



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Déardaoin, 03 Iúil 2014

Thursday, 03 July 2014

Chuaigh an Leas-Cheann Comhairle i gceannas ar 09.30 a.m.

Paidir.

Prayer.

Ceisteanna - Questions

Priority Questions

Small and Medium Enterprises Debt

1. **Deputy Dara Calleary** asked the Minister for Finance the actions being taken by the State-supported banks and other banks licensed in the State to deal with the level of small and medium enterprise arrears; his views that the delay in dealing with SME arrears is hurting the wider economy; and if he will make a statement on the matter. [28666/14]

Deputy Dara Calleary: The question seeks a discussion with the Minister on the level of SME arrears on loans and what plans the Government has to deal with the issue.

Minister for Finance (Deputy Michael Noonan): I thank the Deputy for raising the issue. I am informed by the Central Bank that, in 2012, the bank wrote to each lender active in the SME market requesting they devise strategies and implementation plans for resolving SME debt by making use of longer-term solutions than had been applied to up that point. A key objective of such strategies was to recognise viable businesses and to separate these from overhanging property debt in determining appropriate loan workout solutions.

Resolutions offered to SME customers in difficulty are assessed on the basis of the borrower's maximum affordability. The restructures are often complex due to multiple debt connections. Irish banks are well advanced in restructuring their SME loan books. I am informed from the latest publicly available information that Bank of Ireland has indicated it had reached resolution in 90% of distressed SME cases and AIB's results indicate a resolution level of approximately 65%. It is also worth noting that defaulted loans for both banks have reduced year on year.

The Central Bank's process of assessing financial institutions, in its efforts to move distressed SME borrowers on to longer-term sustainable solutions, is an important element in assisting SMEs to transition to a more sustainable state. This work will continue throughout 2014. Additionally, the Government's enactment of legislation to allow small companies, as defined by the Companies Acts, to apply to the Circuit Court for examinership and the ongoing work of the expanded Credit Review Office are all initiatives that will assist viable SMEs

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in addressing their debt situation and, consequently, enhance the employment prospects for the sector as a whole.

In light of the above, I would not agree with the Deputy's assertion that there is a delay in dealing with SME arrears.

Deputy Dara Calleary: I thank the Minister. The Central Bank also published a report about SME debt recently which showed that 26% of SME loans by number and 41% by value were in arrears. This is in spite of the figures the Minister has just quoted to the effect that 90% of Bank of Ireland and 65% of AIB distressed SME loans have been resolved.

The issue for the Central Bank is still hugely significant, in particular the overhang in employment prospects. If SME owners are dealing with that, they cannot expand their businesses and they will not expand employment while the issue hangs there. We see some very high-profile, large business people getting significant debt writedowns whereas small SMEs - the Minister and I deal with them every day - are being put through the wringer. I dealt with a case on Monday of somebody with a relatively small distressed loan who had been put through 15 months of a wringer. When one goes through the file, one sees the delaying tactics being employed by one of the pillar banks. It is ridiculous. There is nowhere for that person to go because the person does not want to distress the relationship with the bank.

We still have a problem if we take the figures of 26% of SME loans by number and 41% by value. What value of Bank of Ireland and AIB loans were resolved under the resolution process that the Minister laid out?

Deputy Michael Noonan: There is no doubt there has been a very significant problem with debt in the economy, including private debt, SME debt and, indeed, national debt. Plans have been put in place by the Department of Finance and the Central Bank to resolve the debt situation. What I am saying is that progress has been made, not that everything has been solved.

There is no contradiction between the figures the Deputy is giving on the percentage in arrears by volume and by value, and what I am saying, namely, that 90% have been resolved. For quite a long period, even though they are resolved, they are still showing as arrears in the bank books as they are not taken as loans that do not have arrears. It is the same with mortgages. Until the Central Bank does the audit and says the repayment arrangements are sustainable, it still remains in the arrears figures. Of course, we will reach a tipping point where the resolution arrangements will be deemed to be satisfactory and people will continue to pay their loans.

Tax Yield

2. **Deputy Ruth Coppinger** asked the Minister for Finance if his Department has estimated how much a 5% or 10% rise in wages for low and middle income workers would boost tax receipts and reduce welfare payments; and if he will make a statement on the matter. [28546/14]

Deputy Ruth Coppinger: Has the Minister considered the impact on the economy of a 5% or 10% pay increase for low and middle income workers in terms of tax receipts and a lowering of social welfare? The reason I ask the question is that the Minister has touted the benefits of a tax cut over pay increases while calling for employers and, indeed, the Government to suppress wage increases.

Minister for Finance (Deputy Michael Noonan): While it is possible to estimate the additional tax paid by an individual on a certain income, to do so on an aggregated basis would require a significant number of assumptions that would have to be made about incomes and specific circumstances, for example, the definition of low and middle income workers. More generally, on a static basis, I believe it is fair to say that an increase in wages would result in additional taxes to the Exchequer. These would include direct taxes such as income tax and universal social charge, but also indirect consumption taxes such as VAT and excise. Social contributions from employees and employers would also increase. The exact gain to the Exchequer from the taxes would require an assumption regarding an individual's marginal propensity to consume, that is, for every extra euro in their pocket, how much would be spent on goods and services.

The static picture outlined above is not realistic, however. The wider economic impacts of a wage increase would have to be considered, most notably on competitiveness. An increase in wages and higher employer PRSI contributions would have to be paid directly by the employer. These additional costs would have to be absorbed into the bottom line, thereby reducing operating profits available for reinvestment and additional employment, or be passed on to the final consumer, which undermines competitiveness. Research by the ESRI has shown that exporters are price-takers on international markets. This means they cannot directly pass on higher labour costs to customers in global markets. Higher wages that are not supported by productivity improvements result in a loss in market share and, ultimately, fewer exports and jobs in Ireland.

Additional information not given on the floor of the House

This is a situation which Ireland experienced very recently. During the boom times, wage increases across the economy contributed very significantly to the loss in competitiveness, which resulted in Ireland's export sales beginning to decline. As a small open economy, continued export growth will be key in driving sustainable economic growth into the future. As such, any wage increases should also be viewed through this prism. Further, upward wage pressures in the private sector would also likely translate to calls for increased wages in the public sector. This would place pressures on previously announced agreements such as Haddington Road and place an additional call on the Exchequer.

The tax forecasts prepared by my Department are based on economy-wide levels of employment and income rather than focusing on specific cohorts. These forecasts take into account the most recent labour market data from the quarterly national household survey and the earnings, hours and employment costs survey, both of which are produced by the CSO. The forecasts were most recently articulated in the stability programme update.

In order to provide additional clarity, I would inform the Deputy that all specific income tax measures undergo distributional analysis in advance of budgetary decisions being made. In addition, the distribution analysis of such tax measures announced in the budget is included in annex A of the budget book. The distributional analysis is based on tables demonstrating the effects of budget changes in respect of income tax, PRSI and USC on single, married with and without children, PAYE and self-employed income earners over a wide distribution of income levels. The tables in the budget book also demonstrate the effect of changes to some payments from the Department of Social Protection, such as family income supplement.

In addition, every distributional analysis contains a section which outlines the effect of budget changes on illustrative cases. These illustrative cases examine the effect of budget changes

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on various categories of income earners, including single, married, lone parents and elderly in a variety of different occupations and with varying income levels, and not only demonstrate the effects of the budget tax changes but also the effect on changes to a number of payments from the Department of Social Protection, such as family income supplement, child benefit, State pension and one-parent family payment, where relevant.

With regard to potential savings in welfare payments, these are a matter in the first instance for the Minister for Social Protection, Deputy Joan Burton. However, I understand that, in terms of the potential impact on welfare payments from an increase in wages, this cannot be easily estimated. For example, the answer may be different in the case of a single person versus someone who is married with children.

Deputy Ruth Coppinger: Competitiveness is the argument that is often used, but pay levels in Ireland are still far below the EU average. The Minister is underestimating how much they have fallen since the crash. They have increased by 12% for managers and professionals, but there has been a decrease of 5% for lower paid production, transport, craft and other manual workers.

Wage increases are superior to tax cuts because all low and middle income workers benefit, including those too badly paid to be sufficiently in the tax net. The Nevin Economic Research Institute, NERI, found that one third of households had gross incomes of less than €27,000 and would not benefit from income tax cuts. The Minister mentioned a second benefit of wage increases, that being, an increase in tax revenues, which could be used to pay for public services. Tax cuts could decrease what is available for those services.

Deputy Michael Noonan: If we were to have an economic debate on this matter, there would be validity in the Deputy's points, but we must first distinguish between the private and public sectors. Whatever the economic benefits of increased pay levels in the public sector, the Exchequer cannot afford them at present. Pay reductions have been negotiated as late as last year through the Haddington Road agreement, not pay increases. On the other hand, parts of the private sector can afford pay increases. From the statistics I have seen, I understand that approximately 40% of private sector firms gave small pay increases last year. The test is whether the amount they pay is consistent with not disimproving their competitiveness, the measure of which is decreasing market share. If they can increase pay without losing market share, particularly on the export side, it is good for the economy for them to pay their workers extra.

Deputy Ruth Coppinger: I do not agree with the Minister about public sector workers. The economy would benefit considerably from the increase in consumer spending that would follow increases in public sector pay. Wealthy people who receive tax cuts tend not to spend in the economy to the same extent. Dr. Micheál Collins of NERI has estimated that an hourly increase of €1 for a low-income worker is equivalent to a gross increase of €1,956 per annum.

The Minister omitted to mention how the social welfare system subsidised part-time and low-paid work. These people could be given pay increases. JobBridge, the family income supplement, FIS, and so on are costly to the general taxpayer and are subsidising employers in taking on workers at low pay.

Deputy Michael Noonan: It is time that we commence the wider debate, and I welcome the Deputy's question for doing so. For the past five years, we have been dealing with the problems of a failed economy. It has just turned and we are beginning to deal with the problems

of an economy that is growing and successful again. One such problem is wage demands and wage pressure, which are just beginning to start. We must re-examine what type of model best suits this country, small as it is, in delivering extra income to households. A part of that model involves wages, but all we can afford at this moment is the debate. We are not in a position to deliver with hard cash yet. I do not share some people's position that increased pay is bad. If a company or the State can afford it, increased pay is good and economic benefits run from it. The Deputy has commenced the debate and it is something to which we will return several times.

Corporation Tax Regime

3. **Deputy Dara Calleary** asked the Minister for Finance the steps being taken to ensure that Ireland's economic interest is protected during the European Commission investigation into possible breaches of state aid rules in respect of Apple's operations here; and if he will make a statement on the matter. [28667/14]

Deputy Dara Calleary: Will the Minister update the House on his Department's response to the European Commission's investigation into the questions of state aid surrounding Apple?

Deputy Michael Noonan: Last month, the European Commission announced its intention to open formal state aid investigations into a number of companies in EU member states. This announcement was part of a much wider Commission investigation that had been ongoing for some time into tax rulings and patent boxes in different member states. I am sure the Deputy has already noted the announcement made in respect of the Netherlands and Luxembourg and that Vice President Joaquín Almunia stated in his press conference that a number of other countries were also being examined.

We understand that the Commission has a job to do in investigating potential state aid. Ireland has co-operated fully with the process to date and will continue to do so. However, I assure the Deputy that protecting Ireland's economic interests is foremost in our considerations on this issue. We will provide a detailed, technical legal rebuttal to the Commission's position and, if necessary, defend our position in the European courts.

It is important to emphasise that the Commission has only opened a formal investigation at this stage and has not made a final determination on state aid in respect of Ireland. For state aid to exist in this case, less tax must have been charged to the company than should have been applied and this must have distorted competition within the Single Market. Our response to the European Commission will be clear - the appropriate amount of Irish tax was charged, no selective advantage was given and there was no state aid.

It is also important to emphasise the single focus of this investigation. It relates to this company and this company alone. The Commission has been clear that it is not investigating the 12.5% rate of corporation tax or the Irish tax system. In fact, Commission Vice President Almunia emphasised this point at the press conference he held to announce these investigations. There are no wider consequences arising from this investigation in respect of the Irish tax system or foreign direct investment, FDI.

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Given the importance of FDI for the economy, members of the Government and officials from various Departments and agencies have taken care to highlight the position of the Commission that I have just outlined. Our message to anyone who is considering investing here is that we have a fair, open and transparent corporate tax regime, and that Ireland remains an attractive, competitive and safe place to invest.

Deputy Dara Calleary: What is the likely timeline of the investigation into Apple? Given the fact that there is about to be a changeover in the Commission, will the investigation continue afterwards? The Minister was correct to state that it was only into one company, but he knows that an adverse finding in this case would have implications for all of our multinationals and, most importantly, our ability to attract inward investment. I get a sense that the Government is sleepwalking through this issue. It is nine months since the initial probe was launched and we are now into a formal probe. Has the Minister received any informal indication that other companies may be investigated?

In the commentary in the US, particularly as it approaches election season, Ireland regularly comes in for disparaging and uninformed remarks from politicians in Congress.

Will the Minister confirm that our corporation tax arrangements and rules are in accordance with the OECD guidelines on taxation?

Deputy Michael Noonan: They are, and no one is putting pressure on our rate. There are three issues with our corporation tax - the rate, which is 12.5%; the regime, comprising the rules and the system; and our reputation. The concern must be about the reputational issues. As the Deputy stated, ill-founded comments are frequently being made in the international media and it is difficult to chase them down and catch up when a mistake is made.

On the assumption that the investigation moves from the informal stage to the formal one, that will happen in a week or two. Subsequently, though, the process may take quite a while. If the issue ends up in the courts, we are talking about somewhere between three and five years.

It is not true to say that there will be knock-on effects. There is a single allegation that Ireland, particularly the Revenue Commissioners in their treatment of Apple, provided what is deemed to be state aid. The investigation is ring-fenced around Apple. They are not investigating any other companies at present. The Deputy is correct in that we cannot sleepwalk into these things and we have to ensure we position ourselves properly, which we are doing, because in parallel to all this there is a major piece of work taking place at OECD level with which we are co-operating and which we are watching very carefully.

Deputy Dara Calleary: My contention is that the Minister did sleepwalk into it and has said there will be no knock-on effects. If this continues for three to five years, and one is in the inward investment business in, say, Singapore or Scotland, after September, of course they will be hawking around to potential clients who may be looking at Ireland or elsewhere outside the EU and spinning that this process will affect their ability to invest in Ireland and affect Ireland's ability to attract these companies. Our hands will be constrained in respect of attracting inward investment if this continues for five years. I know these are the European rules but if this is a European Union that says it is pro-enterprise and allows an investigation into one company, as specified, to potentially last that long, that is not pro-enterprise. For as long as this is happening, our ability to attract inward investment will be constrained. It may not be done formally. The Minister knows that the informal way of doing this is that international investment compa-

nies will seek to attract investment into their countries while undermining our ability to do that as long as this is going on.

Deputy Michael Noonan: The Deputy misunderstands my position. He asked a precise question about how long the investigation process into Apple, initiated by Commissioner Almunia and his staff, would take. I gave the Deputy a timeline on that. That does not mean the Irish authorities will stand idly by and wait until the end of the process before doing anything. In last year's Finance Bill we took the first step in regard to changing the status of companies that, from a tax point of view, are not resident anywhere, and we published a discussion paper a couple of months ago which is providing the basis for a discussion. We have taken the top tax practitioners in the country, who deal with all the multinationals, into our confidence and have briefed them fully, on a confidential basis, on the implications. We also have direct conversations with some of the big investors. At present we are in a pretty good space but we are not making light of this. I see it as an issue that needs to be dealt with at a policy level but getting the timing right and matching it to events as they occur, both in the competition authority in Europe and in the OECD, is important. It is aligning everything so that we can make the moves that may be necessary without any damage to reputation.

