in Dublin each night, while there were 139 people sleeping rough in Dublin on 12 November. Recently two people who were sleeping rough died. These were tragic incidents. In the past six months the number of people in emergency accommodation has increased by 45.

**Deputy Phil Hogan:** I propose to take Questions Nos. 7 and 37 together.

Earlier this year my colleague, the Minister of State with responsibility for housing and planning, Deputy Jan O'Sullivan, published the Government's homelessness policy statement which outlined the Government's aim to end long-term homelessness by the end of 2016. The statement emphasises a housing-led approach which involves accessing permanent housing as the primary response to all forms of homelessness. The availability and supply of secure, affordable and adequate housing is essential in ensuring sustainable tenancies and ending long-term homelessness.

When the statement was published, a set of indicators which will be used to demonstrate the dynamics of homelessness as it is addressed was also announced. These indicators will give a clearer picture of homelessness in Ireland and, in quantifying its continuing extent, support the bringing forward of realistic and practical solutions. The Minister of State also established an oversight group to review the progress of the approach being advocated in the statement, identifying obstacles or practical solutions that can be taken on board.

Arrangements have been put in place to provide for the delegation of homelessness funding to the lead housing authority in each of the nine regions. The regional approach is considered more appropriate as it helps to bring a more strategic perspective to bear on action to address homelessness, including avoidance of over-concentration of homelessness services in certain centres and promoting appropriate regional availability of services, consistent with need. These arrangements seek to ensure the measures being pursued by housing authorities reflect the housing-led approach advocated in the policy statement. I agree with Deputy Dessie Ellis that this is a very serious matter which has escalated significantly.

With regard to NAMA units, my Department, the housing agency and NAMA continue to work together with housing authorities and approved housing bodies towards identifying suitable NAMA sites and bringing them into social housing use, in addition to dealing with some of the people who are assessed as homeless. To the end of September, 443 units have been completed or contracted under this process.

**Deputy Dessie Ellis:** It is quite clear that the level of homelessness has escalated, for which there are several reasons. Landlords are cutting off the contracts of people in receipt of rent supplement and the people concerned then have to look for another rent supplement, but they cannot find a rental property anywhere. It is a major crisis and they cannot access a place. If one goes online, one can see that there are no places available. If the people concerned do not find a place, they will end up homeless, which is a tragedy. Rents in the private rental market

have increased dramatically across the board and landlords are more inclined to push people out in order to secure higher rents, instead of taking rent supplement or people participating in the rental accommodation scheme. This issue needs to be addressed urgently. The Minister mentioned 450 units, but in three years the Government has delivered only 443 under NAMA.

**Deputy Phil Hogan:** NAMA identified 2,000 houses as suitable, but not all were suitable; therefore, work has to be carried out on them to make them suitable. The figure of 443 certainly represents some progress, but we would like to see more. I agree with the Deputy on that point. At the end of 2012, there were 4,837 people who were regarded as homeless and using emergency accommodation services in Dublin. At the end of September 2013, the equivalent number was 4,012; therefore, there has been some reduction but not enough. The daily average figure of new people presenting as homeless was 5.7 for the first nine months of the year.

The definition of homelessness involves several complex issues. Some people have been offered accommodation, but a small number - I do not want to overstate this - do not want to take it up, for one reason or another. People involved in outreach services in Dublin are working closely with rough sleepers and those who are homeless who do not want to take up emergency or private rented accommodation in order to help them to overcome some of their difficulties.

**Deputy Dessie Ellis:** We have a major crisis in housing. There are approximately 112,000 people across the country on housing waiting lists, and the homeless are obviously included in that. We need to be more imaginative in how we approach this issue. We need to build more social housing. Perhaps the way to do this is to have the local authorities operate to the same criteria as voluntary housing bodies, which can borrow money. Perhaps local authorities should be able to use their stock to borrow the money to build more social housing.

It is no use putting homeless people into properties with rent supplement because many of them need all types of supports and a different type of housing. People find themselves homeless for a variety of different reasons. Unless we provide more social housing overall, we are going to be continuing to fight this battle in terms of homelessness and the housing lists.

**Deputy Phil Hogan:** That is the reason the Minister of State, Deputy Jan O'Sullivan, succeeded in getting €30 million to kick-start the social housing programme with direct construction provision through the local authorities in 2014. She will be making an announcement in regard to these matters in terms of looking for calls for projects from local authorities in the next few weeks.

By the end of 2012, Dublin City Council had moved 879 homeless persons to independent living, and by the end of September 2013, a further 638 individuals had moved on to independent living, so there is a movement of people, although, obviously, it is still a major issue.

**Deputy Maureen O'Sullivan:** There is no doubt there is a crisis, particularly in Dublin. While I listened to the figures given by the Minister, my office is inundated with calls every day from people who are discriminated against because they are on a social welfare payment and landlords will not take them. There is also a major problem with single men trying to access accommodation. Even though the Minister is presenting figures, we are not seeing that movement on the ground, with people getting into accommodation.

While there was €15 million for local authorities, Dublin City Council could take that all on its own and it still would not have enough to deal with the housing crisis in Dublin. With the winter coming, we do not want to see a reaction to people dying on the street; the need is

to get in there at the preventative stage. With regard to emergency accommodation, we need a dispersal of those facilities throughout the city.

**Deputy Mick Wallace:** Does the Minister accept that the refusal of the Government to build social housing has a direct impact on the homeless numbers? Given the scarcity of private rented accommodation in Dublin city in particular at the moment, rents are increasing and the number of units available is going to fall. We are not going to see a serious number of new units coming on the market in the near future because many of them have not even been started and there is not yet an appetite among the developers to build much, so this problem will increase.

With regard to NAMA, the Minister referred to the 4,000 units that were originally earmarked. This is a body that has been in place for a few years. Does he agree that the lack of transparency in how NAMA works does not help matters and that things might move more swiftly if we could actually see what NAMA is doing?

**Deputy Phil Hogan:** In response to Deputy Maureen O’Sullivan, in recent years I have never ceased to be amazed at the amount of time spent by some people in emergency accommodation. The definition of emergency accommodation is certainly very open to question. An emergency could normally be expected to be for three or four weeks but it develops into six years on the north side of Dublin in many cases, which is a scandal and a waste of money from the point of view of the client. There is perhaps a vested interest in some cases in actually keeping people in that type of accommodation, which we are trying to address.

In response to Deputy Wallace, we are again going to work through local authorities in terms of direct construction provision. Contrary to what the Deputy might think, there is a lot of interest by builders and developers in regard to these matters. I am delighted we are using local authorities again to go back to the traditional way of building houses for families in local authority areas. There are 212 “voids” in the Dublin City Council area at present and we will be addressing those in 2014, in addition to some of the work Dublin City Council will be doing in terms of direct build. That will help to provide more houses for people.

**An Ceann Comhairle:** As the Deputies who asked Questions Nos. 8 to 10, inclusive, are not present, we move on to Question No. 11.

*Questions Nos. 8 to 10, inclusive, replied to with Written Answers.*

### **International Agreements**

11. **Deputy Seán Ó Feargháil** asked the Minister for the Environment, Community and Local Government if he has assessed the cost benefits of the Antarctic Treaty; and if he will make a statement on the matter. [51930/13]

**Deputy Seán Ó Feargháil:** I have raised the question of the Antarctic Treaty both with the Tánaiste and the Minister for the Environment, Community and Local Government on a number of occasions. Sometimes one meets with a certain sense of fun coming from the Government side in terms of the treaty, and this week the Tánaiste, or perhaps it was the Minister, Deputy Rabbitte, wondered were we going to bring on the huskies as far as this issue is concerned. The reality is that what is happening in Antarctica is of huge world significance and the protection of the Antarctic is vital. That is what I am trying to get at in this question.

**Deputy Phil Hogan:** I support the primary objective of the Antarctic Treaty, which is to ensure, in the interests of all mankind, that Antarctica continues to be used for peaceful purposes and will not become the scene or subject of international discord. The Antarctic treaty system at this stage includes the original treaty, the Convention for the Conservation of Antarctic Seals, the Convention on the Conservation of Antarctic Marine Living Resources and the Protocol on Environmental Protection to the treaty.

The question of Ireland's signature and ratification of the Antarctic Treaty has been considered by the Department of Foreign Affairs and Trade, in consultation with other relevant Departments, including my own. While no formal assessment of the cost and benefits of the treaty has been carried out by my Department, ratification would be likely to impose substantial administrative burdens arising from the necessity to review the corpus of environmental legislation to ensure compliance with the treaty. Additional administrative burdens would arise from the need to service relevant international meetings, together with other obligations arising from ratification should Irish citizens engage in activities coming within the remit of the treaty.

Given current issues which I have prioritised in various policy areas within the remit of my Department, including waste management, climate change, water services, local government reform and housing, my Department is not in a position to undertake the administrative burdens arising from ratification of the treaty at the present time.

**Deputy Seán Ó Fearghail:** While I appreciate the points the Minister is making, I do not agree with him. In excess of 40 countries have ratified the treaty at this stage. The year 2014 marks the centennial anniversary of the launch of the Endurance trans-Antarctic expedition of 1914-17. It is rightly seen as perhaps the most remarkable exploration in history, a tale of extraordinary leadership by Shackleton and a triumph of perseverance in the face of impossible odds. I suppose my interest in this is driven in part by the fact Ernest Shackleton was a Kildare-born individual. However, we must also face the reality that the encroachment of climate change and its disastrous consequences for the Antarctic underscores the need for a treaty system to be put in place. Other countries have done it. It may not be possible for us to do it immediately, given the financial constraints we accept the Minister and his fellow Ministers are under. However, I would like to hear some sort of a commitment from him that it would be the intention of the Government to do something about signing this treaty at some stage in the future.

**Deputy Phil Hogan:** I will give the Deputy some idea of what I am speaking about in terms of administration, which includes the following: the need to review the existing corpus of environmental legislation to ensure we comply with that treaty; the need to introduce a permit or licensing scheme for Irish citizens who may engage in activities coming within the remit of the treaty; the requirement that any such scheme applying to Irish nationals concerning activities in Antarctica which have an impact on the environment would need to be compliant with the provisions of the Aarhus convention on access to information, public participation in decision making and access to justice in environmental matters; and the provisions of EU directives, such as the public participation directive and the environmental impact assessment directive, might be of relevance. Therefore, any such ratification would potentially involve a significant legislative workload which, unfortunately, because of the cap on numbers in my Department and other current priorities, we are not in a position to deal with. Moreover, while the objectives of the Antarctic Treaty are commendable, Irish accession, in my view, would have minimal practical effect on the achievement of those objectives.

**Deputy Seán Ó Fearghail:** What the Minister said in conclusion is highly relevant. I would be practical in terms of my approach to environmental matters. We cannot save the world on our own. We cannot turn back the effects of climate change on our own. However, we can make a difference and we can fulfil the responsibilities that fall to us. What disappoints me about what the Minister is saying is his refusal to give us some sort of a commitment, or even to express the desire, that this is a treaty he would like to see the Irish Government sign up to in the future, when resources allow. More than 40 other governments have acceded to this treaty system, irrespective of the administrative burdens. It is clear from the replies to the parliamentary questions I have tabled that no cost benefit analysis has been carried out by any Department. That is tragic. It underlines a lack of commitment in the area of climate change, which is highly regrettable.

**Deputy Phil Hogan:** In the absence of substantial research activity being carried out in Antarctica by the State, Ireland would not enjoy voting rights under the treaty even if it signed and ratified it. I do not know what useful purpose there would be in prioritising it, but we will work with our partners in the European Union, as we do on all issues relating to climate change, and we will make our views known where appropriate. However, it is not a priority in the Department's workload, and I will not be dishonest with the Deputy and say we will prioritise it in the near future.

**An Ceann Comhairle:** The Deputies who tabled Questions Nos. 12 to 14, inclusive, are not present.

*Questions Nos. 12 to 14, inclusive, replied to with Written Answers.*

## **Electoral Reform**

15. **Deputy Seán Kyne** asked the Minister for the Environment, Community and Local Government if he will confirm that all necessary statutory instruments and orders will be signed by the end of this month in order that the provisions of the Electoral (Amendment) (Political Funding) Act of 2012 will apply to all future elections. [51931/13]

**Deputy Seán Kyne:** This question relates to the Electoral (Amendment) (Political Funding) Act and the regulations that must be signed by the end of this year to give effect to the legislation for the next local and general elections in terms of implementing the new rules.

**Deputy Phil Hogan:** The Electoral (Amendment) (Political Funding) Act (Commencement) Order 2012, signed on 27 September 2012, commenced sections 1, 2, 27 and 40 to 44, inclusive, of the Act with effect from that date. Sections 1 and 2 contain technical provisions. Sections 27, 40 and 41 introduced requirements on registered political parties to furnish an annual statement of accounts to the Standards in Public Office Commission, based on guidelines to be prepared by the commission.

The Act provides that before publication, the commission, following a consultation process, must submit the draft guidelines to the Minister for his or her consent to publication, with or without modification. Draft guidelines were submitted to me by the commission with a letter, on 14 November 2013, seeking my consent to publication. In performance of the statutory role assigned to me as Minister under the Act, I am currently giving consideration to these draft guidelines.

Sections 42, 43 and 44 of the Act provide that a registered political party will face a cut of half of its State funding under Part 3 of the Electoral Act 1997 if it does not have at least 30% women and 30% men candidates at the next general election. Seven years from the general election where this provision first applies, this figure will rise to 40%.

The Electoral (Amendment) (Political Funding) Act (Commencement) (No. 2) Order 2012, signed on 6 November 2012, commenced all remaining sections of the Act on different dates in 2013. Each of these sections is now in force. The sections commenced in 2013 provide for additional requirements and restrictions on the acceptance of political donations and apply to Members of, and candidates seeking election to, the Dáil, Seanad, European Parliament and local authorities, and to political parties, third parties and candidates at a presidential election. The thresholds for the receipt and declaration of political donations have been reduced; restrictions were put in place on corporate donations; cash donations over €200 have been banned and additional transparency requirements affecting the reporting of donations have been introduced. These provisions will apply at all future elections.

**Deputy Seán Kyne:** I welcome the fact that everything is in order in terms of implementing these regulations. They are wonderful and important initiatives in respect of banning corporate donations and introducing gender quotas. Obviously, we do not want this country to take the route of the United States, with big business being able to run politics. I welcome the Minister's statement that everything is in order with these regulations.

**An Ceann Comhairle:** The Deputies who tabled Questions Nos. 16 to 24, inclusive, are not present.

*Questions Nos. 16 to 24, inclusive, replied to with Written Answers.*

### **Local Authority Housing Issues**

25. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government the number of housing units now leased under the rental assistance scheme and social leasing schemes under local authorities; the cost of these two schemes to the Exchequer in 2013; and the projected cost for 2014. [51821/13]

**Deputy Brian Stanley:** This question is about the total amount spent on the rental assistance scheme and what is described as the social leasing scheme. This is in addition to the money spent on rent supplement. I ask the Minister to address this issue because there is concern about what has been spent in 2013 and the projected figure for 2014.

**Deputy Phil Hogan:** The rental accommodation scheme is operated by the Department in conjunction with the Department of Social Protection. Approximately €50 million will be spent in 2013 on assisting local authorities in providing essential accommodation under certain criteria for particular clients on their social housing lists. The same sum will be available in 2014, in conjunction with the Department of Social Protection.

**Deputy Brian Stanley:** There is €50 million for RAS in 2013 and there will be a similar figure for 2014. There is also a social leasing scheme, but the Minister has not given the figure for that. There is the RAS and the social leasing scheme, a long-term leasing scheme being undertaken by local authorities, which the Department encourages. I am seeking the figures

for that scheme as well for 2013 and 2014. While RAS is a quick solution, in view of the fact that building and land costs are low at present there is an opportunity to invest in social housing infrastructure and to get a return on it over the next 20 or 30 years.

**Deputy Pat Breen:** These schemes are extremely important for all local authorities. It is now the time of the year that local authorities prepare budgets for the following year, although Ennis Town Council has postponed its budget meeting until the new year. In the context of these schemes and the budget allocations, when will the Department give the allocations to town councils for 2014, given the uncertainty at present because some of these town councils will no longer exist after the middle of next year?

**Deputy Phil Hogan:** With regard to Deputy Stanley's question, I will get the figures for him on the social leasing scheme. I do not have them with me today, but I will provide the information for 2013 and 2014.

**Deputy Brian Stanley:** It is mentioned in the parliamentary question.

**Deputy Phil Hogan:** It is not included in my reply, and I apologise for that. I will refer back to the Deputy with the figure later today. On housing policy in general, the Department is reviewing the policy and the Minister of State, Deputy Jan O'Sullivan, is very conscious that new initiatives are required. We must also get the incremental purchase scheme up and running, apart from the direct provision we are giving local authorities to get a construction programme going.

On Deputy Breen's question, it was 2 December 2012 when allocations were notified to local authorities for 2013. We are not far from the same date this year and I expect we will be in a position to make allocations under the general purpose grants and all of the other funding arrangements in a short while. Under the service level agreements with local authorities Irish Water will also make financial provisions amounting to €528 million.

**An Ceann Comhairle:** The Deputies who tabled Questions Nos. 26 to 28, inclusive, are not present.

*Questions Nos. 26 to 28, inclusive, replied to with Written Answers.*

### **Unfinished Housing Developments**

29. **Deputy Dessie Ellis** asked the Minister for the Environment, Community and Local Government the estates that are to be demolished due to their unfinished state; the criteria for deciding on these developments; and the timeframe in which these demolitions are expected to happen. [51923/13]

**Deputy Dessie Ellis:** This is about the unfinished housing estates and the timeframe for their expected demolition. How many estates are involved?

**Deputy Phil Hogan:** A total of 40 estates are earmarked for demolition in 2014. They have been identified at this stage but, for commercially sensitive reasons, we are not able to give the Deputy their locations. We expect to proceed with that in 2014, with the co-operation of the unfinished estates resolution panel and the local authorities.

**Deputy Dessie Ellis:** One of the problems with these unfinished estates is that it is planned to demolish so many. We are told that some of them will be demolished because of their location. The houses might be perfect but they might be demolished because there is no demand in those areas. That would be a tragedy. The Minister must examine that very carefully. In addition, many estates have been built that are not up to the proper standard. It is not necessary to name them because the Minister is well aware of many of them. What steps will be taken to secure some estates which have deteriorated further? The Minister previously allocated approximately €6 million to secure them. Are further plans in place to secure some unfinished estates, many of which have not been taken in charge by local authorities? The process of taking estates in charge must also be expedited because many people are languishing in them.

**Deputy Anthony Lawlor:** It is sad to note that estates are being demolished when my local area lacks new homes. Will the Minister provide funding for housing in counties such as Kildare in which there is a shortage of local authority houses?

**Deputy Phil Hogan:** The Deputies correctly referred to demand for social housing and the need for new initiatives to address social housing provision. I alluded to a number of initiatives being taken by the Department. We are also reviewing housing policy to ascertain whether more can be done.

The condition of the 40 housing estates to be demolished is such that it would cost a substantial amount to rectify them. Legal issues also arise and the long process of obtaining compulsory purchase orders would probably be required. The option the unfinished estates committee is considering for the locations in question is a last resort. I suspect the 40 estates out of a total number of 1,500 unfinished housing estates are located in isolated rural areas rather than major urban areas.

The taking in charge of estates is a matter for local authorities, although I agree with Deputy Dessie Ellis that they should be more proactive in this regard. This is one of the issues I will raise with the County and City Managers Association in 2014 in an effort to advance the protocols and implement new measures to have more estates taken in charge.

**An Ceann Comhairle:** Question No. 30 cannot be taken as the Deputy who tabled it is not present.

*Question No. 30 replied to with Written Answers.*

### **Fire Safety Regulations**

31. **Deputy Clare Daly** asked the Minister for the Environment, Community and Local Government in view of the latest evacuation of residents due to non-compliance with fire safety building regulations in Navan and following similar exposure of non-compliance with fire safety regulations in the Fingal, Dublin city, south Dublin and Dún Laoghaire-Rathdown council areas, if he will list the councils which have taken enforcement action against developers or contractors in relation to non-compliance with fire safety regulations since he took office in March 2011; and if he will provide an update on any progress or discussion on the new building regulations with architects, engineers and other professional bodies. [51907/13]

**Deputy Clare Daly:** My question relates to fire safety. While Priory Hall has hit the head-

lines, other housing developments in all four Dublin local authority areas and Navan have been evacuated for fire safety reasons. The Minister's response thus far has been to state fire safety is a matter for local authorities. What action have local authorities taken in this regard? What does the Minister propose to do to compel them to carry out their functions? The lack of regulation in this area is placing lives at risk.

**(Deputy Phil Hogan):** As the Deputy noted, I do not have direct responsibility for this matter, although I have responsibility for policy. While the Fire Safety Acts and their implementation are matters for each fire authority, we continue to be in touch with local authorities about this very important issue.

I have taken a number of initiatives this year with regard to problems in certain developments, albeit not on the scale of Priory Hall, which is a matter that is in the course of being resolved under the direction and chairmanship of Dr. Martin McAleese. I expect local authorities to continue to use all of the powers available to them to address serious building defects.

Earlier in 2013 I signed into law the Building Control (Amendment) Regulations 2013, which will enter into force on 1 March 2014. The Deputy will note the considerable opposition to my efforts in this regard from professional bodies. My objective is to ensure implementation of that to which people sign up and I am empowering the professionals to ensure this takes place. The new regulations are designed to ensure competence and professionalism become part and parcel of building projects generally. They will usher in a new era of quality in the construction industry.

The Department continues to liaise closely with key industry stakeholders with a view to ensuring the new statutory requirements are fully understood and will work well in practice. In this context, we have had six versions of a code of practice for architects. I am frequently criticised for failing to consult. One would not have six versions of a document unless one was engaged in consultations, the purpose of which is to ensure the code of practice is implemented. My Department continues to consult professional groups to ensure they fully understand the measures under the building control regulations will be implemented from 1 March 2014 onwards. We are not changing the legislation but the manner in which it is implemented.

**Deputy Clare Daly:** Two important issues arise from the Minister's reply. The new regulations will not meet the challenges on the ground. This will remain the only country which does not have an effective government-backed audit or inspection scheme in the area of building regulations. Such a scheme is essential. The Minister will note that the Latvian Prime Minister was forced to resign as a result of a government decision to abandon a similar scheme.

The Minister's statement that he expects local authorities to use the powers available to them has been a consistent refrain. I have repeatedly brought to his attention that they have not done so in many cases. If he does not have the power to make them do so, he had better change the position. I will give one example of a case in point. The residents of a private housing estate, Martello, in my constituency have spent tens of thousands of euro on having professional reports compiled, which demonstrate a lack of compliance with fire regulations. Fingal County Council, either through a lack of resources or will, has failed to take this information seriously and proper inspections have not been carried out of works done, allegedly to make the development safe. Residents continue to live in dwellings which are not compliant with fire regulations, yet the local authority has not taken action. What action does the Minister propose to take to compel the local authority to act in the manner in which it should have acted in the

first instance?

**Deputy Phil Hogan:** I will not assume the role the Deputy has assumed of being an inspector for fire service provision for a particular dwelling. If she provides me with details, I will have the case investigated. I will not micro-manage the system as fire safety is a devolved function to local authorities. Perhaps the Deputy has a close relationship with the local authority in question. If she makes representations to it, we may be able to resolve these issues together. I will be glad to investigate the matter if she provides me with details.

**Deputy Clare Daly:** The Minister has details of the case because the residents have been in direct contact with him and the Taoiseach.

**Deputy Phil Hogan:** I did not see them.

**Deputy Clare Daly:** The Department has definitely received them. I am not exaggerating in pointing out that the residents have expended tens of thousands of euro on professional reports. They started a process with the local authority in 2008, long before the Priory Hall case came to light. At the time they were asked to submit information on the matter and told that the local authority would examine it. This set off a chain of events, the outcome of which is that the residents' homes are still not safe according to professional evaluators. While I have raised this matter with him previously, I will submit the relevant information to the Minister. Rather than indicating that it will be examined, I ask him to ensure action is taken because the houses in question have not been fixed. The developer of the estate has been involved in other schemes which had to be evacuated. This demonstrable history of non-compliance has created fear. The local authority told residents that it was a case of buyer beware, that if they kicked up too much, they would be left carrying the can and that they should have checked before buying their homes. That is not good enough.

**Deputy Phil Hogan:** I take what the Deputy has said at face value as she is not prone to exaggeration. If she provides details of the case, I will be glad to investigate it. I provided a great deal of information on estates during my previous appearance in the House at Question Time. Perhaps the Deputy was pleased to receive additional information of which she might not have been aware.

**Deputy Clare Daly:** I was delighted to receive it and I will take up the Minister's offer.

**An Ceann Comhairle:** Question Nos. 32 to 35, inclusive, cannot be taken as the Deputies who tabled them are not present.

*Questions Nos. 32 to 35, inclusive, replied to with Written Answers.*

### **Pyrite Resolution Board Membership**

36. **Deputy Clare Daly** asked the Minister for the Environment, Community and Local Government further to his statements, echoed by the manager of the Pyrite Resolution Board that Homebond's staff will be available for the pyrite remedial works scheme, the exact nature of Homebond's claimed expertise in assessing structural damage caused by pyrite-induced heave and in designing, monitoring and certifying subsequent remedial works [51812/13]

**Deputy Clare Daly:** Residents are gravely concerned about comments from the Minister

and departmental officials indicating that HomeBond may be involved in the pyrite remediation process. They also dispute the Minister's claim that the company has particular expertise in the area of pyrite remediation. I ask him to substantiate that claim.

**(Deputy Phil Hogan):** I have always made it clear that I believe the parties identified in the report of the independent pyrite panel as having a responsibility to provide solutions for affected homeowners should contribute to the resolution of the pyrite issue. In the past 18 months or thereabouts I have tried to bring about a resolution of the issue involving these parties. Unfortunately, this did not prove possible.

The Pyrite Resolution Board which I established earlier this year on an administrative basis remains in discussions with HomeBond to agree the contribution it can make to the implementation of the remediation process. These discussions are ongoing and the exact nature of HomeBond's role or contribution has not yet been agreed between the parties. Nevertheless, I expect HomeBond to make a contribution, notwithstanding that it is a private company. As far as I am concerned, the greater the contribution, the better for the role that they played in the past in terms of not complying with fulfilling that role.

The board will be responsible for overseeing the delivery of the pyrite remediation scheme and will be supported in this endeavour by the Housing and Sustainable Communities Agency. I understand that panels for contractors and other professionals will be established by the housing agency. In fact, that process is underway. In addition, a register of competent persons, who have undertaken appropriate training, has been established by Engineers Ireland to undertake the building condition assessments.

It is not envisaged that the board will commission building condition assessments, either directly or via a third party such as HomeBond. Building condition assessments will be procured directly by affected homeowners although, under the proposed arrangements, they may claim reimbursement of costs, subject to a maximum of €500, should their application be accepted into the pyrite remediation scheme subsequently.

I share Deputy Clare Daly's annoyance about the contribution that HomeBond has made. It has not been satisfactory to date and we continue to do everything we possibly can, notwithstanding it is a private company, to extract as much as we possibly can out of it to help the distressed homeowners in this case.

**Deputy Clare Daly:** It is almost a year since the late Minister of State, Deputy Shane McEntee, announced the scheme. A year on, the scheme has not yet accepted live applications. Now that Engineers Ireland has established the register of competent persons and the training has been done, will building condition assessments, which in many instances residents have paid for, be accepted and will those files and applications be able to go live in advance of Christmas? It would be important that we get some indication of when those applications can go live.

Is it still the Minister's intention to bring forward the legislation to empower the pyrite resolution board to take funds or whatever? Does that legislation have to be in place first? Will we see it this side of Christmas?

The problem with HomeBond is that this was not a structural guarantee scheme even though it gave that impression. HomeBond still has €25 million in its accounts which it will not access for normal purposes because now it is a properly structured scheme. HomeBond's contribution should be in funds. Those funds should be taken off HomeBond because it has not the compe-

tent expertise in this area. It is the one that went out and examined houses and told the residents that they did not have pyrite and there was nothing to worry about, and then, when it emerged that they did have pyrite, stated that had nothing to do with it. The idea of HomeBond being involved in the remediation process is not acceptable.

**Deputy Dessie Ellis:** The Minister announced that he was putting a certain amount of funding towards the resolution of pyrite in houses, but there are over 800 houses urgently in need and time is pressing. The timescale seems to be getting ever longer. Can the Minister give some indication of when he will have this scheme up and running?

**Deputy Phil Hogan:** As Deputies Clare Daly and Ellis will be aware, the State has no responsibility whatsoever in this.

**Deputy Clare Daly:** I do not accept that at all.

**Deputy Phil Hogan:** That is the legal position. I know Deputy Clare Daly does not have to accept it.

Notwithstanding that, like Priory Hall, I have made a considerable effort to resolve this issue. I acknowledge the significant work of our late good friend, Shane McEntee, the first anniversary of whose untimely death is approaching. Because of that, I would be looking for the cooperation of all groups in the House between now and Christmas to put through the legislation to establish the pyrite resolution board which I will be putting to Government on Tuesday next.

**An Ceann Comhairle:** Could we go back to Question No. 37 in the name of Deputy Cowen as the Deputy is now present? It was taken with Question No. 7.

**Deputy Phil Hogan:** These questions are in the names of Deputy Cowen and Deputy Ellis. Earlier this year, my colleague, the Minister of State for housing and planning, Deputy Jan O'Sullivan, published the Government's homelessness policy statement in which the Government's aim to end long-term homelessness by the end of 2016 was outlined.

I indicated already, on Question No. 7, much of the response of the Minister of State, Deputy Jan O'Sullivan, to these matters. The funding for homelessness in 2014 will be the same as the funding for 2013. She is conscious of the need to advance new arrangements, particularly with the over concentration of homeless services in certain centres. It is an issue where there has been a major increase in the number of those who are rough sleeping.

With the help of Dublin City Council and the social investment funds announced by the Minister for Public Expenditure and Reform, Deputy Howlin, we are identifying properties. With those, together with NAMA units that have been identified, I hope that in 2014 we will be able to make substantial progress on the numbers of persons who are classified as homeless. The numbers, at the end of September 2013, have reduced from those of the end of 2012, but nevertheless it is a most important issue on which we want to see even further progress made in 2014.

**Deputy Barry Cowen:** I ask the Minister to convey to the Minister of State with responsibility in this area that I advise caution on any commitments that will emanate from NAMA considering that 18 months ago Deputy Hogan told the House he expected up to 2,000 units would be made available from NAMA between then and now to address this issue of homeless, and those have not materialised. The Government should not place all its eggs in that basket again.

I ask for a review of the funding. When the Minister states the funding is to be retained next year at the level made available this year towards this sector, it is important that we analyse how that funding was spent and the amount of it made available to pay providers of emergency accommodation to ascertain whether there is value for money in that provision while there have not been specific targeted schemes to address the issue. There should be some pilot programmes brought to bear to see whether we can tackle this issue in a more meaningful way than has been done in the past. Grateful and all as we are, throwing money at the problem for the sake of it and funding those who provide emergency accommodation is not a solution that will bear fruit in the longer term.

Quite apart from that, my main point is to caution against a feeling that one always has the safety net of NAMA properties. As I stated, the Minister was proven wrong in that regard when a similar commitment was made of a more outlandish figure 18 months ago and it has not borne any fruit. Perhaps the House could be informed of a new approach that might bear better fruit than has been the case heretofore.

**Deputy Phil Hogan:** NAMA properties generally that were put forward were not only for the homeless but for all social housing provision. There have been a number of difficulties, not only with the financial allocations but also with the number of legal issues in relation to some of these estates.

I agree with Deputy Cowen that it is not an matter of throwing money at the problem. There is far too much being spent on emergency accommodation and that is why we have a policy. The housing-led approach is the policy. It is better for the client. Independent living accommodation with a social care plan is the way we want to address some of these issues. I can assure Deputy Cowen that the Minister of State, Deputy Jan O’Sullivan, is looking at it in that context to provide a dispersed amount of accommodation, in particular in the Dublin regional area, to alleviate the current expensive solutions through emergency accommodation, particularly on the north side of Dublin.

*Written Answers follow Adjournment.*

### **Finance (No. 2) Bill 2013: Report Stage (Resumed)**

Debate resumed on amendment No. 31:

In page 69, between lines 18 and 19, to insert the following:

“**48.** Section 119 of the Finance Act 2001(as amended by section 99 of the Finance Act 2010) is amended by inserting the following new subsection (5) into section 119 (penalties for certain excise offences):

“(5) where the offence referred to in subsections (1) and (2) relates to tobacco, a person convicted of such an offence shall be liable—

(a) on summary conviction to a minimum fine of €5,000 or at the discretion of

the court, to imprisonment for a term not exceeding 12 months or to both,

(b) on conviction on indictment—

(i) to a minimum fine equal to 5 times the value of the excisable products concerned, including any duty or tax chargeable thereon, or €130,000 whichever is the greater, or, at the discretion of the court, to imprisonment for a term of not less than 5 years or to both, or

(ii) where the value of the excisable products concerned including any duty or tax chargeable thereon, is greater than €250,000, a minimum fine equal to 5 times the value of those products, or, at the discretion of the court, imprisonment for a term of not less than 7 years or to both.”.

- (Deputy Michael McGrath).

**An Ceann Comhairle:** As Deputy McGrath is not here, will Deputy Cowen speak on the amendment?

**Minister of State at the Department of the Environment, Community and Local Government(Deputy Fergus O’Dowd):** May I step out to take an urgent call?

**An Ceann Comhairle:** Yes.

**Deputy Fergus O’Dowd:** I propose that the sitting be suspended for five minutes until 10.57 a.m.

**An Ceann Comhairle:** Is that agreed? Agreed.

*Sitting suspended at 10.52 a.m. and resumed at 10.58 a.m.*

**Deputy Michael McGrath:** This amendment is intended to deal with the issue of cigarette smuggling and the illegal sale of cigarettes. In a recent reply to a parliamentary question the Minister, Deputy Noonan, confirmed that in 2012 there were 57 convictions for cigarette smuggling resulting in 26 custodial sentences, some suspended, and fines amounting to €93,550. The total amount in fines for 57 convictions was €93,550, which is completely inadequate.

With regard to the illegal sale of cigarettes, the fines were equally derisory. The fines had been increased quite significantly through the various Finance Acts, as recently as 2010, but they need to be increased further. The deterrent against the smuggling of cigarettes into this country and the illegal sale of cigarettes, which is quite open in many parts of this country, particularly in Dublin - I have always found it quite unbelievable that on certain streets in Dublin anyone can walk around and buy illegal cigarettes - is just not good enough. The penalties enshrined in the legislation are simply not strong enough and they need to be strengthened. That is the reason we have proposed this amendment - to seek to strengthen the penalties, increase the deterrent and, hopefully, deal with the issue of smuggling and the illegal sale of cigarettes.