Banking Sector

4. **Deputy Ruth Coppinger** asked the Minister for Finance his views on the Bank of Ireland selling part of its mortgage loan book to Dilosk Limited; and if he will make a statement on the matter. [28626/14]

Deputy Ruth Coppinger: What are the Minister's views on the Bank of Ireland selling off its mortgage loan book to Dilosk Limited, an unregulated company, and does he intend to stand idly by and allow this to happen given the huge subsidy put into the banks by the taxpayers of Ireland, or will he take action to prevent this happening?

Minister for Finance (Deputy Michael Noonan): It is important in answering the Deputy's question to provide the background as to why Bank of Ireland has agreed to sell €250 million of the ICS loan book to Dilosk Limited. In July 2013, Bank of Ireland agreed an amendment to its restructuring plan which had been agreed with the European Commission in respect of state aid received by the bank. This allowed the bank to retain its life assurance subsidiary, New Ireland. As part of this amendment, the bank committed to certain substitution measures, including the sale of the ICS distribution platform together with, at the option of the acquirer of the platform, up to €1 billion of mortgage assets and a similar quantum of matching deposits. The purpose of the ICS substitution measure is to support new entrants in the Irish mortgage market, thereby increasing competition to the benefit of the consumer.

As the Deputy is aware, the bank announced on 26 June that it had agreed to sell the distribution platform, together with €250 million of mortgage assets at par, to Dilosk Limited. No deposits are transferring as part of the sale. Dilosk is an Irish financial services company, headquartered in Dublin which plans to grow its mortgage business in Ireland by offering new residential mortgage loans. According to its website, Dilosk will offer mortgages to borrowers seeking to purchase or refinance residential property with a particular focus on residential investment properties, that is, buy to let.

The ICS sale is the final divestment commitment to be completed by the Bank of Ireland

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under its EU restructuring plan. Given the reduced number of lenders now operating in the mortgage market, this transaction is to be welcomed as it introduces a new entrant and should therefore contribute to greater competition.

Deputy Ruth Coppinger: Why is the bank selling loans that are performing perfectly well? It is alarming that this is happening and that no action is being taken to prevent it. On its website, Dilosk says that it has a focus on residential investment property, that is buy to let. Therefore, it is not the case that it is focusing on ordinary residential lending; it is investment lending. The bank's shareholders and the bondholders were underwritten by the ordinary people of this country who have paid a heavy toll over the past six years, but it appears that ordinary mortgage holders are to be moved into the unregulated sector in which Dilosk Limited operates. There have been accusations that the Minister's Department gave advance warning to the banks to sell mortgages now, a year ahead of new EU laws to force buyers of loan books to observe much stricter codes. Perhaps the Minister would comment on that.

Deputy Michael Noonan: This is part of the restructuring of Bank of Ireland which was agreed with the European Commission several years ago and it is the last piece of it that is now being put in place. It is not a move of a mortgage book into the unregulated sector. As Dilosk Limited has said in its website, it has confirmed that it has applied for authorisation from the Central Bank in Ireland to operate as a retail credit firm. In addition, Dilosk Limited has confirmed that it intends to comply with all the relevant regulatory codes applicable to mortgage lending, including the code of contact for mortgage arrears. Therefore, it is a transfer of ownership of a mortgage book to the value of €250 million but it should not affect the holders of the mortgagees in any way whatsoever. They will just continue to trade according to the terms of their contract and it is regulated by the Central Bank.

Deputy Ruth Coppinger: People took out those mortgages with ICS Building Society. Building societies were regarded by people at that time as safe and secure places. Now they will be with a company about which we know little or nothing. The Minister appears hell-bent on increasing competition in this sector. Sub-prime lenders who are operating in this sector were brought in for the same reason, to increase competition. Look what they have done to people in this country. Many constituents are suffering because of companies such as Start and Springboard charging exorbitant rates. They are now selling their mortgages to vulture funds such as O3 and Lone Star. Other sales have taken place to Pepper and Tanager. Is this what the Minister means by competition? Those lenders should have been outlawed a long time ago. Their books should have been taken over by the State and the banks, generally, should have been taken over by the State and run in the public interest, not in the interest of the bondholders. We are now seeing the impact of leaving the banks in private hands. They should have been nationalised under democratic control, accountable to consumers and those who work in them.

Deputy Michael Noonan: The banks have not been left in private hands. They have been taken over by the State. AIB is 99% owned by the State, Bank of Ireland is 14% owned by the State and Permanent TSB is 99%-100% owned by the State. The reason building societies were taken over by the State was that they went bust and there was a need to protect the people who were doing business with them, including those who had mortgages. What the Deputy has said simply does not correspond with the facts of the situation. Anything that has happened is in the interests of the people who have mortgages. That is the position.

10 o'clock

Dáil Éireann
Other Questions

NAMA Code of Conduct

5. **Deputy Pearse Doherty** asked the Minister for Finance his views on whether there is an appropriate period of time allocated for notice of leave and cooling-off periods for senior staff in the National Asset Management Agency in view of the new approach of accelerated disposals. [28492/14]

Deputy Pearse Doherty: For some time now, and the past couple of months in particular, high profile members of NAMA staff and executives have been leaving their positions in NAMA to take up occupations in the private sector. While that in itself is not a key issue, what is at issue is that because some of those staff have taken up employment in companies that are involved in property development there could be a conflict in terms of the information and knowledge they take with them from NAMA. Is there a need for more appropriate terms of notice of leave, cooling-off periods and conditions in contracts not only for new employees but existing employees of NAMA, in light, in particular, of the decision of Mr. John Mulcahy, an executive of NAMA, to depart for IPUT and to advise Mr. Denis O'Brien in regard to his property portfolio?

(Deputy Michael Noonan): In early 2013, the NTMA chief executive committed to a review of NTMA policy in respect of notice periods and post-termination restrictions on employment. Accordingly, the law firm Matheson was engaged by the NTMA to: advise on market norms in the private sector in terms of notice periods and post-termination restrictions; assess the adequacy of the protections in the current NTMA employment contracts-codes of conduct where employees leave the NTMA to join a commercial entity in the private sector that might gain an unfair advantage by employing them; and recommend changes that could be made in this area by the NTMA.

This review applied across all the NTMA's business areas, including NAMA. All NAMA staff are employees of the NTMA and under section 42 of the National Asset Management Agency Act 2009 the NTMA assigns staff to NAMA. Other than a small number of staff re-assigned from other functions within the NTMA, NAMA staff are employed on the basis of specified purpose contracts and their employment is for as long as NAMA requires their particular skills.

Matheson's principal recommendations include longer notice periods - three to six months - to be introduced for middle and senior NTMA management employees; garden leave provisions to be included in all NTMA employment contracts; post-termination of employment restrictions, including cooling-off periods and non-solicitation of employees, to be considered on a case-by-case basis in respect of senior NTMA management employees in particular. However, Matheson stressed that the imposition of such restrictions would need to be balanced against the NTMA's need to recruit good candidates for whom such restrictions may act as a significant disincentive to taking up employment with the NTMA. Furthermore, to maximise the prospects of enforceability, Matheson advised that any such restrictions would need to be drafted as narrowly as possible.

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It was proposed by Matheson that any required changes resulting from these recommendations would be introduced for new NTMA employees and existing NTMA employees on promotion. The NTMA has accepted the Matheson proposals and is implementing them on this basis.

With regard to staff assigned to NAMA, it should be noted that the three month notice period and garden leave provision were already in operation since the first persons were assigned at the start of 2010. A provision prohibiting certain activities in an employee's subsequent employment for a defined period of time has also been introduced on a case-by-case basis for new employees, in cases where employees have moved from fixed to specified purpose contracts, and on promotion.

The Deputy will also be aware that there are extensive safeguards in place to protect the confidentiality of information held by NTMA employees, including those assigned to NAMA. Employees assigned to NAMA by the NTMA, as is the case with all other NTMA staff, are subject to section 14 of the National Treasury Management Agency Act 1990, which prohibits an employee from disclosing any information obtained while carrying out their duties as employees of the NTMA. Employees assigned to NAMA are also subject to a prohibition on release of confidential data under sections 99 and 202 of the NAMA Act 2009. NTMA employees, including those assigned to NAMA, are subject to the Official Secrets Act. Contravention of these prohibitions is a criminal offence. These protections do not cease at the point of resignation but rather apply indefinitely and extend to former employees.

In the context of the above, I am fully satisfied that there is an appropriate period of time allotted for notice of leave for senior staff in NAMA having regard to the importance of NAMA being able to attract and retain appropriately qualified and skilled employees from the private sector to enable it do its work on behalf of Irish taxpayers. Mobility with the private sector is a critical component of the wider NTMA model and we have to accept that if it is to be successful mobility is a two-way street.

Deputy Pearse Doherty: I thank the Minister his response, which is the same as that given by him in the House on 4 March in response to another parliamentary question. My question is whether, in light of the asset disposal within NAMA and the decision of one of its executives to take up a position in the private sector, there are adequate cooling-off periods in place. I am well aware of what Matheson's advised and the additional protections in place in terms of NAMA and the NTMA since publication of the Matheson report. I discussed these issues with the Minister prior to the commissioning of that report, which I welcomed.

I believe there is a flaw or a weakness in this area. The weakness is that this only applies to new contracts and to people who have been promoted within the agency. For example, these rules did not apply to the executive in question, on whom I am not casting any aspersions, who has left NAMA and taken up employment in INPUT, which is a private sector company dealing in property. Many others also do not come under those rules. Should consideration be given to these rules being applied even on a voluntary basis to people already in binding contracts or is there something else that needs to be done to ensure staff are not poached by the private sector as NAMA begins to wind down?

Deputy Michael Noonan: There is an issue here. It is an issue in general terms of a level of principle, which is an issue of concern although I have no practical example of where that concern was manifested by a person doing anything untoward. It is also true, as the Deputy re-

marked, that contracts are not retrospectively applied, unless by agreement. A person's contract of employment is just that and the rules cannot be changed by an employer half way through that person's period of employment. There is an issue, although so far there is no situation to which one can point in terms of difficulties having arisen. Obviously, we would wish to forestall any difficulties arising. I will discuss the issue again with the Chairman of NAMA. As I understand it, the Deputy is more concerned about NAMA than the NTMA because of the NAMA property transactions.

Deputy Pearse Doherty: Yes.

Deputy Michael Noonan: Perhaps the issue could be raised with NAMA when it next appears before the finance committee. A great deal of progress has been made on finding a solution but I would welcome further discussion on the issue.

Deputy Pearse Doherty: I believe there is need for further discussion on this issue. My real concern is that because NAMA has already disposed of many of its assets and will, in my view, wind up before its anticipated timeframe - whether that should happen is a different debate - the private sector is at this point in time poaching our best NAMA staff. Staff currently employed by NAMA who will perhaps be out of a job in a year or two will want to consider offers coming their way. The problem is that the cooling off periods are not adequate. This has been recognised already in terms of the stricter conditions that now apply to new employees and staff promoted within NAMA, including prohibition of certain activities of an employee's subsequent employment. If that had applied to other employees then the executive who recently left NAMA would not have been in a position to take up his current position, in respect of which there appears to be a conflict. I am not suggesting he will do anything, because he is still bound by secrecy and cannot use the information he has, but there is a huge concern that we have allowed that system to develop. I am not sure what can be done but something has to be done. NAMA needs to not only break even but to make a profit because the haircut it took was then forced on the Irish people in terms of recapitalisation of the banks.

While I will raise the matter with NAMA when it next appears before the Committee of Public Accounts or the finance committee, I would encourage the Minister's officials to look into whether anything can be done in this regard in respect of current employees, even on a voluntary basis.

Deputy Michael Noonan: We will revisit the issue. We know from practice elsewhere that there are not unlimited options. One proposal is to provide that a person cannot do anything for six or 12 months. However, the person is then entitled to full salary for that period. All of this is covered under the gardening leave provision. Another proposal is that in respect of companies whose end is foreseeable, such as NAMA, a golden handcuff arrangement be put in place. This means an incentive to remain with the company would be built into the person's remuneration and if he or she remains beyond a certain point he or she receives an additional bonus. I am not too sure if public opinion on the markets would wear that kind of an arrangement. It is possible to put things in place. I do not wish there to be hue and cry about individuals' terms of employment and remuneration. We are trying to do the best for the organisation and the best for the country and I do not want to be ambushed on this. However, I am open to discussion on it.

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Tax Code

6. **Deputy Seán Kyne** asked the Minister for Finance the progress of the review of the law concerning inheritance taxation treatment of foster children, in particular the five year requirement before a foster child can be viewed the same as a blood relative for inheritance taxation purposes; and if he will make a statement on the matter. [28500/14]

Deputy Seán Kyne: What progress has been made in regard to the review of the law concerning inheritance taxation treatment of foster children, in particular the five-year rule?

Deputy Michael Noonan: In my reply to a previous question from the Deputy in April last, I said that the conditions which must be met for the higher tax-free threshold of €225,000 to apply in the case gifts or inheritances taken by a foster child are set out in legislation. I understand the Deputy is referring to the requirement that, in the case of gifts to formally fostered children and gifts and inheritances to informally fostered children, the child must reside with the foster parent for at least five years before reaching 18 years of age for the higher threshold to apply, otherwise the threshold of €15,075 applies.

I said I would examine, without prejudice and in conjunction with the Revenue Commissioners, any tenable case that may be made for a change in the five year requirement. I went on to say, however, that it is only reasonable that the system demands that appropriate tests be met to justify the provision of the relief and to guard against any possible abuse. Since then, I have not received any correspondence setting out a tenable case that the requirements governing qualification for the higher group A threshold by a foster child need to be examined. If a tenable case is made, setting out the full circumstances in which it is considered that the existing provisions under which foster children qualify for the same group A threshold as natural children require to be revisited, the matter will be examined subject to the considerations set out in my earlier reply. If we can move this from theory to a practical example, I will examine the details of the practical example and, if it appears to be unfair, I will consider bringing forward an appropriate amendment.

Deputy Seán Kyne: I welcome the possibility that the Minister could examine a practical example. I am sure some cases can be brought to his attention. There is a slight amount of unrest because, whether a blood relative or not, a parent wants to provide for his or her children. Would the Minister consider a practical example in a case in which a child was resident for four years, nine months and 22 days, or four years and 11 months, and missed out on the benefit of the higher threshold? I welcome the children and family relationships Bill that is going through the Department of Justice and Equality in that it would recognise families in all their forms. This anomaly could be examined in individual cases.

Deputy Michael Noonan: If I get a tenable example, I will examine it with a view to amendment.

Banks Recapitalisation

7. **Deputy Dara Calleary** asked the Minister for Finance if he will submit a technical paper to the European Stability Mechanism, ESM, and the European Commission on the subject of bank debt relief for Ireland; and if he will make a statement on the matter. [28543/14]

Deputy Dara Calleary: It has been two years since we had the so called “game changer”. How is the game going?

Deputy Michael Noonan: As the Deputy is aware, the euro area Heads of State or Government, HoSG, agreed in June 2012 that “it is imperative to break the vicious circle between banks and sovereigns”, and that when a single supervisory mechanism, involving the European Central Bank, ECB, is in place and operational, the ESM, could recapitalise banks directly. On 10 June 2014, the euro area member states reached a preliminary agreement on the operational framework for the ESM’s direct recapitalisation instrument, DRI. This includes a specific provision regarding the retroactive application of the instrument. Therefore, the agreement, that we were active in negotiating, keeps open the possibility of applying to the ESM for a retrospective direct recapitalisation of the Irish banks, should we wish to avail of it.

We now require a decision by mutual agreement of the ESM board of governors to create a new ESM instrument in accordance with Article 19 of the ESM treaty and the aim is to have this process completed by November this year, subject to completion of national approval procedures. This would allow the ESM DRI to come into effect once the single supervisory mechanism is in place and operational, which is expected to be in November of this year.

Regarding retrospective recapitalisation, the preliminary agreement states that the potential retroactive application of the instrument should be decided on a case-by-case basis and by mutual agreement. However, it will not be possible to make a formal application to the ESM for retrospective recapitalisation before the instrument is in place. It would, therefore, be premature to make any submission, be it a technical paper or otherwise, in advance of the instrument being in place. My Government colleagues and I ensure that Ireland’s case for retrospective direct recapitalisation is made at all levels as appropriate.