**Deputy Pearse Doherty:** I endorse this amendment. I have spoken about smuggling, black market activity and tax increases on cigarettes during the debates on the last few budgets. Our party does not oppose an increase in taxation on cigarettes, but we would have gone further than the Government has gone. We argued for a 20 cent increase, but we would not have gone as far as Fianna Fáil and argued for a €1 increase.

*11 o'clock*

The key point is that any increase in the price of cigarettes and tobacco products needs to be made hand-in-hand with a number of measures to deal with black market activity. Deputy Michael McGrath's amendment is one such measure dealing with the end product where someone has been caught. It could be used as a deterrent. The missing element is the resources to tackle black market activity. That is where the Government falls down in its proposals, with which we will deal in the next section, to increase the price of tobacco. It has not used that resource to deal with the fact that a large number of cigarettes consumed in the State are purchased on the black market. It is an illegal practice, but for many, it has been normalised. People who never think of breaking the law do not see it as breaking the law, defrauding the State or Revenue when they buy packs of cigarettes for €3 or €3.50.

I commend the amendment in looking at one end of the issue. It is part of a bigger jigsaw with which we must deal and the Government's focus heretofore has been on grabbing more money from people who smoke tobacco. There are health benefits; we know that increasing the price of tobacco has consequences in terms of consumer behaviour. If so many tobacco products are available at a lower price, there must be action to deal with the issue. Enforcement deterrents are more welcome, but there is also the question of how to deal with the issue on a practical day-to-day basis in ports and Garda Síochána and Revenue operations. That question must also be dealt with.

**Deputy Fergus O'Dowd:** The fines applicable to an offence of evasion or attempted evasion of excise duty on excisable products were increased significantly in the Finance Acts 2008 and 2010. For a summary conviction, the set fine was increased to €5,000. For a conviction on indictment, the maximum fine was increased tenfold to €126,970, or where the value of the goods concerned, including duty and tax payable thereon, is greater than €250,000, the fine can be three times the value of the goods. The Deputy's amendment seeks to separate the penalties and fines for offences regarding excise duty on tobacco from offences relating to other excisable products such as mineral oil and alcohol products. Second, the Deputy seeks to set new minimum fines and penalties. For a summary conviction, he suggests a minimum fine of €5,000 and for a conviction on indictment, he suggests a minimum fine of €130,000 or five times the value of the excisable product concerned, whichever is greater, or a minimum term of imprisonment of five years. Where the value of the excisable products is greater than €250,000, he suggests a minimum fine of five times the value of the excisable products or a minimum term of imprisonment of seven years.

With regard to the Deputy's suggested minimum fine of €5,000 for a summary conviction, the current fine of €5,000 is already equal to the maximum applicable to the District Court. With regard to the Deputy's suggested minimum fine of €130,000 for a conviction on indictment, the courts can apply a fine of up to €126,970. I am reluctant to introduce radical changes to the current penalties and fines regime without a thorough analysis of the issues involved. The amendment, as structured, would severely curtail the powers of discretion of the courts in all cases and I am concerned that it might have unintended consequences. For example, if trial judges believe defendants do not have the ability to pay the full fine, they would be forced to impose long custodial sentences and it is likely that these would be suspended in most cases. The result would be that no fines would be imposed or prison sentences served.

I am not convinced that penalties and fines for offences concerning excise duty on tobacco products should be set at different levels than offences concerning excise duty on mineral oil

and alcohol products. On that basis, I cannot accept the amendment.

**Deputy Michael McGrath:** The reply of the Minister of State sets out what the courts can do, but the reality is that they are not doing it. I have outlined some of the figures. Last year there were 57 convictions for smuggling and fines of €93,550. That amounts to a typical fine of less than €2,000 on average. For illegal sales, there were 75 convictions and total fines of €153,050, which amounts to less than €2,000 on average. The legislation is not bad and the courts have the power to impose fines greater than are being imposed, but larger fines are not being imposed, which is why the amendment seeks to increase what are inadequate fines. I encourage the Government to look at this amendment favourably because the deterrents are not strong enough. That is why smuggling and illegal sales are rampant. People are not fearful of the law and this amendment would go some distance towards addressing the issue.

**Deputy Fergus O'Dowd:** On the face of it, there is an issue, but I do not believe the amendment, as structured, would resolve the issue. There could be unintended consequences. If trial judges believed defendants did not have the ability to pay the full fine, they would be forced to impose sentences or, more likely, suspended sentences in all cases and no fines would be paid.

Amendment put:

The Dáil divided: Tá, 39; Níl, 61.	
Tá	Níl
Boyd Barrett, Richard.	Bannon, James.
Broughan, Thomas P.	Barry, Tom.
Browne, John.	Burton, Joan.
Calleary, Dara.	Butler, Ray.
Collins, Joan.	Buttimer, Jerry.
Collins, Niall.	Byrne, Catherine.
Colreavy, Michael.	Byrne, Eric.
Cowen, Barry.	Carey, Joe.
Daly, Clare.	Conaghan, Michael.
Doherty, Pearse.	Connaughton, Paul J.
Ellis, Dessie.	Conway, Ciara.
Ferris, Martin.	Corcoran Kennedy, Marcella.
Flanagan, Luke 'Ming'.	Creed, Michael.
Fleming, Tom.	Daly, Jim.
Grealish, Noel.	Deering, Pat.
Healy, Seamus.	Doherty, Regina.
Healy-Rae, Michael.	Dowds, Robert.
Kelleher, Billy.	Doyle, Andrew.
Mac Lochlainn, Pádraig.	Durkan, Bernard J.
Martin, Micheál.	English, Damien.
McGrath, Mattie.	Farrell, Alan.
McGrath, Michael.	Ferris, Anne.
McLellan, Sandra.	Fitzgerald, Frances.
Murphy, Catherine.	Fitzpatrick, Peter.

*Dáil Éireann*

Ó Caoláin, Caoimhghín.	Flanagan, Charles.
Ó Cuív, Éamon.	Gilmore, Eamon.
Ó Fearghaíl, Seán.	Hannigan, Dominic.
Ó Snodaigh, Aengus.	Harrington, Noel.
O'Brien, Jonathan.	Harris, Simon.
O'Dea, Willie.	Heydon, Martin.
O'Sullivan, Maureen.	Hogan, Phil.
Pringle, Thomas.	Humphreys, Kevin.
Ross, Shane.	Keating, Derek.
Shortall, Róisín.	Kehoe, Paul.
Smith, Brendan.	Kenny, Seán.
Stanley, Brian.	Kyne, Seán.
Tóibín, Peadar.	Lawlor, Anthony.
Troy, Robert.	McEntee, Helen.
Wallace, Mick.	McGinley, Dinny.
	McLoughlin, Tony.
	McNamara, Michael.
	Maloney, Eamonn.
	Mitchell, Olivia.
	Murphy, Dara.
	Murphy, Eoghan.
	Nash, Gerald.
	Neville, Dan.
	Nolan, Derek.
	O'Donnell, Kieran.
	O'Donovan, Patrick.
	O'Dowd, Fergus.
	Perry, John.
	Phelan, Ann.
	Phelan, John Paul.
	Quinn, Ruairí.
	Rabbinette, Pat.
	Ring, Michael.
	Sherlock, Sean.
	Stagg, Emmet.
	Stanton, David.
	Tuffy, Joanna.

Tellers: Tá, Deputies Seán Ó Fearghaíl and Dara Calleary; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

**Deputy Richard Boyd Barrett:** I move amendment No. 32:

In page 75, to delete lines 12 to 38.

This measure relates to the increase in tax on tobacco products, including cigarettes. Some of us are in a minority in opposing it but, as we indicated in previous discussions, while we accept fully that cigarettes are bad and that we need to do something about them – I say that as a smoker – I do not believe that is what this measure is about. I do not think it is a health measure; it is a budget measure to grab money and it is one that largely hits the least well-off, as do so many tax increases on commodities people buy, whether they are good or bad for one's health, such as cigarettes and alcohol. Such taxes increase the cost of living for ordinary people in a way that is regressive because it disproportionately affects people on lower incomes.

In so far as we need to deal with smoking, it should be dealt with through education and other health promotion measures which should be funded properly, but of course we are not funding such approaches properly. This is just a grab for money and I do not accept the logic behind it. I wish to record my opposition to the increase.

**Deputy Fergus O'Dowd:** Section 52, which is opposed by Deputy Boyd Barrett, confirms the budget increases in the rates of tobacco products tax which, when VAT is included, amount to 10 cent on a pack of 20 cigarettes in the most popular price category with *pro rata* increases on other tobacco products.

As a result of the budget increase, the price of a pack of 20 cigarettes in the most popular price category has increased to €9.50. These measures are estimated to yield €2.5 million in 2013 and €15.4 million in a full year.

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

Amendment declared lost.

**Deputy Pearse Doherty:** I move amendment No. 33:

In page 75, to delete lines 39 to 41, and in page 76, to delete lines 1 to 35.

One can see the fear the Minister for Finance, Deputy Noonan, instils even in his ministerial colleagues at the thought of his returning to these shores to find an amendment has slipped through.

Amendment No. 33 deals with the increase in excise duty on alcohol. We had a lengthy debate on the issue on budget night when the budget resolutions were passed and also on Committee Stage. It is clear the Government will not reverse its position at this late stage but I tabled the amendment to put down a marker that this is an unfair measure. Alcohol duty should not have been increased to its current level. Clear commitments were given by at least one Government party in terms of increasing alcohol and excise duty on wine, for example. Not only has that been breached once, but this is the second occasion. If a person were to pay €8 today for a bottle of wine, more than €4.80 would go directly to the State in revenue. That is 60% of the current cost of a bottle of wine. We levy the highest rate of excise duty and tax on alcohol

anywhere in the European Union. The reason I am concerned is that not only does it dip into the pockets of ordinary consumers, but if one buys a more expensive bottle of wine - I use wine as an example – then the portion one pays to the State is a lot less.

There are concerns about the measures from a cross-Border point of view. An issue arises in terms of cross-Border shopping of which we must be mindful. As a member of an all-Ireland party I do not have a problem with where anyone shops, but I wish to see a level playing field. That is why I would like to see harmonisation of the taxation code in other areas across the island.

I am opposed to the measure. We have shown that it is not required in our alternative budget. It is wrong on a number of levels.

**Deputy Richard Boyd Barrett:** Oddly enough, the point made by Deputy Doherty that the State makes a lot of money from the measure is the only good thing about it. My problem with the measure is that it is regressive. I make the same argument about it that I made about tobacco in that it is another disproportionate hit for the less well-off - those on lower incomes who are being hammered from every quarter. This is symptomatic of the problem with the Government's approach to taxation generally - not just this Government but successive Governments. Rather than opt for truly progressive redistributive taxation, they keep hitting the same group of people and effectively reducing their disposable income by loading taxes on goods they buy. That is why I am against the measure. In so far as there is a public health issue with alcohol abuse, this does not make a damn bit of difference, so I urge the Minister of State to please not waste our time with that spin. This is about money. That is fair enough, as the Government needs money, but there are more progressive alternative ways to raise money, as we have outlined on many occasions. I will not labour the point now but I pose the question of why we do not start taxing corporations, those on very high earnings and speculators, instead of giving them tax breaks. Let us go to that well instead of constantly going back to the same well of ordinary working people.

**Deputy Thomas P. Broughan:** I wish to speak along the same lines as the previous speakers. The real challenge facing the Government was to do something about minimum pricing. That was one of the foundation stones of Deputy Shortall's public policy on health when she was Minister of State. She will arrive shortly for the debate. The very low price of beer and other alcohol products is a public health matter and the abuse of alcohol can often lead to serious anti-social behaviour and criminality. That is the real challenge facing the Government that should have been addressed but which has still not been addressed three years on. On the other hand, the usual set of circumstances applies every year to the more sociable drinkers.

**Deputy Fergus O'Dowd:** The amendments proposed by Deputies Doherty and Boyd Barrett would have the result of deleting the budget increases in the rates of alcohol products tax. These increases, when VAT is included, amount to 10 cent on a pint of beer or cider, 10 cent on a measure of spirits and 50 cent on a bottle of wine, with *pro rata* increases for other products. The expected yield from these increases is approximately €35 million in 2013 and €142 million in a full year.

These excise changes have to be seen in the context of the suite of measures announced in budget 2014 for the tourism sector, namely the retention of the 9% VAT for tourism-related services and the abolition of the air travel tax. These measures can only be seen as positive for the sector and should increase tourism numbers and consumer spending in pubs and restaurants. A

large proportion of licensed premises are offering food to their customers, and the 9% VAT rate will directly benefit those businesses. Those businesses that do not serve food will indirectly benefit from an overall growth in tourism. Excise rates on beer, cider and spirits, as a percentage of the average retail price, are lower now than they were in 2003. Given the options available to the Government and the delicate balance that needs to be struck, the budget 2014 excise increases are justified.

As Deputies are aware, the Government has decided to introduce minimum unit pricing to address below-cost selling of alcohol products. However, in view of the ongoing court challenges to minimum unit pricing in Scotland, it is prudent to await the outcome of the legal cases before pursuing further action in that direction. Any policy relating to minimum unit pricing will be dealt with on an all-Ireland basis to ensure there will be no increase in cross-Border trade as a result of the application of minimum unit pricing in the South. Discussions are ongoing in that regard with our Northern counterparts. On that basis, I cannot accept the amendment.

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

Amendment declared lost.

**Deputy Pearse Doherty:** I move amendment No. 34:

In page 76, between lines 35 and 36, to insert the following:

"54. The Minister shall, within one month of the passing of this Act, prepare and lay before Dáil Éireann a report on options available for the introduction of a rate of 3 per cent betting duty for online and in shop bets."

This is an amendment that was tabled on Committee Stage. There are a couple of reasons for it. First, I believe betting duty can be increased in shops and online to a rate of 3%. This is not a very high level. We have discussed taxation and the excise duty of 60% on a bottle of wine. Many Irish people engage in gambling. For some, it involves an annual flutter on the Grand National and for others, unfortunately, it is more addictive and represents a very destructive vice. An issue arises in terms of the help and support society gives to people who are addicted to gambling.

The 1% duty that obtains in betting shops could be increased. I have said many times that when I was a young child, the duty was 10%. At present, it is absorbed by the industry. Online betting is starting to come under the fold of the legislation. It is about time. I have tabled this amendment as a marker to state the Betting (Amendment) Bill, which has not yet proceeded to Second Stage, is supposed to bring in €20 million. This was flagged a couple of years ago. Therefore, we have missed out on revenue of €20 million over a couple of years. I raise this as an example of how the Finance (No. 2) Bill has not examined such areas. We have not made progress on the betting legislation as we come to the end of the year, yet fathers who care for their children will see a reduction of €2,500 through income tax as a result of the Finance Bill. If the betting legislation had been enacted last year, it would have offset the need to penalise single fathers in the way the Government has decided to penalise them. It is penalising them in the order of over €220 per month. It is important to set down this marker.

I acknowledge the words of the Minister on Committee Stage to the effect that we should get the Bill up and running. I am very eager that we do so. When we do so, it will be possible to examine increases in future years. I am not as patient as the Minister regarding the betting

industry. Unfortunately, he has not shown the same type of patience concerning the budgetary impact on lower-income groups, the elderly and the sick. Very little patience was shown towards them. Where the betting industry is concerned, however, the attitude is that there is no rush and that the Bill can be talked about for two years before publication. The view is that it does not really have to proceed to Second Stage because there is no major urgency. I am concerned about that, and that is why tabled this amendment.

**Deputy Michael McGrath:** The House deserves a proper explanation as to why there has been such a significant delay in the introduction of the betting legislation. I understand the betting legislation was first published in July 2012 but it was recently withdrawn. Earlier this year, in July, the Betting (Amendment) Bill 2013 was published. Clearly, issues arise regarding the imposition of a levy. I have no doubt that this is posing difficulties for the Government but we deserve a proper explanation as to the status of the Bill and why there has been such a significant delay. We all know betting patterns have changed and that an increasing number of people are using online facilities to bet. There is a potential source of revenue for the State that is not being captured at present.

**Deputy Fergus O'Dowd:** The taxation of remote betting operators is designed to level the playing field with traditional bookmakers and the Betting (Amendment) Bill 2013, published in July, provides the regulatory framework for this. The Bill was subject to a three-month standstill period under the EU technical standards directive. This commenced in July and a number of communications seeking clarification around aspects of the Bill have been received from the Commission and responded to by the Department of Finance in that time. Progress on the Bill is now subject to agreement on scheduling by the Whips and I still hope to be allocated time to pass the legislation through the Oireachtas before the end of this session.

There have been a number of calls for an increase in the rate of duty that applies to betting. However, our preferred approach has been to extend the base on which the 1% rate applies, ensuring that the tax is applied fairly and widely on a level playing field for all. When we can be sure that we have in place a framework that captures all betting, the prospect of a rate rise can perhaps be explored. All taxes are reviewed on an ongoing basis by officials from my Department and the Revenue Commissioners, and this will be no different. However, as I've said, the priority is to extend the tax to the remote sector. Accordingly, I cannot accept the amendment.

Amendment put and declared lost.

Amendment No. 35 not moved.

**An Ceann Comhairle:** Amendment No. 37 is an alternative to amendment No. 36. Therefore, they are to be discussed together.

**Deputy Thomas P. Broughan:** I move amendment No. 36:

In page 87, to delete lines 14 to 30.

Probably one of the main responses to the budget in our e-mails and other forms of correspondence has concerned this particular provision, which now appears in section 71. I refer to the increase in the pension levy and its extension to 2015. People feel incredibly sore. Members and Oireachtas colleagues bear a special responsibility for people who work in the private sector in the sense that we have access to valuable public sector pensions. People in the private sector – many of us have experience of working in the private sector – feel vulnerable about

their pensions. They believe this measure is another whammy. They were obviously very upset when the levy was introduced in 2011 to fund the jobs initiative. That was bad enough and we believed it would end this coming year. Not alone has it not come to an end, it is being extended. People feel this is a breach of faith by the Government.

I am sure Government members have sensed that from correspondence they have received. Our National Pensions Reserve Fund, initiated by a former Minister for Finance, Deputy McCreevy and supported by the whole House at the time, has been raided and completely diminished following the outrageous and appalling decision to introduce the blanket bank guarantee. That leaves the entire pension structure of the country in a very vulnerable position.

It has been reported that the pension levy could be used to support pension funds which are in difficulty. The levy is aligned with the Bill to be debated later today, the Social Welfare and Pensions (No. 2) Bill. The avalanche of change in the private pension sector recently, with many schemes converting from defined benefit to defined contribution, puts pensioners and those about to retire in a very vulnerable position. They feel their vulnerability is increased by this levy and they also feel very hard done by. For the vast majority of members of both defined benefit and defined contribution schemes, it will mean a reduction in their benefits. The extension of the levy to 2015 creates further uncertainty and the fact that pension funds are being put to unintended uses is very regrettable and regressive.

We now have a situation in which private sector pension funds are subject to a wide range of levies, penalties and restrictions, which increases the imbalance between these and public sector pensions. The ideal situation is to achieve certainty, solidity and safety for all workers, in both the private and public sectors, for the future. That has to be the key aim of policy, but this measure is regressive.

Many will look at the Jobs Initiative and ask what it achieved. We have seen the equivalent of a full Aviva stadium of young people leaving for the United Kingdom, Australia, Canada and the USA in recent years, another legacy of this Government. On that basis, I oppose section 71 of the Bill.

**Deputy Pearse Doherty:** I wish to speak on my amendment, No. 37, which differs from Deputy Broughan's amendment. We have heard the argument from Government that the retention of the 9% VAT rate for the tourism and hospitality sectors requires the continuation of the pension levy. Sinn Féin welcomes the retention of the 9% VAT rate, having called for its retention. The industry itself lobbied very effectively for its retention and hopefully we will see the fruits of that lobbying over the next 12 months in the form of increased activity and job creation. However, it is beyond belief what the Government has done in using that very effective lobby not only to retain the levy but to actually increase it for the coming year. There is no need to increase the levy to 0.75% for 2014 in order to retain the 9% VAT rate. My amendment calls for the levy to be retained at a level of 0.5%, but if one actually does the maths, it could be reduced further if the income from the levy is just to be used to retain the 9% VAT rate. It could be set at less than 4% for that purpose. There is absolutely no justification for continuing with this levy beyond next year because the Government has given no indication that it intends to retain the 9% VAT rate beyond that time.

There has been talk to the effect that the Government is going to use this money in the event of pension fund double insolvency. While it is important that we have some type of insurance fund to deal with such issues, it is not appropriate that pension contributors should have to

pay for it. The Government spin at the time of the introduction of the levy was that there was enough fat in the system to allow the industry itself to soak up the pension levy, but it is very clear that this is not what has happened. It is the pension contributors who have had to bear the brunt of this. In terms of a fund for dealing with cases of double insolvency, as we found out from the Government during the debate on Committee Stage, the 0.15% of the levy will not be going into a ring-fenced account. The money is going into the general Exchequer fund and in cases of double insolvency where the State picks up the bill, the money will come from Exchequer funds. The Government is playing with words here and is trying to make it easier for the public to swallow the fact that the levy is continuing and that it has breached its own commitment in that regard. The Government commitment was that the levy would be in place only until the end of this year. Now, not only will it continue beyond 2013 but it will actually increase next year and continue on at a lower level thereafter.

If the Government is genuinely considering a levy on the pension sector to deal with cases of double insolvency, then it should be setting up a ring-fenced fund, which is not unique and has been done in many other areas such as insurance and banking, whereby money contributed from the sector is put into a fund to deal with problem issues. If the Government made such a proposal I would be willing to discuss it, but the proposal before us today is to increase the pension levy in 2014 to a rate of 0.75%, which is not required to cover the extension of the 9% VAT rate for another year, and then to continue with the levy at a lower rate beyond that. I cannot support that. I have put forward a fair amendment which would allow for the levy to remain in place in 2014 at a rate of 0.5%, which would more than adequately cover the 9% VAT rate extension, and then to set the levy at 0% thereafter. We specified 0% in our amendment because otherwise it would have been ruled out of order. The effect of setting it at 0% is that the levy would not exist beyond 2014.

**Deputy Michael McGrath:** There has been a complete betrayal on this issue. When the levy was first introduced in 2011, a firm commitment was given that it would end in 2014. That commitment has been repeated a number of times since then. The levy has now been increased in 2014 and retained, albeit at a lower level, in 2015. My concern is that the Government is now attaching the levy to the issue of dealing with pension funds that are in difficulty. We all know how serious an issue that is. There are numerous schemes that are now under water, and Deputy Doherty also referred to the issue of double insolvency. Can the Minister of State give a commitment to pensioners and those who are paying into pension schemes at present that the levy will end in 2015? The Government has already broken its word on this issue. People want to know now if the Government is serious about ending the levy in 2015 and I ask the Minister of State to give a commitment to the House to that effect.

**Deputy Richard Boyd Barrett:** I support Deputy Broughan's amendment. The Government may try to attach the pension levy to other measures they think the public might want or support, but in reality it is just an austerity grab and an attack on pensioners. Now the promise that this austerity grab, which fuelled such anger among pensioners, would end at a certain point has been broken. That is fairly typical of what goes on. When unjust measures such as this levy are introduced, the Government becomes addicted to the money raised and the likelihood that the measures will ever be gotten rid of sinks further into the distance. This is all the more obnoxious because it is just another outworking of the bailout of bondholders and banks.

I had a debate on this issue with the Minister of State, Deputy O'Dowd, on the radio. One must examine the different approaches within this Bill. It gives new tax breaks for trading in securities and shares, for example, and further tax breaks to property speculators in the form

of elaborate real estate investment trusts. The more I look into them, the more alarmed I become because this is the new mechanism to encourage speculation in a property boom. These guys are being looked after, encouraged and incentivised to do things that will destabilise the economy, while we continue the raid on smaller pensions.

Pension provision is a serious issue that needs to be addressed. Just like the argument I made yesterday about health insurance, private pension schemes are unstable, subject to the whims of the market. One should note the connection. We let the speculators off the leash and they become the people who actually control the value of pensions. As the market goes up and down, so too do the values of pensions in a dangerous way.

As has been suggested by several people, we should treble the State pension, making it an attractive and viable option for ordinary people, while, at the same time, doing away with all of the subsidies we give to the private pension business. Meanwhile, the Government is hitting those who have made understandable provision for their old age and has raided them in a nasty way. I oppose the continuation of the levy and the breach of promise it involves.

**Deputy Róisín Shortall:** I strongly support Deputy Broughan's amendment. The Government's pension levy underlines the complete disarray in its pensions policy. Two promises were clearly made by the Minister for Finance, Deputy Michael Noonan, last year. First, he promised to tackle the very unfair pension tax relief on high-end pensions. Pension tax relief costs the taxpayer €2.5 billion a year, the vast bulk of which, about 80%, is going to the top 20% of earners. From the start, it is a very unfair system. Last year we were promised that tax relief would not be available on a pension in excess of €60,000, a promise particularly emphasised by the Labour Party which decided to call it some sort of a wealth tax. That would have been a progressive move had it happened. Unfortunately, the Minister for Finance has broken that promise. Now, people can accrue pensions up to €100,000. Those who have exceeded the €60,000 threshold will be allowed to continue to accrue further pension benefits up to €100,000. Accordingly, the expected revenue from that promised measure is vastly reduced. It was supposed to save €250 million. Now, because of the backtracking and the breach of that promise, it will only raise €120 million. There is a shortfall of €130 million in the budget figures as a result of the Minister breaking that promise and going back on the commitment given last year. To make up the shortfall, he has increased the pension levy.

Another commitment the Minister made last year was that the pension levy, which has caused so much difficulty for many people's pension entitlements, would be abolished in 2014. That is the second commitment the Minister has broken in the budget. Far from abolishing it, he is actually increasing it in 2014 and it will continue to apply in 2015. The revenue expected to be raised through this measure is €135 million. It is clear that because of his failure to attack the high-end pension issue, the Minister is targeting those on low and average pensions to recoup the saving. He is compounding the inequality within the pension system. People on small pensions or taxpayers with no pension provision of their own are subsidising those with high-end pensions up to the level of €100,000. There is no fairness in this at all. It is a significant breach of the two commitments made last year. Not only do those in defined contribution schemes and defined benefit schemes have a 0.6% levy on their meagre private pensions but, now, they will have an additional levy. It is completely unfair and flies in the face of any sense of equity in the system.

The Government is continuing to perpetuate the golden circle arrangement for people on the inside and in the know. The fact that it has not tackled high-end pensions directly benefits Min-

isters, for example, and high earning public servants, the very ones who decided to backtrack on the promises made last year and added a further imposition on those with minor pension provision instead. This is a significant conflict of interest. The people who stand to benefit from a Government policy are the very ones who have designed it. They then hide behind a line about legal advice. I have already challenged the Minister for Finance and the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, to produce this legal advice to show us why they could not follow through on the commitment given last year. Of course, they refused to provide that advice. Those who have provided it are all part of the apparatus of government at senior level and are the very ones who are conflicted on the issue. They are the same kind of people who will benefit from the backtracking on the commitment to tackle high end pensions. The Government should, at the very least, be seeking independent advice. Otherwise, we cannot come to any other conclusion but that this is a group of very well protected high earners who are continuing to featherbed their own pensions, at the expense of those who have small pensions which will be now further reduced as a result of the measure in question. It is completely unacceptable. No other jurisdiction would allow a group of insiders to look after themselves in the way this group is doing. It is shameful.

Debate adjourned.

### **Message from Select Committee**

**An Ceann Comhairle:** The Select Committee on Jobs, Enterprise and Innovation has completed its consideration of the Companies (Miscellaneous Provisions) Bill 2013 and has made no amendments thereto.

*12 o'clock*

### **Leaders' Questions**

**Deputy Dara Calleary:** The ESB unions served strike notice last Friday and the notice is due to expire on Sunday week. We understand there is a wide gulf between ESB management and unions on the pension fund. This morning's edition of the *Irish Independent* has outlined some of the so-called contingency plans that have been put in place by public bodies, State companies and private companies around the country in advance of this. If this action proceeds, it will have a very detrimental effect on every citizen in the country and on businesses. The next few weeks for businesses will make the difference between opening and closing their doors after Christmas and keeping people in employment. It will have a huge effect on our transport utilities in the run up to Christmas and on so many operations.

Given that the clock is ticking and that there has been no progress in the talks to date, what action has the Government taken, apart from monitoring the situation? Is there any intention to involve the labour relations mechanisms of the State to stop this from happening? By the time the House convenes again next Tuesday, we will be five days away from the expiration of the strike notice. People and businesses need to know where they stand and certainty needs to be brought to the situation. There needs to be an understanding that the Government is on top of

the situation.

**Minister for Education and Skills (Deputy Ruairí Quinn):** Last Friday, the ESB group of unions served notice of their intention to take industrial action starting on 16 December. However, the ESB executive director team and the unions continue to meet under the company's established procedures for dealing with industrial relations issues. At this point there is ongoing dialogue between the parties, and while that process continues I believe it would be inappropriate to make further comment. However, the Department of Communications, Energy and Natural Resources will remain in ongoing contact with the company on the situation, and the Government will be kept informed.

The Government is acutely aware of the seriousness of this situation. We hope that notwithstanding the service of notice on the company last Friday, ESB management and the unions will work together to resolve the various issues through direct discussions within the framework of well-established procedures. The ESB, in co-operation with EirGrid, has a robust contingency plan in place in the event of industrial action. There is ongoing proactive engagement between EirGrid, the ESB and the energy regulator to ensure that if there is industrial action, appropriate and co-ordinated mitigation measures are taken to safeguard security of supply. There is a joint obligation on the company and the unions to have in place agreed contingency plans and other arrangements to deal with any emergency that may arise during an industrial dispute, including the provision of emergency services required on humanitarian grounds and all matters concerning health, safety and security, including that of plant and equipment.

My understanding is that pension scheme measures adopted under an agreement between the ESB and its unions in 2010 have had a positive effect, with the scheme actuary reporting that the scheme is now in balance on an ongoing actuarial basis.

**Deputy Dara Calleary:** The Pensions Board has confirmed that the scheme is on track and will be in surplus by 2018. The Minister for Communications, Energy and Natural Resources said that there is no risk to the pension scheme and that employees retiring between now and 2018 will receive their full entitlements. I also welcome the fact that there are ongoing negotiations, but at what stage does the Government intend to knock heads together and ask for an assurance that these negotiations are going somewhere and that there will not be disruption? The contingency plan will involve power outages. The plan as outlined cannot guarantee to citizens that there will not be a power outage ten days before Christmas. At what stage is the Government going to intervene with the labour relations mechanism? Will it allow things to drag on to the very last minute and not give any certainty to people during this very important two weeks?

**Deputy Ruairí Quinn:** I think the Deputy knows from his own experience in the Department of Jobs, Enterprise and Innovation, which has responsibility for the machinery of industrial relations, that the Government has at its disposal an array of instruments and institutions that can be mobilised at the appropriate time. The Minister for Communications, Energy and Natural Resources is of the view that at this stage, ongoing discussions between both parties are taking place and it would be inappropriate to take any action outside those talks until such time as there are further developments. If an intervention is required, then that will be considered in due course.

Everybody in this House shares the concern about disruption of supply at this time of the year, coming up to the Christmas period. One of the factors that gave rise to this unease is the position of the pension fund, and the Deputy has already concurred with my own observation

on that. Hopefully, the talks will produce a positive, constructive settlement. If an intervention is requested or required, then the machinery for that intervention is available.

**Deputy Pearse Doherty:** D'fhógair an Coimisinéir Teanga, Seán Ó Cuirreáin, inné go bhfuil sé ag éirí as a chuid dualgais i ndiaidh deich mbliana sa phost. Is é seo an chéad uair riamh i stair na tíre seo gur éirigh duine ag an leibhéal seo as a chuid cúraimí ar an dóigh seo. The announcement yesterday by the language commissioner that he could no longer continue in his role due to a lack of commitment from State organisations is a damning indictment of the Government's policy on the Irish language. Thug sé le fios don chomhchoiste go bhfuil trí cheathrú de na scéimeanna teanga a bhaineann le heagraíochtaí éagsúla Stáit, as feidhm. Léirigh sé inní mhór faoi chaighdeán cuid mhaith eile acu. Ba é an rud is tábhachtaí a bhí le rá aige ná go bhfuil eagla air go bhfuil oiread dochar déanta agus easpa muiníne sa chóras nach féidir é a tharrtháil anois. Thug sé le tuiscint nach bhfuil iarracht mar is ceart á dhéanamh seirbhísí Stáit i nGaeilge a chur ar fáil do shaoránaigh na tíre. Theip ar pholasaithe earcaíochta sa Státseirbhís le cinntiú go bhfuil go leor Gaeilge ag na hoibrithe chun freastal ar phobal na Gaeltachta agus na Gaeilge mar is ceart. D'athraigh an Rialtas na rialacha. Ní dóigh leis an Uasal Ó Cuirreáin go bhfuil bealach ar bith go n-oibreoidh an córas nua. Ní fhaca sé in imeacht 30 bliain an oiread ísle brí agus lagmhisnigh. An nglacann an tAire leis go bhfuil an ceart ag an ombudsman a d'éirigh as inné?

**Deputy Ruairí Quinn:** My attention has been drawn to the announcement by the commissioner to resign with effect from 23 February 2014. My attention has also been drawn to the comments he has made on the status of the Irish language and the current attitude of the Government to implementing its strategy. I have been assured by my colleague beside me, the Minister of State, Deputy McGinley, who has direct responsibility in this area, that these criticisms by the commissioner are not accepted and that in due course, when his resignation takes effect, a new commissioner will be appointed.