Deputy Dara Calleary: The talk of a technical paper regarding recapitalisation came from the Minister and the Government. I take it from the response that there is not, and never was, a technical paper. It is ironic that the man who dubbed this decision a game changer is about to leave the pitch before anything substantial has been achieved. We have moved very little in the two years, specifically relating to Ireland and our banks as opposed to setting up a general financial instrument within the ESM.

Deputy Michael Noonan: The Deputy and his Fianna Fáil colleagues are like the arsonist who set fire to the building and blames the fire brigade for not putting it out fast enough. That is the position into which they have argued themselves. We would not have to address these issues were it not for decisions taken by a Government in which the Deputy participated. I do not want to recite the history. While the technical instrument should be in place by November, it is subject to ratification by member states. If it is in position by November, it leads us to the next step of deciding when to time an application for retrospective recapitalisation. There is no way of advancing the timeline beyond that because it is subject to the international agreement of all the member states.

Deputy Dara Calleary: The Minister has had three years to put out the fire, and while he has been talking about putting it out, he has not put any water on it. The talk about putting out the fire and these great, grand actions comes not from this side of the House but from the Minister’s retiring colleagues. We were told it was a game changer and a big deal. The Minister had said a technical paper was being prepared and I understood the Minister for Social Protection, Deputy Burton, was examining a paper submitted by Professor Karl Whelan on the

issue. Although we were told there was a strategy in place, it seems it is a wait and see situation. Does the Minister anticipate that next year, on the third anniversary of the deal with the European Council, we will be any further down the road or have any further idea of when we will be recapitalised?

Deputy Michael Noonan: I am not in the fortune telling business. I laid out for the Deputy what the agreement was in Europe. While there is an agreement that the particular instrument required will be put in place by November, it is qualified because it is subject to ratification by the member states. Some of them can ratify it by a Minister signing an order while others must go through a parliamentary process. On the assumption that it is completed by November, which is the commitment, we will see then what is our next move.

Deputy Pearse Doherty: I appreciate the Minister is not in the game changing, I mean, the fortune telling business. That was probably a Freudian slip. However, when he was announcing all this game changing stuff on the radio programme “Today with Seán O’Rourke”, he said he expected it to be concluded by November 2012. While the Minister cannot make an application until November at the earliest, and possibly later, is any work going on in the Department, such as a technical paper being prepared or options being examined? Has the Minister commissioned experts in the Department or the Central Bank to examine the issue and prepare for an application the Minister has said he will make?

Deputy Michael Noonan: Within the Department of Finance we have a finance unit which looks after the State’s assets across the system, which are in the control of the Department of Finance, particularly the State’s holdings in the different banks. When one thinks through the recapitalisation retroactive option, it was always envisaged that there would be some form of exchange of shares in the banks for capital upfront, and that this capital would be used to reduce the debt. While the technical work has been done on it, there is a question of value, price and judgment in all these matters. I certainly do not wish to talk ourselves into a position where just as the banks are becoming valuable, we give them away for the second time.

Mortgage Schemes

8. **Deputy Pearse Doherty** asked the Minister for Finance if his attention has been drawn to the criticism by the IMF and others of his suggestion for a scheme for first-time buyers that would include a mortgage deposit scheme; and his plans regarding same. [28491/14]

Deputy Pearse Doherty: A number of weeks ago the Minister gave a commitment to introduce a scheme for first-time house buyers in the Finance Bill. There was not much detail about the scheme, but it was reported at the time that officials in the Minister’s Department did not think much of the plan. The plan has also been subject to criticism from quarters outside this country. The IMF referred to it and the European Commission has not welcomed it, saying it is crucial to prevent potential effects on house prices and possible contingent liabilities for the State. Will the Minister outline the plan for this deposit insurance scheme? Does he still intend to proceed with it, given the criticism levelled at it?

Deputy Michael Noonan: The Government recently launched “Construction 2020: A strategy for a renewed construction sector”. The strategy includes the Government’s desire for a return to sustainable levels of mortgage lending as part of a healthy housing market. This involves the consideration of measures to stimulate the development of housing. For developers

to be supported, they need confidence that customers will be capable of accessing finance to purchase new builds. This means mortgage products being available to potential purchasers with an ability to support repayments. In Ireland's recent abnormal housing market, lending volumes have declined dramatically. The banks are highlighting the lack of supply of houses, in particular in urban areas, as a contributing factor for the lack of drawdown of approved mortgage facilities. I look upon the development of this initiative as being an aid to encouraging and facilitating the supply of new homes, particularly for young families.

In other jurisdictions, such as the UK and Canada, mortgage insurance markets have been developed to support bank mortgage lending, particularly to first-time buyers. Mortgage insurance allows banks to share the risk of mortgage lending, either with the public sector or with private sector insurance companies, with the aim of increasing bank lending in general or to target groups.

I know that there has been criticism that such proposed schemes could cause house price inflation. In particular, I am aware of the criticisms that the UK scheme has received from some quarters. As part of an economic impact assessment, my Department is undertaking research on initiatives operated not only in the UK but also in Canada, Australia and other jurisdictions, where mortgage insurance enables credit-worthy purchasers to access higher loan to value finance. My Department will consider how appropriate these schemes are in the Irish context. Any scheme introduced here will be contextualised for our current market conditions and designed to mitigate any threat of a housing bubble. As the Deputy is aware, the IMF has indicated that it would suggest significant caution in adopting a guarantee framework, especially one that would involve guarantees of a very large share of the mortgage principal. In the context of the deliberations under way in my Department, these and other views, positive and negative, will form part of the considerations.

Additional information not given on the floor of the House

As the economy recovers, any scheme I may introduce should ensure adequate availability of mortgage finance on affordable terms, particularly for first-time buyers or for people purchasing new houses. In setting up a scheme we would aim to provide the certainty needed to support greater levels of investment in new housing, with the associated benefits for the economy, for employment in the sector but also ultimately for the consumer in terms of choice and availability.

Deputy Pearse Doherty: I take it from the Minister's reply that he is not as hot about the idea as he was when Construction 2020 was announced, when he said that this would definitely be included in the Finance Bill. I welcome that. The Government must proceed with extreme caution on this. I do not like the idea. It smacks of the type of ideas that got us into this problem in the first place. I am not saying that it would create a massive housing bubble overnight, but this, along with a number of other initiatives, could be among the ingredients that causes another housing bubble. Indeed, aside from a housing bubble, the problem is allowing people to avail of mortgages which they simply cannot sustain. It is obviously the banks' job to lend and make as much profit as possible, and if the State is going to take on some of those liabilities it makes it easier for the banks to lend. The banks' culture is already creeping back in. We have seen the advertisements from AIB telling people not to wait to get paid before they buy their tickets for Electric Picnic and other banks are saying they will pay people's stamp duty on the purchase of their house. This is already happening. Loan to value ratios are a crucial element in mortgage lending and the State moving in to increase the loan to value ratios is wrong. I urge

the Minister to proceed with caution.

Deputy Michael Noonan: My position has not changed since the policy document on the construction industry was published. There were 72 proposals in that document and this was one of them. It was criticised by some people who had not even read the proposal and did not understand it. They had no idea what I had in mind. However, there is nothing new about that. I heard a debate between two so-called experts on the radio last week. In respect of proposals for solving the housing crisis, one fellow wanted to put a €1,000 tax on every empty bedroom, to incentivise people to occupy them. These are crazy people who want to go out and knock on doors and find out what people are doing. The other guy wanted to apply capital gains tax to the sale of the primary home, saying this is the type of incentive the markets need. These are daft proposals. Not alone were those proposals daft, but as the interviewer was cheering them along the proposals got even dafter.

We are evaluating this. I know the risks, but I am also aware of the upside. In the United Kingdom it did not work in London because it overcooked a market that was already very hot, but outside London it added 30% to the supply of family homes. It was badly needed in the regional areas outside of London. It is not a demand-side initiative, but a supply-side one. One should think of it in that context. All we are talking about anyway is the State covering 10% or 15% of a mortgage for a limited period, to get somebody over the hump and into a house. Then they might get promoted at work after the five years or whatever is the time period we decide. It would be for first-time buyers and there would be a capital cap on it. We will return to the issue again. If I proceed, it will be announced in the Finance Bill.

Deputy Pearse Doherty: That 10% or 15% of mortgages is a massive liability. While it will have an effect on the supply side, it could also have an effect with regard to unsustainable mortgages. It could have an additional effect when accompanied by a culture in the banks that lends to people who should not take out a mortgage in the first place. The problem is that this will be announced in the Finance Bill, when it will be done and dusted. The Minister should produce a discussion document on this issue. He talked about crazy proposals and so forth. I do not believe that language helps the debate.

Deputy Michael Noonan: I think it does. Some of these people think they are gurus.

Deputy Pearse Doherty: I do not know the two commentators the Minister referred to so I cannot judge it. We must judge things on their merits. Given the criticism of this proposal by the IMF, the European Commission and others, including political parties on this side of the House, the Minister should produce a discussion paper. In Construction 2020 there are no details about the Minister's scheme. He has given more details on the floor of the House now than were available previously. Can he produce a discussion paper, as he has done on many other issues? He did it with regard to the BEP proposal and taxation measures. Can he produce a discussion paper outlining the Government's thinking on a mortgage insurance deposit scheme and ask for expert and, indeed, crazy opinions, should people wish to give them? At least there would be feedback from the public and from other people who might be able to test it, rather than simply announcing on the day that this is what the Government is going to do, so take it or leave it.

Deputy Michael Noonan: Experts are experts, but many experts are not experts at all. They are experts in one area of activity which they have studied, and they think that gives them the right to pronounce on other areas of activity about which they know very little. Many ex-

perts in Ireland are like that. I am prepared to discuss it, perhaps at the finance committee. It is a simple idea and it either works or does not work. I will not put resources into developing a big White Paper type of arrangement as if it was a major new initiative. If the Deputy wishes to discuss it at a meeting of the finance committee I will participate.

Tax Code

9. **Deputy Richard Boyd Barrett** asked the Minister for Finance in the interests of fairness and economic sustainability in his budget deliberations, his views on increasing taxes on higher earners over €100,000; his further views on introducing wealth taxes and seeking a larger tax contribution from the corporate and financial sector as an alternative to further public spending cuts and as a means of financing financial and tax relief for low and middle income earners; and if he will make a statement on the matter. [28540/14]

Deputy Richard Boyd Barrett: I strongly agree with the Minister's sentiments about so-called experts in the media. They drive me bonkers.

When we oppose measures such as a property tax, the universal social charge and water charges the Minister states we do not have alternatives to propose. When we call for big programmes of investment in social housing, which would deal with the threat of a property bubble, the Minister asks where we will get the money. Our view is that imposing higher income taxes on those earning more than €100,000 would yield a great deal of revenue, put money back into the economy and not really damage the economy because it would be taken off high earners who have enough to manage anyway. Will the Minister respond to this, particularly in light of the written question to which I received a response yesterday, which was based on a draft proposal. It showed that, according to the Department, if we had a 50% band rate on earnings between €100,000 and €140,000; a 55% rate on earnings between €140,000 and €180,000; a 60% rate on earnings between €180,000 and €250,000; and a 65% rate on earnings over €250,000 it could yield €922 million a year. These are akin to income tax rates in places such as Scandinavia, and what existed in much of the world in the 1960s and 1970s. I do not see any reason we cannot do this as an alternative to hitting low and middle income earners again and again.

Deputy Michael Noonan: I should point out that it is standard practice for the Minister for Finance to review all taxation policy in the run-up to the annual budget. It is also a long-standing practice of the Minister for Finance not to comment, in advance of the budget, on any tax matters that could be the subject of budget decisions. With regard to budgetary matters, when focusing on the primary objectives of reducing the deficit and returning sustainability to the public finances, it has been of vital importance to the Government to spread the burden of the adjustments made in as fair and equitable a manner as possible, while also seeking to minimise their negative impact on economic growth.

To respond to some of the more specific points made by the Deputy, as I have stated many times in the House, the programme for Government states that as part of the Government's fiscal strategy we will maintain the current rates of income tax, together with bands and credits, and not increase the top marginal tax rates. To do so would negatively influence individual decisions to work and harm our competitiveness. It should be acknowledged that Ireland has one of the most progressive tax systems in the world, ensuring that those on higher incomes pay proportionately higher rates of tax on their income than those on lower incomes. In addition, it should be noted that the Government has no current plans to introduce a wealth tax.

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As the Deputy is aware, in budget 2014, I introduced a stamp duty levy on certain financial institutions. The levy is 35% of the DIRT paid by the relevant financial institutions in 2011. It will operate for a period of three years, from 2014 to 2016. The expected yield is €150 million per annum.

The high earner's restriction for individuals on high incomes who make significant use of certain specified tax reliefs was introduced in budget 2006 and came into effect from 1 January 2007.

Additional information not given on the floor of the House

The restriction works by limiting the total amount of specified reliefs that a high income individual can use to reduce his or her tax liability in any one tax year. Prior to the introduction of this restriction, such individuals, by means of the cumulative use of various tax incentive reliefs, had been able to reduce their tax liability to very low levels or to zero. The programme for Government included a commitment to ensure a minimum effective tax rate of 30% for very high earners. The changes already made in budget 2010 ensure that this is achieved.

Furthermore, I assure the Deputy that the need to balance the competitiveness of our corporation tax offering for mobile foreign direct investment while ensuring the maximum benefits to the State is a matter that is considered by the Department and others on an on-going basis. The importance of maintaining the standard 12.5% rate of corporation tax to Ireland's international competitive position in the current climate must be borne in mind. Ireland, like other smaller member states, is geographically and historically a peripheral country in Europe. A competitive corporate tax rate is a tool to address the economic limitations that come with being a peripheral country, as compared to larger core countries. Ireland's corporation tax rate plays an important role in attracting foreign direct investment to Ireland and thereby increasing employment here.

As to how successful we are at getting this balance right, I highlight to the Deputy that the revenue generated by corporation tax in Ireland is broadly in line with the EU average. In 2013 we collected just over €4.2 billion, which is 11.3% of overall Exchequer tax revenue and equivalent to 2.6% of gross domestic product. As I stated previously, the 12.5% rate is settled policy and the Government remains fully committed to this rate.

Deputy Richard Boyd Barrett: That is a fairly standard answer and is fairly non-illuminating. Preparations are being made for the budget and already very harsh measures have been imposed on low and middle income earners among whom there is growing poverty. There is also the growing phenomenon of the working poor and huge numbers of people at the low and middle end have no incentive to work. What incentive do low and middle income workers have to work at present? Their take-home pay has been hammered. They will be hammered with increasing water charges, property taxes and bills. Faced with this and as demonstrated in the response to the written parliamentary question I tabled, if we had a series of bands of taxation to be imposed on earnings of more than €100,000 it could yield €922 million. Imagine the relief that could give to low and middle income earners and the investment we could make in social housing. Why will the Minister not consider it given the very cruel choices he may have to make in the budget?

Deputy Michael Noonan: We are following a taxation policy which we clearly stated during the election campaign and reaffirmed in the programme for Government. We think income tax is a tax on jobs, and if we were to identify one of the big problems in the country it is the

level of employment. If one taxes something one gets less of it and if one relieves tax on something one gets more of it. We are not loading income tax. In any of the three budgets I introduced I did not increase the rates, bands or credits on income tax. This is our position on taxation. The Deputy seems to think anybody with an income of more than €100,000 is wealthy. It seems to be his definition of wealthy. He misunderstands what it is like in normal households. When the two incomes are taken together in a household with a teacher married to a garda, or a nurse married to a garda or teacher, the total is more than €100,000 but these people are not well off. They are struggling. They barely make ends meet. They barely get the children up in the morning and out to school, pay the bills, pay the mortgage and keep the car on the road. This is the position in many parts of rural Ireland. If the Deputy thinks a gross income of €100,000 for a couple is wealth he is not meeting real people.