**Deputy Pearse Doherty:** Cuireann sé iontas orm go bhfuil an Rialtas ag cáineadh an méid a bhí le rá ag an gCoimisinéir Teanga. Thug sé sonraí iontach soiléir don chomhchoiste go bhfuil na pleananna as feidhm i gcásanna trí cheathrú de na heagrais Stáit. Tá sé de chúram ar an Roinn agus an Aire a chinntiú go bhfuil na pleananna ar fáil. Thug an coimisinéir an t-eolas seo do Thithe an Oireachtais inné. D'fhógair an Rialtas dhá bhliain ó shin go ndéanfar athbhreithniú ar Acht na dTeangacha Oifigiúla 2003, ach níor tharla aon rud go fóill. Tá sé i gceist ag an Rialtas ísliú stádais a ghearradh ar Oifig an Choimisinéara Teanga tríd an oifig sin a chónascadh le hOifig an Ombudsman. The commissioner had to take an unprecedented step yesterday in resigning, because the Government is totally undermining the work that he is doing. He told the committee that State organisations are ignoring their legal obligations. In two and a half years in office, the Government has done untold damage to the provision of services and supports for Irish language speakers throughout the State. An aithníonn an tAire gurb é seo an Rialtas is frith-Ghaelaigh agus is measa don teanga a bhí sa Stát seo riamh? An aontaíonn sé gur cheart don Rialtas athrú treo a dhéanamh má táimid chun aghaidh a thabhairt ar an bhfianaise a thug an Coimisinéir Teanga inné? Shíl sé go raibh ar a phost a fhágáil mar nach raibh sé i dteideal aon rud a dhéanamh fá dtaobh de seo sa dá bhliain a chuaigh thart mar gheall ar an dóigh ina mbíonn eagrais Stáit agus an Rialtas ag déileáil le ceist na Gaeilge sa tír seo.

**Deputy Ruairí Quinn:** I thank the Deputy for his comments but I do not accept what he said about this Government's attitude to the language. If Deputy Doherty wishes he may table an adjournment debate matter or have a comprehensive debate on the matter with the Minister of State, Deputy McGinley, where he can respond to all the Irish Language Commissioner's

claims.

**Deputy Joan Collins:** I refer to a question which Deputy Séamus Healy has asked twice in the last two weeks, once of the Taoiseach and once of the Tánaiste. On neither occasion has he received a reply which dealt with the question he raised. Before the Minister replies, the 30,000 families affected by this and I are well aware that the Government has established the Insolvency Service of Ireland, ISI, that new legislation on bankruptcy has been enacted and that the Central Bank has a mortgage arrears resolution process. Listing these points by rote is not an answer to my very specific question.

My question is on householders who lack sufficient income to pay their existing mortgages. They are unable to come to an agreement for reduced payments, split mortgages or mortgage to rent with their lenders. They do not have sufficient income to avail of the options from ISI and they cannot access bankruptcy and keep their homes. Up to 30,000 families are in this situation and face eviction. Can the Minister spell out his Government's policy for a clear, political and financial solution for these people, without the waffle about the Government's priorities, to keep these people in their homes?

**Deputy Ruairí Quinn:** The Deputy has referred to a question to which she feels she has not received an answer. I will try to get a copy of Deputy Healy's question and will give her the note I have on this matter. The Government has put in place a comprehensive programme of actions to assist householders struggling to pay their mortgages.

**Deputy Seamus Healy:** Here we go again.

**Deputy Ruairí Quinn:** We have rebalanced the rights of borrowers and lenders under the biggest shake-up of personal insolvency law in a century and we have given those who bought their first homes during the bubble significant increases in mortgage interest relief. All the tools are in place to accelerate the work out of the mortgage crisis. Banks and borrowers need to use these tools to reach fair and sustainable solutions to mortgage arrears on a case-by-case basis. We cannot allow the economic recovery to bypass families in mortgage arrears. We cannot leave 100,000 families in limbo because they have no certainty about their financial situation. There is a solution and process available to people who cannot pay their mortgages.

**Deputy Joan Collins:** What is it?

**Deputy Ruairí Quinn:** Engagement between consumers and lenders has already led to 45,177 permanent mortgage restructures up to the end of September, an increase of 3,900 on the August data. Encouragingly, the total number of mortgage accounts in arrears has fallen by 2,316 accounts to just over 118,000 accounts. The number of mortgage accounts in arrears of greater than 90 days has fallen by 14,068 accounts, down from 82,624 to 81,156. Term extensions and arrears capitalisations are the dominant permanent restructure type, comprising approximately 60% of total restructures. There has also been an increase in the number of split mortgages to 3,688 from 2,521 at the end of August. The next data up to the end of October will be released on 12 December. The Central Bank has set clear targets for the banks to deal with distressed borrowers requiring them to offer sustainable solutions by the end of next year at the latest.

**Deputy Joan Collins:** In my question I appealed to the Minister not to list off these points by rote, and that is exactly what he has done. He has not said what the Government will do to solve the problems of the 30,000 families who cannot access insolvency services. I thought it

might be third time lucky today and I might have got an answer from the Government. I have an example of a family whose income is €80 over the Insolvency Service of Ireland's monthly basic living needs. The cost to that family of employing a personal insolvency practitioner, PIP, for entering the debt settlement arrangement is €6,888 with a €1,230 up-front payment. That family cannot afford to go into that insolvency service arrangement.

Many families do not even have that extra €80, they are on the living allowance line, and they cannot access the service. What will the Government do for these people? Has the Government created a bankruptcy regime and insolvency legislation for the Seán Fitzpatricks of this world while the ordinary householders whose income has been decimated by the crash can swing in the wind? Is the Government going to continue a policy of insolvency apartheid?

**Deputy Ruairí Quinn:** The Deputy refers to a specific set of cases. If she wishes to give me the details of those cases I will get a comprehensive and detailed response.

**Deputy Joan Collins:** There are 30,000 of them.

**Deputy Seamus Healy:** There are 30,000, they are not individuals.

**Deputy Ruairí Quinn:** I have indicated the measures that have been taken to date and we believe they will help the vast majority of people who find themselves in that situation.

**Deputy Joan Collins:** Outrageous. They are left swinging in the wind.

### **Order of Business**

**Deputy Ruairí Quinn:** It is proposed to take No. 17, Supplementary Estimates for Public Estimates [Votes 18, 31 and 35] (back from committee); No. 19, Finance (No. 2) Bill 2013 - Report and Final Stages (resumed); and No. a1, Social Welfare and Pensions (No. 2) Bill 2013 [Seanad] - Second Stage (resumed). It is scheduled to adjourn at 7 p.m. tonight, if not previously concluded, and the order shall resume thereafter with Topical Issues.

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 5.30 p.m. tonight and shall adjourn on the conclusion of Topical Issues, which shall take place not later than 7 p.m.; No. 17, Votes 18, 31 and 35 shall be moved together and decided without debate by one question which shall be put from the Chair and any division demanded thereon shall be taken forthwith; the proceedings on the resumed Report and Final Stages of No. 19 shall, if not previously concluded, be brought to a conclusion at 2 p.m. today by one question which shall be put from the Chair, and which shall, in relation to amendments, include only those set down or accepted by the Minister for Finance; any division demanded on the conclusion of the Second Stage of No. a1 shall be taken immediately after the Order of Business on Tuesday, 10 December 2013; and if proceedings on the Second Stage of the Social Welfare and Pensions (No. 2) Bill 2013 do not conclude today, the Dáil shall sit tomorrow at 10 a.m. to resume consideration of Second Stage, there shall be no Order of Business within the meaning of Standing Order 26 and the Dáil shall adjourn not later than 2 p.m.

**An Ceann Comhairle:** There are five proposals to be put to the House. Is the proposal for the late sitting agreed to? Agreed. Is the proposal for dealing with No. 17 agreed to? Agreed.

Is the proposal for dealing with No. 19 agreed to? Agreed. Is the proposal for dealing with the divisions demanded on No. a1 agreed to? Agreed. Is the proposal for the sitting and business of the Dáil tomorrow agreed to? Agreed.

**Deputy Dara Calleary:** Tá sé soiléir go bhfuil fadhb mór againn i Roinn na Gaeltachta tar éis an cruinniú a bhí againn inné leis an gCoimisinéir. Tá sé tábhachtach go mbeidh díospóireacht faoi chad a tharla inné roimh an Nollaig. Ní dóigh liom gur ceart dúinn fanacht go dtí Feabhra chun an díospóireacht sin a bheith againn.

It is clear there is a problem when the Irish Language Commissioner made the remarks he did yesterday. We should schedule a debate on that before the Christmas recess. I got the impression the Minister plans to wait until the commissioner's resignation in February before addressing the issues he raised. There is a sense of urgency that needs to be addressed.

On the Education (Miscellaneous Provisions) Bill, we had very significant positive results from the Programme for International Student Assessment, PISA, studies this week and they were lost in other issues. We should acknowledge how positive they were. The improvements in science subjects and maths pay tribute to everybody involved, the Minister, his predecessors and teachers around the country. In the context of junior certificate reform, what plans does the Minister have to ensure we continue these results? Also, what plans does he have to consider new subject areas, particularly technology and computer programming?

**Deputy Ruairí Quinn:** The issue of a debate or discussion on the Irish language strategy could be raised by the party Whips at the next Whips' meeting, or Deputy Dara Calleary and the Sinn Féin spokesperson could discuss it with the Chief Whip to see whether time could be made available, either tomorrow or next week but certainly before the recess.

With regard to Deputy Dara Calleary's comments on PISA, the results are welcome. We have recovered our previous position, which gives strength to the suggestion that the assessment in 2009 was not 100% accurate. I welcome the improvement which is the result of the literacy and numeracy strategy I launched in July 2011. The strategy had been in draft form, prepared by my predecessor, Mary Coughlan, in response to the revelations and concerns expressed in 2009. The good news is that in regard to the 65 countries surveyed and within the 34 countries in the OECD, we have improved our position considerably. We are in the second from top division but not in the premier league. My aspiration is for Ireland to be in the top division. It is clear from the data that the reformed science curriculum introduced in primary schools in 1999, with a knock-on effect on reform in the post-primary junior cycle, has led to a distinct improvement. The change in the data is significant and according to the professional interpretation of the educational research council, the change in the curriculum has had a positive effect. The fact that change was introduced in 1999 indicates how long the lead-in time is for improvements to take place. I hope we will see a similar improvement with the junior cycle reforms which will commence next September in one subject, English, for students entering first year.

**Deputy Pearse Doherty:** Maidir leis an díospóireacht a thairg an Aire, beidh Sinn Féin sásta an díospóireacht sin a bheith againn amárach, mar go bhfuil géarchéim anseo. Dá dtarlódh seo ó thaobh Ombudsman na bpáistí agus dá mbeadh an Ombudsman tar éis a rá go bhfuil an Stát Seirbhís lochtach, bheadh an díospóireacht againn lom láithreach inniu. Tá sé iontach tábhachtach go dtarlóidh an díospóireacht seo inniu, amárach nó ar an lá is moille, Dé Máirt. Beidh Sinn Féin sásta a bheith anseo amárach, má tá an Aire féin anseo le na ceisteanna a fhre-

agairt.

Maidir le reachtaíocht, tá athbhreithniú déanta le dhá bhliain ar Acht na dTeangacha Oifigiúla, ach cén uair an mbeidh leasúcháin ag teacht chuig an Dáil don Acht sin?

In regard to the Local Government Bill 2013 which deals with reform of local government, I have asked the Minister and the Taoiseach on a number of occasions whether legislation is contingent on the Government announcing the local government fund allocations to local authorities. As we are all aware, the Government promised a bonanza local government fund allocation this year because of the local property tax. An additional €500 million is to be put into the fund to be dispersed to local authorities to do all sorts of things. Some of us believe these moneys will not materialise. It has now emerged that a sneaky amendment has been included in the Local Government Bill by the Government to allow €600 million to be paid from the fund by the Minister for Finance for the establishment of Irish Water. Will the Minister confirm that the funds that will be raised next year from the local property tax will go to enhance local-----

**An Ceann Comhairle:** The Deputy knows well that this is not an issue that can be raised on the Order of Business.

**Deputy Pearse Doherty:** Will they go to facilitate the taxation of water services.

**An Ceann Comhairle:** The Deputy is not listening to me. He knows well that this is not a matter for the Order of Business.

**Deputy Pearse Doherty:** Will the Chair explain this to me -----

**An Ceann Comhairle:** I am not going to explain anything to the Deputy who should find out what is in order on the Order of Business. He knows well that it is not in order to raise this issue.

**Deputy Pearse Doherty:** With respect, on a point of order, if the Ceann Comhairle can inform me which of the two questions asked by Fianna Fáil referenced any legislation, I will be willing to listen to him. I am told there is a precedent and that we have a book which includes salient rulings.

**An Ceann Comhairle:** Will the Deputy, please, put a question that is in order?

**Deputy Pearse Doherty:** There was no reference to any matter relevant to the Order of Business in the questions asked by Fianna Fáil. In terms of the debate tomorrow -----

**An Ceann Comhairle:** The Fianna Fáil Deputy called for a debate.

**Deputy Pearse Doherty:** The Deputy spoke about education but made no reference to impending legislation.

*(Interruptions).*

**An Ceann Comhairle:** The Deputy is a spokesperson, but I have been elected Ceann Comhairle. As long as I am here, I hope the Deputy will respect the Chair.

**Deputy Pearse Doherty:** I do respect the Chair.

**An Ceann Comhairle:** I ask the Deputy to respect the Chair and be in order.

**Deputy Pearse Doherty:** The Local Government Bill includes an amendment which allows €600 million from the fund to be paid to fund Irish Water. Is this contingent on the enactment of the Local Government Bill?

**An Ceann Comhairle:** When is the Local Government Bill due to be taken?

**Deputy Ruairí Quinn:** I understand Report Stage will be taken next week.

**Deputy Pearse Doherty:** What about the other legislation about which I asked - Acht na dTeangacha Oifigiúla?

**Deputy Patrick O'Donovan:** Let Mary Lou back in; she is much better.

**Deputy Pearse Doherty:** With respect to the hecklers, I asked about legislation, Acht na dTeangacha Oifigiúla, and the review conducted two years ago. As I asked my question in Irish, perhaps the Deputies did not understand what I said. When will that legislation be brought before the House?

*(Interruptions).*

**Deputy Paul Kehoe:** Gerry had to send in the Deputy this morning because he did not have Irish.

**An Ceann Comhairle:** Is there a Bill due?

**Deputy Patrick O'Donovan:** It has disappeared.

**Deputy Ruairí Quinn:** I understand the heads of the Bill will be sent to the Government shortly.

**Deputy Dessie Ellis:** There are plans for the penalty point systems to be harmonised North and South to make them more effective. People have evaded penalties, penalty points and fines for a number of years and we do not know what this evasion amounts to in monetary terms. The Road Traffic (No. 3) Bill is due for publication. When will it be published? This is an important issue in the context of safety.

**Deputy Ruairí Quinn:** I understand the Bill will be published next year and that the heads are being discussed by the Government.

**Deputy James Bannon:** The problems associated with alcohol misuse have been well documented. They include suicide, physical assaults, etc. When can we expect the health information Bill to be brought before the House?

**Deputy Ruairí Quinn:** It will be taken next year.

**Deputy Michael Healy-Rae:** With regard to the health services reform Bill, I have been critical of the centralisation of emergency call centres. Unfortunately, this led to the death last week of a woman in County Kerry. I call for the Minister for Health to have a full inquiry into this matter -----

**An Ceann Comhairle:** Perhaps the Deputy might raise the matter as a Topical Issue.

**Deputy Michael Healy-Rae:** ----- because Government policy has led to the death of a woman as a result of the extraordinary delay in the response of the ambulance service.

**An Ceann Comhairle:** The Deputy knows this is out of order on the Order of Business.

**Deputy Michael Healy-Rae:** There is no but; this comes under the heading of the health services reform Bill.

**Deputy Paul Kehoe:** That is uncalled for.

**Deputy Michael Healy-Rae:** What is uncalled for? The truth is the death of a person because of the Minister of State's party's policies was uncalled for. The Minister of State wants to be smart, but the death of somebody is nothing to be smart about.

**An Ceann Comhairle:** When is the health services reform Bill due?

**Deputy Ruairí Quinn:** There is no reference to a health services reform Bill, but there are a number of health Bills. Does the Deputy have a specific Bill in mind?

**Deputy Michael Healy-Rae:** I am looking for an inquiry into the death of a woman in County Kerry because of HSE policy -----

**An Ceann Comhairle:** There are other ways of raising the issue. The Deputy should resume his seat.

**Deputy Robert Troy:** On two previous occasions I asked about the Adoption Act 2010 and the Taoiseach and the Tánaiste indicated that the Government might be willing to bring forward an amendment to the Act to facilitate three Irish families caught in a legal limbo in seeking Russian adoptions. Time is of the essence in these cases. Will the amendment be brought before the House before the Christmas recess?

**Deputy Ruairí Quinn:** My colleague, the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, is working extensively on this complex issue. However, I am not sure whether she can bring a measure before the House that soon to deal with the three families referred to. I will raise the matter with her.

**Deputy Charlie McConalogue:** The programme for Government committed to publishing an implementation plan for the Education for Persons with Special Educational Needs Act 2004 to ensure a timeline would be provided for each child with special needs in gaining access to an individual education plan. What is the position on publication of that plan? It is distinct from the current review taking place under Eamon Stack of the allocation of special needs hours.

**An Ceann Comhairle:** About which plan is the Deputy asking?

**Deputy Ruairí Quinn:** The Deputy is referring to the programme for Government and the commitment given in it to publish a plan to implement the part of the Education for Persons with Special Educational Needs Act 2004 that has not yet been brought into operation. Perhaps the Deputy and I know more about this area than other Members of the House. I will await the conclusions of the special group examining the reallocation of resources model, which I expect to receive next April. They will give us much greater clarity on how best to proceed to implement as much as we can of the rest of the EPSEN Act which has not yet been brought into operation because of resource implications.

**Deputy Seán Ó Fearghail:** The legislative programme includes two references to important Bills on universities, namely, the universities (amendment) Bill which aims to deal with

remuneration, allowances and pensions which need to be addressed urgently and No. 76, technological universities Bill, which aims to amend the DIT and HEA Acts. Can we expect to see urgent action on these Bills? Will they be brought before the House within a short timeframe?

**Deputy Ruairí Quinn:** On the first Bill to which the Deputy referred dealing with pay and conditions, the matter is at a relatively advanced stage. The second Bill to which the Deputy referred is a large piece of legislation on the third level landscape. It will involve provisions to enable existing institutes of technology to merge, if they wish to do so. It will also provide for the requirements for any merged institute of technology which wishes to proceed to try to achieve technological university status. I expect to have the heads of the Bill within the Department before the end of this calendar year and hope to have it enacted during 2014. On current calculations, it will be at the latter end of 2014.

**Deputy Bernard J. Durkan:** On promised legislation, when is it expected to introduce legislation to the House to amend the Electricity Regulation Act 1999 to allow for arrangements to be put in place to facilitate an all-island gas market? The education (admission to school) Bill which is also promised will ensure the process of enrolling by schools is more open, equitable and consistent. Has either Bill been approved by the Cabinet? When is it expected to bring them to the House?

**Deputy Ruairí Quinn:** The all-island gas market Bill is scheduled for next year. The education (admission to school) Bill is with the Joint Committee on Education and Social Protection for consultation with interested individuals. I hope I will be in a position to receive a report from the committee early in the new year, with the intention of debating and enacting the Bill some time later in 2014.

**Deputy Bernard J. Durkan:** I thank the Minister.

**Deputy Pat Deering:** I wish to ask about the consumer and competition Bill which will make provision for a statutory code of conduct for the grocery sector. I understand it will be announced before the Christmas recess. What progress has been made on it? Are we on target to have it announced before the end of the year?

**Deputy Ruairí Quinn:** I am reliably informed that it is at a very advanced stage and that the target is to try to have it published before the Christmas recess.

**Deputy Thomas P. Broughan:** As the Minister knows, the Government spent almost three years working on a housing Bill, but we have no legislative underpinning for the cold weather initiative which lasts from November to March. A total of 140 people sleep on the streets and in parks, often with tragic consequences. Dublin City Council, where the Minister and I began our political careers, has approximately 20,000 families waiting for housing. In my constituency alone 4,000 or 5,000 are waiting. Some people have been waiting for up to 20 years. Given this situation, is it not incumbent on us to have an emergency public social housing programme such as the one the Minister advocated in the late 1960s and throughout the 1970s? We need a sense of urgency.

**An Ceann Comhairle:** I ask the Deputy for his co-operation.

**Deputy Thomas P. Broughan:** Given his background, the Minister has a particular interest in the subject and I wonder whether he can have something expedited.

**Deputy Ruairí Quinn:** I share the Deputy's concerns about the housing difficulties which have become acute throughout the country but particularly in the Dublin area. The Minister of State, Deputy Jan O'Sullivan, is bringing forward the heads of a housing Bill before the end of the year and it is hoped to have the Bill published and debated in the House no later than next spring.

**Deputy Sean Fleming:** The Minister is aware that under planning legislation, the wind energy guidelines published in 2006 were to be reviewed by the relevant Minister. The Minister concerned has indicated this review will be completed this week. Will this deadline be met? How soon can we expect the review of the wind energy guidelines to be published?

**Deputy Ruairí Quinn:** I do not know whether the deadline will be met, but I will find out from the relevant Minister and have somebody communicate directly with the Deputy.

### **Supplementary Estimates for Public Services 2013**

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd):** I move the following Supplementary Estimates:

#### **Vote 18 — Shared Services (Supplementary Estimate)**

That a supplementary sum not exceeding €1,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of Shared Services.

#### **Vote 31 — Transport, Tourism and Sport (Supplementary Estimate)**

That a supplementary sum not exceeding €50,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Transport, Tourism and Sport, including certain services administered by that Office, for payment of certain grants, grants-in-aid and certain other services.

#### **Vote 35 — Army Pensions (Supplementary Estimate)**

That a supplementary sum not exceeding €9,400,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for retired pay, pensions, compensation, allowances and gratuities payable under sundry statutes to or in respect of members of the Defence Forces and certain other Military Organisations, etc., and for sundry contributions and expenses in connection therewith; for certain extra-statutory children's allowances and other payments and for sundry grants.

Votes put and agreed to.

### **Finance (No. 2) Bill 2013: Report Stage (Resumed) and Final Stage**

Debate resumed on amendment No. 36:

In page 87, to delete lines 14 to 30.

-(Deputy Thomas P. Broughan).

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd):** I thank Deputies for their comments on the proposed amendments to section 71 of the Bill which provides for the introduction of an additional levy of 0.15% on pension scheme assets in 2014 and 2015. The existing levy of 0.6% which was introduced in 2011 to fund the jobs initiative will cease to apply on 31 December 2014. Amendment No. 36 seeks to delete section 71 from the Bill, while amendment No. 37 seeks to reduce the rate of the levy to 0.5% in 2014 and zero in 2015 and all subsequent years. As explained during the debate on Committee Stage, the additional levy of 0.15% will contribute towards continued funding of the jobs initiative and help to make provision for potential State liabilities which may emerge from existing or future pension fund difficulties. In the circumstances, we cannot accept either amendment as to do so would adversely impact on the funding of the jobs initiative and not provide the required provision against existing or future fund difficulties.

The revenue arising to the Exchequer from the stamp duty levy on pension fund assets is, in common with Exchequer revenues generally, not hypothecated or set aside to meet any particular item of expenditure or liability. This will be the same for the additional levy of 0.15% in 2014 and 2015. The revenues from the levies have and will be used to help to fund various measures introduced under the jobs initiative. The proceeds from the additional levy will also help to meet State liabilities which may emerge from existing or future pension funds difficulties. The Government has agreed to meet these liabilities from the Exchequer as they arise.

A significant and successful measure introduced by the jobs initiative is the reduced VAT rate of 9% on tourism and certain other services which was due to end this year. In the Budget Statement the Minister for Finance announced a continuation of the reduced 9% VAT rate and indicated the yield from the additional 0.15% pension fund levy in 2014 and the reduced level of 0.15% in 2015 would continue to help to fund the jobs initiative. The cost of continuing with the reduced 9% VAT rate is estimated at €350 million in a full year and the additional yield from the changes to the levy in 2014 and 2015 is estimated at €135 million in each year. The 0.15% levy is legislated in the Bill to end in 2015.

With regard to Deputy Broughan's comments, while the levy does not apply to unfunded public service pension schemes, this is not to say public servants or public service pensioners have been unaffected by requirements for fiscal retrenchment in recent years. The public service pension reduction, PSPR, was introduced from 1 January 2011. While the PSPR is not a levy, it is a cut which affects public service pensions.

At the time of its introduction, the PSPR was designed to cut all public service pensions above €12,000 in payment or awarded up to the end of a grace period which ultimately expired at the end of February 2012. It was initially estimated that the PSPR would reduce public service pensions by 4% on average, with more severe effects experienced at higher pension levels as a result of the progressive and multi-band structure of the reduction. The PSPR did not originally apply to pensions of post-grace period retirees on the basis that their pension awards had otherwise been reduced by being based on actual reduced pay rates reflective of the 2010 pay cut, not pre-cut pay rates as applied to retirees during the grace period. A change was made

to the PSPR on 1 January 2012, when a 20% reduction rate - previously 12% - was imposed on pension amounts above €100,000. With effect from 1 July 2013, more changes were made to the PSPR to deliver on the Government's commitment to further reduce those public service pensions above €32,500 by between 2% and 5% in certain circumstances, including the pensions above that level of individuals who had retired after the end of February 2012.

In the context of Deputy Róisín Shortall's point, the standard fund threshold, SFT, is not the subject of the amendments under discussion. The changes being made to the SFT regime will restrict the capacity of higher earners to fund or accrue large pensions through tax relief or subsidised sources and will do so effectively over time in line with the commitment in the programme for Government. The changes also represent a balance on conflicting issues as between, for example, the impact of the SFT on defined contributions as compared to defined benefit pension arrangements and also between those who are able to take retirement benefits at an early age and people who can only retire later in their careers.

In order to safeguard the restrictive changes being made to the regime against any threat of a successful legal challenge, the Minister has been obliged to provide, in so far as possible and in accordance with legal advice, for the protection of individual pension rights against any charge of retrospective or unjust treatment. The requirement to protect or "grandfather" pension rights in this way is not new and was put in place when the SFT regime was first introduced in 2005 and when the threshold was previously reduced in 2010.

**Deputy Thomas P. Broughan:** I thank the Minister of State for his comprehensive response, with most of which I do not agree, and for his illuminating comments on the PSPR. People are conscious of the fact that public sector pensioners are on fixed incomes. As time passes and as increasing numbers of utility charges, new taxes, etc., are introduced, people in the mid to late 70s and upwards - even those who previously worked in the public sector - are finding the going very tough. I do not believe one side is being set against the other. What happened in this instance was that there was a grotesque breach of faith in respect of people with private sector pensions. These individuals made a commitment in the past and just because he was of the view he could do so, the Minister imposed the levy on them. For the reasons outlined, people now feel incredibly hard done by. It is deplorable that, as a result of the recent budget, the levy will be increased in 2014 and again in 2015.

I do not believe the Minister of State has addressed this matter. He has referred to the fact that we do not have hypothecated taxes, which is generally the case. I supported the continuation of the 9% VAT rate for the hospitality sector, particularly in view of the overall position in the economy. However, measures of this nature should be kept under review. We have never carried out proper cost-benefit analyses of tax expenditures and that has led to us making very bad policy decisions on pension pots and other matters. I reiterate my opposition to section 71.

**Deputy Róisín Shortall:** I have raised the issue of the failure to fulfil the promises made relating to the SFT, especially as these are directly related to the increase in the levy. That is the whole point. The Government incurred a shortfall of €130 million as a result of not doing what it had promised to do in respect of high-end pensions and it made up that shortfall by increasing the levy on persons with small pensions by 0.15%. There is a direct correlation in this regard, namely, a new measure to raise €135 million being introduced to meet a shortfall of €130 million. The two are absolutely interconnected. Not only is there an issue with regard to a conflict of interest for the people who designed this measure, it is also the case that these individuals are not affected by the levy. It may be stated there have been previous cuts. I accept that is the case

and that everybody has experienced these cuts. However, the measure before the House will be used to hit the lowest earners on the smallest pensions in order to benefit those who are on the highest pensions. That is the sum total of what is involved.

The 9% VAT rate seems to be having a positive effect in certain areas. However, there are other areas in which it is not justified. For example, this rate of VAT relates to the fast food industry at a time when public policy should be moving in the opposite direction. It also acts as a subsidy for lap dancing clubs. People on small private pensions are actually subsidising this tax break for these sectors. There is no justification for this.

I ask the Minister of State to confirm that the increased levy of 0.15% which will be applied in 2014 and 2015 will be removed in 2015.

**Deputy Fergus O'Dowd:** Under the legislation, provision is made for it to end by that date.

**Deputy Michael McGrath:** Provision in that regard was made two years ago.

**Deputy Róisín Shortall:** Will the Minister of State confirm that there is no intention to extend it further?

**Deputy Fergus O'Dowd:** As I understand it, the legislation makes provision for it to finish on that date.

**Deputy Róisín Shortall:** We were previously informed that the levy would be brought to an end in 2014. However, that will not now be the case.

**Deputy Michael McGrath:** That was also provided for in legislation.

Question put: "That the words proposed to be deleted stand."

The Dáil divided: Tá, 65; Níl, 42.	
Tá	Níl
Bannon, James.	Boyd Barrett, Richard.
Barry, Tom.	Browne, John.
Breen, Pat.	Calleary, Dara.
Burton, Joan.	Collins, Joan.
Butler, Ray.	Colreavy, Michael.
Buttimer, Jerry.	Cowen, Barry.
Byrne, Eric.	Crowe, Seán.
Carey, Joe.	Daly, Clare.
Coffey, Paudie.	Doherty, Pearse.
Conaghan, Michael.	Donnelly, Stephen S.
Connaughton, Paul J.	Dooley, Timmy.
Conway, Ciara.	Ellis, Dessie.
Corcoran Kennedy, Marcella.	Ferris, Martin.
Creed, Michael.	Flanagan, Luke 'Ming'.
Daly, Jim.	Fleming, Tom.
Deering, Pat.	Grealish, Noel.
Doherty, Regina.	Halligan, John.

*Dáil Éireann*

Dowds, Robert.	Healy, Seamus.
Doyle, Andrew.	Kelleher, Billy.
Durkan, Bernard J.	Kirk, Seamus.
English, Damien.	Mac Lochlainn, Pádraig.
Farrell, Alan.	McConalogue, Charlie.
Ferris, Anne.	McDonald, Mary Lou.
Fitzpatrick, Peter.	McGrath, Finian.
Flanagan, Charles.	McGrath, Michael.
Griffin, Brendan.	McLellan, Sandra.
Hannigan, Dominic.	Murphy, Catherine.
Harrington, Noel.	Nulty, Patrick.
Harris, Simon.	Ó Caoláin, Caoimhghín.
Heydon, Martin.	Ó Fearghaíl, Seán.
Howlin, Brendan.	Ó Snodaigh, Aengus.
Humphreys, Kevin.	O'Brien, Jonathan.
Keating, Derek.	O'Dea, Willie.
Kehoe, Paul.	O'Sullivan, Maureen.
Kenny, Seán.	Pringle, Thomas.
Kyne, Seán.	Ross, Shane.
Lawlor, Anthony.	Shortall, Róisín.
Lynch, Kathleen.	Smith, Brendan.
McEntee, Helen.	Stanley, Brian.
McGinley, Dinny.	Tóibín, Peadar.
McLoughlin, Tony.	Troy, Robert.
McNamara, Michael.	Wallace, Mick.
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Dowd, Fergus.	
O'Mahony, John.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Rabbitte, Pat.	

Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Stagg, Emmet.	
Stanton, David.	
Tuffy, Joanna.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Róisín Shortall and Thomas P. Broughan.

Question declared carried.

Amendment declared lost.

*1 o'clock*

Amendment No. 37 not moved. **An Ceann Comhairle:** Amendments Nos. 38 to 40, inclusive, are out of order.

Amendments Nos. 38 to 40, inclusive, not moved.

Bill received for final consideration.

Question put: "That the Bill do now pass."

The Dáil divided: Tá, 70; Níl, 42.	
Tá	Níl
Bannon, James.	Boyd Barrett, Richard.
Barry, Tom.	Broughan, Thomas P.
Breen, Pat.	Browne, John.
Burton, Joan.	Calleary, Dara.
Butler, Ray.	Collins, Joan.
Buttimer, Jerry.	Colreavy, Michael.
Byrne, Catherine.	Cowen, Barry.
Byrne, Eric.	Crowe, Seán.
Carey, Joe.	Daly, Clare.
Coffey, Paudie.	Doherty, Pearse.
Connaughton, Paul J.	Donnelly, Stephen S.
Conway, Ciara.	Dooley, Timmy.
Corcoran Kennedy, Marcella.	Ellis, Dessie.
Creed, Michael.	Ferris, Martin.
Creighton, Lucinda.	Flanagan, Luke 'Ming'.

*Dáil Éireann*

Daly, Jim.	Fleming, Tom.
Deering, Pat.	Grealish, Noel.
Doherty, Regina.	Halligan, John.
Dowds, Robert.	Healy, Seamus.
Doyle, Andrew.	Kelleher, Billy.
Durkan, Bernard J.	Kirk, Seamus.
English, Damien.	Mac Lochlainn, Pádraig.
Farrell, Alan.	McConalogue, Charlie.
Ferris, Anne.	McDonald, Mary Lou.
Fitzpatrick, Peter.	McGrath, Finian.
Flanagan, Charles.	McGrath, Michael.
Flanagan, Terence.	McLellan, Sandra.
Gilmore, Eamon.	Murphy, Catherine.
Griffin, Brendan.	Ó Caoláin, Caoimhghín.
Hannigan, Dominic.	Ó Fearghaíl, Seán.
Harrington, Noel.	Ó Snodaigh, Aengus.
Harris, Simon.	O'Brien, Jonathan.
Heydon, Martin.	O'Dea, Willie.
Howlin, Brendan.	O'Sullivan, Maureen.
Humphreys, Kevin.	Pringle, Thomas.
Keating, Derek.	Ross, Shane.
Kehoe, Paul.	Shortall, Róisín.
Kelly, Alan.	Smith, Brendan.
Kenny, Seán.	Stanley, Brian.
Kyne, Seán.	Tóibín, Peadar.
Lawlor, Anthony.	Troy, Robert.
Lynch, Kathleen.	Wallace, Mick.
McEntee, Helen.	
McGinley, Dinny.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	

O'Mahony, John.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Rabbitte, Pat.	
Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Aengus Ó Snodaigh and Seán Ó Feargháil.

Question declared carried.

### **Social Welfare and Pensions (No. 2) Bill 2013: Second Stage**

**Minister for Social Protection (Deputy Joan Burton):** I move: "That the Bill be now read a Second Time."

The Social Welfare and Pensions (No. 2) Bill and the measures contained in it will not in any way affect people who are in receipt of either the contributory or non-contributory State pension. The measures I am outlining relate to defined benefit pension schemes only and the need for greater fairness when such schemes run into difficulty. It is important to stress that these measures will apply only in a limited set of circumstances, meaning the potential number of schemes affected will be small. The aim of the Bill is to ensure in such circumstances a fairer deal for workers and sufficient protection for pensioners while allowing employers and trustees to tackle their pension problems. The legislation is in keeping with the series of steps I have taken in recent years to deal with the issues affecting defined benefit schemes.