Deputy Richard Boyd Barrett: We need an honest debate. The bulk of the new burden we propose would be on the 10% or 15% of people on very high earnings. It would finance real relief for the vast majority of people who earn between €30,000 and €60,000. They have been hammered with the universal social charge, property tax and water charges, which are regressive and disproportionately hit people on low and middle incomes. These are the real people and the Minister knows it well as he talks to them on the doorstep. The idea the majority of people on the doorsteps to whom he or I speak earn in excess of €100,000, €150,000 or €200,000 is nonsense. I do not understand why the Minister is not willing to impose an extra burden on them rather than continually hitting low and middle income earners.

Deputy Michael Noonan: There is only one thing more mobile than labour is capital, which moves in and out of a small country like Ireland. Labour is also very mobile. Young people, particularly young college graduates, up and leave.

Deputy Richard Boyd Barrett: They are not earning €100,000.

Deputy Michael Noonan: If income tax is raised much more there will be a problem. I do not know whether the Deputy is following the debate in the newspapers on young doctors and the number of them leaving the country. Somebody I know personally is relocating to Perth, where she will earn double the money and pay half the tax. Why would one not go? We must look at international comparisons. We cannot act as if there is a wall around us and what we do here does not have any influence on how people behave. Deputy Boyd Barrett's tax rate would probably close down the IT industry in Dublin-----

Deputy Richard Boyd Barrett: No way.

Deputy Michael Noonan: -----because companies would not be able to get young electronic engineers. There are relativities which need to be examined.

National Debt

10. **Deputy Dara Calleary** asked the Minister for Finance the discussions he has had with the IMF and other troika parties regarding the early repayment of programme loans; and if he will make a statement on the matter. [28542/14]

Deputy Dara Calleary: This is with regard to paying off some of our IMF and other troika loans. The Minister spoke about this earlier. Perhaps we could take advantage of the very low

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bond rates at present to restructure our international obligations and allow us remove a little pressure from our domestic finances which may save having to make some very tough decisions in October.

Deputy Michael Noonan: The question of early repayment of any one lender cannot be treated in isolation from other lenders and market expectations for when programme loans are due to be repaid. The early repayment of IMF loans would trigger automatic mandatory proportionate early repayments of EFSF and EFSM loans, as well as the bilateral loans with the United Kingdom, Kingdom of Sweden and Kingdom of Denmark. This would also apply in respect of the early repayment of the loans from any of the other programme funding partners. The provisions in question are included in the loan agreements with the EFSF, EFSM and the UK, Sweden and Denmark.

There have been no discussions on early repayment of our programme loans with the troika. As part of an ongoing process of enhancing our debt sustainability, technical issues are considered as a matter of course. This review process can include contact with other authorities to assess that their understanding of the position on the loans is the same as ours. That is no more than a prudent checking of the factual position. It does not represent a decision or a proposal of any kind.

The impact of any early repayment of any of our loans, as set out in the question, on our bond yields would need to be carefully considered were such a possibility to arise. Should it become a possibility, I would take the advice of the NTMA on this matter and if it was to be pursued, the agreement of the other lenders would, of course, be required. I should also point out that, as the IMF loans have a shorter average maturity, they will be repaid considerably in advance of the EFSF and EFSM loans for which we negotiated maturity extensions.

Deputy Dara Calleary: I thank the Minister for his reply. Given the low bond yields and given that we are now moving into the ten-year period regarding the IMF loan, would the Minister consider some technical options that might be available for paying down the IMF loans early and then suggesting to our partners in Europe that it would be good for Ireland, our economy and Europe if we could restructure these things - we would not be running away from our obligations? It would be favourable if the sequential condition in terms of the repayment of loans to the UK, Denmark, etc., could be renegotiated in light of our ability to borrow at much lower rates on the bond markets than we are paying in interest rates to the IMF in particular.

Deputy Michael Noonan: It is something I am considering. I have asked the NTMA to do preliminary work and we will continue to explore it. The first obstacle I have come up against is the *pari passu* rule in law whereby one treats others equally to put it at its simplest. It is the obligation to pay everybody if we pay one and makes it not worth pursuing. However, there may be ways around that and it is still worth pursuing that aspect. At present rates in the market and with the rate we are paying on the IMF loan, it is worth about €20 million for every €1 billion we financed. We have about €18 billion of that type of loan from the IMF.

Seed Capital Scheme Payments

11. **Deputy Peadar Tóibín** asked the Minister for Finance the up-to-date drawdown of the seed capital scheme; the number of small and medium enterprises that have had their review to the CRO upheld; the financial value of these positive reviews; and the number of jobs that have

been created by each of these initiatives. [23805/14]

Deputy Peadar Tóibín: The Minister is aware of the sharp reduction in the level of lending to businesses in recent years. Even three years into the term of the Government lending to businesses is flat at best. Lending, private investment and public investment are at an all-time low in the State, leading to major problems with regard to jobs. The CRO was meant to be the knight in shining armour to crack the whip to help resolve this issue. My question seeks to ascertain how successful that is.

Deputy Michael Noonan: For the period 2003 to 2012, some 601 companies availed of the seed capital scheme with a cost to the Exchequer of €19.6 million. Provisional figures for 2013 suggest that 65 companies availed of the seed capital scheme at a cost of €1.3 million to the Exchequer. It is not possible to provide both of these figures for all years since the inception of the scheme without a more detailed review of the Revenue Commissioners' records. I do not have data on the number of jobs created by this initiative. The Action Plan for Jobs 2014 contains a commitment for my Department and Revenue to review and consider further amendments to the seed capital scheme this year.

The Deputy should note I am aware that there remains an issue regarding an equity-funding gap for SMEs. My Department chairs a working group consisting of stakeholders from both the public and private sectors which is examining this issue with a view to producing recommendations which will assist in this regard.

I am informed by the Credit Review Office that the upheld appeals have resulted in €27.5 million in credit being made available to SMEs and farms, helping to protect or create 1,850 jobs. The CRO is currently overturning 55% of the refusal decisions referred to it. I encourage SMEs that have been refused credit by the banks to avail of the services of the office.

Deputy Peadar Tóibín: There are healthy functioning companies for which an element of their business would be toxic debt. That toxic debt is dragging down the functioning element of the business and is preventing the business from investing in the future if the business is lucky enough to survive and is stopping it from creating jobs. However, in other cases it is putting businesses out of business. Tomorrow I will visit a firm in County Carlow, Dan Morrissey Ireland Limited, a quarry with €8 million of business on its books but has had difficulties with AIB. AIB is calling in the debts which could possibly lead to the loss of 130 jobs in the area. That is one element of it.

We have a whole ecosystem of new finance tools the Government has introduced - I commend the Government on making an effort on that. However, they are not working and the percentage of the drawdown is still a very long way from meeting the objective. The central issue here is the Government's policy and telling the pillar banks to operate properly with businesses and to deliver in lending.

Deputy Michael Noonan: The only objective evidence we have, rather than simply relying on bank data, is from the RED-C polling company. It surveys SMEs to ascertain the availability of credit and the trend is towards improvement. The last survey showed that just over 80% of SME applications for loans resulted in the loans being granted. That still means one in five is being refused, which is high, but the trend is improving.

There are different demands in different companies. Many companies just need working capital on a 12-month rollover basis. Others need term loans of two years, three years or even

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up to five years, which they also get from the banks. However, increasingly, small companies want to expand and may need money for ten years. What we are putting in place now with the new strategic investment bank will fill that particular need.

We are fully aware of the problem which has not gone away, but the situation has improved significantly. One of the root causes of the problem was that many SMEs in boom times departed from their core business and got involved in property plays and it was the property play that dragged the core business down. The banks are now trying to restructure companies so that they are parking the property aspect and allowing them to have the capital necessary to continue with the core business which was viable all the way through but was being dragged down.

I agree with the Deputy's general point of view. We are working on it. We have not succeeded yet, but we have improved it significantly.

Written Answers follow Adjournment.

Oil and Gas Fiscal System Review: Statements

Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):

I am pleased to have the opportunity to open this debate on the Wood Mackenzie report on Ireland's oil and gas fiscal system. In the mid-1970s, when Ireland's first oil and gas fiscal terms were introduced, there was an expectation that the Irish offshore would be the next North Sea, particularly after the initial success of the Kinsale gas find in 1971. Those terms were set in a manner that reflected this very optimistic view. Unfortunately, after the initial surge of exploration in the late 1970s and early 1980s, interest in the Irish offshore has waned significantly. In the 40-plus years since the Kinsale find, there have been only three further commercial gas finds and no commercial oil finds. A stark example of this reduction in interest is the fact that more exploration wells were drilled back in 1978 alone than have been drilled over the past ten years. The primary factors determining the level of exploration activity are the perceived prospectivity of the area concerned, world oil and gas prices, the applicable fiscal terms and the broader regulatory regime. Having very limited leverage over prospectivity and world oil and gas prices, governments tend to focus on the fiscal and broader regulatory regime when seeking to influence activity levels. In the last few years, we have seen sustained high world oil and gas prices and we also have witnessed a modest but welcome upswing in momentum in terms of exploration interest in the Irish offshore. It therefore was timely to review Ireland's fiscal terms.

In May 2012, the former Oireachtas Joint Committee on Communications, Natural Resources and Agriculture, chaired by Deputy Andrew Doyle, published its report on offshore oil and gas exploration. This wide-ranging report recommended that, in the case of new exploration licences, the basic rate of tax should be increased from 25% to 40% and that the rate applying to very profitable fields might be increased from 40% to 80%. The report recognised that retrospective changes to fiscal and licensing terms could risk long-term reputational damage. In May 2013, I initiated a Dáil debate on that report and stated my intention to seek further independent expert advice on the fitness for purpose of Ireland's fiscal terms with a focus on the level of fiscal gain achievable for the State and its citizens and, equally importantly, on the mechanisms best suited to produce such a gain. On foot of a public procurement process, Wood Mackenzie, a major international company with very significant sectoral knowledge, understanding and expertise, was engaged to provide this expert advice. The request for advice was deliberately framed in a broad manner that would allow the consultants to identify all the issues that should be considered and to have flexibility in terms of the outcomes recommended. Wood

Mackenzie was provided with the Oireachtas committee's report, the associated Oireachtas debates and a number of documents reflecting the wider public debate on Ireland's oil and gas fiscal terms, including publications by Indecon, Pricewaterhouse Coopers, the Irish Offshore Operators Association, SIPTU, Shell to Sea and Own Our Oil. Wood Mackenzie also was requested to meet the members of the Oireachtas Joint Committee on Transport and Communications, members of the former Oireachtas Joint Committee on Communications, Natural Resources and Agriculture and a number of representatives from the oil industry, trade unions and other participants in the debate. On conclusion of its assignment on 30 May, Wood Mackenzie furnished me with a final report and, following consideration by the Government, I published the report in full on 18 June last.

In its report, Wood Mackenzie provided its analysis in what I would consider to be a comprehensive, detailed and accessible manner. I have no doubt but that this report will serve as a key reference point in terms of the factual detail it contains, the broad range of issues it discusses and the clear analysis informing its recommendations. The report first outlines a number of observations and principles, which underpin its analysis of the fitness for purpose of Ireland's oil and gas fiscal regime, as well as recommendations for change to that regime. As a starting point, it is worth noting that Wood Mackenzie makes the observation that Ireland is a relatively high-risk and high-cost country for exploration and that as a consequence, returns for commercial discoveries must be relatively high to strike the right balance. Unfortunately, at times the debate around Ireland's fiscal terms is not grounded in this reality. Too often the discussion is confused, sometimes deliberately, by reference to potential reserves as if they were actually proven reserves. A second observation it makes is that to attract investment, Ireland must be competitive with a peer group of countries which have similar exploration profiles. While such observations have been made by others in the past, it is important to understand they are central to the analysis and recommendations that follow in this report.

The recommendations therefore are informed by a detailed comparative analysis of nine other countries which, like Ireland, have a history of exploration at relatively low levels and are countries with which Ireland can be regarded as competing for exploration investment. In addition to this peer group, the report also included Norway and the United Kingdom on the basis that, notwithstanding their very different exploration histories, these two countries are regularly referred to in the public debate that takes place in Ireland on this issue. The central conclusion of the report is that while new terms should not be retrospectively applied to existing licences, there is scope for strengthening the fiscal system to be applied to future licensing rounds in terms of providing for an increase in the overall State take, ensuring an earlier share of revenue for the State and addressing inconsistencies in the current fiscal system. The principal recommendations made by Wood Mackenzie are first, that Ireland should for the present maintain its concession system with industry rather than the State bearing the risk associated with investing in exploration. Second, a production profit tax should continue to apply but for discoveries made under future licences, the form of this tax should be revised. Third, the tax should be charged on a field-by-field basis, with the rate varying according to the profitability of the field and charged on each field's net profits. Fourth, the revised tax should include a minimum payment at a rate of 5%, which would function like a royalty and would result in the State receiving a share of revenue in every year that a field is selling production. Fifth, the revised tax rate should be higher than the current profit resource rent tax, thereby ensuring a higher share for the State from the most profitable fields. Sixth, the tax should operate on a sliding-scale basis to be calculated on a producing field's net income commencing at a rate of 10% and reaching a maximum level of 40%. Seventh, the marginal tax take on a producing field, made up of both

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corporation tax and the petroleum production tax, should be increased from the current 40% up to a maximum of 55% for the most profitable fields under new licences and eighth, the corporation tax rate applying to petroleum production should remain at 25%, which of course is twice the normal rate of corporation tax.

Wood Mackenzie also considered the question of capital allowances and the carry-forward of exploration losses. In the case of capital allowances, it found that Ireland's approach, which is only replicated in the United Kingdom and South Africa, is generous but suggested it should be viewed in the context of the overall fiscal system. On the carrying forward of exploration losses, the report concluded that allowing a 25-year carry forward was neither bad practice nor likely to reduce significantly the corporation tax payable by the next field development. No change to the current system was recommended for capital allowances or exploration losses.

Having asked for advice as to how Ireland's oil and gas fiscal regime should be revised and having received clear advice that is underpinned by extensive data and robust analysis, it is important now to give certainty to the industry.

11 o'clock

As I indicated and as recommended in the report, I have secured Government approval for the broad parameters of a new fiscal scheme. The detailed instrument will be agreed with the Minister for Finance in advance of the finance Bill. My Department will work with the Department of Finance and Revenue Commissioners to give operational effect to this approach and the new regime will apply in the case of future exploration authorisations, including those to be awarded under the 2015 Atlantic margin licensing round, which was launched on 18 June last by my colleague, the Minister of State, Deputy Fergus O'Dowd.

By acting now and bringing closure to this matter, it is my intention to communicate an unambiguous message regarding the stability of Ireland's fiscal regime for this sector. For existing licences, no changes are proposed, while for future prospective licence holders, a clear regime is being set out and the rationale for it has been clearly outlined. This should further engender industry confidence in the stability and predictability of Ireland's oil and gas fiscal terms.

Bringing certainty to our fiscal regime and the other important measures taken by the Government will make Ireland a more attractive location for exploration investment. These measures include positive initiatives relating to licensing, data acquisition and the safety regulatory regime. One such measure, the 2011 Atlantic margin licensing round, resulted in a number of significant sized exploration companies entering the Irish offshore with an immediate impact in terms of exploration activity. The next licensing round was formally launched recently and I am optimistic that industry will recognise the opportunity it presents and respond positively.

I have stated on many occasions since being appointed to my current portfolio that Ireland needs to see an increase in the level of exploration activity, in particular exploration drilling, if the true petroleum potential of the Irish offshore is to be realised. I had the opportunity last Saturday to mark the launch of the Polarcus seismic survey in the Porcupine Basin, which will assimilate the technical data that will, I hope, enable us to maintain current momentum in the offshore sector.