I want to detail some of those steps and set out the defined benefit context as it currently stands. Last year, for example, I brought in legislation introducing a risk reserve into defined benefit pension schemes and that legislation was broadly welcomed. The risk reserve is essentially a mechanism to ensure schemes do not take on too much risk and to prevent the same difficulties from arising again. It is worth remembering that the OECD, in its recent study on pensions in Ireland, pointed out that Ireland's occupational schemes lost more funds during the

financial crisis than any other OECD country because of the high level of risk being carried by the schemes.

Following the introduction of the legislation last year, the funding standard was reintroduced and schemes had to return their funding position to the Pensions Board by the end of June this year. The Pensions Board suspended the funding standard in 2008 after the bank guarantee scheme was introduced in the mistaken belief that it would be possible to reinstate it by Christmas, but of course that never happened. Schemes got into greater difficulty in the aftermath of the bank guarantee and the crash. I am happy to report to the House that the position is somewhat better than expected. We now know that over 40% of schemes are fully funded. Other schemes are working on the funding arrangements. Although 20% are poorly funded, many of these schemes have submitted funding proposals to the Pensions Board to get them back on track. The Pensions Board is now working with them on an individual basis to help them get over the line and to a sustainable position on pension schemes. The aim is to continue to nurse these schemes into a good funding position. When schemes are well funded, there will be no need to fall back on the provisions in this Bill.

However, for schemes that are underfunded, the provisions in this Bill address difficult issues of equity and fairness and have been under careful consideration for some time. The provisions ensure a fairer deal for workers and sufficient protection for pensioners. Defined benefit schemes are private pension schemes where those contributing to the scheme - the employer and the members - pool their contributions, which are then invested in order to pay pensions on retirement. Employers establish defined benefit schemes to provide their workers with income in retirement. They sponsor and contribute to them in good faith, taking on a considerable amount of the risk. Employers also provide the employment opportunities in the first instance. The primary role of the employer, as the sponsor in these schemes, is an underlying principle informing this legislation. So too is the protection of pensioners in these schemes, given the importance of security of income in retirement. Members of occupational pension schemes contribute to them in the expectation of the pension promised to them being delivered in the future. The Bill acknowledges their role in the scheme and realigns their role to an extent.

The stakeholders share the benefits and also, in principle, the risks of the fund. Many of these defined benefit schemes were established years ago and some have more pensioners than contributing workers. The State's role as regulator is to watch over these private occupational schemes and ensure they can live up to their promises. The State recognises that it has obligations under EU law and it will address these obligations. This legislation does that. The State also has a policy role to try to ensure that all people have an adequate income in retirement.

In this Bill, I introduce changes to the existing priority order. The priority order comes into play when a defined benefit schemes winds up. It basically outlines, on a step-by-step basis, the order in which the assets of the pension scheme are distributed when the scheme is winding up. Existing legislation comes from a time when defined benefit schemes were carrying surpluses. There is no issue with a scheme winding up when the scheme is funded, as all benefits can be met, which is the critical issue. If the scheme is properly funded the measures are not at issue because the scheme has sufficient funds to meet the promises made in the context of the scheme. It is when a scheme is underfunded that difficulties arise. The key issue with the existing priority order is that it gives 100% protection to pensions currently in payment and then distributes the rest of the funds to current and former members of the scheme. It can arise at present that pensioners receive all or almost all of the pension fund and the members who have contributed but have not retired receive considerably less than they had expected. This issue

has been of concern for some time and a considerable number of calls have come from employee and employer representatives, the pensions industry, actuaries and others to address the current inequities. Detailed examination of the issues has taken place. Technical advice was undertaken on the provisions and consultation with all stakeholder groups also took place. All stakeholder groups were invited to take part in a consultation process and participated. Following consideration of all the factors, I am replacing the existing priority order with two priority orders in this Bill. I am making provision for a situation in which the pension scheme winds up and the employer is solvent. I am also providing for a situation in which both the employer and the pension scheme are insolvent, which is called a double insolvency. This is to ensure the State meets its obligations under the insolvency directive following the ruling by the European Court of Justice in April this year.

In a single insolvency, where the scheme does not have enough funds to meet the claims on it, the priority order will change in the following way. The first priority will be given to defined contribution assets in a defined benefit scheme, which should not be part of the distribution of defined benefit assets. The next priority is given to pensioners. They will still be given a significant level of priority but there will now be provision for redistribution into the scheme from higher pensions at the initial distribution of the scheme assets. I am retaining 100% protection up to an annual amount of €12,000 for pensions. I am then providing a priority of 90% of pensions between €12,000 and €60,000 and 80% of pensions over €60,000. This reprioritising of the element of pension benefit over €12,000 will contribute to the benefits of current and former employees, which will be prioritised at 50%. Pensioner benefit will then be reprioritised before further resources are allocated to current and former scheme members. The impact of the changes will depend on the degree of underfunding. If there are sufficient funds in the scheme, any initial reductions to pensioners will be regained once the current and former members have been provided for and as the distribution of funds moves through the order outlined.

By maintaining significant protection for the pensioner, we are recognising that pensioners have retired from the workforce and therefore are a lot less likely to be able to build up more contributions. However, it aims to bring more equity to the current system by giving an improved outcome to current and former workers who have contributed to the scheme. Current workers paying into the scheme are often referred to as active members, while former workers who have not yet reached pension age are referred to as deferred members. The latter will not claim the pension fund until they reach retirement age.

The change recognises that all beneficiaries of the scheme - active contributing members, deferred members and pensioners - need to share the risks when a scheme is underfunded. The limit of €12,000 takes into consideration that the median private sector defined benefit pension is €11,000, the average pension is €18,000 and 55% of private sector pensions are below €12,000. Separately to any private pension, the vast majority of pensioners receive the State pension, which is not affected in any way by these changes. I have fully protected the State pension since becoming Minister in light of its critical importance to older people. A pensioner who has a State pension of €12,000 and an occupational pension of €12,000 will retain an income of €24,000, which is approximately two thirds of the average industrial wage and compares well internationally.

The second provision we are allowing for is double insolvency, which applies when an employer goes out of business and the pension scheme is also underfunded. It is a particular situation that is covered by the EU insolvency directive. Article 8 of the directive requires the State to have measures in place to ensure that at least 49% of the expected benefits of the contributors

to the scheme can be met. In April this year the European Court of Justice found that the State was not meeting its obligations under Article 8, and this provision is addressing the obligation. Again, the options have been considered in detail, and this also included an examination of the mechanisms in other countries. I am aware that other countries with defined benefit schemes have established large and complex structures to deal with occupational pension underfunding, but we need to bear in mind that this economy is recovering slowly from the severe downturn. Although I am thankful that unemployment is decreasing and we will exit the bailout on 15 December, resources remain limited.

We also looked at the risk of future double insolvencies and the role that regulation can play in keeping pension schemes aware of the need to manage their own funding position. Therefore, this provision changes the order of priority in a double insolvency situation as follows. As before, first priority is given to defined contribution assets, as they should not be part of the distribution of defined benefit assets. The second and third priorities are given to 50% of pensioner and members' benefits, and then priority is given to protecting pensioner benefits up to €12,000. The remaining steps of the order continue to provide for the benefits of pensioners and then for benefits of current and former scheme members.

These changes to the order do the following. First, they meet the requirements of the directive by ensuring that scheme funds are distributed in a way that ensures that all members, including pensioners, receive 50% of their benefits. The next priority is that significant protection is in place to ensure that pensioners receive a pension of €12,000. Again, much depends on the funding of the scheme. If the scheme is sufficiently funded, the distribution of funds can move through the various steps of the priority order and provide for the 50% requirement under the directive and then for pensioners' benefits up to €12,000, with the remainder going to pensioners' and other members' benefits.

In addition, the Bill provides that in a double insolvency where a scheme has insufficient resources to provide the 50% of benefits and protect €12,000 of pensioner benefits, the Minister for Finance shall provide for the shortfall in scheme assets. The scheme would wind up in the normal way and provide current and former workers with transfer values, which can be moved to another pension arrangement, and purchase annuities for the pensioners. The Minister has agreed that some of the funds obtained from the pension levy can be used to fund any costs which arise in double insolvency only. In such cases - which I should emphasise are very rare - it is proposed that there be a transfer of funds from the State to the scheme trustees by way of a once-off settlement. The provisions outline the principles of this process on which guidelines will be introduced. In short, the State does not intend to establish a complex and costly structure funded by taxpayers. What is provided for is a mechanism that can also provide for any historic situations that have arisen.

The aim of this Bill and the entire package of measures is to ensure as far as possible that we have the minimum number of double insolvencies. The Pensions Board will be introducing secondary legislation and tightening up the regulation around underfunded defined benefit pension schemes with a view to ensuring that such schemes take action to manage and improve their funding position. I cannot stress enough the importance of this, as pension schemes are based on promises made in good faith by employers. As a result of the events surrounding the Irish bank guarantee and turmoil in the international markets, pension schemes have gone through a very difficult time, although we are slowly recovering and stabilising. It is important that we get as many schemes as possible back into a properly funded position. That is the best protection for pensioners and active and deferred members. These measures and actions are all

aimed at minimising the risk of double insolvencies in future.

The Bill broadens the category of benefits that can be reduced where a defined benefit pension scheme is being restructured to improve its funding position and remain viable for all its members. Schemes have numerous options in this regard. For example, they can increase contributions or extend the retirement age, and they can also reduce benefits. Schemes are managed by trustees under trust law, and people will be familiar with negotiations taking place between trustees, the employer, and active and deferred members on how to effectively restructure schemes to produce the best and most sustainable outcome for the fund. This provision represents an additional option for the trustee.

The reduction is progressive and the limits are as I outlined for single insolvency. Pension benefits up to €12,000 are fully protected, annual pension amounts of between €12,000 and €60,000 can be reduced by up to 10%, and annual pension amounts over €60,000 can be reduced by up to 20%. This again brings increased fairness to the scheme, improves the position for current and former scheme members and may help a scheme to stay open. I also want to emphasise the fact that the provision provides for a reduction of up to 10% and up to 20%, and the trustee has discretion as to the percentage that needs to be applied. If a viable restructuring package can be put in place, it will assist in reducing the amount of restructuring. For example, a scheme with a high number of pensioners with high average pensions that applies a 1% reduction could receive an injection of funds of 2% to 3% back into the scheme for current and former workers. Everybody speaking on all sides of the House is conscious of cases in which a person reaching the pension age of 65 years will get 100% while somebody who is 62, 63 or 64 but has not yet reached pension age is left with little or nothing. That is part of the fairness issue we are trying to address.

In addition to the changes to defined benefit schemes that I have mentioned, this Bill also addresses issues that have been raised in a recent High Court judgment concerning the legal powers of deciding officers and appeals officers to revise decisions in certain cases. This is a complex area. Sections 301, 317 and 324 of the Social Welfare Consolidation Act currently allow officials of my Department, including appeals officers, to revise earlier decisions in a range of circumstances. This includes situations where new evidence is produced which indicates that the original decision was wrong and situations where there has been a change of circumstances since the original decision was given. These powers are wide-ranging and give considerable flexibility to deciding officers and appeals officers to deal with new evidence or changed circumstances which have been brought to their notice. Up until now, this flexibility has been seen as an asset in allowing deciding officers and appeals officers to deal with differing and, in some cases, changing circumstances. However, in the light of the recent High Court ruling, the provisions relating to a change of circumstances are now considered to be problematic. Up until now, in most cases, it has been the practice in the Department that once a claim is refused and all review and appeals processes are finalised, if the customer seeks a revised decision based on a change of circumstances, he or she is advised to make a fresh application. The new claim is then fully assessed in the light of all the circumstances of the case. In the light of the recent High Court decision, the Department can no longer require people to make a fresh claim but must reopen the claim, even if it was closed many years previously. The purpose of sections 3 to 5, inclusive, of the Bill is to address this issue, but in a limited range of circumstances. Specifically, section 3 amends the provisions of section 301 of the Social Welfare Consolidation Act which apply to the revision by a deciding officer of a previous decision of a deciding officer, an appeals officer or a designated person on entitlement to supplementary

welfare allowance. I stress that where the original decision was wrong and if new facts and evidence emerge, the customer will still be able to seek a revised decision. The amendment does not change this. Where a claim is in payment, it will still be possible to revise the decision if circumstances change, but where a person was refused a social welfare payment in the past and his or her circumstances change, the correct channel is to make a fresh application in order that the application can be fully considered in the light of his or her current circumstances. The amendment aims to ensure that will be the practice in all cases. In the light of the High Court decision, I have asked officials of the Department to carry out a more wide-ranging review of the legislation on social welfare decisions and will bring forward any necessary legislation at a later date.

I will now outline the main provisions of the Bill. Section 1 provides for the Short Title, construction and collective citations. Section 2 defines the principal Act for the purposes of Part 2 of the Bill to mean the Social Welfare Consolidation Act 2005. Sections 3 to 5, inclusive, provide that where a person was refused a social welfare payment in the past and his or her circumstances have changed in the meantime, rather than seeking to have the earlier decision reviewed, the correct channel is to make a new application for payment in order that this application can be fully considered in the light of his or her current circumstances. Section 6 provides for the correction of an erroneous reference and the deletion of an obsolete reference contained in Table 2 of Schedule 3 to the Social Welfare Consolidation Act 2005 which lists certain items of income which are excluded from the assessment of means for social assistance payment purposes.

Part 3 and section 7 outline that the “Act of 1990” means the Pensions Act 1990. Section 8 amends section 41 of the Pensions Act to affirm that the changes to the wind-up priority order apply to all defined benefit pension schemes subject to the statutory minimum funding standard. Section 9 inserts five new subsections to provide for the amendments to the priority order to replace the existing order with two new priority orders to deal with scheme wind-up when the employer is solvent and the employer is insolvent - the double insolvency. Section 10 provides for the drawdown of benefits in the event of a shortfall arising in a double insolvency and provides the Minister with the power to make guidelines.

Section 11 broadens the category of benefits that can be reduced where a defined benefit scheme is being restructured because it does not meet the minimum funding standard. Section 50 of the Pensions Act permits the Pensions Board to direct the trustees of a pension scheme to reduce the benefits of current and former scheme members and-or post-retirement increases in benefits for pensioner members where a scheme does not meet the funding standard. The reductions apply to higher pensions up to the limits specified.

Sections 12 and 13 cross-reference section 50B and section 50C with subsection (1B). Section 14 amends section 59B to provide that the prohibition on reducing pensions in payment shall not apply to directions under section 50(1B).

The legislation seeks to achieve three things: it ensures the State meets its obligations to put measures in place under the European insolvency directive. It addresses the equity difficulties with the existing priority order. It goes further by providing a further option to enable schemes to stay viable and stay open, which is the purpose of the legislation, to get the maximum number of schemes across the line to becoming well funded, sustainable, viable schemes, with consequent benefits for pensioners, active current members and deferred members. People need to have a decent income when they retire and we want occupational pensions to be viable

and effective. The legislation achieves a fine balance between the needs of the various parties and protects the State and the taxpayer. It does not in any way affect people receiving State retirement pensions, either contributory or non-contributory. A pensioner member of a defined benefit scheme who has an annuity will not generally be affected by the Bill. I commend the Bill to the House.

**Deputy Willie O’Dea:** I am sure there is one thing on which Members on all sides could agree, namely, that pension schemes in this country are facing a considerable crisis. It is long past time for a mature, national debate on the subject. There are six people of working age for every person over the age of 65 years. By 2060 that figure will have changed dramatically to just two people of working age for every person over the age of 65 years. In recent years we have had a plethora of reports, studies, recommendations and suggestions on how to establish a sustainable pension retirement scheme. However, to date, all that is lacking is appropriate action. The Bill changes the priority order in the event that a pension scheme gets into difficulty and winds up for one particular type of private pension scheme, namely, a defined benefit pension scheme. Therefore, it is dealing with a very tiny part of the overall pensions jigsaw. Nevertheless, it does improve on the situation which preceded it.

The first question I must ask is why it has taken so long. I accept the Minister’s point that this is a complex area, but the Government’s proposal is relatively straightforward. A variant of it has been around since the Department commissioned a report in 2010. I readily concede that the previous Government had the report and suggestion for one year and did not do anything about the priority order, but the Government has not done anything about it for three years.

**Deputy Joan Burton:** We are not in government for three years.

**Deputy Willie O’Dea:** If the previous Government was wrong not to take action within one year, the Government is three times as wrong. I wish to ask the Minister about people who have lost some or all of their pension since she took office when the problem was already manifest and a variant of her solution had already been proposed in a report to the Government. Yesterday, for example, I went downstairs to meet a delegation and one delegate asked me, in respect of a different matter, what was happening as regards the pensions legislation. I was explaining to her what was to happen today and she said she was a member of a defined benefit pension scheme that wound up in the past six weeks. She will not benefit from the changes. The problem is that the Minister made numerous public promises, to IBEC and other organisations, giving several deadlines that were not observed. Between 2009 and September 2012, 231 schemes closed. Almost as many have closed since. The Minister indicated so much in the response to a parliamentary question on 19 November. In the reply, she stated that, since 1 January, “96 schemes have commenced wind up”. Overall since the Minister came to office, 50,000 to 60,000 people have lost either all or part of their pension because of the previously unfair priority system.

I have received numerous representations on a certain matter with which I want the Minister to deal in her closing statement. I have been asked to ask her whether the legislation enables or could be amended to enable the new changes, or the changes she is introducing today, to apply where the wind-up takes place before the Bill comes into law but where the funds have not been distributed by the time of its enactment.

The Minister introduced a section providing for a double insolvency situation, presumably in light of the Waterford Glass decision by the European Court of Justice. What is worrying

about the Government's proposals in this regard is that they seem to envisage that the infamous pension levy will become a permanent feature of the Irish taxation landscape. That is in direct contradiction of the very specific commitments made by the former Minister for Finance when he introduced the levy. He emphasised time and again that it would be a temporary provision. For example, on 10 May 2011, he said, "The various tax reduction and additional expenditure measures which I am announcing today will be funded by way of a temporary levy on funded pension schemes and personal pension plans." He said it would apply for a period of four years, commencing in 2011, and that it was intended to raise a specified sum. In a reply to Deputy Michael McGrath dated 24 May, he again emphasised this: "As the legislation introducing the levy makes clear, it is for a temporary four year period only and pension funds are being asked to make a contribution to getting the domestic economy moving again over that period." That promise has obviously been jettisoned and now the levy is to be a permanent aspect of the Irish taxation landscape.

The position is now that the Government will be putting the shovel into people's private savings for an indefinite period and an indefinite amount, despite the former Minister's optimism to the contrary. The pensions levy is an expropriation of private citizens' savings. It is similar in principle to the expropriation of bank deposits recently in Cyprus. It takes money directly from people's savings, including from defined contribution pensioners, who have no relationship whatsoever with those in the Waterford Glass circumstances. The irony is that the new regulations announced in the Bill by the Government will drive many defined benefit schemes to be converted into defined contribution schemes, whose members will then have the privilege of getting lower benefits in order to guarantee the position of those who are able to remain in defined benefit schemes and are, thereby, better off.

From the welter of publicity surrounding the introduction of this legislation, I understood that the new levy, the extra levy announced by the Minister on budget day, would be ring-fenced to deal with this situation specifically, and that there would be no other payments from it. Can the Minister confirm whether this is the case or whether it is an additional general levy?

With regard to single insolvencies, the changes are, by and large, modest enough. There is a guarantee of 100% up to €12,000 per annum. Pensions worth up to €60,000 per annum are guaranteed in the order of 90%, and pensions worth in excess of €60,000 are guaranteed in the order of 80%. There are anomalies in the figures, although I appreciate it is difficult to have them exact. For example, a person on a pension of €59,000 could lose up to €5,900 whereas a person on a pension of €61,000 could lose €12,200. In reality, however, many pensioners will not be affected at all, even if their pension fund winds up in deficit. A pensioner who was on the average industrial wage and who retired after 40 years' service, having been in a typical pension scheme, will still probably have the same protection as he or she had heretofore. Despite the Bill, those with higher pensions will continue to receive much greater protection than those still at work or deferred pensioners.

As I stated, the double insolvency provisions in this legislation arise directly from the Waterford Glass case. There is, of course, an anomaly. Where a person loses his job and his pension scheme is wound up and the company goes into liquidation, amounting to double insolvency, the person has a certain guarantee of 50% of his benefits. Where a person loses his job and must rely on the pension, becoming a different pensioner, he has no guarantee whatsoever if the pension scheme winds up but the company does not. In an article in *The Irish Times* on 20 November 2013, Mr. Peter Fahy of Eversheds is quoted as having said, "There is a strong disconnect here which may lead to unintended consequences".

The Minister referred to Article 8 of the EU directive, which refers to protection in the order of at least 49%. The Minister is providing 50% protection but I am sure she is fully aware of the decision of the High Court in the United Kingdom, where the appropriate level of protection was judged to be 90%. The Waterford Glass case is still before the courts and the question of the appropriate percentage has still to be decided by the High Court. If that court stipulates a figure greater than 50%, what will happen then? Perhaps the Minister will deal with that when responding.

There is nothing in the Bill – perhaps this is an oversight – about the indexation of thresholds. It is reasonable that we should ask whether the thresholds will rise over time to provide some sort of consistency. For defined benefit schemes, the minimum funding requirement is based on a fiction. The question asked is whether the pension scheme would be able to meet all its liabilities if it were wound up tomorrow. This is totally artificial. It fails to recognise the long-term nature of pension provision. Pensions are only paid out on actual retirement and businesses file their accounts on a going-concern basis rather than on an assumption of immediate wind-up. We must move to an ongoing funding model that recognises the long-term nature of pension provision. The present system values liabilities on the basis of a hypothetical set of circumstances that may never come to pass. I refer to how much it will cost to meet a liability by purchasing annuities which are largely priced in German or other triple-A rated bonds. The price of those bonds, as every Member will be aware, has soared significantly in recent years, often deliberately driven up by the authorities which sought to reduce the yield.

Healthy schemes do not need to purchase annuities, yet the very health of those schemes is measured against the price of those annuities and the capacity of the scheme to meet the statutory funding standards based on annual testing. The new Pensions Board rules, introduced in 2010, represent a positive step in the right direction although Irish bond yields have decreased since. However, they are far too restrictive and the trustees are still very unclear as to how much protection they enjoy in the event of something going wrong. There is an urgent need for creative thinking. There are alternatives. For example, Mercer has proposed that the link to German bonds should be substantially broken. It recommends that a certain level of the pension could be so linked and that the balance could then be converted into a lump sum on the basis of a fair actuarial value rather than the cost of an annuity. This lump sum could, in the event of a wind-up, be invested in an active retirement fund from which income could be drawn down, as needed. Other alternatives, or variants of that, have been canvassed by various sources.

*2 o'clock*

There is no evidence, however, that such matters have received the slightest consideration by the Government. The Government policy appears to be to collapse as many defined benefit schemes as possible, to expose as many pensioners as possible to the full risks of defined contribution schemes and to minimise the cost of the commitment in this Bill to guarantee pension shortfalls in certain situations.

In view of this, it is all the more ironic that there remains in this country a very large cohort of pension funds which need have no worries whatsoever about meeting the funding requirements or about how those requirements are to be measured. A Government exemption granted last March to more than 100 State-funded schemes for employees of Government bodies excluded those bodies from all of these considerations. These schemes have approximately 340,000 members, dwarfing the numbers in private pension schemes. The exempt funds include the Central Bank scheme, the Pension Board schemes - surprise, surprise - university pensions

and, of course, the Oireachtas Members scheme. If these State-protected pensioners were underfunded to the extent of those in the private sector, the liability would be approximately €30 billion. Overall, the liability for public pensions in this country is in the region of €130 billion. The State-guaranteed public sector pension scheme is the most insolvent scheme of them all.

**Deputy Joan Burton:** It was the Fianna Fáil Party that did that.

**Deputy Willie O’Dea:** Excuse me?

**Deputy Joan Burton:** Fianna Fáil brought in those schemes at the height of the crisis. It was former Deputy Brian Lenihan-----

**Deputy Willie O’Dea:** My information is that it was done more recently.

**Deputy Joan Burton:** No. I must correct the Deputy. It was done by Deputy Brian Lenihan, sitting here-----

**Deputy Willie O’Dea:** If it was, I accept that but I am just pointing out-----

**Deputy Joan Burton:** Certainly that is the case with the schemes Deputy O’Dea referred to at the Central Bank and-----

**Deputy Willie O’Dea:** I am pointing out the difference between the treatment of these people by the State - which the Government can change - and the treatment of those who have to provide for themselves. If my information on that is wrong, I apologise.

I disagree profoundly with those commentators who suggest that the way of the future is the total elimination of defined benefit pension schemes. That will leave a situation where people in the public sector are fully protected with index-linked, fully-guaranteed pensions, for which the taxpayer is liable for every cent while at the other end of the scale, people will be at the mercy of the market and fund performance because they will all be in defined contribution schemes. There is a place for defined benefit pension schemes if we are prepared to look creatively, not at soft options but at the artificial way in which liabilities are measured.

The Bill makes no reference to or provision for early access to pension funds, a matter which has given rise to considerable debate in recent times. Does the Government have any proposals in this regard? Various measures were introduced in various finance Bills but there are outstanding recommendations for substantial change in this regard.

There is also a continuation of the situation whereby profitable employers are still allowed to walk away from pension problems by simply winding down their schemes if they are in deficit. The Government will be aware of an OECD recommendation that a minimum of 90% funding should be in place before a scheme can be closed when a company’s financial position is healthy. I ask the Minister to address that point and explain why it is not part of the Bill.

Only 54% of the workforce has pension coverage as we speak. This takes on a very alarming aspect when the public sector is excluded because in the public sector, pension coverage is at 90%. In the health and restaurants sectors, for example, pension coverage averages only 23% according to a recent study conducted on behalf of the Pensions Board. In the wholesale and retail sector, coverage averages 36%. This is despite the fact that eight out of ten people surveyed who do not contribute to a private pension scheme said that the State pension would not meet their needs in retirement. The key issue is how to improve coverage. Among OECD

countries, only Ireland and New Zealand do not have compulsory pension saving. An OECD report this year recommends a radical shake up of State pensions, with a new universal pension scheme for all, financed by taxes and contributions. It outlines the pros and cons of a compulsory contribution system. The Minister said in the Seanad that she intends to bring forward further proposals but I wonder how near we are to even beginning to solve this problem, seeing as it has taken three years to get this far.

In addition, pension costs must be tackled and we already have a report on that, which is fairly extensive. The private pension industry makes vast sums of money for fund managers, administrators and intermediaries at the expense of savers. A report commissioned by the Department of Social Protection last year shows exactly how exorbitant charges impact on pension schemes, particularly smaller ones. It showed, for example, that a person who saves €250 per month from the age of 35 could end up with a fund of €200,000 after 30 years, leaving him or her with an annual pension of €10,000 in retirement, if there were no charges. However, the average charge of 2.18% per annum would reduce the fund by €62,000 and the pension by €3,100 per annum, a 31% reduction. That money is simply swallowed up in charges by middle men and middle women.

There are many anomalies in the Irish pension system. I received an e-mail recently from a 57 year old man who has been contributing 4% of his salary to the TSB pension scheme for the last 20 years. That scheme has now been wound up but the levy is still being taken from his pension savings. I received correspondence only this morning from a person who has subscribed for years to the defined benefit pension scheme run by Johnston Press. He was made redundant in August 2010 and the company pension scheme was subsequently wound up. He has only €20,800 left, which will give him a pension of €380 per annum. He must pay tax on that because his wife is working, which means he will finish up with €4 per week, net. However, because the lump sum exceeds €20,000, he cannot take it, even though he wants to take it to fund his daughter's third-level education. Due to the fact that his lump sum is slightly over €20,000, instead of getting that money, he will have to be satisfied with a net payment of €4 per week. That is an anomaly that must be examined by the Department.

A lot of the representations I have received on pensions concern access, particularly by deferred pensioners, to the trustees when they are making decisions, most notably on restructuring. I have not seen anything in the Bill which addresses that issue and will be asking the Minister to include some provision in that regard or at least to explain why it is not included in the legislation. It would be a good idea to have some sort of appeal system, particularly in the event of a proposed restructuring of a pension scheme. Those who could be hurt financially by decisions of trustees should be able to appeal those decisions to the Pensions Board. My party will table an amendment along those lines on Committee Stage.

In conclusion, the Bill is a variant of legislation I put forward myself several months ago so, from that point of view, I am not opposing it. It deals with an unfairness in the system. However, in view of all of the problems faced by pension schemes in this country, it is only a very tiny part of the jigsaw. That said, it does represent a slight improvement on the current situation and from that point of view, my party will not be opposing it.

**Deputy Aengus Ó Snodaigh:** Táimid ag déileáil le ceist mhór a dhéanann tinneas do go leor daoine sa tír. Bíonn gach duine buartha faoi phinsin. Sa chás seo, táimid ag déileáil le dream áirithe oibrithe atá thíos leis de thairbhe an teip sa geilleagar. Bhí siad ag tnúth le pinsean réasúnta a fháil ag deireadh a saol oibre chun iad a chothú agus iad ag dul in aois. De ghnáth,

déanaim gearán nó casaoid leis an Aire faoin mhéid a bhíonn os ár gcomhair. Leanann sé sin ón seasamh atá glactha ag an Rialtas i dtaobh sochar leasa shóisialta go dtí seo. Sa chás seo, níl mé ag teacht salach ar an Aire. Aontaím gur chóir dúinn díriú ar na pinsin seo - pinsin le sochair sainithe, seachas pinsin le ranníocaíocht sainithe. Tá sé aitheanta le blianta fada go bhfuil fadhb ann sa chomhthéacs seo. Ba chóir dúinn déileáil leis an gceist seo agus leigheas a fháil air más féidir. Mar a dúirt mé, níl mé ag cur i gcoinne an Bhille seo. Tacaím leis. Measaim gur chóir go n-imeodh an reachtaíocht seo beagáinín níos faide i dtreo an bealaigh a luaigh an tAire Stáit i mí Dheireadh Fómhair 2011 nuair a labhair sí faoin ábhar seo. Beidh sé spéisiúil ar Chéim an Choiste nuair a bheimid ag caint faoin bhfáth nár bhain an tAire amach an moladh nó an tuairim a bhí aici ag an am sin. Measaim nach bhfuil an tuairim sin le feiceáil anseo. Tá sé tábhachtach, áfach, go dtuigeann muid go bhfuil céim mhór tógtha anseo. As the law stands, in the event of a defined benefit pension scheme wind-up, pensions and payments must be fully discharged, no matter how lavish, before a single penny is allocated to future pensioners, however close to retirement they may be and however modest their pension expectation. It means that someone who might have expected to draw a pension in a year could be left with no pension, while someone who retired a year ago will still be paid in full. The fairness of this was always questionable. This is wrong and every Member accepts there is a need to change it.

A gold-plated pension is one worth more than €60,000 a year. Such a pension can be often matched with a State contributory pension for which most defined benefit pensioners would also qualify. That is twice the average wage. One must remember that the State subsidised these gold-plated pensions in the form of tax foregone and tax relief regimes over the years. We must be always careful that we do not facilitate the private over the public good in public policy. This legislation may get the balance right in this regard.

It is agreed the burden of risk is not shared fairly under pension law. The priority order in the event of a pension wind-up also needs to be changed, and this is also addressed in the legislation. Deputy O'Dea asked why we had to wait so long for the legislation. It was too long a wait for some of those defined benefit schemes which were already in crisis. Up to 50,000 people under 65, according to the Irish Brokers Association, have already wound up with no pension or just a tiny retirement fund far short of their expectations because of their schemes becoming insolvent. There is no relief for these people as there is no retrospective aspect to this Bill. I have several proposals which might ameliorate these funds which can be dealt with on Committee Stage, such as funds being asked to purchase State contributions to ensure those affected without full contributions can avail of the State contributory pension. It is the case that many employees before 1996 were paying the wrong stamp.

The Minister referred to historic cases of pensions being wound up. There is nothing historic about people in their 50s and 60s in employment facing a bleak future due to insufficient pension funds in their retirement. Many of them will end up dependent on the State non-contributory pension due to no fault of their own. While the Bill's introduction is late in the day for those affected and, lacking as it is, it does represent an improvement. Saying that, it does not get the balance right. It is not, as the new Dublin south-side term states, amazeballs.

**Deputy Joan Burton:** What is it?

**Deputy Aengus Ó Snodaigh:** Amazeballs. There you go, Minister, there is a new term for you.

**Deputy Joan Burton:** We are all northsiders over here.

**Deputy Aengus Ó Snodaigh:** It certainly does not come from the westside where I live. There are fundamental-----

**Deputy Joan Burton:** Deputy Olivia Mitchell is from the southside. Maybe she heard it?

**Deputy Olivia Mitchell:** Of what is he accusing us? What is the phrase?

**Deputy Aengus Ó Snodaigh:** Amazeballs is the new term for “fantastic” or “brilliant”.

**Deputy Olivia Mitchell:** Okay.

**Deputy Joan Burton:** It must be a DART expression.

**Deputy Aengus Ó Snodaigh:** We can have a discussion on it another time.

**Acting Chairman (Deputy Bernard J. Durkan):** The Deputy might enlighten the rest of us as we would like to understand what is going on as well. This new terminology is unknown to us.

**Deputy Aengus Ó Snodaigh:** It means “fantastic”.

**Deputy Richard Boyd Barrett:** Acting Chairman, if we are not allowed to use the term “bristle”, we certainly should not be allowed use the term “amazeballs”.

**Deputy Joan Burton:** Deputy Boyd Barrett should know the term as he is from Dublin’s deep south.

**Deputy Aengus Ó Snodaigh:** Fundamental inequalities are left unaddressed despite the original proposals the Minister made in 2011. To protect high-end pensions, deferred workers approaching retirement will remain woefully unprotected. When pension funds get into difficulty, the response should not be about protecting pensioners versus protecting contributors who have yet to retire, it should be about protecting pensioners of today and tomorrow. In that regard, this Bill is not strong enough. On Committee Stage, we must strengthen the legislation to ensure all pensioners are protected without putting an undue burden on the State.

I have a problem with the way this was introduced. Despite the much hyped Dáil reform proposals, the heads were not put before a committee nor was there any pre-legislative Stage. It was sent straight to the Seanad after it was published. At each Stage since, there has not been the conventional two-week gap which would allow Members, the Minister, the Department or the Bills Office the time to consider the debate and to prepare amendments.

While I welcome the departmental briefing on legislation to Opposition spokespersons, it was at a moment’s notice. My parliamentary assistant, Miriam Murphy, attended it and probably tortured the officials with loads of questions. I, by chance, was checking e-mails and told her the briefing was in 15 minutes. The e-mail had been sent out an hour before the briefing. That is not the best way to do business. Hopefully in the future, the Minister will give enough time for the Deputies to get the briefing so that we can contemplate what are substantial changes to the pension regime in this country.

The Minister commissioned Mercer to write a report on the wind-up priorities of pension schemes at the end of 2012. I do not think it has ever been published. We have searched everywhere on the website, and that would have been a vital report to have in front of us, given that it was to examine the points we are raising here today. The purpose of the review was to

determine to what extent the existing pensioner priority should be revised to provide for a different approach to the distribution of assets in the wind-up of an underfunded pension scheme. That is exactly what we are talking about, but it is not in front of us. Can it be published, or at least circulated to us so that we can use it? It might back up the Minister's contentions and the reasons for this Bill, or it might not. We can debate that.

This Bill is an improvement, but it does not go far enough. Where a scheme fund is in deficit, the trustees may need to wind it up or restructure it. In the case of a wind-up, the current priority order means that after the AVCs, the fund's assets must first be used to discharge up to 100% of the liability to existing pensioners. Only then can the active and deferred members get the benefits they have accrued, by which time there may be little or nothing left in the fund. In such circumstances, workers approaching retirement age are particularly hard hit.

This Bill lists six priorities to govern the distribution of a fund in the event of a scheme wind-up, but I would propose eight priorities. I will go into detail if I have time today, but I have submitted amendments to that effect on Committee Stage.

The Minister stated that most people have a State contributory pension and that the occupational pension is additional to that, giving the impression that pensioners will have 100% protection up to €24,000, with €12,000 as part of the non-contributory pension. However, not everybody affected in this Bill is entitled to a State pension. In the case of the ESB pension scheme alone, I was told that 11,000 members are not entitled to a State pension because they began work before 1996 and have therefore been paying the wrong stamp. I might be wrong, but that is what was-----

**Deputy Joan Burton:** That was at their request.

**Deputy Aengus Ó Snodaigh:** I understand it is not the fault of the State, but it means that in the event of such a scheme winding up, the burden will be fully on the State one way or the other because they may only qualify for a non-contributory pension and their income will be quite reduced. I believe that we can address that through using the scheme and funding whatever contributions are missing.

Recognising that some defined benefit scheme members are not eligible for the contributory State pension, my proposal sets out to ensure a minimum safety net for all scheme members, first through the purchase of the requisite contributions record for the State pension for all scheme members who do not have such a record or who are not on the road to it. In the event of a pension scheme wind-up, I believe that should be the first priority. After that, my priority is to protect those on low pensions and those with low pension expectations. My second priority goes to the first €12,000 worth of pensioners' benefit, as the Minister mentioned. I also think it is important to recognise that people approaching retirement age are particularly hard hit when a pension fund collapses, as they do not have the ability or the time to make alternative arrangements. Those who are over 50 or over 55 should also be taken into account. I propose two tiers of protection for those people. My third priority goes to the age-related portion of the current and former members' benefits, and the fourth to the eighth priorities are just different ways of dealing with the distribution back and forth between pensioners and future pensioners. The changes I have suggested mean that once we have ensured that existing pensioners have the full State pension of €12,000, plus their full occupational pension benefit up to €12,000, we can immediately turn to the protection of future pensioners. I believe this is a fair distribution and I have submitted the amendments to that effect on Committee Stage.

I wish to address the Minister's assertion that she is protecting the State and taxpayers from liability for the failed investments of private pension schemes. She also asserted that the pension levy would be used to cover funding shortfalls in the case of double insolvency. That is double or even treble accounting, because a pension levy has already been verbally allocated by various Ministers to the central Exchequer, to deficit reduction and to the Government's so-called jobs initiative. I do not know which it is. It cannot be allocated to everything at the same time. The Minister's press release at the time stated that she had secured agreement with the Minister for Finance to use funds from the pension levy to meet any obligation on the State that may occur arising from such double insolvency. I asked the Minister for Finance about this last Tuesday, and he said that agreement has been secured for these liabilities to be met by the Exchequer where they arise. That is not the pension levy. I hope the Minister can come back to that. Even if the shortfalls were to be met by the pension levy, this levy is paid by pensioners with defined contribution schemes, so it is questionable whether it is fair to spend it on compensating members of defined benefit schemes. There is a question here about poor investment outcomes when the defined contribution members are already being offered no such protection. The questions raised are not enough to make me oppose the Bill, but they are questions that need to be addressed.

I will recap on who is legally exposed when defined benefit schemes go forth: workers, pensioners and the State. The sponsoring employers, who made the pension promise in the first instance, are noticeably absent in all of that. When the OECD recommended in its recent review of the Irish pension system that the insolvency guarantee arrangement was needed, ensuring payments after the bankruptcy of a plan's sponsor, it emphasised that for this to work, the employer must have a primary obligation to fund shortfalls. The OECD was very critical of the nearly unique situation in Ireland which allows healthy sponsors to walk away from defined benefit scheme plans, shutting them down without creating a high-priority debt on the employer itself. The OECD described this as a particular weakness of our system. It recommended that healthy planned sponsors, defined as employers with positive net revenues, should not be allowed to walk away from defined benefit plans unless the assets cover 90% of pension liabilities. The Bill does not address this failing in our system.

Employers include the parent companies, because far too often, especially in a small economy like ours, subsidiary companies are set up, and while the parent company is very healthy, in many cases the subsidiaries are walking away from the defined benefit plans. That cannot be allowed to happen. Employers who have the ability to pay the pensions they promised must honour that commitment to their workforce past and present. I will be tabling an amendment flowing from the OECD recommendations on Committee Stage.

In the absence of a clear legal obligation preventing healthy employers from walking away from defined benefit schemes, these matters often get sorted out by industrial relations infrastructure, including the Employment Appeals Tribunal, the Labour Court and the Labour Relations Commission. However, in such instances, deferred scheme members are at a particular disadvantage because they are excluded from those processes.

I was lobbied by a trustee of one of the schemes, the Aer Lingus, Dublin Airport Authority, DAA and SR Technics pension scheme, outlining the particularly harsh pension cuts deferred members are facing in that context. Without going into their scheme, they do not have a voice if it gets to the Labour Relations Commission. I will try to address that in an amendment but it should be examined, even though it is complicated because deferred members could be scattered around the country or the globe. There should be some voice for them in the event of a

scheme going south.

It is important to consider the backdrop to this Bill. There is a crisis in pensions across the board. The capacity of the State pension to reduce pensioners' poverty into the future has been undermined by this and the previous Government. The population is aging. We can argue how fast or slow that is, there are many variables we could use to make accurate, long-term predictions, but there is no doubt that the ratio of workers to pensioners is decreasing. Our fertility rates are more favourable than in many European states but increased life expectancy is also a significant driver.

The social insurance fund has a gaping hole, which we have discussed before, and that hole will either increase or remain static, even if we return to near full employment, because of our aging population. We need to get this fund onto a sustainable footing. The first port of call for doing this is to examine the income which may or may not result from cutting benefits, which seems to be the Government's main focus to date. Changes have been made to the State pension scheme. Increased rate bands, increased numbers of contributions and the raising of the State pension age all undermine the adequacy of the State pension in terms of providing sufficient retirement incomes and will result in rising pensioner poverty. From 2020 onwards, increasing numbers of people retiring will find themselves entitled to less than 80% of the State pension given the recent changes.

In that context, the question is whether the private pensions can solve the pensions time bomb as this and the previous Government would have us believe. I do not believe so and the crisis in the defined benefit scheme will not help anybody else have faith in the future of the private pensions. We are here to discuss the defined benefit schemes. There are 800 such schemes, down from 2,500 a decade ago. Some 30% of those have some underfunding and 20% are underfunded. That is a substantial amount. I do not know how many people that affects, and maybe the Minister could tell us that before Committee Stage. While we know the number of schemes, we do not know the number of people in those schemes. The 20% which are underfunded may be large or small schemes.

The main alternative to the defined benefit schemes is the defined contribution schemes, which have taken over from the defined benefit schemes as the norm. The problem with defined contribution is that the individual person carries all the risk unlike defined benefit where the employer makes a benefits promise. In a defined contribution pension one's pension is determined, in most cases, by the size of the annuity that can be purchased for the amount of money in one's fund when one retires. When the yields on German bonds are low, the cost of the annuities is high. There can be problems there. The cost of annuities is high now. While governments and businesses all want low interest rates to facilitate their borrowing, the defined contribution pension schemes want the opposite. There will always be a contradiction or a push-and-pull effect with pensions.

Pension fund charges are another scandal which we have discussed here before but which have not yet been fully addressed. In Ireland we have many small pension schemes and these charges have been found to eat away at a sizeable chunk of people's funds. The most prudent pension fund portfolio is a diverse one, but this is likely to incur even more charges than those which are concentrated on one system. People need an affordable avenue to save for their retirements in which they can have confidence. From the track record of the private pensions industry in this State, I do not think it can deliver. It has taken disproportionate risks and has not learned its lessons. It continues to invest disproportionately in equities.

Despite billions of euro spent on tax reliefs to encourage the take-up of pensions, private pensions remain low among women, the low-paid and part-time and flexible workers. As insecure work becomes more prevalent the capacity of private pensions to provide reliable incomes into the future diminishes even further, so they are not the solution. A radically reformed and more robust State pension system is the way to go. The private model has failed thus far. The State pension model offers relative simplicity, it is cost-effective, less risky - although not without risk as all pension schemes have risk - and can be designed to recognise work without a market value, such as caring, and afford meaningful coverage to those on low-paid and insecure work.

There have been some reforms in the tax treatment of private pension contributions in recent years and the current Finance Bill reduces the standard fund threshold, which further limits the amount of tax relief that can be availed of. However, we are still spending on tax reliefs, including at the marginal rate, in a highly regressive manner. We cannot continue to subsidise private saving while unable to afford the State pension. Significant reforms to the public sector pensions have been introduced but because these will apply only to new entrants, the impact will not be felt for some time. In the shorter term, the public service pension reduction emergency measures introduced from 2009 have had the effect of reducing pensions in payment by way of a levy. Sinn Féin proposes different thresholds and rates for this levy which would have been much more progressive than those chosen by the Government.

The Minister proposed one priority order in 2011 but what she brought forward today is different. Hopefully she will be able to outline the reasons for the change from the original proposal. The system still overly prioritises the gold-plated pensions, those over €60,000, at the expense of future pensioners even potentially those with very modest occupational pension expectations with no entitlement to a State pension. That priority order can be changed. In the intervening years the Mercer report, commissioned by the Minister for Social Protection, should have been published, if it was any use at all. If I have missed it, could the Minister please tell me? If not, it would be useful to have it. If it was not good enough or came up with different conclusions to those we are discussing, so be it.

I am happy that we are here dealing with an issue that has been around for a number of years. It was always identified because it was always a potential problem but we did not address it. We are addressing it now. This does not go as far as we wish and does not have retrospective effect for those pensioners who have already suffered the consequences of collapses or insolvencies.

**Deputy John Halligan:** It is not before time that the Government is attempting to get its act together on the defined benefit scheme fiasco. I am not surprised it took another directive from Europe, the EU insolvency directive, before the Government was motivated to put this legislation in place. Further clarification is needed on a number of fronts, notably the situation where a double insolvency arises in the context of a multi-employer scheme where all the employers are insolvent. I also have a concern that this legislation will allow companies to wipe out their obligations to their pensioners and that the public will subsidise this. I am concerned that trustees will attempt to seek increasing contributions from an employer to bridge a deficit, to the extent that the employer is pushed into insolvency and the trustees can then avail of the State guarantee.

In the case of existing pensioners, are their individual means, including all outgoings, to be taken into account before their scheme funds are redistributed? These people will have worked hard all their lives and paid into pension funds under the impression that their income would

be secure for the rest of their lives, but I do not think the circumstances of existing pensioners came into play in the drafting of this legislation. In bringing forward the Bill, the State says it has legally covered itself and that it complies with its obligations under the insolvency directive. However, the moral argument as to whether it is fair that a worker is guaranteed just 50% of his or her pension, despite having contributed to it for 30 or 40 years, is another matter entirely.

I have a strong suspicion that this legislation will not act as a definitive solution to the defined benefit pension crisis. No doubt the Government is acutely aware of the Robbins case in the UK, in which, in reacting to a similar European judgment to the Waterford Crystal case a number of years ago, it was ruled that the State must protect 90% of members' benefits, albeit up to certain limits, and that protection amounted to buying out the benefit for all members, including those yet to retire. There is a big difference between 90% and the 49% being guaranteed under this legislation. I would be interested to hear from the Government benches whether this legislation fully complies with the insolvency directive. In my view and in the view of legal people to whom I have spoken, there will be challenges to it.

There has been much palaver from the Government that this legislation will bring about fairness and equality for pension holders. This is untrue. If the Government was genuinely serious about equal rights for pension holders, it would cease its delaying tactics and address the issue of the Waterford Crystal workers' pensions that is currently before the High Court. Although these new rules will not apply to members of the Waterford Crystal pension fund, those 1,500 workers will get a minimum of 50% as a result of a ruling by the European Court of Justice this year. That ruling cannot be challenged. The ECJ has categorically said that the State did not take steps to protect employees when it was clear from the judgment in the Robbins case in 2007 that provision of 49% of employees' benefits was not sufficient protection.

Since the Waterford glass factory closed in 2009, some 23 former Waterford Crystal workers have passed away, without ever receiving even one cent of their pension entitlements. The lives of the remaining workers are on hold while the case continues to sit before the High Court. Many former Waterford Crystal workers tell me they and their families are now living on the brink of poverty. Despite having contributed to a pension for, in some cases, 46 or 47 years, they are now totally reliant on social welfare payments. They are borrowing to keep their heads above water. This is an appalling situation in the year 2013.

I have been repeatedly told that the Government cannot intervene in legal proceedings. I refuse to accept this. The State is, without a doubt, in a position to instruct its legal team to seek to make a settlement with the Waterford Crystal workers. I am told that, should the legal process run its full course all the way to the Supreme Court, it could be 2016 or beyond before these workers get fair treatment. This is unacceptable. These men and women who worked hard all their lives, who kept Waterford going through the recession of the 1980s, thought they had hit rock bottom when the Waterford Crystal factory closed and their livelihoods were wiped out. However, nothing prepared them for the shock, the humiliation and the anger that they now feel as the Government repeatedly kicks them while they were down by dragging them through the courts to fight for their entitlements. This is shocking and appalling.

I understand that the Waterford Crystal workers have been back in court this week and it is likely that the court will set a date for further hearings in February. However, there is nothing prohibiting a settlement being reached under the European directive. I appeal to the Department to consider this. It is not beyond the realms of possibility that a common agreement can be

reached. If the Government is serious about treating workers fairly, it will immediately cease treating Waterford Crystal workers in this despicable way.

I remind the Government that 23 former workers have passed away. I am in contact with a worker currently who is critically ill, the father of three children. He has worked for 40 years with the company, but says he may be dead before his pension entitlements are paid to him. Surely, some compassion should be shown. Even if this man is only to be paid 50% or 49% of his entitlements, I plead with the Government not to drag him through the High Court and then to the Supreme Court.

It is not beyond the realms of possibility the Government can show some compassion. Let it negotiate with the UNITE union and the workers. Please do not drag them through the courts while more workers lose their lives.

**Deputy Richard Boyd Barrett:** I apologise in advance because I must leave the Chamber as soon as I have spoken to attend a meeting of the finance committee.

The pensions situation is an absolute shambles and the lack of a policy for dealing with it is a disgrace for both the current and previous Governments. Pensioners in general, whether public or private, have been the innocent victims of an economic and financial crisis not of their making. Whether it is the extension of the retirement age, pension levies, the reduction of pension benefits in the public sector or the crisis of defined benefit pension funds, pensioners have got it in the neck. This is a disgrace.

The pensions situation is complicated, but much of the complexity, in terms of different pension arrangements, whether public or private, arises from the fact the system is a shambles. It is an *ad hoc* process. This legislation is being brought forward under pressure because of the crisis and because of the European directive, but it is yet another *ad hoc* response that attempts to deal with a more general crisis. If we are to deal with the general crisis, we must start from first principles. We must ask ourselves what we are trying to do and what are to be our priorities. Our priorities should be based on the fact that a decent society provides education, housing, health services and a secure and dignified existence for people who retire. This provision for retired people should not be subject to the vagaries of markets, financial crashes and so on and should be enjoyed by all pensioners, whether in the public or private sector.

Although we must start from the complicated situation we are in currently, the broad answer to the pensions crisis is to deal with the anomaly where €2.9 billion goes in tax relief to private pension schemes, the greatest beneficiaries of which are high income earners with big pensions. Most of the pension relief goes to these people. We cannot deal with this overnight or immediately, but we must do something to resolve this crazy situation. What this €2.9 billion in tax relief to private pensions means is that the State and ordinary citizens are underpinning a private pension casino for these pensioners, with disastrous consequences. We are making a casino of pensions, here and internationally, and whether people will have a dignified existence after making contributions all their lives is subject to the crazy vagaries of the market - of certain people making a lot of money in private pension schemes and of companies running away from their responsibilities. This must end. It would be far better to transfer the €2.9 billion to a universal pension scheme. One estimate is if we put the €2.9 billion into a universal State pension scheme we could double the State pension for everybody and it would be guaranteed. The advantage of this would be we would have public control of the pension funds and we could use them to invest in what we desperately need to restart the economy. This would not

involve gambling them; of course there are never absolute guarantees, but if they were publicly controlled and we invested them in what would be useful in the domestic economy we could be far more certain of the outcome of the investments and therefore have a defined benefit for pensioners which they deserve.

The idea we are moving increasingly from defined benefits to defined contributions, which are like a casino as to what one will get at the end, is wrong and regressive. It is part of a very worrying narrative that old people are now a problem and a burden for society. This is a disgrace and is indicative of a society which is going backwards. For many years after the Second World War we moved in the opposite direction and stated we would guarantee better things for pensioners. When I studied geography at school in the late 1980s I learned that because of the enormous wealth being generated by society the biggest problem we would have 20 or 30 years later would be the fact we would be retiring earlier and what would people do with their leisure time. Instead it has gone in the exact opposite direction; we have longer working lives, more precarious situations for pensioners and fewer benefits. This must be changed.

The legislation is dealing with defined pension schemes and we must deal with this in the immediate term. Unless we deal with the more general problem we will keep running into crises. We must resolve it. In England 90% is guaranteed to a much higher level. We could do this. We could guarantee 90% or 100% up to €60,000 and cut the guarantee for those entitled to more than €60,000 to approximately 50%. Why do we need such a high guarantee for people on massive pensions which in many cases are double the average industrial wage? We should cut it.

**Deputy Joan Collins:** The Bill represents the minimum required to comply with the EU insolvency directive. While the Bill will provide some protection for members of defined benefit schemes restructured or wound up due to insolvency it will do so by reducing the benefits of the retired members. We face a wide variety of problems in pension provision. The State pension is not sufficient to meet the needs of retired persons particularly if they live alone. Many pensioners live in poverty or at risk of poverty.

As in every aspect of Irish society, huge inequality is built into the pension provision system. This exists because of the linking of pension entitlements to a percentage of earnings, which favours the higher paid and particularly the very highly paid, and the fact that tax exemptions for private pensions almost exclusively favour the well-off and are extremely expensive for the State. We have a serious mess in our pension funds. ESB workers are being forced to strike to defend their pension rights. Marks & Spencer workers have also balloted for strike action to defend their pension rights. We could also have strikes on this issue in Aer Lingus and the Dublin Airport Authority.

Active members in defined benefit schemes are being set up against retired and deferred members. Many workers now pay large amounts into the schemes with no clear idea as to what benefits they will receive when they retire. There is no requirement on employers to fund pension schemes to a level to ensure sufficient funds to meet the cost of the benefits promised. Insufficient regulation has allowed employers to wipe out pension promises at the stroke of a pen.

The protection offered in the Bill of 50% of expected benefits with a minimum of €12,000 will be challenged by those involved in cases before the courts such as the Waterford Crystal workers. I contacted Unite for a response on its concerns, if any, with the Bill. The actuarial adviser made the point that in the case of double insolvency the EU insolvency directive re-

quires member states to ensure employees and former employees are protected. The Bill would provide protection of only 50% to a minimum of €12,000. This falls short of an ordinary interpretation of the word “protect” and inevitably it will be challenged by workers.

It is remarkable how differently a person is treated in Ireland as opposed to the UK in the case of double insolvency. Pensioners with an entitlement of €10,000 or equivalent in the UK would receive the full amount in Ireland and the UK. Those with a €20,000 entitlement or equivalent in the UK would receive €12,000 in Ireland but the full amount in the UK. Those with a €30,000 entitlement or the equivalent in the UK would receive €15,000 in Ireland but the full amount in the UK. This is a huge difference when one considers the economy and cost of living. Those not yet retired in Ireland with an entitlement of €10,000 could expect €5,000, but someone with an entitlement of £10,000 in the UK would receive €9,000; someone with entitlement of €20,000 would receive €10,000 while someone with an entitlement of £20,000 in the UK would receive €18,000; and someone with an entitlement of €30,000 would receive €15,000 while a worker in the UK with an entitlement of £30,000 would expect to receive €27,000. These are also large differences. The UK approach has been in place since 2005 and has not yet been challenged. As such it can be considered as meeting the requirements to protect employees and former employees. This is an important point and I would like to hear the Minister’s response on this.

There is no need to have a three-tier pension system in the State. At present the State pension is paid for by stamps, the public service pension scheme awards scandalously huge pensions to an elite, and a private pensions industry benefits from expensive tax breaks amounting to €2.9 billion which favour the very well off, a point made by the previous speaker, Deputy Boyd Barrett. There could and should be universal pension provision based on the right to a decent standard of living, such as €25,000 a year, with employees and employers paying into a State scheme. Public sector pay should be capped at €100,000 a year and pensions at approximately €50,000 a year, although this could be discussed. All tax concessions for private pensions should be ended. In the longer term we should have a more affordable and fairer system than we do at present.

Many Deputies received an e-mail from the Irish Senior Citizens’ Parliament highlighting concerns about the right of audience for pensioners in schemes. It states pensioners feel they were not consulted, and that some consultation took place several months ago but not on the legislation. Pensioners particularly want consultation on the restructuring of schemes and hope an amendment can be made to the legislation to allow a right of audience for pensioners in schemes.

**Deputy Catherine Murphy:** It is fair to say prior to the banking crash which damaged the economy a huge emphasis was placed on encouraging people to invest in their future through pension schemes, and we all remember the almost daily television and radio advertisements. The emphasis was all on workers investing and little emphasis was placed on the regulation or robustness of the actuarial assessments of the health of the schemes. We are probably having this debate today in part because of this. Some semi-state companies were and are also hugely exposed. When the previous Government sold the majority shareholding in Aer Lingus I remember the chief executive arguing at the time that there was a huge hole in the pension fund. This was prior to the crash. He argued there should have been investment in the pension fund at that stage but this did not happen. To a degree, the current sense of anger and frustration among people dates to this decision not being made by the previous Government.

*3 o'clock*

The Bill is obviously an attempt to retrieve a bad situation. I take the point made by Deputy Joan Collins to the effect that only the minimum is being done. We were previously informed that the pension levy would be a one-off temporary measure. The commitment in this regard should be restated in the House today. There was consultation with some of the stakeholders prior to the publication of the Bill. However, we were informed that in future legislation would be dealt with differently and that there would be a pre-legislative stage. The legislation before us would have benefited greatly if consultation had actually taken place when the heads of the Bill had been published. The Irish Senior Citizens' Parliament is on record as stating:

It is worth reiterating that pensioners are former workers who are now in receipt of a benefit for which they and their employer paid during their working lives. Employers asserted that pension payments and sponsorship of pension schemes was a benefit to an employee and was a valid part of remuneration. [People sometimes earned less because they were of the view that this was part of the package.] Membership of schemes was compulsory [in a substantial number of cases] ...

Senior citizens are not, therefore, disinterested parties and I completely accept the point they make in respect of their being given an automatic right of audience. The Bill should be altered to take account of this. Prior to the early 1970s pensioners had a right of audience to the industrial relations machinery of the State. The Irish Senior Citizens' Parliament has also stated, "In many schemes Pensioners and or their associations are denied access to Scheme Trustees [and sponsoring employees]". This is unacceptable and it must be changed in order that people will be fully engaged.

I agree with the points made by Deputy John Halligan on the former employees of Waterford Crystal who took their case to the European Court of Justice. It is clear these workers will obtain at least 50% of their pensions. What makes their case doubly unfair and what is angering them is that instead of paying the guaranteed 50% now as a gesture of goodwill - it will have to be paid - the Government is waiting for the court case before making any payment. That is the wrong way to approach this matter. Again, the Irish Senior Citizens' Parliament has pointed to a number of facts in respect of this matter and I wish to refer to some of them. In the first instance, not everyone is going to end up with €12,000. Those being paid under €12,000 will obviously receive less than this. I say this just in case people are under the impression that everyone is going to receive €12,000. As some members of pension schemes do not have State pensions, they will not receive a double amount. They may well have qualified for the non-contributory pension as a result of this. It would be useful if the numbers underpinning the legislation could be provided. As many schemes are integrated, the value of the State pension is taken into account when calculating the changes under discussion. Changes to contribution requirements in respect of qualifying for the State pension mean that some people may not receive full pensions.

A number of the changes that occurred in recent years really anger people. Let us consider the example of some individuals - mainly women - who might have begun working at 20 years of age and who might later have been out of employment for ten or 15 years. They really become angry when they discover that they are not entitled to full pensions. If they had not started work until the age of 55 years, they would be entitled to the full State pension because it is averaged out over their working lives. That is wrong. This matter must be revisited because it is extremely unfair that someone who may have contributed for 40 years will receive less

than a person who only paid contributions for ten years. I do not see how there is justice in this.

The Minister, Deputy Joan Burton, talks a good game and excels at presenting matters as if there are always benefits involved. People who do not use Dublin Bus are of the view that it offers a terrible service, while those who do use it are of the view that the service is quite good. In the case of the Minister's Department, the opposite is true. Those who engage with it know that some of the changes will have a very direct negative impact on them, while those who do not engage with it are of the view that these reforms are fantastic. In the light of the Minister's glowing praise of the Bill and her claims that it will be all things to all people, I have reached the conclusion that there is something hidden in its provisions. I reserve my position on it because I know what is likely to happen.

**Deputy Finian McGrath:** I welcome the opportunity to contribute to the Second Stage debate on the Social Welfare and Pensions (No. 2) Bill 2013. This is an important debate because we must ensure existing pensioners and those who will be in receipt of pensions in the future are treated in a fair and correct way. We cannot live in a society in which pensioners are not looked after and cared for in their later years. Any society which does not care for its senior citizens, people with disabilities and the sick is one without a heart and a soul. We must focus on that issue in the context of the legislation before us. Pensioners' rights must be protected.

The Bill amends the Pensions Act 1990 to change the manner in which the resources of a defined benefit pension scheme are distributed on the wind-up of a pension scheme. It also broadens the category of benefits that can be reduced where a defined benefit scheme is being restructured because it does not meet the statutory minimum funding standard. It amends the Social Welfare Consolidation Act 2005 to provide for a number of technical changes. That is the purpose for which the legislation has been introduced. In that context, it is important that we plan for the future and ensure fairness for all pensioners.

Earlier today I received letters from two constituents on this urgent and important issue. The first states:

I am a defined benefit pensioner, who contractually had to sign up for the scheme on entering employment. I had no other option.

I am just amazed, it is beyond belief, that the Government could consider introducing a law that would reduce pensioners' income by 10%. Pensioners have invested, over their 40 years employment, into the pension fund, and it is the employer's responsibility to address the funding shortfall problem not the pensioners.

I find it hard to understand how my contract can be renegotiated by the Government just because it has the legal powers to do so. What is the value of any contract now (e.g. owning my own home) if the Government can just change the terms of any contract.

Please oppose any legal changes to reduce my pension by 10% and continue to press employers to take responsibility to make some effort to correct the deficit.

The second item of correspondence I received came from a person who used to work for Aer Lingus. It states:

Dear Mr McGrath

As a retiree of Aer Lingus, having served for 36 years, I am appalled that my modest

pension, membership of which was a term of employment and hard paid throughout my working life, can simply be diminished at the stroke of a Minister's pen. This new Bill which Minister Burton is proposing is fundamentally unfair, immoral and ageist. Surely there is a more equitable manner in which to deal with the problem than wielding a hatchet at the victims who have done their duty, paid their way, but are now no longer able to supplement their pensions.

The average Aer Lingus employee was (is) not highly paid; therefore individual pensions are quite modest. During eleven years of retirement one modest increment was paid by the IASS Trustees, but it was clawed back by this Government under some "spurious" label.

The time has come to shout "ENOUGH IS ENOUGH! HANDS OFF OUR PENSIONS". I sincerely request that you reconsider the Social Welfare & Pensions (No. 2) 2013 legislation.

These are the views of two of my constituents but many more communicated their opinions to me in recent weeks. It is important to place these views on record because it is essential that we deal with this issue. I urge the Minister to consider the injustice of what is proposed.

On the broader issue of pensions, it is very important to consider what is happening in the country. Ireland will experience a significant ageing of its population in the coming decades. The population of the European Union is projected to increase from 501 million people in 2010 to a peak of 526 million around 2040 and to then decline to 517 million in 2060. The greatest proportion of population growth is expected to be in Ireland. It is projected that the Irish population will increase by 46%. During this period, the share of the European Union population aged over 65 years is expected to increase from 17% in 2010 to 30% in 2060. While the projected increase in the proportion of the population aged over 65 years in Ireland, from 11% in 2010 to 24% in 2060, is less than the projected EU average, it still amounts to a major change in the age distribution of the population.

As the proportion of the population aged 65 years and over increases, the task of financing associated pensions spending will fall to a diminishing share of the population. The ratio of workers to retired persons, which stood at 5.3:1 in 2010, is expected to decline to 3.9:1 in 2020 and 2:1 in 2060. This demographic transition, while slightly less dramatic than the average across the European Union - whose population is among the most rapidly ageing populations in the world - constitutes an unprecedented change. A robust and dynamic pensions system will be required to maintain an adequate and sustainable income support for older people. I urge the Minister to listen to my concerns and examine all the issues raised in this debate.

**Deputy Olivia Mitchell:** I welcome this legislation. That so many defined benefit schemes are collapsing is a disaster of monumental proportions for many people and another aspect of the fallout from our economic woes. A failure to recognise or address the collapse of pensions schemes would be an even greater disaster for the many workers who, until recently, could assume their retirement income was assured. Approximately 2,500 defined benefit schemes were in place until well into the 1990s. The members of these schemes believed they did not have to give a moment's thought to their pensions, as they would flow to them seamlessly on retirement. By 2011, a mere 800 defined benefit schemes had survived, and they continue to close, virtually by the week. Many thousands of people continue to depend on these schemes. While estimates vary, I have seen figures suggesting that at least 80% of defined benefit schemes are

underfunded.

We have all heard heartbreaking stories of people who discovered on the brink of retirement that their pensions had been decimated while current pensioners in the same scheme continued to enjoy full pensions. This clear intergenerational injustice needed to be addressed. Like Deputy Finian McGrath and others, I have received complaints from people who are retired. Who can blame them for complaining? It is a blow to existing pensioners to learn their income may be reduced. While not every retired person will be affected, some will suffer a reduction in pension. The level of reduction provided for has been made as fair as possible through the introduction of a sliding scale of liability. I accept, however, that it is difficult to be fair when taking money from people who had every right to believe it was theirs. In my view, the possible consequences of doing nothing, in terms of social disruption, would weigh even more heavily on pensioners generally. Nevertheless, I have great sympathy with the complaints that have been made in this regard. The economic recession has shattered expectations, most certainly on the pensions front.

It should have been obvious to all of us that the concept of a defined benefit pension scheme is utterly daft. It is almost impossible to have a guaranteed flow of income in a volatile market. When markets are stable one can reasonably calculate the level of investment necessary to produce a certain income. However, markets have never been predictable or stable over the period of a typical working life and retirement span. The State has discovered this to its cost, having built up defined pension liabilities, the payment of which will continue to impact on every other service it provides for a long time. Last year, for example, public servants - everyone present is a public servant - paid a total of €3.8 billion in income tax, including the universal social charge. In the same year, the State paid out €3.1 billion in public sector pensions. The total contribution of the entire public service to its members' pensions and the running of the State was a mere €700 million, much of which will be wiped out when the universal social charge is abolished, as we must assume it will be. While I appreciate that changes have been made to public sector pensions, these will probably not become effective for another 40 years. In the meantime, the cost of public sector pensions will continue to weigh heavily on the public purse.

I agree with the Deputies opposite who pointed out that we face, in pension terms, a perfect storm. We have an ageing population and a pensions industry in disarray. Perhaps "shambles", the term used by Deputies opposite, is a more accurate description of the sector. Nobody is in charge of pensions because responsibility is shared between the Departments of Social Protection and Finance, the Pensions Board, the Central Bank, the Pensions Ombudsman and the Financial Services Ombudsman. I understand a new pensions council is also to be set up. It is a tribute to the Minister that she has tackled head-on the immediate, specific and urgent problem, namely, the requirement to restructure defined benefit pensions that are in deficit and to wind up those that are insolvent.

The pensions problem is much larger than this and it is necessary to have a coherent single-agency-led solution. We must find a way to encourage or compel everybody, but particularly young people, to provide for old age. We must decide whether to introduce a compulsory State system, a private-sector incentivised system or a combination of both. What we do not need are disincentives to saving for a pension, which is, I am sorry to say, the case with the current pensions levy. This measure runs utterly counter to the policy of encouraging savings. A revolution has only been avoided because few people understand the extent to which the levy affects their final pension. The measure is also inequitable in that it hits most egregiously those elderly workers who have accumulated a lifetime of pension contributions and are on the brink

of retirement. They are the very people who, because of their age, do not have any prospect of benefiting from a recovery in the value of their investments.