I thank those Deputies who contributed to the report produced by the Joint Committee on Communications, Natural Resources and Agriculture, which was debated in the House and dis-

cussed with the consultants, Wood Mackenzie. I look forward to the Deputies' contributions to the debate on the Wood Mackenzie report, which I expect will be a landmark in the history of exploration for oil and gas in Ireland.

Deputy Éamon Ó Cuív: I am pleased to have an opportunity to speak in this debate. The decision by the Minister brings us to the end of a road that was embarked on at the beginning of this Dáil. It shows that if the Oireachtas functions properly, it can bring about change through analysis and debate, making recommendations and listening to Members. Now that the process has advanced, there is unlikely to be much media interest in this debate. As the Minister noted, over the years there has been considerable comment, some ill-informed and some well-informed, about the fiscal terms for oil exploration.

The current journey started when Sinn Féin tabled a Private Members' motion early in this Government's term. I remember arguing in that debate that it would be pointless to have the usual discussion in which Deputies from each side speak from prepared scripts and no one listens to anyone else. I advocated instead referring the matter to an Oireachtas committee to examine the issue calmly, listen to the various points of view and make detailed recommendations. I pay tribute to Deputy Andrew Doyle who chaired the Joint Committee on Communications, Natural Resources and Agriculture which examined this issue as its first task. Deputy Doyle chaired proceedings in an open and non-partisan manner and did not in any way try to stifle debate. He facilitated, in particular, an engagement with the Norwegian Ministry of Petroleum and Energy which gave members a very good insight into the realities of Norway's policy on exploration. Given that reports on that issue were sometimes inaccurate, the advice offered by the Ministry and the facts that emerged proved very interesting. For example, we learned that Norway's high tax rates were introduced after the Ekofisk field was found. It is also interesting to note that the Norwegians strongly recommended against changing terms retrospectively. We also learned that Norway uses some of its tax revenue from offshore exploration to pay companies to explore for oil. Under the Irish regime, companies pay the full cost of exploration, which can be up to €100 million for one drill. Norway, in contrast, offers rebates to companies involved in drilling.

The joint committee's report, which made 11 concrete recommendations, has acted as a spur to review the licensing terms. I recall during the debate on the report in the Chamber that the Minister blew hot and slightly cold on it, first following the official line that the terms in place at that time were good and it would not be possible to attract more companies to engage in exploration, before promising to have the matter re-examined, as he subsequently did through the Wood Mackenzie report. I welcomed the undertaking he gave at the time as a good and sensible approach.

In general, I welcome the changes the Minister has made. During the terms of this Government and its predecessor, we will have moved from a position in which corporation tax on profits from offshore exploration were 25% to one in which a maximum tax rate of 55% will apply to substantial finds. I favour the idea of a graded tax, as did report produced by the joint committee in which we proposed three tax rates of 40%, 60% and 80%. The Minister, in proposing a sliding scale ranging from 30% to 55%, has accepted the principle advocated by all members of the joint committee, from Fianna Fáil, Fine Gael, Sinn Féin, the Labour Party and the Independent member, that the tax rate applied should reflect the profitability of the find. I welcome the Minister's response in this regard.

A number of interesting facts emerged when we were doing our analysis. I submitted a

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parliamentary question asking how much of the seabed was subject to licence, in other words, to what proportion of the seabed did the old terms apply should a company strike lucky. The answer I received indicated that 4.4% of the continental shelf is currently licensed, which means more than 95% of the seabed is not subject to licence.

Only 9.8% of the geologically significant areas for hydrocarbons, that is, the places where one would be likely to find a hydrocarbon, is licensed and the Minister would still have 90% left if one managed to strike gold by finding an Ecofisk out there where it is only a relatively simple matter to encourage exploration companies to find the rest of it. Therefore, the idea that all is given away has been grossly exaggerated.

Unfortunately, our record of finds in recent years has not been great. On the other hand, there is always the possibility. Our understanding from the Norwegians was that when they found Ecofisk they were nearly on the point of giving up. Their licensing regime stated they had to go slightly deeper than the exploration company had gone at the time. It was that extra depth that found the field and if they had not forced them to comply fully with the licence, although I presume they would have found it eventually, they might not have found it as fast. What we must have, and what we are now building into the system, is a contingency that if one strikes rich veins of hydrocarbons, the State will benefit.

I presume there will be a debate as to whether we should have gone even higher and included the provision that one could get a marginal tax rate of 80% if one found very large deposits. It is a significant achievement that we have moved, from the 25% rate to the 55% marginal rate, depending on the size of the field, by a good process.

Deputy Pat Rabbitte: The 5% upfront is an important provision.

Deputy Éamon Ó Cuív: I welcome that. The Minister has done a good job. I welcome his willingness to take on board the report, and not let it gather dust, because it proves, if we work together, if we follow a process and if we do the tedious work, we can get results.

One point fascinated me because of all the talk over all of the years about decisions. At the committee, I asked one of the officials had any government gone against official advice on the low terms. There had been Deputies from various parties, including from Deputy Rabbitte's party, previously as Ministers for energy and they had gone along with these terms. The official confirmed it occurred once only. I could see all the ears pricking of the few members who were present that day. Then he went on to say that it was during the term of the previous Government, the Government in which I sat. When we adopted the 40% marginal rate, which was recommended by the then Minister, Mr. Eamon Ryan, the civil and public service were opposed to the decision, as I am sure Deputy Rabbitte has found out since. We went for the higher rate. I was proud that we were the only ones who had gone against the advice and that we had done so by changing the rate to a higher figure than they had recommended but it would now appear that we did not go high enough and the Minister's report by Wood Mackenzie states that we could have gone another step. I hope that would put some of the allegations that have been made to bed because my experience over a long period in dealing with the officials is that they took a very conservative view. In my view, they recommended rates much too low. The idea that these rates were not recommended officially was put to bed in the work of the committee.

There are other issues in the report worthy of examination. One of the issues was recommendation No. 11, the setting up of a forum of all of the stakeholders to be there on a continuous

basis. I believe that if the Minister wants to get buy-in and get people to accept that the way we are doing our work is open, we need much more transparency and involvement to ensure that the stakeholders, including, for example, unions and workers, are much more involved.

The second issue is public consultation and community gain. When the history of the development of the Corrib gas line is reviewed, it will show that there was quite a defensive non-interactive process involved. By consultation, I do not mean the advertisement in the newspaper and the following consultation process where it is only when things begin to happen that ordinary people become fully aware and get involved in the system.

I hold strong views on the recommendation on community gain because there are many major infrastructural developments taking place that are needed for the national good but where often the host community is not the direct beneficiary or might not even benefit significantly. For example, to my knowledge, there is no plan to make the gas available to the people of Erris, even into the town of Belmullet. It is important that we have a statutory system, not by the grace and favour of the exploration companies, and where in major developments such as this there would be a requirement to provide some of the money for both infrastructural and social development in the host community. If that was done, it would add considerably to the acceptance of such developments in the future.

There was another recommendation that the Norwegians made that I found interesting. They liked to give the licences to consortia rather than to individual exploration companies. The reason for that was they believed that if they did it that way, there would be a much greater certainty of the data being made fully and properly available to the state because the same data that would go to the different partners would be the data that would go to the state. It would be unlikely that they would cheat on the partners and in not being able to cheat on the partners, they would be in a position of much greater certainty that the state would be fully aware of all of the seismic data. The Department will argue that it gets all of this information anyway. They argued that when I was a Minister, and we had endless arguments with them. It is interesting, when one reads the report that the committee produced, that it reflects on what the Norwegian authorities told the committee, that they are not as sure as the Department, they are aware of these possibilities and they ensure that they narrow the angle on the information deficit.

In general, this is an important step forward. I hope some of the drilling taking place is successful, that we manage to land more oil and gas, and in the not too distant future this island will become energy independent rather than being a major net importer of both oil and gas.

Deputy Michael Colreavy: Reports are reports, whether they come from an Oireachtas committee or from Wood Mackenzie, but let us look at what is happening in this country at present.

The gas from the Corrib field is expected to start flowing next year or in 2016. Do we know how much income the State will receive once the operation is in full production? Do we know how much it will cost the State in facilitating the company to bring that gas ashore? Do we know how many permanent jobs there will be for Irish workers once the gas is flowing? Do we know how much profit the company will make from the field once it is in full operation? After the allowable write-offs, do we know how many years it will take before Irish taxpayers seen any financial return from our national resource? Do we know how many years it will take for Ireland to recoup its expenditure on this project? I suggest the answer to these six questions is that we do not know.

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Ireland's oil and gas terms have been the subject of much controversy over the years. Some people feel that while the country is broke, there is a lot of change at the back of the couch in the form of our oil and gas reserves. While this might not be entirely true, it is fair to say this State has not exploited its natural resources to a level where the public and the public coffers see a significant return. This has been the result of poor policy decisions in this area for many years, coupled with the State allowing private industry to call the shots while shirking its own responsibility.

The Government may not have a comprehensive strategy on maximising the return from our natural energy resources but the companies certainly do. In the absence of a detailed, comprehensive strategy outlining the State's vision and plan for our natural resources, the companies simply run rings around us. In fairness to the Minister, Deputy Rabbitte, he has initiated the development of a Green Paper and policy for natural resources and renewable energy. I hope that my endorsement and that of Deputy Ó Cuív do not damage the Minister's political prospects but it needs to be said he has recognised the need for a good, detailed comprehensive strategy for Irish natural resources. He is to be commended on that but the work needs to be expedited.

There is a common misconception among the public that Ireland needs its low oil and gas taxation take in order to promote exploration and develop our oil and gas industry. Successive Irish Governments and the oil industry lobby have propagated this myth for many years. The successful oil and gas lobby, with the help of the Independent News & Media group, have spun the myth that Ireland's current system of taxation is the best deal there is in the exploration of our natural resources. The line which this lobby group spins is that the more oil and gas that is extracted from Irish waters, the more jobs there will be for Ireland. This lobby also claims that the current system of oil and gas exploration off the Irish coast will ensure energy security for Ireland and the State will not be so reliant on imported fossil fuels. Oil and gas company PR spokespersons also subtly imply that Irish homes will have access to cheap fuel if oil and gas companies are allowed to proceed under the current rules. This is not true; it is a myth.

Ireland's offshore oil and gas reserves have the long-term potential to be a significant source of revenue for the economy. According to a 2006 report carried out by the Department of Communications, Energy and Natural Resources, there are approximately 10 billion barrels of oil equivalent off our western coast, composed of 6.5 billion barrels of oil and 20 trillion cu. ft. of gas. At current oil prices, this would be valued at approximately €540 billion. We should stop apologising or explaining the technical difficulties in gaining access to that oil or gas. While it is true that the actual amount of oil and gas brought ashore has been small, those reserves exist. At present, there is very little gas and no oil being extracted from Irish waters, but we have the potential to do so.

Companies that discover oil or gas in Irish territory are not obliged to supply these resources to the Irish market. Not only that, our licensing terms are so weighted in the industry's favour that they do not require the companies to bring a single drop of our oil or gas ashore in Ireland. Ireland's licensing terms do not award the country with fuel security. When the Government awards oil and gas companies with a licence, ownership and control of Irish oil and gas is transferred to that company. In other words, it is abdicating. Under the current licensing terms, the Government cannot guarantee that the oil and gas will be sold to the Irish market, that the oil and gas will be landed in Ireland or that the companies will use Irish workers. Irish consumers must pay the full international price for oil and gas found off Ireland's coast. In a period when the world is nearing peak oil production, it is important that Ireland secures its fuel supply.

By international standards, Ireland's licensing terms are extremely generous to oil and gas companies. A report carried out in 2007 by the US Government Accountability Office studied the licensing terms of 142 fiscal systems. The report found that Ireland has the second lowest government take of all the countries studied. In the United States, there is a minimum government take of 42%, and in Norway, the government take amounts to 75%.

As new technologies emerge and develop, along with the rising price of oil and gas, reserves that were previously dismissed are now becoming commercially viable. However, at present companies are entitled to rely on their own data in assessing commerciality. The current system governing the control of Ireland's oil and gas reserves cannot be allowed to continue.

Under the 1992 and 2007 licensing terms, a 25% tax on the net profits of oil and gas is applicable. However, oil and gas companies can write off 100% of costs against tax, including costs incurred up to 25 years before field production begins and including the cost of any unsuccessful wells drilled anywhere in Irish waters in that 25-year period. Under the 2007 licensing terms, a profit resource rent tax, PRRT, was introduced. PRRT is payable on a profit ratio calculated by the cumulative after-tax profits on the specific field divided by the cumulative level of capital investment on the specific field. Oil and gas companies may be subject to pay PRRT on after-tax profits of between 5% and 15%. This means that an oil and gas company may pay up 40% tax on its profits. However, in reality only the largest of oil and gas exploration fields would pay the higher tax, and small and medium-sized fields would pay little or no PRRT.

The changes to the fiscal regime announced recently by the Minister are welcome in some respects. They show that those who protested against Ireland's poor tax terms on offshore oil and gas have been proven correct. However, the changes announced will not have a major impact. The 5% royalty on finds is welcome but it could hardly be described as a burden on the oil and gas industry. The increase in the maximum rate of PRRT falls far short of what the report produced by the Oireachtas Committee on Communications, Natural Resources and Agriculture proposed in 2012.

The report of the Joint Committee on Communications, Natural Resources and Agriculture, entitled *Offshore Oil and Gas Exploration* and published in May 2012, outlined a number of recommendations. While it stated that retrospective changes to fiscal and licensing terms can risk long-term reputational damage, it also agreed that "future agreements can reflect policy changes necessitated by significant changes in the policy context and circumstances, for example a large increase in the number of commercially viable finds or the size of fields". The report went on to state:

the Joint Committee believes that the overall tax take should, in the case of future licenses, be increased to a minimum of 40%. The PRRT should increase from existing levels according to a sliding scale based on the rate of profit (i.e. to give an overall tax take of 40% for small commercial discoveries, 60% for medium commercial discoveries and 80% for very large discoveries).

I intended to outline the recommendations made in the report but I probably do not have time to do so. It is clear that the issue of our offshore oil and gas has not gone away. Our oil and gas reserves may not be the quick fix to our economic woes that we would wish them to be but that is not how we should view them. Instead, we should view our natural resources as part of a long-term project aimed at a securing financial return for the State and developing an energy policy for this nation.

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I will conclude by speaking about an energy project that we should not be considering regardless of the fiscal system put in place. I refer to hydraulic fracturing, or fracking. We all know that pressure is growing from vested interests who want to push fracking onto the unwilling people of Ireland, most immediately in the west and north west of the island. Ministers in both jurisdictions are telling us not to worry or get alarmed because nothing will be done until the EPA publishes a report indicating whether fracking can be carried out safely. They say they will agree to nothing until they are sure the technology is safe.

The demand to introduce fracking came from a company or companies with a vested interest in getting as much money as possible for the shareholders. There was no public or political conversation. The request to submit tenders for exploratory licences was issued in the dark of night by temporary Ministers in both jurisdictions just days or weeks before they faced the electorate. The matter stinks to high heavens. The Minister, Deputy Rabbitte, argues that fracking can be a game changer if it can be done safely and that it would be foolish not to carry out research to prove whether it can be safe. I advise the Minister, however, that some things are so self-evidently bad for this and future generations that they should not be considered by the EPA, the Government or anyone else.

I challenge anyone to look at the beautiful unspoilt scenery of counties Leitrim and Fermanagh and argue that the few years of shale gas supply which may be available can be extracted without destroying our landscape. I challenge anyone to say that tourists would continue to visit the deserted industrial wasteland that would be left behind once the frackers have taken our gas and money, and ran. I challenge the EPA to justify how an area so susceptible to water contamination that a man cannot build a family home with a domestic septic tank could be considered suitable for fracking. I challenge anyone to convince me that agriculture and property values would not be destroyed in this area if we permit fracking. Irrespective of the illusory promises of jobs, revenue for the State and increased energy security and regardless of the bribes paid, the companies putting this forward will not and cannot enforce the conditions set or the promises made. Their sole role is to get planning permission, sell it on, take the money and run. We cannot inflict this on future generations of Irish people.