The most damaging aspect of the pensions levy is that it introduces uncertainty to an area where certainty and security matter. The purpose of a pension and the incentive for having one are to be secure and certain in one's old age. While young people take risks, older people tend not to do so because they cannot afford risk. They will put their money where they believe it to be safe and secure, as was the case with pensions before the equity markets collapsed. The last thing people expected, having taken a hit as a result of the collapse in the market, was for the State to step in and expropriate their savings. Given the extraordinary lengths to which the State went to protect bank savings, one would expect pension savings to be at least as worthy of protection. The lesson young savers will learn from this decision is that they should not put money into a defined contribution pension or any voluntary fund because it may be taken from them subsequently. Even if we were to abolish the levy today, the damage has been done. By setting a precedent that savings are fair game for expropriation, the incentive to save for pensions may have been seriously undermined. It is vital that the pension levy does not become a permanent feature of savings and is abolished as soon as possible.

As I stated, I support the measures set out in the Bill, including that the State should step in to ensure a minimum level of pension where there is a double insolvency, which is an essential provision. However, I do not support the decision to use the levy on defined contribution pensions for this purpose. Many of those whose savings are the target of the levy have pensions of a lesser value than €12,000, the level of defined benefit pensions they are being asked to support. This is nonsensical. The individuals in question have suffered exactly the same market collapse in the value of their funds as defined benefit funds and in many cases their funds are entirely the result of their own saving efforts, which is not the case with defined benefit funds. These pensioners could be forgiven for being outraged at the prospect of their meagre and depleted funds being targeted to support people who are much better off than they are. I understand the double insolvency funds must be supported, but the money should come from general taxation.

The Minister for Finance, Deputy Michael Noonan, did suggest when the levy was introduced that it might be absorbed by the companies managing funds, and a report was commissioned to assess their ability to absorb it. Nothing came from that aspect of the matter, but a good report was compiled. I am really pleased that the Government has accepted all of the recommendations made in the report and intends to follow through on it. The thrust of the report was the need for transparency around charges, with which I completely agree. There is a real need for consumers to be aware of what they are buying when they invest in a pension scheme and how much they are paying to those who will make the investment for them. The report provides a noteworthy example of the impact on a smallish fund of €200,000 which, in theory, should give a pension of €10,000 a year. According to the report, the average charge on pensions is approximately 2.8% which over the savings period reduces the pension payable by a staggering 31%. If consumers were acting rationally and fully informed, they would not consider this to be good value. One might instead consider a speculative purchase to cater for old age, such as buying a painting or backing a horse, which might at least give some entertainment and enjoyment, or one might decide, if one was careful, to put one's money under the mattress, but it is difficult to see any sense in spending that kind of money on a pension scheme and have somebody manage one's money. That 31% figure would certainly wipe out the value of any tax relief received. I point out to Deputy Richard Boyd Barrett, who spoke about a figure of €2.9 billion going in tax relief on private pension schemes, that such a figure is erroneous and also

that the tax relief is not permanent but represents tax deferral; there is no pot to be spent on subsidising pension schemes generally. My point is that consumers need to know this information. If they are to make rational decisions, they need to know what it is they are buying and how much they are paying for it. There should be absolute transparency around the purchase of any product. In Tesco one expects to know the price of the goods one is putting in the basket. It is all the more important when one is buying a life-changing product such as a pension that one knows how much one is paying for it. Without such information on prices, the normal competitive market forces cannot operate. This facilitates the emergence of cartels and oligopolies and certainly does not lead to better prices for consumers. I am glad that the report's recommendations have been accepted by the Government and will be followed up on.

I note that a new pensions council is to be set up to advise the Government on policy changes needed for the future. The Bill is a major and urgently required step to deal with what is an emergency in the defined benefit pension scheme sector, but there is still a long way to go in meeting the overall challenges posed by the pension problem. As a work in progress, I see the Bill as a welcome step.

While the Minister is here, I will put in a word for a group who, as it stands, will miss out on the provisions of the legislation. I refer to workers whose pension schemes are in the process of being wound up but where the fund has not yet been distributed. They face a double whammy in that when their now depleted funds are distributed, they will be subject to the levy, as well as everything else. They will also have last call on what funds there are available. Their request is that they be included in cases in which funds have not been distributed in order to benefit from the redistribution of funds as between pensioners and those still in employment. I ask the Minister to consider their position if possible. Another Member has stated that 50,000 persons have been members of defined benefit pension schemes that have been closed who virtually have no pensions left. If there are some who could be captured within the net of this legislation, it would be in everyone's interests to see what we could do in that regard.

I very much welcome the legislation. It is, as I said, a work in progress but still welcome.

**Deputy Peter Fitzpatrick:** The Bill amends the Pensions Act 1990 to change the manner in which the resources of a defined benefit pension scheme are distributed on its wind-up. It also broadens the categories of benefits that can be reduced where a defined benefit scheme is being restructured because it does not meet the statutory minimum funding standard. It amends the Social Welfare Consolidation Act 2005 to provide for a number of technical changes. When an employer goes out of business and the defined benefit pension scheme in that business is underfunded, the funds in the pension scheme will be divided to ensure all of its beneficiaries, including pensioners, current employees and former employees who have not yet retired, will receive 50% of their benefits. Existing defined benefit pensions in payment will be protected up to a figure of €12,000. Where the defined benefit pension scheme does not have sufficient moneys to meet this amount, the State will meet the shortfall using pension levy funds. This addresses the exposure of the State following the ruling of the European Court of Justice in April 2013 which stated Ireland was in breach of the EU insolvency directive. The European Court of Justice ruled that when both the employer and the pension scheme were insolvent, the State must put measures in place to provide at least 49% of the pension benefits expected. This measure provides for a fairer outcome for all members, gives protection to lower paid pensioners and limits the extent to which the taxpayer must contribute.

Other measures are being introduced in the Bill which are not requirements under the in-

solvency directive but which seek to minimise the likelihood of similar situations arising. In the future when an underfunded pension scheme is being wound up and when the employer is in business, the 100% priority given to pension benefits is being changed to reduce the priority given to higher pensions. This will ensure current employees and former employees who have not yet retired and who have also contributed to the pension scheme will receive a greater share of the benefits. It can also arise that pensioners receive all or almost all of the funds and members who have contributed but not yet retired receive little or nothing. Pensioners in receipt of pensions under €12,000 will have first priority to ensure they are not affected. Pensions between €12,000 and €60,000 will be reduced by 10% of the total pension amount. The overall reduction is limited to a maximum of 20% of the total pension amount where the pension is over €60,000. The State is not contributing in this instance. The employer is still in business and it is the employer who sponsors the defined benefit pension scheme and makes the pension promise.

The Pensions Board will be introducing tighter regulations for defined benefit pension schemes. This entails refusing to accept funding proposals from schemes with a funding figure of less than 50%, forcing schemes to take action to address their poor funding position; imposing additional obligations to ensure significantly underfunded schemes achieve a base level of funding in the short term; and withdrawing flexibility options for schemes which go off track while subject to a recovery plan where the level of funding falls below 50%.

IBEC, the group that represents Irish businesses, welcomed the announcement by the Minister for Social Protection, Deputy Joan Burton, that the Government would reform pension rules to ensure the remaining funds of insolvent defined benefit pension schemes were distributed more fairly between those in retirement and those who had yet to reach retirement age. The existing system means that those of working age must lose everything before pensioners are asked to lose anything. IBEC has been leading the call for change for several years. Members across the Chamber will be aware of cases in which, where a defined benefit scheme was in trouble, a 66 year old who had only just retired received his or her full pension, while a 64 year old due for retirement saw his or her pension decimated. It is important to note that these measures will apply only in a limited set of circumstances, meaning the potential number of schemes affected will be small.

Crucially, none of this impacts on the State pension, which is not affected in any way by measures included in the Bill. The Government has protected the State pension in all three of the budgets it has introduced.

Debate adjourned.

### **Topical Issue Matters**

**Acting Chairman (Deputy Bernard J. Durkan):** 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 Ann Phelan - Ireland's position within the United Nations on the devastating situation in the Central African Republic;

(2) Deputy James Bannon - the need to tackle the unemployment crisis in Mullingar, County Westmeath;

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(3) Deputies Finian McGrath, Patrick O'Donovan and Derek Keating - top-up payments at the Central Remedial Clinic in Clontarf, Dublin 3;

(4) Deputy Charles Flanagan - the need to ensure an appropriate pathology service at weekends;

(5) Deputy Jim Daly - the lack of new routes announced by Cork Airport, despite the recent abolition of the airline travel tax;

(6) Deputy Peadar Tóibín - the need to improve structures and funding to meet the demand for Irish-medium education throughout the country;

(7) Deputy Catherine Byrne - the need to provide additional funding for Dublin City Council for the refurbishment of old council properties;

(8) Deputy Michael McNamara - the destruction of waste chemicals in Shannon;

(9) Deputy Patrick Nulty - the need to restore the Christmas bonus for carers, pensioners and those on long-term social welfare payments;

(10) Deputy Terence Flanagan - the need for a cap on the interest that can be charged on licensed moneylender loans; (11) Deputy Dan Neville - the establishment of a rehabilitation adult mental health service;

(12) Deputy Michael Lowry - the difficulties facing parents of children with special needs in south Tipperary in securing school transport;

(13) Deputies Willie O'Dea and Clare Daly - recent job losses announced in the pharmaceutical sector;

(14) Deputy Eamonn Maloney - NAMA and the reduction in taxpayers' liabilities;

and (15) Deputy Mick Wallace - the Garda Commissioner Martin Callinan's rebuttal of the assertion made in the report of the Smithwick tribunal that there is a culture of prizing loyalty over honesty within An Garda Síochána.

The matters raised by Deputies Charles Flanagan; Finian McGrath, Patrick O'Donovan and Derek Keating; Willie O'Dea and Clare Daly; and Eamonn Maloney have been selected for discussion.

### **Social Welfare and Pensions (No. 2) Bill 2013: Second Stage (Resumed)**

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

**Acting Chairman (Deputy Bernard J. Durkan):** As Deputy Ellis is not the House, I will have to call the next speaker unless he appears very quickly. The next speaker is Deputy Wallace, and he is sharing his time with Deputies Clare Daly and Shane Ross.

**Deputy Mick Wallace:** The changes proposed by this Bill are to be welcomed, although they come a bit late for many workers. The Government has known about the crisis in defined

benefit funds for quite some time; therefore, the fact that it is now finally intervening in an increasingly volatile situation comes as a relief, not least to those in troubled defined benefit schemes. Sadly, the protections afforded to workers and pensioners, particularly the 50% guarantee of benefits, will not apply to those whose funds have already become insolvent. It is cruel and unjust to prohibit the retrospective application of this legislation. In effect, this will mean that workers in a double insolvency situation, who possibly paid into a fund for many years but then walked away with nothing, will not receive redress through this Bill while those who find themselves in the same situation after the Bill is enacted will see at least 50% of their benefits protected. How can we say that on the one hand it is acceptable for some people to be destitute - to have no, or very reduced, pension benefits - while on the other hand we protect 50% of the pension benefits of others simply because the law will not be applied retrospectively?

The second problem with this Bill is that the protection afforded to those at the bottom end of the spectrum is too low. The proposed 100% protection of pension benefits of €12,000 or less should be increased to twice this amount. That would make it two thirds of €36,000, which is considered the current average industrial wage. This could be done by increasing the 20% reduction proposed by the Bill on pension benefits of €60,000 and above. There should be a higher rate for those on pensions over €100,000. Even though this is likely not to yield much by way of additional funding, it is desirable in the name of equity and social solidarity. Most of us would agree that if a person had a pension of €60,000 per annum on finishing work, it would be unfair to say that person would not be in a comfortable position.

Pension benefits of over €100,000 should only take priority to 60%, while pensions over €60,000 should take priority to 70%. In this way, fears that those on low pensions might experience deprivation can be allayed. Age Action has also called for protection of low pensions to be increased beyond the €12,000 threshold set by Government. It said:

We do not believe that this level is sufficiently high, especially given that not everyone in a defined benefit pension scheme may be entitled to the State Contributory Pension. Alone, €12,000 per annum would leave people on the brink of poverty.

My third concern with the Bill is that the onus for providing the minimum 50% guarantee on all pension benefits in single insolvency cases is not explicitly and sufficiently placed on the employer. It is clear that in situations where the employer and the fund are insolvent and incapable of providing such coverage, the State will step in with the pension levy. However, in cases in which the employer is still solvent but the fund is insolvent, there is nothing in the Bill to compel the employer to step in to ensure the 50% protection. This must be addressed as a matter of urgency to ensure pension funds are truly protected up to 50%.

In general, the Bill should form part of a far more wide-sweeping reform package of pensions. At present, there are several anomalies in our pension system which particularly disadvantage women. A recent report by researchers in NUI Galway and Queen's University Belfast, entitled *Older Women Workers' Access to Pensions: Vulnerabilities, Perspectives and Strategies*, highlights the fact that gender inequality in pensions is pervasive in Ireland. The report finds that women experience lower access to pensions because of poor working conditions, low pay and their role in caring. Only 27% of those in receipt of the maximum contributory pension are women. Much of this gender inequality, and the inequality that has marked the Irish pension system for decades owing to generous tax breaks for high earners, could be redressed by introducing a model of universal pensions as outlined by Social Justice Ireland. In its study entitled *A Universal Pension for Ireland*, it put forward costed proposals for a universal pension system

that is based on residency rather than on PRSI. Such a system would address issues with regard to women's access to pensions by addressing women's status as dependants and widows in the allocation of State contributory pensions. It would mean that every person, regardless of civil status, would be entitled to a minimum level of pension benefit in old age. Also, its proposals would see a modest increase in the current rate of the State pension under its plans to introduce a universal pension.

Most of us would agree that the area of pensions will have to become much more stable and predictable. We need less emphasis and dependence on the financial markets. It would be welcome if the Government came up with a scheme under which, in regard to any tax reliefs for these pensions, the money must be invested in Ireland rather than in other corners of the planet being used for purposes we do not know. For all we know, much of it could be used for unethical purposes. During the past 30 years the arms industry was probably one of the best places to invest money. It is a powerful industry that is doing very well, but in that case people would not know where their money was going. If the money was invested in Ireland, and we were sure of that, it would be a double win for everybody.

**Deputy Clare Daly:** To pick up on some of the points that have been made, we are all very much aware of the problems that have been experienced by members of defined benefit schemes that have gone into a wind-up situation, essentially leaving people pauperised in their retirement. In taking their case the Waterford Crystal workers did us all a favour and showed up the Irish State as being behind its peers in Europe in terms of standing by its responsibilities to elderly citizens. This Bill seeks to address some of those issues, but I agree with my colleagues that it does not do that sufficiently because, as it stands, pensioners who are getting pensions from defined benefit schemes have their rights protected. In essence, this Bill allows us, for the first time, to erode the entitlements of existing pensioners. That is not good enough and it is not acceptable. It is particularly unacceptable at the levels the Minister has set. The best defined benefit pension schemes paid 50% or two thirds of the final salary on retirement. The idea that we would set a limit or enable a cut of potentially 10% to those who have a paltry €12,000 in their pension fund is not acceptable. At a minimum it should be at least two thirds of the average industrial wage and set somewhere in the region of a minimum of €24,000. On the other hand, the Minister had an opportunity to use this legislation to hit some of the individuals in our society who have obscene pension pots. That opportunity was not taken because even the idea of taking or allowing the taking of 20% from somebody who has a six-figure pension pot is ridiculous. I will table amendments seeking that the amount be 50% or more. Nobody needs a post-retirement income of anything like that sum. That is remiss of the Minister. Ordinary pensioners should not be made to pay a price for a crisis in pension funds which was not of their making.

Much of this gets to the heart of the way we treat old people in Irish society. Our record is not good in that regard. Irish pensions cost 6% of GDP. One might think that was loads of money until one looked at a society such as Italy, which spends 15% of GDP on pensions. There is an understanding and realisation that older people are generally respected and treated better in societies such as Italy's. That is one we should aspire to. The problem with our pension scheme, perpetuated in this legislation, is that it relies on an inadequate State pension and on subsidising private pension funds that speculate on the global capitalist market to make money. It is a fallacy, it does not work and it has been a contributor to pension funds getting into difficulty. We must stand this on its head and look at another way around our pension schemes and the way in which the Irish State funds and subsidises pensions to the tune of billions. The

beneficiaries of subsidy are the top 20% of earners.

The types of pension scheme we stand by are those of people who are wealthy in employment and become even wealthier after retirement. That is not fair and it understates the value of the contribution by carers, volunteers and those who engage in backbreaking physical work that does not attract so much remuneration. They are also entitled to live in dignity in their retirement.

The striking figure is that only 20% do not have the State pension as the major component of their income. The majority of elderly people in Ireland have relatively modest pension pots. They should be protected across the board. Organisations such as the ESB and the Irish aviation pension fund have schemes with up to 30,000 members. People had a reasonable expectation of a decent retirement and they are entitled to it. The measures proposed by some of the trustees of the schemes, which see deferred pensioners lose 40% to 50% of what they thought they would get on retirement, are unacceptable. One of the key points raised in the Seanad, which the Minister might like to address, is the feeling of disenfranchisement among pensioner groups and deferred pensioners. They do not have a place at the table when problems occur. This applies to pension schemes with problems. They have a clear defined interest in the scheme but they have no place at the table at the Labour Relations Commission. The importance of adding to the framework a right of audience for pensioner groups and deferred pensioner groups is critical. Their slogan is “Nothing about us without us,” which is a basic democratic demand. They should be included in any scenario, but they are currently excluded.

In many cases, it was a condition of people’s employment to join pension schemes. Companies - including those in which I worked, such as Aer Lingus - have some neck, when sitting on a cash pot of €1 billion, to fail in their responsibilities to loyal members of staff, including pensioners, active members and deferred pensioners. The legislation does not ensure that an organisation such as that is required to stand over the benefits of the pension scheme. It lets them off the hook, although it is implied that they are responsible. There is no legislation that makes them responsible for making up the deficit, and that is not good enough. We are not taking into account the OECD guidelines and we are leaving pensioners to pay the price. The legislation needs to be amended. While it has good objectives, it is taking money out of the pockets of hard-pressed pensioners in order to pay for a crisis that was not of their creation.

**Deputy Pat Breen:** I welcome the opportunity to contribute to the debate and I am delighted to see the Minister in the Chamber. A sizeable sum, €19.6 billion, will be spent in the Department of Social Protection next year. It is a lot of money, and 2.259 million people benefited from payments from the Department last year. It is a Department with a huge budget and most people interact with the Department at some stage of their lives, particularly those who are unemployed or in receipt of family or retirement allowances. In this context the Minister had to reduce spending by €226 million, but I am pleased that she managed to protect core social welfare payments again this year, particularly the rates of the child benefit and the State pension. The child benefit payments are an important source of income for families and I would have been concerned at the impact that a cut in this payment would have for middle- and low-income families. The money is extremely valuable.

Given the jobs crisis the Government inherited, a considerable amount of money is now expended on the various jobseeker programmes and related payments. Reducing the number of people on the live register is critical if we are to reduce the Department of Social Protection budget. We are making progress, as was seen in the figures published yesterday showing that

the national unemployment rate has fallen for the 17th consecutive month to 12.5%. It is a fantastic achievement considering it was 15.1% two years ago. In my constituency of County Clare, for example, 7% fewer people are on the live register than 12 months ago, amounting to 8,947 people, down from 9,628. While the unemployment rates are still very challenging, and we meet the unemployed in our constituency offices, the trends are positive and indicate that various job activation measures introduced by the Government are working.

Breaking the cycle of long-term unemployment is critical because the longer a person is unemployed the more difficult it becomes for that person to get back into the work system. The JobsPlus programmes, whereby the Government pays €1 in every €4 as an incentive, will play a key role in assisting people who are on the live register to get back into the workforce. I welcome its introduction and the fact that the scheme has been extended to include the JobBridge programme. When people opt for internships, they participate on the basis that not only will they improve their skills base but they will have a realistic opportunity of securing employment. I encourage JobBridge employers to embrace the scheme.

On a number of occasions in the House, I have raised the community employment, CE, and Tús schemes. In order to qualify under the part-time integration option, a person over 25 must be in receipt of a qualifying social welfare payments for 12 months. In a number of cases, people may have taken up part-time work for very short periods and do not qualify for CE schemes because they do not have an unbroken period of 12 months on social welfare. I have received complaints from constituents that when they complete 12 months on the scheme, they cannot be retained and they simply go back and sign on the live register and cannot reapply to the scheme for a further 12 months. Some CE schemes, which are important in rural areas, have vacancies and people want to take up these vacancies but are not being facilitated. I ask the Minister to look at this situation, with a view to introducing a more flexible approach.

The other area that I wish to address is pensions. Pensions are a ticking time bomb. People are living longer, with life expectancy for men currently at 76.7 years while that for women is 81.6 years. I am thankful that people are living longer, but the increased life expectancy poses a challenge that needs to be addressed, particularly given the fact that approximately 900,000 people in the country have no provision for a pension other than the State pension. In addition, the pensionable age is set to increase to 67 in 2021 and to 68 by 2028.

Most employment contracts in this country oblige people to retire at 65, so the question arises of how people will fund themselves from the time they retire until they receive the State pension. The State transition pension will be abolished from 2014 and I have met several people who are on the verge of retirement and who are very concerned about this. After a working life of 40 years they would have reasonably expected that the gap between their retirement and qualification for the State pension would be funded. Given that they will now be claiming jobseeker's benefit, these people are fearful that they will face penalties if they do not take up training or education during this period. I am pleased that the Minister has now moved to address this issue and that she is to exempt people over 62 from facing penalty rates if they refuse to engage with the Department on offers of training or education. This is very welcome, given the lifelong contribution they have made to this country. I thank the Minister for that.

There is a further matter to be clarified. In the gap year from retirement to the State pension, people will now be claiming jobseeker's benefit. Under the current rules this only applies for nine months, so what will happen after that period? This needs to be clarified, especially as the gap is due to increase by three years in 2021.

I also ask the Minister her views regarding the retirement age, which is almost universal across both the private and public sectors. Are there any plans to extend this retirement age in line with the plans to increase the State pension age?

Not only do we have the challenge of funding retirees during the gap period between retirement and receipt of the State pension, but we also have many defined benefit pension schemes in deficit. I welcome the fact that the Minister is introducing measures to address the ongoing difficulties with defined benefit schemes. Like many Deputies in this House, I have received correspondence from former employees of Aer Lingus, particularly those who are on deferred pensions. Under the current restructuring proposals they claim that they stand to lose 57% of the pension they expected to receive when they reach retirement age. In addition, I understand that the kernel of the problem for deferred members of defined pension benefit schemes goes back to the Social Welfare and Pensions Act 2009, which removed the protection for deferred workers. In the Irish aviation superannuation scheme there are approximately 3,687 people who are on deferred pensions, who between them have long years of service. Perhaps the Minister would clarify whether the changes being introduced in this Bill will provide protection for deferred members of defined benefit schemes.

Many argue that if there is to be real pension reform, our legislation should be moving more in line with that of the UK and the USA, where work pensions are protected through legislation which requires employers to properly fund the schemes. The OECD review of the Irish pension schemes reported that the protection in Irish legislation for defined benefit members was weak, and the report also stated that the legislation “allows any sponsor to walk away from [defined benefit] pension plans, shutting them down, without creating a high priority debt on the employer.” It concurs with the views expressed by deferred Aer Lingus employees that the priority currently given to pensioners before other members if a scheme winds up creates considerable inequality among members, and this outcome is particularly harsh for those who are close to retirement. The OECD recommends that healthy plan sponsors should not be allowed to walk away from defined benefit plans unless assets cover 90% of pension liabilities.

Right across various sectors we are seeing schemes that are underfunded, and this has been exacerbated by the economic collapse. It is a big problem because, as I understand it, only approximately 40% of schemes are fully funded, although up to 85,000 people are paying into defined benefit schemes. I would appreciate if the Minister could clarify her proposals to ensure equity for all members who have contributed to a defined benefit scheme.

Addressing unemployment remains the single biggest challenge for the Government and I welcome the priority that the Minister has placed on getting people back to work. These include the JobsPlus scheme, JobBridge, the various community employment and Tús initiatives, the youth guarantee scheme and the roll-out of the one-stop-shop Intreo offices for employment supports. I commend the Minister on her work and the fact that she has been able to save money even in these difficult times.

**Deputy Seán Kyne:** It goes without saying that the mechanics of pensions are quite complex, with many different figures, formulae, terms and conditions, as well as rules and regulations. A consequence of this is that legislation pertaining to pensions can easily be hijacked and manipulated in the public domain. Legislative changes can be used to stir up worries and concerns, which is exactly what has happened with this Bill. From the outset of the media coverage the State pension was mentioned, which was incorrect, and that has led to much incorrect commentary. It is worth stating quite plainly that this Bill does not impact on the State pension

at all and there is no change to the State pension arising from this Bill. The State pension has been protected by this Government in each of its three budgets, and it is exceptionally important to many citizens, which is why it has been protected.

The Social Welfare and Pensions (No. 2) Bill 2013 concerns defined benefit schemes only, meaning that it relates to occupational or private pensions. The Government has protected the State pension but the global economic difficulties of recent years have affected the ability of businesses and employers to support private pension schemes. Many Deputies will know of examples of this from their own constituencies. In my constituency of Galway West I am aware of companies, including multinational companies, which have had to wind up defined benefit pension schemes because of losses incurred in the financial markets. The results are negative for all concerned but particularly devastating for existing employees.

Heretofore the rules have meant that existing pensions in payment are allocated the lion's share of the pension's pot in the event of a winding up. One multinational in Galway exemplifies what has happened until now. The company experienced very turbulent times globally and was eventually bought by a competitor, which in turn was bought by a venture capitalist company. The original defined benefit pension scheme was wound up as it was no longer sustainable. Retired employees received a substantial - but not the full - amount, which they could then put into an approved retirement fund or use to purchase an annuity. However, existing employees lost practically all of the contributions they had made to what they believed would be their pension. This was especially devastating for workers in their late 40s and 50s, and these workers were left with nothing and effectively had to start again. It is highly unlikely they will be able to build up a pension even approaching the value of that which they have lost. Most reasonable people would see how unfair this is, and it is this lack of fairness that is the motivation underpinning the introduction of this Bill. It is neither fair nor right that a person who responsibly puts aside a portion of his or her income each week or month to build up a pension for retirement can be left with nothing through no fault of his or her own. With the European Court of Justice judgment in the Waterford Crystal case, there is a clear obligation on member states of the European Union to make provision for cases in which both the employer and the pension scheme are insolvent.

All of the beneficiaries of a pensions scheme will receive half of their benefits, while retired employees will be protected entirely up to €12,000. This is separate from the €12,000 value of the State pension which the majority of recipients of defined benefit pensions also receive. Crucially, where the defined benefit pension scheme is unable to meet the cost of these new requirements, the State will step in using pension levy funds. It is in effect a safety net that protects responsible citizens who have contributed to their retirement. Furthermore, where an employer remains in business but the pension scheme is wound up because of underfunding, amendments are being enacted so that current and existing employees and recipients of modest pensions are protected and receive a greater share of the benefits.

The changes being enacted are part of a wider issue with regard to pension provision. All of the statistics show that Ireland and the EU will experience significant growth in the number of citizens who are 66 and over. In 40 years or so nearly 10% of the population will be over 80. These citizens are now commencing their working lives and at 20 and even 30 it can be difficult to contemplate retirement, let alone make provision for it.

Funding the State pension will become ever more challenging. In 2011, for example, funding the pension accounted for 57% of the social insurance fund, which provides for the various

social welfare schemes.

*4 o'clock*

By 2066, however, it is estimated that pension-related funding will consume 85% of the Social Insurance Fund. That leaves very little to cover other important supports such as labour activation measures and payments to less able people. The figures and statistics demonstrate how vital it is we examine pension provision and put in place the necessary steps to ensure provision is made for older citizens. The Social Welfare and Pensions (No. 2) Bill is a very welcome part of the process. I commend the Minister and her officials for their work on it.

**Deputy John Paul Phelan:** I wish to make a few points about the Social Welfare and Pensions (No. 2) Bill and to express my support for the legislation. I will direct some points to the Minister given that she is present.

There can be no doubt that in recent years, as most of the previous speakers have alluded, the economic collapse in Europe and further afield has had a tremendous impact on the pension provisions people had planned for their retirement. Whether people were part of schemes established by their employers or self-employed people who made provisions either weekly or monthly themselves, in many instances they now find themselves facing into a future where what they perceived to be their likely pension is under threat to say the very least. Pensions by their very nature are deferred remuneration and have always been treated as such in terms of contributions made by employers over the years. I welcome the provisions in the legislation which deal with the insolvency directive from the EU and follow on from the European Court of Justice, ECJ, judgment in the Waterford Crystal case in recent months. The Minister outlined the case in her speech and went into the detail of the various arrangements that will apply where pension schemes are insolvent, such as where employers are insolvent or in cases where the scheme is insolvent but the employer remains in business.

I was struck by the reference made by the previous speaker to the injustice of people having greatly reduced or no pension provision who made contributions throughout their working life. The reality is that some people, in particular the self employed, in recent years found in some instances that having made the contribution over their working life they have very little if any pension at the end of it. The legislation does not deal with people in that category but injustice would apply to them as well as to those who were in defined-benefit schemes run by various businesses around the country such as the Waterford Crystal workers.

I echo the view, expressed strongly by Deputy Mitchell, on the impact of the pension levy, which is substantial. Its impact on private pensions is misunderstood. It was clearly said on the introduction of the levy that it would be for a set period and for a particular purpose. The purpose has largely worked but it is important that the levy would be removed because that was the intention when it was introduced. It is a significant burden to say the least, in particular on those who are close to retirement age who will see a significant reduction in their overall pension pot as a result of the levy. The Government must ensure the levy is removed given that it was the stated intention to do so.

I am sure the Minister has received correspondence from the Senior Citizens Parliament, which pointed out the issue of the right of audience which has been raised also by previous speakers. They referred to the right existing until the 1970s. Some of the pension provisions, particularly for the State pension, that existed until the 1970s were to say the least not desirable.

Pension boards around the country acted in an arbitrary fashion in terms of who got a pension and who did not. Nobody suggests that should re-emerge but perhaps the Minister might be in a position to reconsider the potential impact of the legislation in reducing pensions on which people were relying, who might be close to pension age, and to introduce some mechanism for those concerns to be directly addressed. Perhaps the Minister would do so in her concluding remarks.

**Deputy Peter Mathews:** I wish to share time with Deputy Shortall.

**Acting Chairman (Deputy Charlie McConalogue):** Is that agreed? Agreed.

**Deputy Peter Mathews:** The irony is that in a couple of recent debates I had to beg, borrow and steal to get time to make a contribution but on this occasion events of the day have intruded on my preparation time to make a contribution.

The Minister and I know each other long enough and well enough for me to say with hand on heart that she got off the starting blocks on this issue with her mind and heart in the right place. In pretty much all her work I see the motivation of fairness and dividing out the cake in such a way as to ensure that while not perfectly equal there would be fair shares and in so doing to enlarge the cake. That is her economic motivation which is good.

It is a coincidence that today in the post I got an update on one of my single premium pensions with New Ireland Assurance. Several years ago I invested €45,000 and I am now advised that it is worth €32,000.

**Deputy Timmy Dooley:** That is not so bad.

**Deputy Peter Mathews:** That is something that makes me feel awkward and puts me on the back foot when I have to discuss it with my wife. New Ireland Assurance is not known for wall-of-death risks. The company has an array of risk-complexioned funds and I am sufficiently adult and professional to know that investments go up and down but that is a pretty rotten performance. That is a hold position, as it were, until I reach 65, which is not too far away. Lots can happen in the meantime.

I only have a small exposure to what people experience who are in funds with companies that are insolvent as I am in one of those too. The fund is technically insolvent. It is in ICC Bank, a semi-State company. The pension fund would be valued on an actuarial basis at 60% or 65% of where it should be. As one approaches 65 years of age one holds one breath and hopes an event will not trigger a winding up of the fund because one could be staring at the hole in the doughnut if one is like me and put in 20 years in the company and would be hopeful of having a respectable pension. That is especially the case given that the company worked well and profitably from 1933 to 2001 when it was taken over by Bank of Scotland (Ireland) which effectively trashed it by abandoning all prudential balance sheet banking principles and destabilised it.

I expect the Minister would agree with me about the wider picture and how the wheels of the machinery of economy and finance work across Ireland, Europe and the world. The majority of pension funds are invested outside this country, but as the moneys get managed and go out there are nice hefty slices of fees and management expenses. The Minister's former colleague Kathleen Barrington did excellent work at one stage on pensions industry analysis and reviews and discovered the whopping cumulative expenses that come out of a fund during the lifetime of its management. These are the overall framework figures that the public needs to know. The

public does not need to read weighty articles in newspapers or other weighty papers to find out. People find out about the horrors of other people's family tragedies from stark headlines and photographs in the newspaper but, while this is going on, they do not see the corrosion and rot associated with their own old-age provisioning, which could explode on them in a final envelope opening on their retirement day, the day the fund is declared insolvent or the day of a double insolvency. This is not good enough. It is part of the old culture in Ireland that needs to be power-blasted like an old building so the people can understand where they are.

"Financial services industry" is one of those framework phrases that would have one believe we are all in favour of financial services. Let us examine what financial services have done in the past 20 years. They have actually robbed people of their money and savings; that is the net result. I gave my own example of the mismanagement of a fund. This happens all around the place and it is just not good enough.

The opaque way of reporting and the long intervals between reporting by the firms and staff entrusted with the management of funds are not good enough. There should be clear and transparent glass. Even in respect of life assurance cover, where there is a very small mixture of savings associated with the policy, one gets a statement at the end of the year that actually defies comprehension. It is just shocking. The statement does not simply list one's monthly premium and the value of one's life cover for the next 12 months, with the caveat that it could be a little more or less in certain circumstances. That is easy to do and the institutions know it.

The actuaries, the whizzes, are vaunted as the fantastic raw material to go into modern emporiums such as Paddy Power, which we are told will create 500 jobs over two years. What about the 5,000 families that will be battered and become the customers of the Minister's Department? There is not even a tax of 2% on the institutions in question. Paddy Power opened headquarters in Clonskeagh beside UCD. It hoovers in graduates, with red carpets and temptations, to high-paid jobs because they are "quant" geniuses or have a PhD in mathematics. It is believed they are not really bookies or turf accountants, but they are. One should consider the invidious and alluring advertisements on television stipulating that one can get one's first bet, worth €10 or €100, for free. Is that the sort of society we want? I am not trying to be holier-than-thou but I believe it is rotten, stinky. It is a temptation. An app on a telephone is a hell of a temptation for younger people in college who may be under a little pressure. In a weak moment, they might believe they could make a bet that could solve their problems, thus getting hooked. It was weird that, only a week or two ago, the chief of the organisation to which I have referred was invited to fill the vacancy on the NTMA board. That is strange. We need a wider debate on the interconnectivity of all these wheels. The big danger in the financial services industry, which is manned and managed by the whizzes, is OPM, or other people's money. They have mismanaged it.

I recommended a book by Joseph Stiglitz to all the members of the Cabinet, particularly the Taoiseach. It is readable and backed up by researched evidence and the authority of years of study and wise observation. Mr. Stiglitz uses the phrase "of the 1%, for the 1%, by the 1%", arguing that wealth is becoming increasingly concentrated in fewer hands, not only in the United States but also here. That is a fact. Again, it is not right.

While headline tax rates do not appear to have been touched over the past two and a half years, the real effective rates of taxation have been touched as a result of policy. I will give an example. Having used up some of their income while struggling to pay back mortgages, households may dedicate between 40% and 50% of their remaining income to meeting the ex-

penses associated solely with living and surviving. These include the costs of lighting, heating, health insurance, other forms of insurance, travel and transport. I travelled on the bus recently between Donnybrook Church and Stillorgan Park Hotel, a short journey with seven stops. This cost €2.35 one way, meaning that a daily return ticket would cost €4.70. One should calculate the cost over the course of a year.

The costs of the products and services I have described have increased in the past year by not less than 15%. If 50% of household income is spent on services which have increased in cost by 15%, tax will have increased from 7.5% to 8%. I do not refer to headline income tax but the tax on everybody, including the poor and middle-income earners. That is the truth of the matter. One should add to one's calculations some miscellaneous arrivals, such as the property tax, the non-allowability of health insurance premiums valued over €1,000, and the rise in the latter expense once the increases start.

We have a fabulously regressive taxation system. When I hear that the 1% pay 10% of all income tax, my answer, which I do not want to be facetious, is, "So what?". Income tax is not the big revenue earner for the State any more. VAT, another regressive tax, is. I hope the Minister hears resonances in my humble offering of the need for fairness.

By their own reporting standards, foreign direct investors and multinational corporations reported €70 billion in profits in the last year for which figures are available. We have receipts to show that they paid approximately €4 billion in tax. This is an effective rate of roughly 6.5%. People will argue there is a difference between assessable profits and reported profits. There is, but so what? The companies state their profits and the taxes they pay, thereby indicating the rate that applies. Despite this, the companies in question enjoy the benefits of the structure, framework, customs, culture and stability of the stage on which they make their profits in this country, which is disease-free and does not have dengue fever, as exists in Asia, or smallpox, cholera or other such diseases that the top executives and board members of the FDI companies certainly do not want for themselves or their children. That is a very strong reason the companies are here; it is not just about a headline corporate tax rate of 12.5%. To say so is dishonest and I do not buy it.

Consider what occurs every time a bank admits it has a problem. With regard to the NAMA transfers of loans of €77 billion, as the sum was to be, the figure for losses was supposed to be €23 billion. It was approximately €100 billion, so the original figure was out by a factor of five. I have a rule of thumb - when a bank admits it has a problem, multiply it by five and one is somewhere in the right area then. Last week Bank of Ireland admitted that its provisioning might be a little bit off and would have to be increased by €1.5 billion. One must multiply that by five, giving a figure of €7.5 billion, which is probably just about right, if it is to do the work it needs to do to clean up the loan books and recover what is justly recoverable. How dare the banking industry, for six years, hose money at the economy in such a way as to cause an asset bubble and then, when the bubble burst, have the temerity, audacity and arrogance to insist on collecting all of the money back from people whose incomes have shrunk or disappeared. Some of those people have emigrated, while old age pensioners are topping up repayments on loans that are still performing. Some of the loans on the balance sheets of the banks are not problematic simply because the pensioned parents of borrowers are topping them up and paying them. That is what people do in Ireland. I know this because they tell me.

These are some thoughts for the day and I hope the Minister will take them on board. I urge her to ask the Taoiseach to read the book I mentioned earlier. He needs to look out a different

window on Ireland.

**Deputy Róisín Shortall:** At the outset, I must say that it is very disappointing that this legislation is being rushed in this manner, without allowing adequate time for consultation with those who will be most affected by it or indeed, without allowing time for Members of this House to give the proposed legislation adequate consideration. It is no way to do business. Any respect due to this House is being completely ignored in terms of allowing sufficient time for debate on this.

It is also wholly inappropriate that we should be discussing the measures contained in this legislation in a policy vacuum. It is now several years since the famous Green Paper on pensions was published and there is a pass the parcel exercise going on between the Minister for Social Protection and the Minister for Finance. There is very little coherence in the Government's pension policy. Bits and pieces are being done on the hoof without any clear policy context.

This Bill proposes to allow for the reordering of the priorities in the event of the insolvency or restructuring of a defined benefit pension scheme. It also provides the Government's legislative response to the Waterford Crystal workers' situation by introducing minimum pension guarantees in certain circumstances where a double insolvency exists and I will say more about that later.

In principle, a reordering of the priority arrangements in the event of a pension fund wind up is most welcome. The current regime is entirely stacked against current workers and deferred members. We have all come across those awful cases in our constituencies of workers in their sixties losing out on their pension because the scheme has wound up and all of the proceeds have gone to the existing pensioners. The system, undoubtedly, must be made a whole lot fairer. That said, the Government has got the balance wrong with these proposals, on a number of levels.

First, with regard to the single insolvency situation, the absence of any provisions in the legislation to ensure that at least some of the deficit would remain a debt on the company is a major flaw in this legislation. This really is just another form of corporate welfare and yet another example of socialising private debt. The legislation places no onus on employers in a single insolvency situation to make any further funding available for the pension fund and offers no obstacle to employers who choose simply to walk away from their pension promises. Such a scenario is not, of course, permitted in the United Kingdom and one must ask why it is acceptable in this State. I wonder how taxpayers will feel when they realise that they are paying for this corporate welfare.

Second, the minimum guarantee in the single insolvency scenario is much too low. The legislation only guarantees an income of €12,000 for pensioners. What if this is the only income for a pensioner couple? It is completely inadequate. Indeed, the way the priority order is now drafted could mean extra costs for the State because pensioner couples reliant on the minimum guaranteed pension of €12,000 would probably be entitled to means-tested State benefits. Therefore, not only would a solvent employer have walked away with the State's blessing but taxpayers will have to fund higher social welfare payments as a result.

Third, there is not enough burden sharing among the higher-paid pensioners. The most a pensioner on over €60,000 stands to lose is 20%. The legislation should, of course, set down

a maximum income limit on the guarantee. Under the Government's proposals, trustees can take money from a pensioner whose pension is very slightly in excess of the €12,000 threshold while still paying out a €100,000 pension to another member. That is simply inequitable in anybody's book.

Fourth, I welcome the fact the Government is finally legislating for the double insolvency situation. However, it is true to say that this would not be happening this year were it not for the tenacity and fortitude of former Waterford Crystal workers and the Unite trade union.

**Acting Chairman (Deputy Charlie McConalogue):** The Deputy's time is up.

**Deputy Róisín Shortall:** Today the Unite trade union made it very clear that what is being proposed here is wholly inadequate. It is most regrettable that the Minister did not agree to meet the group of parliamentarians who are working with the Waterford Crystal workers or with their union representatives to discuss this legislation. The Minister seems to be trying to head off any ruling from the High Court in this regard. Her actions are in stark contrast to those of the UK Government----

**Deputy Joan Burton:** Sorry, on a point of information, the Deputy----

**Deputy Róisín Shortall:** -----in the Robins case.

**Deputy Joan Burton:** Deputy Shortall is----

**Acting Chairman (Deputy Charlie McConalogue):** We are out of time.

**Deputy Róisín Shortall:** If I may be allowed to finish. The Minister's actions are in stark contrast to what the UK Government did in respect of the Robins case.

**Deputy Joan Burton:** It is wrong to imply that I, as a Minister, have sought to interfere with the courts in the operation of----

**Deputy Róisín Shortall:** What the Government is proposing here is not----

**Deputy Joan Burton:** Deputy Shortall should withdraw that statement.

**Acting Chairman (Deputy Charlie McConalogue):** Order please.

**Deputy Róisín Shortall:** ----by any means a solution to the situation in which Waterford Crystal workers find themselves, or indeed, other workers who are facing a similar situation.

**Deputy Joan Burton:** The Deputy should withdraw that statement.

**Acting Chairman (Deputy Charlie McConalogue):** Order please.

**Deputy Joan Burton:** I must make it clear that I have not sought at any point in time to interfere in any way, as implied by the Deputy, with the workings of the Irish courts. Cases are before the Irish courts, where applicants have applied to the courts. Those applicants are absolutely entitled to progress their cases through the courts as they wish. For the Deputy to suggest that I have sought in some way to influence court proceedings concerning applicants' rights is wrong and she should withdraw that allegation.

**Deputy Róisín Shortall:** The point I made was that the actions of the Minister are in stark contrast to what the British Government did in the Robins case.

**Deputy Joan Burton:** The Deputy said something about the Irish courts.

**Deputy Eoghan Murphy:** The legislation is very welcome and I congratulate the Minister on bringing these proposals forward and giving of her time to debate the Bill. I wish to begin with the OECD report into our pension system which was commissioned by the Government in 2012. One of the conclusions of that report was that there was unequal treatment of public and private sector workers due to the prevalence of defined benefit plans in the public sector and defined contribution plans in the private sector. While that finding was presented to the Government and this Parliament, we did not need that work to be done because many people already knew that was the case. I am not trying to bash public servants but it is important that those in the public sector in receipt of defined benefit pensions, as is the case with the vast majority, should recognise how incredibly fortunate they are to have the State sovereign backing their entitlements because as we know, not everyone is fortunate enough to have the protection of the State sovereign when it comes to their pension entitlements. The vast majority of those in the public sector do not need the provisions in the legislation. That is a good thing for them. It is good for those working in the public sector that the State backs their pensions in the way it does. They do not have to fear insolvency and should recognise the great advantages they enjoy. These advantages must also be borne in mind when we debate issues like pension reform, the length of the working week, reforming work practices or changing salaries. It is incredibly important that we make comparisons with the private sector and they are not fair comparisons when we take this crucial issue of pension entitlements into account. If we want to achieve fairness in people's working lives both in the public and private sector, we need to recognise this in the current pensions system and welcome the important reforms coming from the Minister to achieve this fairness.

A larger problem is how we pay for pensions. While the working age is going up incrementally, our working lives are getting shorter. People are starting to work later in their lives as they receive more education. Essentially, we have a shorter working life that is meant to financially sustain a lengthening non-working life. When one takes into account changing demographics in the next 30 to 40 years, despite the baby boom blips that occur from time to time, one wonders how we can sustain this development. It is like constructing an inverted pyramid - it is simply not going to stand. Total pension payments across the system are over €3 billion gross. We do not know what future liabilities will be in certain areas of the public sector, for example, in health, because they have never been calculated. In 2009 a figure for the State's future liabilities was calculated at €116 billion. That figure is now out of date because of the economic changes and the reforms the Government has introduced in the pensions industry. The Comptroller and Auditor General is compiling a report on future pension liabilities, which is welcome. When the current economic crisis ends, the pensions crisis will still be facing us.

I find it odd when people give out about tax reliefs for private pension contributions. These reliefs are a short-term expense on the part of the State for a much greater saving in the longer term. It saves the State money by having individuals provide for their pensions privately. Why would we be against this when the result is greater resources for the State pension and general public purse, resources which could then go to those who need them most? We cannot ignore the fact that the highest payment from the public purse is for social protection payments, of which more than one third goes on pensions. That is a significant figure in comparison to other State expenditure figures. We have to ensure it is sustainable. That is the job that has fallen to this parliament and the Government, planning 20 to 40 years ahead. We should be pushing people into private pension schemes, encouraging them to provide for their own futures. We

should not be telling them that they can and should always depend on the State such that if things do not go well or when it comes to that difficult point in their lives and they realise they cannot provide for themselves, the State will automatically help them. Of course, it should help those who need help, but we must get people to see what a good idea it is for them to provide for their own pensions privately through defined contribution schemes. While I supported the pension levy, it is a retrograde step and needs to be ended as soon as possible because it is counterproductive in encouraging people to make provision for their post-work lives.

The legislation is welcome, as we did need to restructure defined benefit pension scheme priority orders to ensure greater fairness when a scheme or the company responsible for it became insolvent. Single insolvency and double insolvency is occurring on a wide scale. Accordingly, we have a responsibility to ensure all of the appropriate measures and supports are in place. A balance needs to be achieved in this regard. On the one side, there is the pensioner, a person who has made contributions throughout his or her life and is now fully dependent on it and who needs to be protected for obvious reasons. On the other side, there is an employee who has made contributions and could even be close to retirement. Insolvency could wipe out his or her pension. This legislation will address this issue. Several Members raised pension practices in the United Kingdom which we are not following. I am looking forward to Committee Stage to see if we should incorporate these practices.

I welcome the legislation and this debate. However, we need a much bigger debate on the pensions crisis facing the country in the public and private sectors. This liability hangs over all of us. It cannot be kicked down the road as previous Governments did.

**Deputy Timmy Dooley:** I welcome the opportunity to debate this issue. As Deputy Eoghan Murphy said, it must be debated much more. This legislation is certainly too little and certainly too late. It is too late for those who were part of a defined benefit scheme that closed in the past two years and impacted on deferred pensioners and those working who will find themselves with no pensions when they retire. For that reason, I am disappointed that there is not some measure in it to try to deal with this issue retrospectively. I accept that it is difficult to craft legislation that deals with issues retrospectively. However, the property rights attached to pensions should be afforded some protection for those concerned.

Historically, people who paid into a pension fund had a legitimate expectation to receive certain payments which have been seriously impacted on by the economic crisis. The legislation does not address this issue. Will the Minister address it through some other means at a later stage? There is a cultural aspect to all of this. The Irish have, by their nature, tended to live for today. The concept of saving for retirement was not as strong as it was in other countries. Successive Governments failed in their duty in that regard and did not encourage the development of appropriate pension plans.

I accept that the buy-to-let market is a particular overhang in the economy and banking sector. Most of those involved in it were either self-employed or might not have worked for a multinational or the State sector but who bought property to secure a dignified retirement pension. They are often demonised in the analysis of the economic crisis which suggests it was all about profiteering, speculation and greed. I am not suggesting that was not a feature of what happened during the boom. However, many people of whom I am aware spent everything they had on educating their children as they could not avail of college grants or other State supports. They saw an opportunity in the relatively cheap availability of money to purchase a buy-to-let property, pay down the mortgage during their working lives, while the rental income would

have provided them with support in retirement. That is shattered for many of those people. Of course I am not suggesting that this Bill should address that, but I would like to put on the record an understanding of the culture or the concept of providing for retirement. That is certainly gone as a practice, even though the property sector is probably a good investment based on the yields from rent at the moment and it is probably a good system of providing for pensions right now. Unfortunately, the financial institutions are once bitten, twice shy. They are not in the business of looking at buy-to-let investments at all at the moment, notwithstanding the value that is there.

My other concern with the Bill is the lack of a retrospective component that would have dealt with those who have suffered the disbandment of the pension fund in the past number of years. A going concern should not be permitted to be wound up unless the defined benefit pension scheme has reached a minimum of 90% funding. The OECD set that out very clearly. By not having that provision included in the legislation, there is almost an encouragement for private pension schemes to go ahead and wind up the scheme rather than trying to manage it where there is still a level of profitability in the company. By not addressing that, the Minister may be encouraging the winding up of some of the defined benefit schemes unnecessarily. That would be a regrettable situation.

I think this is a start, although it does not go far enough. We need to continue in this House, through legislation, education and information, to try to develop a culture in Irish society of providing for one's retirement. We have seen where our own economy is at. We have seen the pressure in the cost of the operation of the Department, in particular the pension component of the Department. That is very significant, notwithstanding the fact that people seem to think we are sending more money to some eastern European countries to fund children's allowance and other schemes, when in fact our pension commitment is one of the largest components of the Department. The IPSOS/MRBI survey published in *The Irish Times* on Saturday was quite enlightening. I thought it was ironic that it was published in a newspaper. Many sections of the media tend to over-emphasise the relatively small elements of the social welfare budget and the spending of this House as being the root cause of all our problems. There was some surprise in media circles that the public were so misguided, as evidenced by the survey, so I thought there was an irony in that when certain sections of the media spend a lot of time jumping on popular and populist platforms that seek to demonise the work of this House, public servants, politicians and so on.

I hope the Minister can address some of the issues I raised, perhaps in future legislation. She has plenty work to do in continuing a campaign of educating Irish people on this. Perhaps it might be factored into the syllabus in our education system so we can instill in the minds of young people that their first wage packet is not just about providing for today, tomorrow or the end of the next pay cycle, and that a significant component of it should be based on providing for the retirement period of one's life. Recognising the advances in health care, we are living longer than we did in the past. As a result, we have pushed out retirement age. There is a level of elasticity that we cannot go beyond, but if the advances in medicine continue, people will still live longer but may not be able to work longer. For that reason, I can see Deputy Murphy's point that this potential crisis will be with us long after we resolve our current economic situation.

**Deputy Bernard J. Durkan:** I am delighted to have an opportunity to speak on this Bill. Many problems have emerged over the last few years, some of which we anticipated and some of which we did not anticipate. We have all been talking about a pensions iceberg emerging in

2030 and 2038, and of course that is still the case. However, I am not as pessimistic as many people. I believe that there is still adequate space and scope, but at the same time, the Minister is taking an action that needed to be taken now. I sincerely hope that it does measure up to expectations. Of all the issues that have come up over the years since I became a Member of the House, I have dealt with this issue on numerous occasions. We could paper the walls with the pleas of people who have had sad experiences of being unable to fund a pension scheme of one kind or another, and finding out that they had to liquidate it two thirds into its lifespan, or even in a very short space of time which eventually leaves them in a difficult situation. This is particularly the case for people who thought they were putting something aside for their retirement, and who found out that they had to dip into their pension fund or capitalise the fund or draw it down at an earlier stage, with obvious consequences for themselves.

I have been concerned about the extent to which pension funds have been run in some of those situations. I am not entirely satisfied that the customer gets the best deal at all times. I believe that eventually, the compulsory pension scheme will be the right answer. There will be State intervention, regulation and prescription and as a result, a State guarantee of some sort at the end of the day. That is a good thing.

As we all know from our experiences in the past few years, financial services and pension funds have a certain amount of interdependency, which is fine. The only problem is that there is nothing like the anguish of people who have contributed to a pension fund, only to find at the end of the day that there is nothing in it, or something vastly short of their expectations. It is soul destroying for people. I know there were enhanced tax benefits available to them in recent years, and that probably was the wrong thing to do, because it encouraged people to go for bigger pots - a bigger pay out - and it also encouraged managers to go for more risky investments. We all know where that ended up eventually. That is the way things are. Deputy Dooley mentioned that some of it was greed. Let us be fair about it. We cannot blame people for trying to do the best they can to maximise to the greatest extent possible the benefit that might accrue from their pension contributions. They are obviously going to go for the best result, but going for the highest risk pension and the best result may not be the same thing. That is why I believe this provision which the Minister has introduced is beneficial. It will give some consolation to people who, provided certain procedures are followed, would receive something at the end of the day.

We must completely move away from the idea that it will be all right eventually and we do not have to make provision for these things. As our society evolves it is more and more important that provision of this nature is made at an earlier stage than previously expected. What is happening in the health insurance market is frightening because younger people, due to economic difficulties, are opting out. That is creating an imbalance in the system and the result is that more people will be without cover and will have to pay for health care out of their own pockets or come under the State system, increasing the liability.

Deputy Dooley mentioned the possibility of changing the culture, and that must be done. The experiences of the past three or four years will go a long way towards changing the culture and how we Irish people look at many issues. It is recognised that what looks like the easy way is not necessarily the best way or the right way. I hope that from the sad lessons we have learned the proposals from the Minister will serve, at least for the foreseeable future, to address the issue in so far as it can be done and at least make some worthwhile provision for people who might otherwise be in a very difficult situation.

**Deputy Thomas Pringle:** I welcome this opportunity to contribute to today's debate on the Social Welfare and Pensions (No. 2) Bill 2013. The Minister's contribution today focuses entirely on the defined benefit schemes in operation in the State and deals with the single insolvency and double insolvency situations that may arise in the future and the restructuring that may take place within schemes. It is amazing to think that the private pension industry is subsidised so much by the State, which forfeits €2.6 billion per year of taxes on pension contributions. The industry is like a betting shop, where one gives one's money and hopes it will deliver the best outcome. The exorbitant fees that fund managers have charged on private pensions have been outlined many times in the House. The performance of many Irish pension schemes has been dismal, to say the least, over the years.

Over the last number of years we have seen a number of very high-profile defined benefit cases. ESB workers have served strike notice on their management because of the way it unilaterally changed the terms of their pension scheme. Changes took place within the Aer Lingus and DAA pensions which are having a major impact on deferred pensioners. The Waterford Crystal workers had to go to the European courts to have their rights vindicated, and that case is still before the courts. The High Court will adjudicate on the level of compensation they will receive regarding their pensions.

It is hard to escape the fact that in this legislation we are laying down a marker to say we believe 50% is the acceptable figure in a double insolvency situation. That is sending a none-too-subtle signal to the courts as to where the line should be drawn in double insolvencies. The courts will probably take that on board when making their judgement on the Waterford Crystal workers, and that is a retrograde step. It is a historic case and we cannot deal with it in this legislation. It should have been left for the courts to come to an adjudication on that. The European Court of Justice has indicated that the Waterford Crystal workers must receive somewhere between the 49% guaranteed in European legislation and 90% of their contributions.

In all defined benefit schemes the workers, by taking up employment, have had no choice but to contribute. They did that in the expectation that they would have a certain amount of benefit on retirement. The workers have always contributed to and played their part in pension schemes, but the companies have made unilateral decisions and cut contributions, with a direct impact on the workers. While it may be acceptable to see some buy-in for pensioners in the future with the possible cuts to pensioners included in the Bill, it is a breach of trust and of contract when the companies or their pension scheme trustees unilaterally decide to change the terms and conditions of the schemes. That is a poor situation for workers to be placed in.

The Bill seems to let companies off the hook. Particularly in cases of restructuring, it does not seem to force companies to contribute some of their profits to the pension schemes and funding the deficits. While in most cases companies do end up contributing, the onus should initially be on the company to make up the deficit. The company has benefited over the years from the work of the workers who have contributed to the scheme, and the pensioners who are benefiting from the scheme have contributed in the past to the success of the company. Companies such as the ESB, with annual profits in the region of €600 million, should be asked and made to contribute more to the restructuring and solvency of their schemes. Company profitability should benefit the workforce as well as allowing the company to reinvest. That is missing from this legislation. In the hierarchy of dealing with restructuring and insolvencies, the company should be placed at the top and should be the first port of call for the trustees.

In response to parliamentary questions the Minister has outlined that the trustees of the com-

panies will be obliged under this legislation to consult widely with regard to restructuring that might have to take place or changes in the winding up of schemes. They must consult with the employers, members, retirees and the unions that represent the members of the schemes. What about the deferred pensioners? They will be left out in the cold. I do not see how they are being accommodated in this legislation. A mechanism to allow deferred members to feed into the process should be included in the legislation.

In the Aer Lingus pension scheme restructuring, Aer Lingus has offered existing members, of whom there are approximately 2,500, a contribution of €110 million towards the scheme, while for deferred members, of whom there are more than 3,800, they are contributing only €30 million. That is a very unfair system because deferred members have also contributed considerably to the success of the company. Many of those deferred members are of an age at which they will not be able to accrue extra benefits that might offset some of the shortfall in their pensions. The legislation should at least give deferred members some input into the plans of the trustees and the scheme.

The type of consultation that takes place is also very important.

*5 o'clock*

It appears that much of the consultation is in the form of telling people what will happen, how it will happen and when it will happen, rather than meaningful consultation where people are brought around the table to ensure everybody will be satisfied with the outcome of the agreement.

I would like to focus now on the restructuring arrangements contained in the legislation. Section 11 of the Bill deals with this and amends section 50 of the 1990 Act. It outlines the priorities for what options are available to trustees or the Pensions Board, in terms of a scheme that is being restructured. This will apply in situations where a company's scheme is solvent, but needs to be restructured to enable it meet future liabilities. It provides for options where contributions can be increased or the retirement age can be extended for members of the scheme and for reductions in benefits. It outlines the provision for benefits up to €12,000 to be fully protected, for a reduction of up to 20% between €12,000 and €60,000.

I have a concern in this regard that needs to be examined. I imagine this legislation is intended to work for many years into the future and that it is not something we intend to revisit again and again. However, if, for example, a scheme that is solvent now is restructured and current members and pensioners see a reduction in their benefits from the scheme, what will happen if in five years time or so the Pensions Board or the trustees decide there is another large deficit and go for another restructuring? Pensioners could then see another reduction in their benefits and an increase in their contributions or retirement age. The situation could deteriorate to the extent that in 15 years time when the scheme is wound up, workers who have been contributing all along to it, and pensioners who have been benefiting from it, will have seen numerous reductions and then be faced with the same again on the wind up of the scheme. This is very unfair and difficult for members of schemes. It is not something we should have to envisage.

The Minister said in response to a parliamentary question last week that there are no indications that continued restructuring of scheme benefits gives rise for concern. However, we do not have a crystal ball and cannot look ten or 15 years into the future to see whether this will happen. We cannot turn around and say it will never happen. This is something that should be

examined in the context of this legislation. Where a scheme has been restructured on a number of occasions or restructured once and then wound up, the level of benefits should be frozen at the point the restructuring took place. I urge the Minister to consider this.

While this legislation was broadly welcomed when published, the general response is that we must wait to see how it will work in practice. This is not a great way to introduce legislation - waiting to see how it will work in practice and not knowing the intended result at the start.

**Minister for Social Protection (Deputy Joan Burton):** I thank all of the Deputies who contributed to what has been an extremely informed debate. I appreciate the fact that people have welcomed the Bill, because a huge amount of work has gone into it and some difficult decisions have had to be made to find the best balance to protect the various interested parties in regard to pensions. Striking that balance is difficult. Some people have suggested the balance should be as high as €24,000 while others have suggested a figure as low as €6,000. I have aimed to get a balance of fairness.

The contributions of Deputies from all sides reflect the view that a decent income in retirement is a mark of a civilised, modern society. All of the parties which have been in government in recent decades have accepted as a working premise that the retirement pension should be adequate. In the context of the financial tsunami which hit the country, the bank guarantee, the property crash and so on, it is important to recognise we have been able to protect the weekly rate of the old age pension, both contributory and non-contributory, so that retired people have the security of a fixed income.

Pensions, however, must be funded. Some Deputies, including Deputy Dooley, commented on the *The Irish Times* poll on what people think taxpayers' money is spent on. The poll indicated that some people think we spend more on child benefit payments abroad and on jobseeker's payment to people in Ireland and elsewhere than on any other area. The child benefit payments for children abroad are now down to approximately €13 million a year, whereas payments to pensioners in 2012 was €6.279 billion. Despite all the restrictions on spending, every year for the past three years my budget has provided approximately €200 million extra for the pensioners coming into retirement pension payments and to cover pension payments for pensioners who are living longer. Therein lies a large part of the crisis in regard to defined benefit schemes.

We often forget that many employers are good employers. Some of these good employers made promises decades ago about levels of pensions to be paid but, as the OECD pointed out, many Irish funds were invested where the level of risk was very high. Individuals also invested in these pension funds. Unfortunately, much of that risk crystallised in investments in bank shares and so on, which once seemed the practical, profitable and patriotic way to invest, and these investments turned out to be a disaster for the funds and for those individuals who had also invested their private pension fund in bank shares.

In response to Deputy O'Dea, in the period 1997 to 2011, the number of defined benefit schemes declined from 2,242 to just over 1,000. The close down of these schemes happened largely on the watch of the previous Government, for the reasons I have outlined. The issues date back over the past decade and were raised by the previous Government in both the 2007 Green Paper on pensions and the 2010 national pensions framework, which set out what the retirement age in Ireland would be for retirement pension purposes. This was agreed by the previous Government and included in the troika programme.

This Bill, for the first time, addresses the issues relating to the priority order. It has taken time to bring this about, but it is important to try to balance these difficult changes, which affect people's rights and entitlements to pension. We want to get the balance right between existing pensioners, the active members currently contributing and the deferred members who have paid in but who, because they have not yet reached retirement age, are some distance from claiming from the scheme.

Deputy O'Dea and others mentioned the pension levy. The levy introduced on the defined contribution schemes, of 0.6%, related to the jobs programme. At the outset the Minister for Finance undertook to terminate this in 2014, and he gave this undertaking again in this year's budget debate.

The Minister also announced a separate levy of 0.15% which would apply to all pension fund assets. He indicated that this would continue to fund the jobs initiative, including the continuation of the reduced 9% VAT rate in the hospitality sector, which is very popular on all sides of the House, and would make provision for potential State liabilities which may emerge from existing or future pension fund difficulties. The 0.6% levy ends this year, as was promised, and another levy will begin this year. This will continue to fund the lower 9% VAT rate for the hospitality sector and liabilities that may arise in the context of future pension schemes, including existing cases to which many speakers referred, particularly the Waterford Crystal case.

With regard to the exemption from the funding standard, I remind Deputy O'Dea that in 2008 almost 200 schemes were exempt from the funding standard. This doubled the number of schemes exempted in the previous regulations. No additional schemes have been added to this in the period since. The OECD report that I commissioned and published in April described the Irish funding standard as undemanding, and this is an important point. It is not of a high enough standard to absolutely secure the future of everybody's pension to the level they would like. However, we are in a recovery position from very difficult situation. I acknowledge that I have acted with a degree of caution in reintroducing the funding standard and trying to get the balance right in this legislation.

A number of Deputies spoke about retrospective legislation. The advice received is that the proposed legislation will apply to any scheme that enters wind-up after the legislation has been enacted and will not apply retrospectively. A number of Deputies asked whether schemes restructuring at present could take advantage of the legislation. I assume that if it is to their advantage they may well do so. In other words, they will await the enactment of the legislation to proceed, and this is perfectly possible if they are in restructuring discussions at present. This is how I understand it.

Deputy Joan Collins and others asked about the right to audience. Significant efforts were made, particularly by the departmental staff dealing with pensions, to identify an approach that strikes a reasonable balance between the interests of pensioners, active members and deferred members across a broad range of scheme portfolios and structures. To ensure the broadest range of views and expertise was considered, the consultation process during the review of these provisions included a stakeholder consultation forum in late 2012 for those representing older people, pensioners, the pensions industry, employers and trade unions. The older representatives who attended included representatives of the Senior Citizens' Parliament, Age Action and the National Federation of Pensioners' Associations. Written submissions were also sought from the groups and informed the review process where they were received. In addition, the provisions brought forward in the Bill regarding the restructuring of scheme benefits provide

for engagement with pensioners and other beneficiaries.

On Committee Stage I will be happy to return to this point if committee members have proposals that might facilitate stakeholders and increase and improve levels of communication. I do not know about other people, but I find legislation dealing with pensions to be technically very complex, demanding and difficult. It is important that we examine how to improve communications to make it more understood. At the end of the day we can have promises on pensions but unless they are properly funded and those funds are invested appropriately people will live with a risk about which they have not been told. Unfortunately, from 2008 on these risks crystallised.

With regard to the Waterford Crystal workers mentioned by a number of speakers, I noted all the points made on the Waterford scheme and I am very conscious of the issues involved. The Deputies will appreciate that as the specific case remains before the courts it is not appropriate for me to comment on any aspect of, or possible issues arising from, the case at this time. I emphasise this point to Deputy Shortall. Everybody has enormous sympathy with the workers at Waterford Crystal because of what happened there. This goes without saying. It is before the courts and the applicants have the right to present their case as they see fit before the courts. I emphasise this. There is close concern about the issues as they affect Waterford Crystal workers.

Deputy Shortall also complained that the Bill had been presented within a short period of time. It has been technically very difficult to complete the Bill and fine-tune the balance of constitutional and property rights involved. It has imposed huge demands on the resources of the Office of the Attorney General. If there were an extended presentation it would postpone enactment until sometime in 2014. Deputies, including Deputy Shortall, asked for a Bill to address the issue of the priority order. I felt on balance we should deal with it now. We brought it through the Seanad where we had a very detailed debate, as we have had here. It is better on balance, in terms of the interests of the various parties to pension schemes, including pensioners, current members and deferred members, to enact this legislation before the end of 2013. This is my decision, and if people want to be critical about it I understand their point of view. I would not like to delay until well into 2014, which is what would have happened if we had had a very protracted publication period before the Bill came to be discussed in the Houses. People who spoke in the House, particularly the Opposition spokespersons, have engaged very deeply with the legislation and are quite informed about it. The committee hearings will give us an opportunity to discuss the legislation in much greater detail.

The aim of the Bill is to ensure a fairer deal for workers and sufficient protection for pensioners while allowing employers to tackle their pension problems. Representatives of employers, employees and the pension industry have been encouraging action in this area for some time. I am heartened to see a broad welcome for the measures contained in the Bill. I am aware that a number of people want to see an employer obligation. I am prepared to discuss this in some detail on Committee Stage because on balance the advice was not to do this. I do not believe we have the time to go into it in detail now, but I will come back to it on Committee Stage.

A good degree of priority is being maintained for older people and pensioners in the scheme. It is also fair that some measure of protection be afforded to all members - both currently active and deferred members - of defined benefit pension schemes. In a way, what we are doing here contemplates the concept of intergenerational risk sharing. The level of €12,000 is appropriate, particularly when one takes account of the fact that significant numbers of people also have

contributory State pensions.

A number of Deputies referred to the ESB, and I wish to comment from my Department's perspective on the company's scheme. The ESB's defined benefit scheme has always been a funded defined benefit scheme. It is therefore subject to the provisions of the Pensions Act and has complied with those provisions relating to the funding standard. The defined benefit scheme is closed to new entrants and a defined contribution scheme for new entrants has been in operation since 2010. The ESB has stated that the scheme is currently viable on an ongoing basis and can meet its expected cashflows. The ESB and the trustees of the scheme agreed a funding plan with the Pensions Board in 2012. This was following a lengthy period of discussion and negotiation involving the trustees, the management of the ESB and the members of the scheme. The agreement in question will lead to the scheme being restored to solvency by 2018. There are approximately 5,600 active members, more than 1,000 deferred members and more than 7,000 pensioners involved.