Deputy Richard Boyd Barrett: In so far as there has been any movement on this issue, credit has to go to the people of north County Mayo, the Shell to Sea campaign and the many other campaigners around the country who supported their battle and sought to expose the scandal of what has happened in north county Mayo, Shell's treatment of the people of that area and the scandalous giveaway tax and licensing terms established by Ray Burke, Bertie Ahern and Frank Fahey. One only has to mention these names to understand why our tax and licensing regime gave away our offshore gas and oil reserves. The Minister, Deputy Rabbitte, has repeatedly stated that our reserves are unproven but the estimates that have been produced by oil companies through geological and seismic studies, as well as actual finds, indicate potentially substantial reserves. There are gas and oil reserves off our shores and at some point they will be exploited. When people justify the very low tax regime that applies and the system of concessions that gives exclusive rights to private oil companies to develop fields and take ownership of the oil and gas produced, they say that our resources are unproven or not commercial. What is deemed commercial will vary over time but we know that oil and gas prices are going to increase. Oil companies, like developers of land, sit on finds until they deem the time is optimal to exploit them and profit from them.

How much information is available to the Minister and the Department about what has happened in respect of drilling and the capping of wells by oil companies? The companies know

what is going on down there but I doubt that we know. People who worked on these drilling operations have told me these companies are a law unto themselves and nobody is representing the State in finding out what is going on. As I previously noted, Statoil took away a full tanker of oil from its Connemara field. The Minister acknowledged this but none the less he repeatedly claims there is no proven reserve at that field.

The Government has been forced into addressing this issue because of people's protests. While some improvements have been made, major problems remain. Norway established a state oil company that was involved in the process at every hand's turn and, even before the discovery of Ecofisk, declared sovereignty over its resources and decided to ensure that its citizens got the maximum benefit from them. Sometimes we will have to do deals with international oil companies because we do not have the expertise or money for the initial investment. The problem is the regime still being proposed is one where they have all the control and get allowances and tax deductions. That means despite having headline or nominal rates, the companies can write off large amounts of losses and costs in different ways so the effective tax take would be minimal and almost unquantifiable. On examining our corporate tax regime generally, one would be very worried.

There has been a marginal improvement but it falls way short of what it should be. We need a State oil and gas company and it should be involved in the development and production of these resources. Under no circumstances should the fields be given away to private oil companies.

Deputy Clare Daly: What is going on is best summed up by Wood MacKenzie in its undoubtedly expensive report, paid for by us, which states that the recommended system will greatly improve the "perception" of the fiscal terms. It is largely the perception rather than the reality which is being addressed. Mr. Terence Conway from Shell to Sea summed it up accurately when he stated:

As could be expected from a company so closely linked with the oil industry, the Wood Mackenzie report still recommends continuing to give the oil companies control over and the vast majority of the profits from whatever oil and gas is found. The State will still take no share in production and will have no control over what happens to our oil and gas, whether it is landed in Ireland or supplied to the Irish market.

That really is the essence, as although the report has 11 recommendations, some were just put in to fill a bit of space because they are already in place. There is a critical absence as the proposed changes are not retrospective. The best areas for which licences have already been awarded will continue to be subjected to the very same terms which have been so clearly exposed in the eyes of citizens, thanks largely to the work of campaigners like Shell to Sea. These terms have resulted in a €100 billion giveaway of oil and gas resources, with appalling treachery carried out by Mr. Ray Burke when he abolished royalties and reduced returns, as well as Mr. Bertie Ahern afterwards when he reduced the tax rate for the profits made from the sale of resources to 25%. As other Deputies note, companies have been allowed to write off 100% of costs before they have to declare any profits to be taxed at the paltry rates.

In 2008, a fiscal study of 45 international companies indicated that Ireland had the lowest returns at half the rate of the US and UK and less than a third of Norway. This arrangement will not change this result as the natural resources owned by the people of this country were given away by Fianna Fáil to be bought back by citizens at ever increasing prices determined

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by the market. The flaw in the proposal is that it is utterly reliant on private companies to deliver, which is short-sighted and will inevitably lead to the Irish people being the losers. Even if exploration was facilitated and led to a trickle of returns, it will not transform the economy. This is our gas and oil and it is a bitter irony that the Norwegian people, through the state oil company, Statoil, will benefit from our gas resources more than any Irish person. It is regrettable that there is no vision from the Government on this issue.

Why not cut out the middle man? We agree that a State-owned oil company would not have the resources to explore the potential but why not link directly with another state oil company, such as that owned by the Norwegian Government? If that company can be approached directly we could see what exploration methods could bring benefits. What about other countries with control over their own oil resources? The Russian oil company, for example, has demonstrated some innovative techniques so why not approach it and see what expertise we could develop? We should cut out the middle men or the multinationals and examine some of the benefits delivered by the Venezuelan Government taking more control over its oil resources. That is being used to make a real difference in the lives of ordinary people. What is being proposed with this report is that a few extra crumbs will be handed over in lieu of our resources. In that sense we are considering the matter very much the wrong way around.

Parts of this country have communities under siege, where an Garda Síochána has been turned over to essentially become private security agents of a multinational company to keep people intimidated in their homes. Communities are divided with a bitter legacy and for what? Irish people will gain practically nothing from the Corrib experience other than that bitter legacy. Considering the potential that could have been realised, it is a wasted opportunity, and I am sad to say this arrangement will not alter the issue in any significant way. I absolutely echo the points made by Deputy Colreavy about learning lessons and ensuring that there will be no fracking on these shores.

Deputy Ruth Coppinger: The estimated potential of our oil and gas reserves should be outlined and examined further. It is estimated that €420 billion of reserves have been discovered recently under the Irish Sea but there has been a lack of exploration of late. In his speech the Minister mentioned that of the 158 exploration areas and wells drilled offshore, two thirds were done in the 1970s and 1980s, so there has been very little attention paid by the Irish Government to the potential in this sector.

Previous Deputies have outlined how Fianna Fáil handed over our reserves so I was not surprised to hear Deputy Ó Cuív welcoming this; that demonstrates how minimal the effort has been. In the past Fianna Fáil ensured that the wealth which could be derived by the Irish people from these resources would not be realised. A former Taoiseach, Charles Haughey, did a deal with multinational companies before Ray Burke and Bertie Ahern compounded this, leaving us with scandals like that in Rossport, where the State through the Garda is spending large amounts to protect a private company that is profiting from our natural resources.

Today, the Minister, Deputy Rabbitte, has indicated there will still be exclusive reliance on a tax on profits as a means of getting any money from our natural resources. We have all seen how creative multinationals are with accountancy practices, so in effect we may get nothing from the corporation tax rate referred to by the Minister. We have seen how Apple has paid no tax whatever on profits in Ireland and Starbucks has paid €35,000 since 2007. We may well see absolutely the same behaviour from these oil companies.

Oil companies are being given full control over the vast majority of the profits made through exploration. The State is opting to take no share in the production process, with no control over what happens to our oil and gas, whether it is landed here or supplied to the Irish market. There has been no comment from the Minister about a national oil company and the potential to establish same, although it is mentioned in the report. The Government has not even referred to the idea of production sharing, for example, where royalties would be held by the Government as an option. It is feasible for Ireland to set up a State company to explore our natural resources in the same manner as how electricity was supplied to the nation by a public company in the 1930s.

Deputy Pat Rabbitte: We do not have the money. At €100 million per-----

Deputy Ruth Coppinger: The Minister was not even here when I spoke before so he should allow me to finish. There is a neoliberal mantra which the Minister seems to have adopted which dismisses out of hand any State interest in such endeavours. The report mentions Newfoundland and Labrador, as well as other areas where this has been done. The State could develop expertise in this area if it put the work in, although it would take a certain amount of time. A national oil and exploration company owned and controlled by the public is the only way to guarantee that resources are used to benefit the common good. Energy prices could be kept low because that is a serious issue for old people and for working class people who are suffering under the cosh of austerity, and the least environmentally damaging practices could be explored in a democratic way.

Fracking has been mentioned and should be rejected out of hand. It represents a short-term gain for the companies involved and lasting damage to our environment and our reputation as a clean food-producing nation, and will destroy rural areas. This is in nobody's interest but that of the companies. We can all see the potential for companies to write off corporation tax as they do in other areas. It is very disappointing that the State has opted once again to take no interest in, or control of, production in this sector.

Deputy Bernard J. Durkan: I am glad to have an opportunity to speak on this important report. Wood Mackenzie is well placed to produce an authoritative report. It has the experience and a broad range of resources to call upon which are an advantage in commenting on a subject that is imperative for the future development of this country. Energy is the gold of the future. In the context of climate change restrictions on conventional energy sources, including oil and gas, will become a feature of life. I have absolutely no ideological hang-ups about it one way or the other. I have been around long enough to be able to look back at the progress of oil and gas exploration in this country in the 1970s and 1980s, its success and lack of success, and the need to ensure that there were adequate and ongoing incentives to encourage exploration. I do not accept the notion that we have huge resources and the Government or some Minister is preventing their exploitation for the benefit of the Irish people. A comparison with Norway is not fair. The success rate for drills there is 1:8 compared to 1:40 here. As a result there is more international interest in exploring in Norway and much greater success. People will want to go where the odds are better. Grateful as we are for the success of Kinsale Gas and other fields, we have not been overburdened with success.

We should not say in this House that companies or multinational corporations do not pay tax on their profits in this country. That is not true. All profits generated in this jurisdiction are subject to corporation tax. We do ourselves immense damage internationally by suggesting, and adding to the criticism from outside, that this is a tax haven. That is not true.

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Deputy Ruth Coppinger: It is perfectly true.

Deputy Bernard J. Durkan: I recognise people's ideological positions. We are, however, speaking to a worldwide audience about matters that have a huge impact on our development and on employment now and in the future. We should always be careful to ensure that the message we put out has a sound basis.

I was a member of an Oireachtas committee between 2002 and 2007 that published a report on oil and gas exploration. We went into it the subject in considerable detail. The question was why do we not have a national corporation that will dig deep, using modern technology, to avail of the resources for the benefit of the Irish people. That would have been a great idea but it costs €100 million every time one sinks the drill into the sea or the ground. It would be a good idea if we could borrow those resources from international banks. Unfortunately, we live in a very competitive world and the people who specialise in that sort of exploration are very selective.

We did have a giveaway policy for a couple of years but the level of exploration was not sufficient to indicate that we have massive untapped resources. Oil workers might say there are huge resources that the oil companies are keeping from us. If we have resources and the oil companies have found them they would be well advised to bring them up very quickly because soon oil will be a thing of the past. Our environment is changing and the fossil fuels that we use will become very difficult to handle in the future. We have plenty of information about that.

Climate change is a major international focus. The G8 and other large economic or political groups have to think of what will prevail in the future and how that will affect our environment. If unquantified resources are being kept from us my advice to the oil exploration companies would be to bring them ashore fairly quickly. We need to do something about them while we can still use those resources because the time is fast approaching when we will not.

I have been here long enough-----

Deputy Colm Keaveney: Too long.

Deputy Timmy Dooley: Too long.

Deputy Bernard J. Durkan: -----to remember the history of the Corrib gas field. If we spend 15 or 20 years exploring, drilling and bringing our product ashore our reputation abroad will suffer dramatically because nobody wants to be associated with that kind of long drawn out hassle. I agree that all national requirements must be complied with, such as licensing and planning permission. The best practices should prevail at all times. We must be sure to go through all the necessary procedures. We cannot go on moaning about this forever because if we want oil and gas we must bring it ashore. If we do not do that somebody else will. We had better recognise that. International investors will always look at our record, which shows very little progress and a very long time to achieve it.

I agree that the Exchequer and the people need to benefit from any finds on or off our shore. I have pursued that objective for years in this House, as have many Ministers, and will continue to do so. It is important to do the best thing for the economy. I do not have time to go into detail, but suffice to say that we do not know much about the full potential of our reserves but 12 times the world's known resources in terms of reserves of coal and potential for coal and gas exist immediately off the coast of Norway. That is several times this country's potential.

12 o'clock

That is why the success rate in Norway is much greater. The potential for successful oil speculation is much greater in Norway because of the law of averages. If one is going to have a success rate of one in eight, one in seven or one in five in one country, it is obviously a much better bet than a country where there is a success rate of one in 40. There is a massive difference in the costs associated with this activity in either jurisdiction. It is good to have this useful and authoritative report on hand. We need to use it in the best way possible to develop this country's oil and gas industry for the benefit of the people. We should spend less time moaning about what might have been. If we want to get full employment across the length and breadth of this country, we need to ensure we have a good energy policy that makes adequate energy resources available to all the population.

Deputy Finian McGrath: The Deputy and his colleagues should not be giving away our natural resources.

Deputy Bernard J. Durkan: We should not resort to a situation like that supported by those who signed up to the previous regimes that give these resources away.

Deputy Finian McGrath: The Deputy is a gas man.

Deputy Bernard J. Durkan: Not as good a gas as the Deputy.

Deputy John Browne: Good man JR.

Deputy Bernard J. Durkan: He has the history to show for it.

Deputy Finian McGrath: The Deputy and his colleagues are giving it all away.

Deputy Bernard J. Durkan: Does he want to sign up to another document? I can give him another document to sign up to. He could refute what he signed up to before.

Deputy John Browne: The Deputy is no Cliff Barnes.

Deputy Finian McGrath: I wanted to hold on to it.

Deputy Dara Calleary: Perhaps we should attach a turbine to Deputy Durkan.

Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy David Stanton - the need to begin construction on a premises for the amalgamation of two primary schools in Carrigtwohill, County Cork;

(2) Deputy Patrick O'Donovan - the need to have the current valuation process leading to the calculation of commercial rates in Limerick city and county addressed;

(3) Deputy Thomas P. Broughan - the need to address recent allegations of illegal activity among some companies working under contracts awarded under the school building pro-

gramme;

(4) Deputy Willie Penrose - the need for the Minister for Jobs, Enterprise and Innovation to take appropriate steps to amend the Protection of Employees (Employers Insolvency) Acts 1984 to 2006 to accommodate informal insolvencies in which the employers stop trading but do not go into actual liquidation or receivership or wind up the company, and thereby preventing employees from accessing the Department of Social Protection's insolvency payment scheme, and to make a statement on the matter;

(5) Deputy Ruth Coppinger - the independent review of issues relating to symphysiotomy by Judge Yvonne Murphy and the *ex gratia* redress scheme that was put to the Cabinet on Tuesday, 1 July;

(6) Deputy Noel Harrington - the present status of job creation projects in the west Cork region and the recently published NESC report on employment in households;

(7) Deputy Seán Crowe - the delays faced by wheelchair users when getting their wheelchairs repaired;

(8) Deputy Brendan Griffin - the spate of recent attacks on staff at Kerry General Hospital's psychiatric unit;

(9) Deputy Seán Kenny - the inordinate delay in the handing over of 48 apartments at Clare Village, Malahide Road, Dublin 17;

(10) Deputy Charlie McConalogue - the need for the Minister for Social Protection to make provision for use of the free travel pass on the Buncrana to Derry bus route;

(11) Deputy Catherine Byrne - the recent announcement by Ulster Bank of its plans to close certain branches;

(12) Deputy Dessie Ellis - the need for greater enforcement of regulations on tax and insurance in the taxi industry;

(13) Deputy Terence Flanagan - the need for Irish Water to ensure water meters are fully accessible to those with disabilities;

(14) Deputy Seán Kyne - the need for the Minister for Transport, Tourism and Sport to report on the up-to-date position of the much-needed Galway city outer bypass;

(15) Deputy Richard Boyd Barrett - the ongoing industrial dispute at Cement Roadstone Holdings over proposed pay cuts;

and (16) Deputy Brendan Smith - the need to approve a proposal by Cavan and Monaghan education and training board for the delivery of training in Cavan and Monaghan from 2015 onwards.