As public servants, many ESB workers have class D PRSI contributions. Permanent and pensionable employees in the public service other than those who were recruited after 6 April 1995 are liable to pay PRSI contributions at a lower, modified rate. Subject to having the required number of PRSI contributions, employees who pay modified contributions have access to widow's or widower's contributory pension, a guardian's payment and carer's benefit. They do not have access to the contributory State pension. This matter was referenced in a number of recent media discussions. However, the employer and employees have benefited for many years from the lower class D rate of PRSI rather than being obliged to pay - as almost everyone else does - class A contributions. Their occupational pension is not an integrated pension but, importantly, their final defined benefit pension is, as a result, much higher than pensions in the private sector. I understand that their average pension is approximately €25,000. This reflects the fact that many of those who were taken on pre-1995 did not pay class A contributions but rather paid the lower class D contribution and qualified for more limited benefits as a result. My understanding is that this was very much the result of the desire of the workers involved and the ESB to have the scheme dealt with in this way. There has been some confusion in respect of this matter and I am anxious to clarify the position for the Members who referred to it.

Question put and agreed to.

### **Social Welfare and Pensions (No. 2) Bill 2013: Referral to Select Committee**

**An Ceann Comhairle:** I understand it is proposed to refer the Bill to the Select Sub-Committee on Social Protection. I call on the Minister to move the motion.

**Minister for Social Protection (Deputy Joan Burton):** I move:

That the Bill be referred to the Select Sub-Committee on Social Protection pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) and paragraph (8) of the Orders of Reference of Select Committees.

Question put and agreed to.

## **Message from Seanad**

**An Ceann Comhairle:** Seanad Éireann has passed the Child and Family Agency Bill 2013 without amendment.

## **Topical Issue Debate**

### **State Pathologists**

**Deputy Charles Flanagan:** I welcome the opportunity to raise this issue and I thank the Minister of State, Deputy Kathleen Lynch, for coming to the House to reply to it. Recent reports suggest that all is not well in the Office of the State Pathologist. I do not wish to refer the House to the intricacies of recent resignations but I would like to obtain some clarification from the Minister of State in respect of a number of issues pertaining to the office. In particular, I ask her to indicate that the office is working well and efficiently and that there is public confidence in it. I am of the view that it is important that we should consider the workload of the office and the fact that there are three State pathologists for the entire country and that the pattern of forensic evidence gathering has changed in recent years. Forensic evidence is vitally important and is used regularly in the criminal courts. Having regard to the fact that 200 or more relevant cases are dealt with on an annual basis, it is important that there be strong public confidence in the office. Post mortem examinations need to be carried out in emergency situations, suddenly and often without notice. It is essential, therefore, that there be optimal response times and that officials from the Office of the State Pathologist can get to far-flung parts of the island at very short notice. It is important that the regime in this regard be maintained.

I am somewhat concerned about the lack of service in cases in which there may not be an element of suspected foul play but the families of deceased persons experience extreme suffering and trauma. For example, a body might be discovered in my constituency on a Friday and there might not be anybody available to carry out an examination. In a very sad recent case, the body of a deceased person was not released to the family until four days after death had occurred. That is simply not good enough.

If there are any doubts or issues in respect of the Office of the State Pathologist, I ask that the Minister of State, Deputy Kathleen Lynch, authorise a cross-departmental review. These are medico-legal issues. The office comes under the auspices of the Department of Justice and Equality but it also deals with matters relating to the Department of Health. By definition, the State pathologists are doctors and members of the medical profession. It is absolutely essential that both Departments be involved in the running of the office. I hope the issues surrounding the Office of the State Pathologist that are currently in the public domain will be dealt with in a way that ensures there is confidence in the system and that the office is operating satisfactorily and has access to adequate resources. I ask the Minister of State to address these issues in her reply.

**Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch):** Before I begin, I wish to express my admiration for Deputy Charles Flanagan. The way in

which he spoke about this matter just shows how long years of involvement in a particular area can be used to one's benefit. I thank the Deputy for raising this issue. The Minister for Justice and Equality, Deputy Alan Shatter, is unable to take the matter as he is attending a meeting of the Justice and Home Affairs Council in Brussels.

As the Deputy will be aware, Dr. Khalid Jaber recently tendered his resignation from the post of deputy State Pathologist. His resignation has been accepted with immediate effect and he has been notified accordingly. The Minister fully appreciates that a number of issues arise at an operational level arising from the departure of Dr. Jaber. This is clearly the case because the functions undertaken by the Office of the State Pathologist are very important and can only be carried out by highly qualified and experienced medical personnel.

Following the resignation of Dr. Jaber, the primary service operated by the State Pathologist's office is being provided by the State Pathologist, Professor Marie Cassidy, and the deputy State Pathologist, Dr. Michael Curtis. This service is supplemented, as required, by Dr. Margot Bolster, assistant State Pathologist. In the overall context, it is a matter for the State Pathologist to determine how her office operates. In that regard, the Minister understands she is in the process of putting in place the necessary operational arrangements to take account of the resignation of Dr. Jaber.

In raising this Topical Issue the Deputy referred specifically to the service provided by the Office of the State Pathologist at weekends. This service operates on an on-call basis and is designed to ensure urgent requirements can be met. With particular reference to the circumstances to which the Deputy referred, the Minister has been informed by the State Pathologist that she has arranged for Dr. Bolster to assume on-call call duties which would previously have fallen to be undertaken by Dr. Jaber.

The Minister has requested that I assure the Deputy and all Members that the question of finding a replacement for Dr. Jaber is being actively pursued by the Department. In this connection, the filling of the vacancy has been approved by the Department of Public Expenditure and Reform. It will be necessary to have a high level competition to secure a suitable replacement for Dr. Jaber. This will be arranged in conjunction with the Public Appointments Service.

The Minister is also pleased that the provision of new accommodation for the State Pathologist's office at the former Whitehall Garda station is proceeding as a shared location project with the Dublin City Coroner. The current position is that the relevant architectural drawings are being finalised for the refurbishment of the building, with the necessary work to be undertaken and completed in 2014. It is the Minister's view that a professional and comprehensive pathology service will continue to be delivered by the Office of the State Pathologist and in that regard, he has full confidence in the State Pathologist, Professor Cassidy, and her staff.

**Deputy Charles Flanagan:** I thank the Minister of State for the clarity with which she replied on behalf of the Minister. She has addressed many of my queries. However, two further issues arise. First, she has indicated that the move of the Office of the State Pathologist to the former Whitehall Garda station is proceeding as a shared location project with the Dublin City Coroner. Will she be more specific in terms of the timeframe for completion of the project? I hope the works will be undertaken in early 2014 as it is important that the project is completed in a timely manner. Second, speaking at a seminar last year, the State Pathologist, Dr. Marie Cassidy, reportedly warned that she and her colleagues, all of whom were in their 50s and had been trained abroad, were heading towards a time when they would be thinking of leaving the

profession and that there was nobody being trained to replace them. She called for her profession to be officially recognised by the Medical Council in order that training could be established in Ireland. This is important in the context of the recent resignation from her office and the need to ensure a replacement, having regard to the fact that the entire country is covered by three officers who must deal with at least four cases per week. While I recognise and accept what the Minister of State said, I ask her to be more specific as to the type of recruitment competition that will take place. Is the Department resigned to having to recruit someone from abroad on the basis that we do not appear to have the necessary expertise at home? Is this a satisfactory position?

**Deputy Kathleen Lynch:** The works are due for completion in 2014. Given the type of work required when refurbishing an old building, I expect the project will be completed as quickly as possible next year. I fully accept the points the Deputy makes about people coming through the system in terms of training and expertise and the recruitment process will take place at a high level. We are prepared to offer a position to any person who is suitably qualified, irrespective of his or her location. It would be worthwhile examining the possibility of having someone appointed to the office on a training basis because academic and on-the-job training will be required and not everyone is suited to this type of work. I will raise the Deputy's concerns with the Minister.

### **Public Sector Allowances Payments**

**Deputy Finian McGrath:** I thank the Ceann Comhairle for allowing me to raise the important issue of top-up payments made to senior executives of the Central Remedial Clinic in Clontarf in my Dublin constituency. I commend my colleague, Deputy Shane Ross, for highlighting issues of accounting and governance at the clinic at a recent meeting of the Committee of Public Accounts. When I first heard about these top-up payments, I was appalled and gutted. I speak as someone who has actively supported the Central Remedial Clinic for many years, both financially and politically in this House. I also felt let down and angry on behalf of the 4,000 families who used the clinic's services.

As part of the austerity measures, funding for the Central Remedial Clinic has been cut in recent years. We have now discovered that between €12 million and €14 million had been stashed away in an account. This is not an example of good practice.

Does the Minister agree that parents, service users and members of the public deserve clear answers on the top-up payments made to senior personnel in the Central Remedial Clinic? Who authorised these payments? Were the 4,000 families using the services of the clinic aware of them? Did the relevant authorities breach Government pay policy? What was the role of the Health Service Executive in the matter? Why does the Government lack the appetite to police voluntary organisations? Why has the Charities Act of 2009 not been implemented? While a charities regulator is to be established, it will not be effective until 2014. Was there a cover-up in relation to the HSE and the CRC?

There is also a serious credibility issue here. The political advisers of both the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, and the Minister for Social Protection, Deputy Joan Burton, got €35,000 over the pay cap with the special pay scale of €127,000.

I raise these issues because they are important. Parents and service users in the CRC are

demanding answers and they want credible answers.

**Deputy Patrick O'Donovan:** With the leaders' allowance, the previous speaker would know a great deal about top-ups. The Minister for Health, Deputy Reilly, needs to be complimented-----

**Deputy Finian McGrath:** As Deputy O'Donovan will be aware, I am accountable.

**Deputy James Reilly:** To himself.

**Deputy Patrick O'Donovan:** The Minister needs to be complimented for initiating-----

**Deputy Finian McGrath:** It is up on my website for the past five years.

**Acting Chairman (Deputy Peter Mathews):** I cannot hear Deputy O'Donovan.

**Deputy Finian McGrath:** Deputy O'Donovan started it.

**Deputy Patrick O'Donovan:** I thank the Acting Chairman. The truth hurts.

**Deputy Finian McGrath:** I use the money to employ staff.

**Deputy Patrick O'Donovan:** I think I deserve a little time at the end.

**Deputy Finian McGrath:** Deputy O'Donovan should get his facts right.

*(Interruptions).*

**Deputy Finian McGrath:** At long last, the Minister is doing what we asked him to do.

**Acting Chairman (Deputy Peter Mathews):** I am finding it uncomfortable. Would Deputy Finian McGrath please desist?

**Deputy Patrick O'Donovan:** The truth hurts. Deputy Finian McGrath knows that as well as I do.

**Deputy Finian McGrath:** Deputy O'Donovan would want to get his facts right.

**Deputy Patrick O'Donovan:** There is 30 seconds gone and I presume the Acting Chairman will allocate me a little time.

**Acting Chairman (Deputy Peter Mathews):** Deputy O'Donovan is not to worry, I am a fair cathaoirleach.

**Deputy Patrick O'Donovan:** I thank the Acting Chairman.

**Deputy Finian McGrath:** Deputy O'Donovan should get his facts right.

**Deputy Patrick O'Donovan:** The Minister should be complimented for initiating the study which unearthed this in the first place. It strikes at the heart of the culture in these organisations. I am confident that this is not the only organisation in this position. I am also sure that this Department is not the only Department in this position either. What has been unearthed here is symptomatic of what was probably going on with a nod and a wink type culture which existed primarily under the previous Government of which the previous speaker was also a keen supporter.

One of the issues I want the Minister to address is the governance in many of the organisations that have been referred to, particularly the sections 38 and 39 ones. I refer to the holding of AGMs, the allowing of persons to become members of them, the accountability of board members and the suitability of board members. Also, there is a need for public-interest board members who can articulate the public's concerns but, more importantly, to be the eyes and ears for the Department in how its funding allocation has been spent.

I would also like to see the publication of reports of audits that have been carried out. The assignment of auditors is also important. While I would agree that the Committee of Public Accounts has a role in the matter, the role of other Oireachtas committees also needs to be looked at because, as I said at the start, I do not believe the Department of Health is the only Department that will unearth issues of this nature. The Minister's Cabinet colleagues need to be encouraged to initiate investigations across all organisations that are in receipt of funding from their respective Departments because what has been unearthed in the Central Remedial Clinic is symptomatic of what was wrong with this country for the previous 14 years in the type of cronyism and nepotism that has destroyed the country.

Support needs to be given to the Minister for Health but, in addition, space needs to be given to ensure the investigation is proper.

**Acting Chairman (Deputy Peter Mathews):** Deputy O'Donovan got an extra 30 seconds there.

**Deputy Derek Keating:** I thank the Ceann Comhairle for the opportunity of addressing this issue briefly and I thank the Minister for Health and the two Ministers of State for coming into the Dáil today.

Shock waves have been sent down the spines of the Irish people in recent days and weeks and one of the reasons is that Irish people have shown themselves, time and again down through the years, to be the most generous people on this earth, supporting local, national and international deserving causes.

One of the issues I have concern about is the reports of the recent top-up payments to the chief executive and senior officials in Our Lady's Hospice in Harold's Cross. It is one of Dublin's most famous charities and has been supported generously by the Irish people for many decades. It has been reported that a top-up payment of over €21,000 has been paid to the chief executive and two senior officials. Over a five-year period, that amounts to over €100,000. As far as I am concerned, that is a serious issue. It shows an absence of transparency. It shows an absence of accountability. It shows an absence of respect to the Irish people. My understanding is that this is funded by interest on an investment of over €2 million. The Irish people did not know about that. They deserve to know about that.

I ask the Minister to comment on that issue and state what we can do to ensure that confidence is restored to those charitable organisations to allow the people to continue to provide the generous support that they have been giving for many decades.

**Minister for Health (Deputy James Reilly):** I thank Deputies Keating, Deputy Donovan and Deputy McGrath for raising this issue.

As Minister for Health and a member of a government that is currently trying to address an unprecedented financial crisis, I reiterate my commitment to ensuring that scarce public funds

are expended on services, not on unsanctioned payments to senior managers.

Front-line staff in the health services are subject to the Government's pay policy and are also playing their part in the reform of the health services through new working practices and rosters. The same rules must be applied to senior managers as to those on the front line.

I take this opportunity to thank all those who work in the health services on the front line for the sterling work that they have done. Despite a reduction of 10% in staffing numbers and a 20% reduction in the budgets, they have improved the service, as is evident from the reduction of 34% in the number of those who must endure long trolley waits and meeting the one-year inpatient target in 2011 and the nine-month target in 2012, and they will meet the eight-month target for inpatient treatment this years and it is a significant credit to them.

In the light of the 2012 HIQA report on Tallaght Hospital, at my request the Secretary General of my Department wrote to the then CEO of the HSE in May 2012, asking him to take steps to ensure that senior managers in other section 38 agencies were not in receipt of remuneration in addition to the approved rates. On foot of this, the CEO of the HSE requested the HSE's internal audit directorate to undertake a review of remuneration in section 38 agencies. This exercise identified a significant number of cases in which senior personnel were in receipt of additional remuneration outside the terms of the approved pay scales.

In the light of these findings and having consulted with the Department of Public Expenditure and Reform, on 27 September 2013 my Department issued to the HSE a detailed pay policy for the health service, in particular organisations funded under section 38 of the Health Act 2004 to provide services on behalf of the executive. The pay policy makes clear that bodies funded under section 38 of the Health Act 2004 may not supplement approved rates of remuneration with either Exchequer funding or non-Exchequer sources of funding.

On 30 September 2013 the HSE wrote to each of the service providers concerned, providing them with the internal audit report and the pay policy, seeking confirmation that remuneration arrangements are in full compliance with this policy.

I met the Director General of the HSE earlier this week to receive an update on these matters. The HSE has a team of senior managers engaged in a detailed process, involving verification of the current position in each agency and the taking of all necessary follow-up steps to ensure compliance with Government pay policy. Meetings are currently being arranged with the organisations concerned.

In regard to the Central Remedial Clinic, the HSE has advised me that the unsanctioned payments arrangements entered into by CRC with its former CEO and other senior staff at the organisation were not at any stage agreed to or sanctioned by the HSE.

I will be monitoring this process closely and am satisfied that the HSE will take whatever action is necessary to achieve full compliance with Government pay policy from the agencies concerned and to ensure that any governance deficits identified are comprehensively rectified immediately.

**Acting Chairman (Deputy Peter Mathews):** The three Deputies have a minute each - three minutes in total - for supplementary statements.

**Deputy Finian McGrath:** I thank the Minister for his reply, particularly where he stated his

commitment to ensuring that scarce public funds are expended on services, not on unsanctioned payments to senior managers. That is what we all agree on.

My colleague, Deputy O'Donovan, should get his facts right. The dogs in the street know that the Independent TDs use their allowances to employ extra staff. I remind Deputy O'Donovan that the type of cronyism he is talking about has been going on under his Government's watch for the past two years. That is a fact. That cuts to services for people with disabilities are occurring is another fact. The Government cut the respite care grant, another fact. I will not take any lectures on that issue.

To return to the core issue, it is very important that people have confidence in the senior management of organisations that provide services for people with disabilities. It is important also that people know that the few extra bob that they give is going to services on the ground. That is what the families want and that is what the vast majority of citizens in this State want.

**Deputy Patrick O'Donovan:** I welcome the Minister's statement but I urge him to ask his Cabinet colleagues to examine their own Departments because I am certain this issue is not confined to the Department of Health and I do not believe he should be carrying the can for it on his own. I ask him to examine issues within these section 38 and 39 organisations such as cars, bonuses and the pension arrangements in place for these people. Some people leading these so-called organisations are earning multiples of the Minister's salary and the Taoiseach's salary. There is a morality issue here for the service users, the parents of these children in many cases and the people who go out collecting the money. Those people are annoyed and distraught by what has been unearthed in the past week and to restore confidence and ensure that the charitable donations are not affected, this issue must be addressed head-on. Steps must be taken either through legislation or regulations to ensure it does not happen again and that there is proper governance in these organisations.

**Deputy Derek Keating:** As someone who has spent many years on various boards of charitable organisations during my adult life, I am aware, as I am sure is the Minister, that there are more than 8,000 registered charities in Ireland. Given the news we have about these top-up payments, it is important to state that every member of every board has equal responsibility. It should not come down only to the chairperson, the financial director or controller, or the secretary. Every board member of every charitable organisation has a responsibility. We must ensure that a proper registry of charitable organisations is put in place. I have spoken to the Minister of this and he indicated that it would cost money to do that but we cannot afford to wait any longer given the news that we now know. Every charitable organisation must ensure that it has adequate transparency in its financial dealings, proper accountability, and in the times we are living in there must be proper corporate governance in every charitable organisation in this country. The Irish people deserve nothing less.

**Deputy James Reilly:** I thank the Deputies for their contributions. Obviously, this is a very disturbing development for people, especially people who have given so generously during these straitened times. They will be particularly disturbed to think that money they have given for a specific charitable purpose to look after those with disabilities could be used for other purposes.

I must remind Deputy Finian McGrath that these practices developed during previous Fianna Fáil-led Government regimes which he was happy to support.

I have instructed the HSE to write to the section 39 agencies also to ensure that those who are in receipt of large amounts of taxpayers' money be made compliant with public pay policy. I am sure my Government Cabinet colleagues will be examining the issue from their own perspective and that of their Departments. I would remind people that the HSE has engaged in a very careful process, one that will yield the result that we all want, which is total transparency, because transparency brings accountability and when one has accountability one can get fairness. That has been a core value of what we have been at in the Department of Health in terms of all our reforms.

I thank the Deputies for raising this issue. I appeal to people not to in any way lose faith with the long-held tradition of giving of themselves for the benefit of others who find themselves in more difficult situations.

### **Job Losses**

**Deputy Willie O'Dea:** I thank the Ceann Comhairle's office for the opportunity to raise this matter. Yesterday morning 150 staff from Pfizer's Newbridge plant were called in by management to be told that there would be 150 redundancies. The unions have expressed concern about the scale of the proposed redundancy and the shortness of the notice, and I agree with them on that. I understand a meeting is to take place tomorrow between management and the unions in an effort to save some of those jobs. I ask the Minister of State if any State agency has made contact with the company in advance of that meeting.

The Minister of State will be aware that these proposed redundancies are coming on the back of another redundancy scheme that started in 2010 and has just finished. It involved 275 people being made redundant. He will also be aware of the fact that when this new redundancy round takes place, if the 150 target is met, it will mean that a company that was employing 1,500 people two years ago will now be employing just over 500.

As Members will know, Pfizer is employing, very gainfully, more than 3,200 people in this country. It recently made 177 people redundant in its plants in Ringaskiddy and Little Island in Cork. The Minister for Transport, Tourism and Sport, Deputy Varadkar, expressed confidence that this does not reflect any wider problem within the pharmaceutical industry. Nevertheless, management gives as its reason for this particular round of redundancies the fact that the drug Lipitor is coming off patent. Can the Minister of State advise on what exactly the Minister, Deputy Varadkar's optimism is based? Can he give us an assurance that we are not going to see a constant drip drip of fallout in the pharmaceutical industry as a result of the so-called patent cliff?

**Deputy Clare Daly:** This is becoming a bit of a habit. Two weeks ago I unfortunately tabled a Topical Issue to deal with hundreds of job losses in the aircraft aviation maintenance sector and now 1,000 jobs in the pharmaceutical sector are on the line. Some 570 of those jobs are in Swords in my constituency. I know that plant well. It is an operation that has been in existence for well over ten years. It provides decent employment. If one was to read its website today one would think matters are great. It lauds the fact of recent investment in the plant, how the site was selected to manufacture a range of new products which were due to be launched in the next few years. It also lauds the fact that it has made a lot of recent investment in the accommodation in that area.

The announcement of the loss of 570 jobs in Swords in MSD Pharmaceuticals comes just after the announcement of the loss of 280 jobs by the same company in its plant in Wicklow that produces one of the active ingredients of its products. In essence, the second biggest pharmaceutical company in the world is axing its workforce in Ireland by one third. It claims that it has 9,000 indirect jobs based on these jobs, therefore, presumably we can say that another 3,000 jobs are also on the line. That is an almighty blow which undermines much of the great talk from the Government.

I have a few specific questions for the Minister of State. When the announcements were made about job losses in MSD, the IDA chief executive was unfortunate enough to say that we should not worry about this, that the organisation has a great track record in finding alternative buyers. He said it has facilitated the purchase of the site of MSD from global pharma companies such as Pfizer and Wyeth. Then a few days later Pfizer announced its job losses. Can the Minister of State tell us how many supports and grants have been given by the IDA to these industries? Are there problems in the pension funds in that plant? What meetings arranged by the IDA or other Government organisations have taken place with the employer and the unions? Have the Minister or his agencies given any attention to the idea of the plant continuing to operate as a going concern?

*6 o'clock*

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock):** I am responding on behalf of the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, who is out of the country on Government business.

I thank the Deputies for raising this issue and share their concern about the 570 jobs lost at the Merck Sharp and Dohme, MSD, site at Swords and the 150 jobs lost at the Pfizer site in Newbridge, County Kildare. I express my sympathy on the loss of the jobs and the impact on individuals and their families. Pfizer, like so many companies competing internationally, undertook a review of its operations with a view to reducing costs to ensure the future viability of the plant. This has resulted in 150 jobs losses in Newbridge. The global pharmaceutical industry is experiencing a number of challenges owing to patent expiry and over-capacity within manufacturing and, in this context, Pfizer is no exception. Greater efficiencies and competitiveness are continually being sought across all Pfizer sites in order to compete on the changing landscape. Pfizer is a leading pharmaceutical employer, with 3,200 employees across seven operations in Ireland. The company's capital investment in Ireland since its inception exceeds \$7 billion. Pfizer has a key manufacturing presence here in active pharmaceutical ingredients, solid dose pharmaceuticals and biopharmaceuticals. It also has shared services and commercial operations here. The Irish operations manufacture some of its best selling medicines for arthritis, infectious disease, high cholesterol and cancer.

Pfizer has indicated that its other operations in Ireland will not be affected by the decision. In the past two years the company has made two significant investments in Ireland, most recently of €130 million in the Clondalkin and Ringaskiddy sites. Over 600 staff will still be employed in Newbridge. IDA Ireland is working closely with the company to ensure the best result for the site.

With regard to the MSD site at Swords, the company is a valued pharmaceutical investor in Ireland. While it announced some time ago the closure of the Rathdrum plant by 2015 - there is now this news about the site at Swords - it continues to employ over 1,100 staff in its other fa-

cilities in Ireland, located in Carlow, Cork, Tipperary and Leopardstown in Dublin. Significant investments have been made in these plants. Unfortunately, the company has had to undertake a review of its worldwide manufacturing capabilities to improve overall operational effectiveness. Following the merger of MSD with Schering Plough, the combined operation has excess manufacturing capacity worldwide. Accordingly, the company decided to close the Swords operation by 2017 and transfer production to other factories in the group located in countries abroad. The gradual shutdown of the plant gives a valuable space to seek a new operation for the factory. It is not anticipated that any staff will have to leave before mid-2014 at the earliest and that 130 jobs will be lost in the second half of 2014. The remaining positions will be phased out in the following three years up to the end of 2017.

The ultimate decision in both cases is made by the parent company on strictly commercial grounds and what is seen by the companies as being in the best interests of the group as a whole. We keep in close contact with key foreign companies about their operations in Ireland. My colleague, the Minister for Jobs, Enterprise and Innovation, met senior US-based management in MSD last month. The Government has strategies for job creation that are now starting to bear fruit. Unemployment levels have started to reduce and we have had a number of good wins for the country in recent months. While it is of little immediate consolation to the employees of Pfizer and MSD, the macroeconomic indicators show jobs growth. In terms of foreign direct investment, Ireland continues to be attractive because of our corporation tax and research and development tax rates. Over 1,000 multinational corporations have chosen Ireland and they employ 146,000 people directly.

**Deputy Willie O’Dea:** How many of the 150 redundancies in Pfizer will be compulsory? What training support will be given to those who find themselves out of a job as a result of these redundancies? The Government has been well aware of the potential difficulties associated with the patent cliff. Has it had discussions with pharmaceutical employers in the country about the possible implications in this regard and what has been the outcome of these discussions?

**Deputy Clare Daly:** I refer to the MSD operation. The Minister of State has made the point that the company continues to employ staff and has made a substantial investment in other locations. As a substantial investment was made relatively recently in Swords, it is no guarantee of protection. The Minister, Deputy Richard Bruton, met MSD management over one month ago. Was the issue discussed? Did management announce it would be shutting the Swords plant? What steps did the Minister take to cushion the blow? Workers only found out about it in the past ten days. Did the Minister ask why this was happening in Ireland? This is becoming a habit and multinational companies are gradually being chipped away. I appreciate that considerable numbers are employed in the multinational sector, on which we have a reliance for new jobs, but we are losing jobs that have been based here for decades. This has a lasting effect and the figures given by the Minister of State show that multinationals are small employers by comparison with small and medium-sized enterprises and the State and semi-State sectors. We must also look at these elements.

**Deputy Sean Sherlock:** I cannot answer the questions about whether specific meetings have been held. Perhaps we might revert to the Deputies on that point.

I do not have the information sought in Deputy Willie O’Dea’s first question, but we can find it for him. It is important to note that this is a vital sector in Ireland. We must acknowledge that if some of the entities are facing the patent cliff or are cost centres or profit centres, decisions are taken at corporate and headquarters level and that they have implications for sites

such as those in Swords and Newbridge. These are private entities and we are at the mercy of decisions taken at corporate level. That does not mean, however, that we are not trying to anticipate global trends in the pharma sector. In the constituency of Deputy Willie O’Dea we announced the establishment of the SSPC research cluster. It brings the pharmaceutical industry together to look at future trends. While the State may be moving away from investment in research and drug discovery, not that we are taking the eye off the ball, and moving strategically towards manufacturing from the molecule to medicine, these investments, in which we partner the industry, will ensure the sustainability of the industry in this country. The industry has been located here for a long time, part of the reason for which is the current corporation tax rate. If we are to have a debate about trends in the sector, such companies are located here because of the corporation tax rate, the availability of human capital, access to research and development tax rates and research facilities such as the Niberg facility which opened over one year ago. It is a bioprocessing facility.

**Acting Chairman (Deputy Peter Mathews):** I thank the Deputy.

**Deputy Sean Sherlock:** It is important to put this on the record of the House, because quite a number of questions have been asked of me.

**Acting Chairman (Deputy Peter Mathews):** It is now on the record and the time is up.

**Deputy Clare Daly:** The Minister of State has not answered any of the questions.

### **NAMA Operations**

**Deputy Eamonn Maloney:** I thank the Ceann Comhairle for selecting this topic for debate. The statement yesterday from NAMA announcing senior bond redemptions totalling €700 million will have caught the attention of most of us. We may have had reservations about the establishment of NAMA - a unique body set up in what were unique times when the economy and banking system collapsed - and although we would have hoped such things would not happen, that was not the case. Unfortunately, questions must be dealt with, including the rebuilding of banks and the economy, and whatever our reservations about NAMA, it has a role to play. I had great reservations about NAMA, particularly when the progress that it would make was first indicated. I was not a Member at the time but I took some interest in the issue because I had just lost my job and NAMA was dealing with properties. As taxpayers, we contributed to the process of taking such properties into NAMA’s ownership.

It is worth noting some of yesterday’s statement from Mr. Frank Daly of NAMA. He said:

Three years ago, the board decided it would aim to reduce NAMA’s debt by 25% by the end of 2013. We are very pleased that this first crucial milestone has now been met, despite the difficult market conditions that have prevailed in Ireland during the intervening period. The milestone attained today is an important one[.]

It is interesting that this achievement is exactly what was targeted three years ago. I will put my hands up and admit I thought it was a lot to ask, but factors have changed, although that has unfortunately not happened at the rate all of us would wish. We have a recovery, despite its limitations, which I welcome.

In a broader sense, those of us honoured enough to be elected to the Parliament have seen

different things happening as we have come here at a time of deep recession. All of us were here the night the former Anglo Irish Bank was closed down, which was an important action. It was not just symbolic. In a week we will exit the bailout and kiss the troika goodbye, although they will still eye us up. Nevertheless, they are on the way.

Perhaps the Minister of State will clarify whether NAMA's lifespan extends to 2020, which is six years away. I have tried to determine whether, depending on the market, this period can be shortened, which would be very good news for all of us as taxpayers. The money invested by NAMA is our money. I have always said that we should not celebrate or crow about the closure of Anglo Irish Bank or exiting the bailout and that we should be reserved, but although I am sure there is a fine group in NAMA, the end of that body will be something to celebrate.

**Deputy Kathleen Lynch:** I am taking this matter on behalf of the Minister for Finance. As Deputy Maloney knows, the Minister is otherwise engaged, but he has given me an extremely comprehensive answer to his question. The Deputy is correct; we were very dubious and cynical about NAMA, but it is seldom that we see an organisation set up to do a specific task hitting all its targets. That comes from a combination of factors.

The primary mandate given to NAMA by the Oireachtas is to recover, on behalf of the taxpayer, the consideration paid for the loans acquired from the five participating institutions in 2010 and 2011. Yesterday, NAMA announced that it had met its first major milestone in this regard, the redemption of €7.5 billion, or a quarter of its senior debt, by the end of 2013. The milestone attained yesterday is very significant not only for NAMA in terms of its own progress but also because it was a key troika target and it reinforces, at a critical time in our recovery, the very positive international perception of Ireland as a country that is resolutely addressing its difficulties and meeting its targets.

NAMA issued a total of €30.2 billion in senior bonds and yesterday's redemption leaves €22.7 billion outstanding. The NAMA board has set a target of redeeming another €7.5 billion in senior bonds by the end of 2016 and its expectation is that all senior debt will be redeemed by 2020, with the effect of removing this contingent liability of the Irish taxpayer. In order to meet its debt redemption targets, cash generation is key for NAMA. As of last Friday, NAMA had generated €15 billion in cashflows, including €10 billion in disposal receipts from property and loans sales and €5 billion in other income, mainly rental income from assets controlled by its debtors and receivers. NAMA has also secured over €800 million in additional security for debtors' loans by taking charges over previously unencumbered assets and by reversing transfers. Much of the cash generated has been applied towards repaying NAMA's senior debt and meeting its €7.5 billion target.

NAMA has also generated sufficient cash reserves to cover its costs, including debt interest and loan servicing fees. As the Deputy noted, that is a significant feat. It is important also to note that NAMA is self-funding, is not a draw on the Exchequer and therefore is not a burden for the Government in the context of its annual budgetary arithmetic. NAMA is also in a position, as a result of its strong performance, to invest in various commercial and residential projects which, when completed, are expected to yield returns to assist the economy. NAMA's strong cash performance is a result of its market activities and initiatives, which in turn are helping to stimulate transactions in the Irish property market and support investment and employment in the Irish economy.

I will set out some examples of NAMA's activities and initiatives and the impact these are

having in the Irish economy. By approving asset sales by debtors and receivers, NAMA is releasing a substantial flow of properties into the market. Its debtors and receivers have sold more than 3,000 individual properties in Ireland to date and currently have over €2 billion of Irish residential and commercial property on the market.

**Acting Chairman (Deputy Peter Mathews):** There is a substantial amount of script remaining. Does the Minister of State wish to read it into the record?

**Deputy Kathleen Lynch:** Perhaps I can finish the paragraph. I can give what I have to the Deputy. It is a substantial response and this is a matter of extraordinary importance.

**Acting Chairman (Deputy Peter Mathews):** I agree.

**Deputy Kathleen Lynch:** This includes a number of significant property and loan portfolio sales recently brought to the market in response to the increasing absorption capacity of the market here. These portfolios are attracting interest from large institutional buyers, including the promoters of recently established REITS.

This is a substantial reply.

**Acting Chairman (Deputy Peter Mathews):** It is comprehensive.

**Deputy Kathleen Lynch:** This is an extraordinary success story. It points out to me, as somebody in the Government, the talent we have in Ireland for managing these issues. I will give the rest of the reply to the Deputy.

**Acting Chairman (Deputy Peter Mathews):** Does the Deputy have a copy?

**Deputy Eamonn Maloney:** Yes. The statement is very comprehensive and any queries I have are answered, particularly my question about the property market. It is the most comprehensive reply I have received in almost three years here.

**Acting Chairman (Deputy Peter Mathews):** The Deputy raised a very good question.

**Deputy Eamonn Maloney:** I thank the Acting Chairman, who is also very good. There is no need to take up any more time. It is worth repeating - this should not be taken as being disrespectful - that I look forward to NAMA completing its work. I also look forward to the end of dole queues and forced emigration from this country. I also look forward to an end in sight for people who are feeling stressed about their mortgages, etc. I hope we can move to a post-recession period, and part of getting there is the work of NAMA.

The Dáil adjourned at 6.20 p.m. until 2 p.m. on Tuesday, 10 December 2013.