The issues raised by Deputies Brendan Smith, Thomas P. Broughan, Catherine Byrne and Seán Kenny have been selected for discussion.

Dáil Éireann
Leaders' Questions

Deputy Dara Calleary: It is good to see the Minister, Deputy Rabbitte, in the Chamber today rather than pirouetting on the plinth or giving a press conference. Yesterday, Deputy Martin raised the issue of how property tax reductions will be applied across the country. It now seems that many councils will not be in a position to pass on reductions because of a cut in their grants under the Central Government Fund. When the Taoiseach dismissed these reports yesterday, he advised Deputy Martin not to be “proceeding on the basis of a gospel belief in what he reads in the newspapers”. I understand the *Irish Independent* was not the only source of this story. It seems that a document was prepared for a meeting of the famous Economic Management Council. We understand that the meeting in question did not proceed because there is no agreement between the Labour Party and Fine Gael on the issue. Fine Gael wants councils to take in as much property tax as possible. It seems that the more tax the councils take in, the greater the reduction in the central Government grant Fine Gael wants to provide for. It appears that the Labour Party does not agree with this position. The Tánaiste said this morning that he is very concerned by reports of plans to claw back the proceeds of the property tax from the delivery of local services in certain areas. He suggested that if these situations were to develop, it would be a “fundamental breach” of the political understanding that was reached at the time the property tax was agreed to. He said he would be “strongly opposed” to such a development. That is what the Tánaiste, who is on his way out the door as leader of the Labour Party, had to say this morning.

Deputy Finian McGrath: He is in opposition now.

Deputy Dara Calleary: It appears that Fine Gael wants to cut the central Government grant and prevent councils from cutting the local property tax. It seems that the Labour Party wants the opposite. We will not have much of an opportunity to discuss the issue in this House, unfortunately, given that councils have to decide on it before the end of September. What is the Minister’s personal belief? He joined his Labour Party colleagues yesterday and supported the rebels’ stance on allowing for a tax reduction of up to 15%. Can he clarify what exactly the Government policy is at present?

Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte): I thank Deputy Calleary for his kind remarks. I always realised that I had bipartisan support in this House.

Deputy Robert Troy: The Minister does not have the support of some people on his side of the House.

Deputy Pat Rabbitte: Regardless of Deputy Calleary’s morning time reading, the position on the local property tax has not changed. The situation is as announced, in terms of the 80:20 divide and the variability clause that allows individual authorities to make their own decisions. I happened to be in the House when my colleagues on the Labour Party benched raised this as a Topical Issue. They stated no more than the obvious, and no more than the position as it stands. That continues to be the position. If there are any changes in it, they have not come to the Government.

Deputy Dara Calleary: I accept the Minister’s word that the position is as he has outlined, but the difficulty is that when the Taoiseach was challenged yesterday to state explicitly that this is the position, he declined to do so. According to a report in this morning’s *Irish Independent*,

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a document that was prepared for the Economic Management Council suggests that councils in a number of local authority areas, including Dublin city, south Dublin, Kildare, Wicklow, Louth, Meath, Galway city, Kerry, Clare, Cork city and Cork county, would have been in a position to reduce the property tax but are now not in a position to do so because of the projected decrease in the central Government grant. People in those areas are going to lose out because of a squabble between the current Labour Party and Fine Gael.

Deputy Emmet Stagg: That is speculation.

Deputy Dara Calleary: It is speculation at Economic Management Council level. Deputy Stagg might be better off if he could control his own rebels.

Deputy Patrick O'Donovan: Fianna Fáil has a few rebels of its own.

Deputy Dara Calleary: Can the Minister give the House a guarantee that councils which want to reduce the rate of property tax in their areas by 15% will be in a position to do so? If their property tax collections are higher than anticipated, they should not be penalised by the Government implementing a massive reduction in their central Government grant.

Deputy Pat Rabbitte: Deputy Calleary's difficulty is his propensity to believe gossip, speculation and mischief-making.

Deputy Timmy Dooley: The Minister has traded in those things for fair money as well.

Deputy Pat Rabbitte: The fact of the matter is that there is no change in the 80:20 division.

Deputy Brian Stanley: It changed last year.

Deputy Pat Rabbitte: The arrangements in the solidarity fund, which we put in place and fully support as a Government, continue to obtain. The story about the Economic Management Council is completely misleading. A meeting of the council did not take place purely because the personnel comprising the council were not able to attend the meeting. There is no squabble in the Government about this issue.

Deputy Dara Calleary: The Tánaiste is not too sure about that.

Deputy Pat Rabbitte: The purpose of the local property tax is to broaden the tax base in this country and to give local authorities an element of autonomy and sovereignty they did not have heretofore. This was supported by Deputy Calleary's party at the time. If Deputies from any particular local authority are asserting their understanding of that policy, that does not constitute a squabble. There is no squabble. The position is as I have stated it to be. The Minister for the Environment, Community and Local Government is required-----

Deputy John Browne: He is leaving too.

Deputy Pat Rabbitte: -----to give guidelines to local authorities by September-----

Deputy Mattie McGrath: He will be gone by then.

Deputy Pat Rabbitte: -----so that they are clear about their remit.

Deputy Dara Calleary: What about the Tánaiste?

Deputy Pat Rabbitte: The question of how the variability clause that has been built into the

law should be operated will be a matter for the councillors of the future.

Deputy Jonathan O'Brien: The Minister made a number of appointments to the board of Bord na Móna last week. It is widely recognised that at least two of those appointments were influenced by the political affiliations of the individuals involved. In addition, the Minister for Finance, Deputy Michael Noonan, recently appointed a long-serving Fine Gael activist to the board of NAMA. Even the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, got in on the act when he appointed a failed Labour Party councillor to the board of the Irish Museum of Modern Art. In yet another betrayal of the electorate, both Fine Gael and Labour Party Ministers are blatantly and unashamedly engaging in acts of cronyism by way of their appointments to State boards.

When this Government took office, we were promised a new way of doing politics that would be open, transparent and accountable. In fact, we were promised no less than a democratic revolution. In reality, what we are seeing with these appointments, none of which was done through the Public Appointments Service, is the same old tired politics of this Administration's predecessors. This is true not only in the area of appointments to State boards but also in the way Ministers have favoured funding for their own constituencies and how the establishment of the banking inquiry was handled, with the Government making sure it had a majority. All of this goes to show that nothing has changed since the previous Government.

Deputy Peter Mathews: The strategy is more finessed.

Deputy Jonathan O'Brien: That is true. When will the Government cease flouting its own rules on filling publicly funded appointments to State boards by adhering to the public appointments system?

Deputy Pat Rabbitte: This Government, for the first time in the history of the State, has created an expressions of interest facility to invite people in the public domain who consider themselves to be suitably qualified to apply for appointment to a particular State board. Many people have done so and have been subsequently appointed. The proposition from Deputy O'Brien that somebody ought to be automatically disqualified because he or she may have some political allegiance is a proposition I utterly reject. I would have expected the Deputy to reject it too given that in the short time his party has been in government in Northern Ireland, it nominated Lynn Boylan as chair of safe food.

Deputy Patrick O'Donovan: Deputy O'Brien might wish now to move on to the next question.

Deputy Pat Rabbitte: In my constituency, Ms Boylan campaigned in the European Parliament election on the basis of that chairmanship being her contribution to the public interest.

Deputy Patrick O'Donovan: Will Deputy O'Brien be calling for her resignation?

Deputy Pat Rabbitte: I am surprised that Deputy O'Brien is taking this position. I have been very happy to make appointments to the range of State companies and agencies under my aegis. The persons occupying those positions are outstandingly suited and I have reappointed a number of people not of my political persuasion. Having had the privilege of dealing with them for three years, I reappointed the chairs of several major companies, including the ESB, Sustainable Energy Ireland and Bord Gáis Éireann, because I saw they had acquired experience and were best suited to continue to oversee the work of those commercial bodies.

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I do not accept the Deputy's point about the banking inquiry. The proposed membership comprised a Government majority of 5:4 because that reflects the position in this House. I am damned if I can understand how 5:4 differs from 6:5; the latter is still a Government majority. I do know that this controversy provided an opportunity for an attention-seeking Deputy to duck out when he saw the quantum of work that would have to be done and that it would divert him from his extracurricular duties.

Deputy Finian McGrath: That is an outrageous statement.

Deputy Pat Rabbitte: I am glad, however, to see Deputy Joe Higgins replacing him. The least one can say about Deputy Higgins is that he is not afraid of a bit of work.

Deputy Jonathan O'Brien: The arrogance and sense of self-importance evident in the Minister's reply are indicative of everything that is rotten at the heart of this Government. Let us speak about Lynn Boylan.

Deputy Leo Varadkar: How was she appointed?

Deputy Jonathan O'Brien: The Minister knows as well as I do, or perhaps he does not know because he does not have much-----

An Ceann Comhairle: Does the Deputy have a supplementary question? This is Leaders' Questions.

Deputy Jonathan O'Brien: I am asking a supplementary question. The position in regard to appointments to North-South implementation bodies - the Minister knows this well and should stop trying to deflect from the issue of his cronyism - is that appointees are nominated and agreed by all parties mandated to the North-South Ministerial Council, including the Labour Party.

Deputy Joanna Tuffy: Ms Boylan's appointment was proposed by Sinn Féin.

Deputy Leo Varadkar: It is like austerity - okay in the North but not in this State.

An Ceann Comhairle: Members must allow Deputy O'Brien to put his supplementary question.

Deputy Jonathan O'Brien: The cronyism displayed by this Government in recent weeks in stacking State boards is clear for all to see. Perhaps it is one of the Minister's last acts in Government-----

An Ceann Comhairle: The Deputy is over time. Will he put a supplementary question?

Deputy Jonathan O'Brien: My supplementary question is the same as my original question, which was not answered. When will this Government adhere to its own policy in regard to appointments to State boards?

Deputy Joanna Tuffy: What about appointments to state boards in the North?

Deputy Jonathan O'Brien: When will Ministers stop engaging in the Fianna Fáil-style politics of cronyism?

A Deputy: At least Fianna Fáil members do not go around shooting people.

Deputy Pat Rabbitte: I do not accept that this is the lesson at all. The lesson is that Sinn Féin considers cronyism all right in Northern Ireland but not in the Republic of Ireland.

Deputies: Hear, hear.

Deputy Patrick O'Donovan: It is a bad day for Sinn Féin's research office.

Deputy Joan Collins: I wish to raise an issue that was raised last week by my colleague, Deputy Clare Daly, and by me the week before that in the course of the debate on the Social Welfare and Pensions Bill 2014. It relates to the industrial dispute at the Greyhound facility in Clondalkin. Following the decision by the High Court on Tuesday, there is now an official lock-out of 70 workers at the depot. Household waste disposal services across Dublin city are being provided by a company which has locked out its workforce and is now operating with scab labour.

At a meeting between representatives of workers and the National Employment Rights Authority, NERA, on Monday, which was facilitated by the Taoiseach, serious health and safety concerns were raised. It is alleged that there is zero maintenance of the fleet of bin trucks, which is a matter of concern for both the Garda, the Road Safety Authority and the Health and Safety Authority. There are serious health and safety concerns regarding the employment of casual staff without proper training on safety procedures and the use of protective clothing. Bin trucks are dangerous pieces of machinery and the handling of waste can involve hazardous materials. In addition, Greyhound has been brought to court by the Environmental Protection Agency on a number of occasions and fined for breaches of the law relating to the protection of the environment.

These issues are arising as a consequence of the privatisation of bin services across the State. Local authorities have effectively washed their hands of the service and there is no effective oversight and regulation of a private waste collection sector that has a deplorable record of illegal dumping and breaking environmental regulations down through the years. A race to the bottom is taking place among the various companies, which can only lead to an increased casualisation of the workforce, minimum wage rates, poor training on health and safety procedures, dangerous vehicles operating in built-up areas and outsourcing of routes. In the case of Greyhound, casual workers are being collected from the local Woodie's carpark by subcontractors. Somewhere along the line there will be very serious injuries or deaths.

An Ceann Comhairle: We are over time. Will the Deputy put a question?

Deputy Joan Collins: This issue must be examined in a thorough and joined-up way. The EPA, RSA, HSA, Garda, local authorities and unions are all separate entities. Will the Minister give serious consideration to setting up a task force, perhaps comprising members of the environment committee and with an independent chair, to examine the whole industry? There are Sopranos-style operations going on here.

Deputy Pat Rabbitte: From the little I know of the sector, I agree with the Deputy that it is a tough industry. There is no doubt about that. In regard to the issues raised here, the Taoiseach undertook to ask NERA to intervene in terms of assessing some of the claims made in the House. I do not know the outcome of that but if they are as the Deputy said, it is a serious matter. It is a matter that I would have hoped would have been capable of being resolved by resort to the conciliation machinery of the State, which is normally the case and which normally has a very high rate of settlement, no matter what kind of dispute is afoot.

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I hear what the Deputy is saying about the wider issue of the industry itself being required to be examined and I would be very happy to speak to my colleague, the Minister for Jobs, Enterprise and Innovation, Deputy Bruton.

Deputy Joan Collins: I thank the Minister. On Monday, NERA said it could take up some of the issues but not all of them. That is why I raise the need for an overall review of the waste industry. It is highly unregulated. It is almost a snake pit from the point of view of how workers are treated. Some 70 workers were told on 17 June that unless they signed a contract reducing their wages by 30%, they should go home. Workers were being picked up at Woodies, given 15 minutes training and sent out on the routes. I am sure many Members will know from reports from their constituencies that Greyhound is collecting waste at 11 p.m., 12 a.m. and even 1 a.m. Seemingly, this waste is being collected by the workers who are being picked up at Woodies by these subcontractors. What is going on is unbelievable. Permanent workers with decent pay and conditions are being locked out of their workplace. I appeal to the Cabinet to consider setting up an independent task force to look into the whole industry, the waste incinerator in Ringsend and the Covanta deal because it is all linked.

Deputy Pat Rabbitte: I entirely accept the Deputy's bona fides in this matter. I have not seen any report from NERA and I would like to see precisely what conclusions it has come to. It is not desirable for any category of workers to be required to work in the circumstances the Deputy described. I have to say I am very old fashioned about it. I preferred the situation where refuse was collected by direct labour in the local authorities. Unfortunately, the campaign against the refuse charges drove them towards privatisation.

Deputy Joan Collins: That is a joke.

Deputy Pat Rabbitte: Some of the companies operate a very tough regime. The issues raised by the Deputy warrant further study and I will be very glad to sit down with the Minister with responsibility, Deputy Bruton, and press these issues with him.

Order of Business

Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte): It is proposed to take No. 10, motion re proposed approval by Dáil Éireann for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' (recast) and for the effective application of the Dublin Regulation, back from committee; No. 22, Radiological Protection (Miscellaneous Provisions) Bill 2014 - Fifth Stage (resumed); No. 9b, Employment Permits (Amendment) Bill 2014 – motion to instruct the committee; No. 27, Employment Permits (Amendment) Bill 2014 - Order for Report, Report and Final Stages; No. 1, Public Health (Standardised Packaging of Tobacco) Bill 2014 [*Seanad*] - Second Stage (resumed); and No. 23, Merchant Shipping (Registration of Ships) Bill 2013 [*Seanad*] - Second Stage (resumed). It is proposed, notwithstanding anything in Standing Orders, that No. 10 shall be decided without debate.

Tomorrow's fortnightly Friday Business shall be: No. 51, Valuation Bill 2014; and No. 52, Electoral (Amendment) (Hours of Polling) Bill 2013.

An Ceann Comhairle: There is one proposal to put to the House. Is the proposal for dealing with No. 10, without debate, agreed to?

Deputy Brian Stanley: It is not agreed.

Deputy Jonathan O'Brien: There should be further debate on this motion in the House, so we oppose this.

Deputy Emmet Stagg: If the Deputy had attended the committee, he could have debated it.

Deputy Jonathan O'Brien: I am not a member of the committee.

Deputy Pat Rabbitte: This matter was debated exhaustively at committee yesterday.

Question, "That the proposal for dealing with No. 10, without debate, be agreed to", put and declared carried.

Deputy Dara Calleary: This is the last Order of Business prior to the approaching regime change in the Labour Party and I wish the Minister, Deputy Rabbitte, well, although judging from the bite in his responses this morning, he is doing a Luis Suárez on it. I do not know if the Minister for Social Protection, Deputy Burton, has given him a 30 match ban but we wish him well.

The Minister might update us on the progress of the climate action and low-carbon development Bill given that the sponsoring Minister is planning to jump in a lifeboat destined for Brussels.

Deputy Timmy Dooley: The Minister, Deputy Rabbitte, is in wind-down mode.

Deputy Dara Calleary: I would not like to see him winding up.

An Ceann Comhairle: Sorry, we are still in session.

Deputy Pat Rabbitte: I am a Liverpool supporter and I apologise if I bit anyone this morning. The climate action and low-carbon development Bill is at an advanced stage of preparation. Only recently, that advanced stage was discussed by my Department and the Department of the Minister, Deputy Hogan, because of the obvious synergies.

Deputy Jonathan O'Brien: There are a number of reports outstanding from the Constitutional Convention. It was the desire of Government to try to discuss some of them in the Chamber before the summer recess. We are running out of time, so what is the current position in regard to those reports being discussed?

Deputy Pat Rabbitte: Ministers are contending for space in the House to debate legislation but it is a matter for the Whips.

Deputy Noel Grealish: I would like to ask about two Bills. I thank the Government for addressing the discretionary medical card issue but now it is attacking the over 70s. Perhaps this could be addressed under the health information Bill. With the news from Dublin City Council of the cancellation of two Garth Brooks concerts, which is a huge loss to Dublin of approximately €10 million, there are a lot of disappointed fans.

An Ceann Comhairle: We do not deal with concerts on the Order of business.

Deputy Noel Grealish: Will the Government intervene to try to get the two concerts back?

An Ceann Comhairle: Not on the Order of Business.

Deputy Noel Grealish: Perhaps it could be addressed under the noise nuisance Bill.

(Interruptions).

Deputy Pat Rabbitte: There is no date for the health information Bill. On the Garth Brooks concerts, the Minister of State, Deputy Jan O'Sullivan, tells me relocation to Thomond Park would be welcome.

An Ceann Comhairle: Is there a noise nuisance Bill?

Deputy Pat Rabbitte: In regard to the Deputy's question on the over 70s, I refuse to answer any question based on age.

Deputy Róisín Shortall: I wish to return to the climate change Bill. The Minister said it is at an advanced stage. We were promised it would come to the House before the summer. Is that out of the question now? Is there any prospect of the Bill being produced before the summer recess, and if not, could the Minister give a target month for when we will see it because there has been much delay with the legislation?

The second question relates to secondary legislation. It is in respect of the widespread availability of benzodiazepines, which are being traded on the streets and is a huge contributory factor to much substance abuse. It is two years since draft regulations were drawn up in the Department of Health and for some inexplicable reason they have not been signed. Could the Minister establish the reason for same and when we will get the long-promised legislation?

Deputy Pat Rabbitte: On the second matter, I will seek to establish the position from the Minister for Health and I will write to the Deputy. On the question of the climate change Bill, there is some hope it will be published before the House rises, but personally I do not think that is the case because I have had a peripheral involvement and there are some big issues. I expect the Bill will be published at the beginning of the next session.

Deputy Thomas P. Broughan: Report Stage of the Legal Services Regulation Bill is due. Is there a possibility the Bill will be taken before the session ends? The previous Minister, Deputy Shatter, is not around to guide it. What is the latest position on the Bill?

Deputy Pat Rabbitte: The intention is to take Report Stage.

Deputy Ray Butler: Could I ask the Minister when publication is expected on the trust Bill to reform and consolidate the law relating to trustees so as to deal better with and protect trust assets?

Deputy Pat Rabbitte: It is an important matter but there is no date yet for publication of the Bill.

Deputy Bernard J. Durkan: The national paediatric hospital development board Bill is promised legislation. Given the recent announcement on the imminent development of the project, with which I totally agree and on which I congratulate the Minister and the Government, is it intended to bring the Bill before the House for early discussion in order to facilitate the rapid ongoing development of the project?

Deputy Pat Rabbitte: I do not know whether it is in the public domain but an up-to-date report was received on progress on the major project itself only this week. There is not a date yet for the legislation.

Deputy Bernard J. Durkan: I thank the Minister.

Deputy Mattie McGrath: I too wish the Minister well in whatever role he will have next week, and thank him for his co-operation. Could he expedite the progress of the EirGrid Bill and give some idea to people about the route of Grid 25?

Given the Minister's comments on radio recently, could he examine ageism in RTE, especially given that Gay Byrne is being brought back every second week to do interviews with people such as the Taoiseach?

Deputy Patrick O'Donovan: Did Deputy McGrath not suggest Gay Byrne should run for the Presidency?

An Ceann Comhairle: We do not deal with individuals in the House.

Deputy Pat Rabbitte: The Bill is expected next year.

Deputy Terence Flanagan: When does the Minister expect the juries Bill, to give effect to the Law Reform Commission's recommendation on updating jury selection, to be available in draft format? When will the bail Bill, which Deputy Durkan consistently asks about, be ready for pre-legislative scrutiny?

Deputy Pat Rabbitte: There is a huge legislative schedule in the Department of Justice and Equality. Draft heads are available on the bail Bill but no date is available yet for publication. Neither is a date available yet for publication of the juries Bill.

Deputy Seán Ó Feargháil: The Minister has suggested the Whips might examine the outstanding reports following the Constitutional Convention. The Government Whip has been considering the matter and has raised it in response to requests from all parties that we would do something about the outstanding reports. The Constitutional Convention was a great success. I am sure there was considerable expense in organising it and there was great pride on the part of the 100 people that participated and had the opportunity to take part in the set of recommendations that came forward. However, we have met none of the deadlines that were set by the Government in respect of the convention. As we approach the end of session we are looking now at a situation in which if we are to deal with the outstanding reports at all they will be tagged on at the end of a Dáil session. I put it to the Minister that the serious deliberation the people gave to the various issues put before them by the Government deserves more in this House than some sort of cursory consideration.

Deputy Pat Rabbitte: I agree entirely with Deputy Ó Feargháil. That is precisely the reason for the delay, namely, the individual Departments are required to do detailed work before the reports can come to the House for debate. The Taoiseach has required the Departments to speed up the work in so far as that is possible and as soon as that happens, if the Whips can agree a time, the Government is agreeable to that.

Deputy Brian Stanley: Could I ask the Minister about the climate change legislation as well? I wish to refer to the deadline for the Bill-----

An Ceann Comhairle: We have dealt with the matter.

Deputy Brian Stanley: We were promised the Bill before Christmas, again before Easter and before the summer recess.

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An Ceann Comhairle: That is fine but the question has been answered.

Deputy Brian Stanley: Here we are-----

An Ceann Comhairle: No, we are not having a debate on the matter.

Deputy Brian Stanley: The Dáil is getting ready to rise again and-----

An Ceann Comhairle: The Minister has given an answer.

Deputy Brian Stanley: My question is whether the Government has a clear understanding of the urgency of the issue.

An Ceann Comhairle: No, we are not having a debate on the issue.

Deputy Brian Stanley: Will we see the Bill in September?

An Ceann Comhairle: Will the Deputy please resume his seat? We have dealt with the issue.

Deputy Brian Stanley: We have not seen the Bill. There is no legislation.

Deputy Timmy Dooley: The Minister is aware the State Airports (Shannon Group) Bill 2014 [*Seanad*] will reach Committee Stage in this House. The Minister for Transport, Tourism and Sport, Deputy Varadkar, has tabled a number of amendments, which if as I expect are passed, will require the Bill to go back to the Seanad. Is there any indication whether it is intended that the Bill will be passed into law by the Seanad before the summer recess? If that is to happen I am sure the Minister, Deputy Rabbitte, will be able to avail of a nice flight from Shannon Airport to take him on his holidays to prepare his memoirs.

An Ceann Comhairle: I do not know whether we can deal with Seanad business in the Dáil Chamber. We might get ourselves into trouble if we start interfering with Seanad business.

Deputy Timmy Dooley: What I seek to establish is the intention of the Government.

Deputy Noel Coonan: We saved Shannon for Deputy Dooley.

Deputy Pat Rabbitte: I assure Deputy Dooley that it is indeed the intention.

Deputy Joan Collins: I received information that a second worker was run over by a car as it was leaving the Greyhound recycling site in Crag Avenue last night in a hit and run incident.

An Ceann Comhairle: This is the Order of Business. I thank Deputy Collins for the information.

Local Government (Amendment) Bill 2014: First Stage

Deputy Kevin Humphreys: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Local Government Reform Act 2014.

This is a simple Bill to amend section 66 of the 2014 Act. It would change the date from 31 March 2014 to 31 December 2016. That would enable the four local authorities in Dublin

to restart the process of dealing with the proposal for a directly elected mayor of Dublin. If the local authorities agree, the proposal could be put to a plebiscite of Dublin citizens. I note the arrival of the Minister of State at the Department of the Environment, Community and Local Government, Deputy O'Dowd into the Chamber. If the Government would agree to take the Bill in its own time it would mean that we could possibly have a plebiscite for a directly elected mayor with the referendum next year.

An Ceann Comhairle: Is the Bill opposed? Paul Kehoe: Is the Bill opposed?

Minister of State at the Department of the Taoiseach(Deputy Paul Kehoe): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Deputy Kevin Humphreys: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Parliamentary Scrutiny of Appointments (European Commission) (No. 2) Bill 2014: First Stage

Deputy Lucinda Creighton: I move:

That leave be granted to introduce a Bill entitled an Act to provide for the parliamentary scrutiny of the Government's proposed candidate for appointment as a member of the Commission of the European Union and to provide for related matters.

This Bill was introduced to the Seanad by the Independent Members of that House, Senators James Heffernan, Paul Bradford and Sean D. Barrett. It is sponsored in the Dáil by Deputies Terence Flanagan, Denis Naughten, Billy Timmins, Peter Mathews and me. The objective of this Bill is very simple as it aims to provide a more democratic and transparent process for the nomination of an Irish Commissioner to the European Commission. If the Bill is accepted it will oblige the Taoiseach in no less than 12 days, before the formal candidacy is announced, to lay before the House the Government's proposed nominee. The proposed nominee would then appear before the Joint Oireachtas Committee on European Affairs and a full debate would ultimately take place in the Chamber of each House.

Ireland's nomination to the European Commission is an extremely important Government nomination. It may be the most important nomination the Government will make.

Deputy Peter Mathews: Hear, hear.

Deputy Lucinda Creighton: The entire Oireachtas should have a role in scrutinising and ensuring there is accountability in the proposed appointment. This Bill should contribute substantially to the promised democratic revolution of which we heard so much from the Government parties prior to the last election.

Last week I spoke in the Chamber of the need to put forward the best possible candidate as Ireland's nominee to the European Commission. I also spoke of the need to secure an important economic portfolio in the interests of Ireland and the European Union.

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The Ceann Comhairle was here yesterday to witness an unfortunate, unparliamentary and scurrilous contribution by the Taoiseach when he referred to my concerns for transparency and securing Ireland's national interests as "a personal rant".

Deputy Peter Mathews: Shame.

Deputy Lucinda Creighton: If wanting to send the best person to secure an influential role in the European Commission on behalf of Ireland and Europe is considered by the Taoiseach and Government as a personal rant then I am pleased to inform them that they will hear much more from this quarter to that end.

Deputy Peter Mathews: Hear, hear.

Deputy Lucinda Creighton: The job of European Commissioner should not be a matter of patronage or rewarding those leaving the Oireachtas or Cabinet. It most certainly should not be used as a means of removing an unpopular Minister who is lowering the Government's poll ratings.

Deputy Peter Mathews: Hear, hear.

Deputy Lucinda Creighton: The job of European Commissioner ought to be decided on merit. It should be a matter of finding the best person for the job, a person who will best represent Ireland and its citizens. The chosen person should have the best chance of securing a relevant portfolio that is of strategic importance to our national interest and the economic interests of the European Union.

I believe Irish citizens are sick and tired of deals being done behind closed doors.

Deputy Peter Mathews: Hear, hear.

Deputy Lucinda Creighton: They want to see the interests of Ireland and Europe protected and advanced, rather than jobs for the boys and jobs utilised to get rid of unpopular members of Cabinet who damage the public perception of the Government.

If the Government is prepared to stand over its nominee to the European Commission and have confidence in that person, whoever he or she might be, it has nothing to fear from this proposal. This legislation simply ensures the Oireachtas can scrutinise, question and ensure the person put forward by the Government has the requisite qualifications, attributes and capacity to do the job. The Government has nothing to fear.

Deputy Peter Mathews: Hear, hear.

Deputy Lucinda Creighton: My colleagues in the Swedish Government inform me that they consult with the opposition as a matter of course. Consensus is reached without controversy over an appointment. It is the official policy of the UK Labour Party to introduce precisely the type of legislation before us today and for this reason it is unfortunate no member of the Irish Labour Party is present here. The Labour Party is the self-appointed conscience of the Government and it could look across the water for guidance.

Deputy Peter Mathews: Hear, hear.

An Ceann Comhairle: Is the Bill opposed?

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Fergus O'Dowd): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Deputy Lucinda Creighton: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

European Regulation on Eurodac: Motion.

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Fergus O'Dowd): I move:

That Dáil Éireann approve a regulation of the European Parliament and of the Council on the establishment of Eurodac (recast) and for the effective application of the Dublin Regulation.

Question put and agreed to.

Radiological Protection (Miscellaneous Provisions) Bill 2014: Fifth Stage (Resumed)

Question again proposed: "That the Bill do now pass."

Deputy Richard Boyd Barrett: I will be brief as it was unfortunate we could not finish this the other day. I characterise the nuclear industry as humanity's self-destruct button. It is a time-bomb that could go off at any stage. Britain is substantially expanding its nuclear power industry and the nuclear arms industry is a major threat. We are still unsure how to handle the transport and disposal of nuclear waste as it is extraordinarily dangerous. The prospects of any nuclear accident are terrifying.

I wonder about society's amnesia when it comes to disasters such as Three Mile Island, Fukushima, Chernobyl, Nagasaki and Hiroshima. It would be terrifying if any of these were repeated and for this reason a dedicated, independent body of experts monitoring nuclear issues on the international stage, in so far as they affect Ireland, is critically important. It is unfortunate that a Bill that aims to ensure greater safety in the nuclear industry at an international level is rolled in with a proposal to liquidate the Radiological Protection Institute of Ireland and incorporate it into the Environmental Protection Agency, EPA. I think this threatens the role and independence of the institute and could expose it to resource and staff problems.

It was wrong for these two aspects of the Bill to be rolled together and it is unfortunate the Minister of State refuses to accept compromise amendments proposed by Deputy Catherine Murphy and others with concerns on this. I feel there is no choice but to oppose this Bill, though I agree with some of its provisions. The decision to dissolve the Radiological Protection Institute of Ireland into the EPA is a mistake.

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Fergus O'Dowd): The position of the Deputies opposing this Bill is clear and I acknowledge their concerns, though I think they are unfounded. The EPA will have an extra arm dealing with radiological issues. There is clarity on membership of its board and its

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responsibilities. The EPA is responsible for other issues such as monitoring drinking water, waste management, water quality and emergency response protocols. It is right that the EPA should deal with radiological issues because it will then have a comprehensive, overarching capacity to deal with all issues that might arise in the case of a significant event.

I feel that the fears expressed, though honestly held, are unfounded.

Question put:

<i>The Dáil divided: Tá, 85; Níl, 25.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Boyd Barrett, Richard.</i>
<i>Breen, Pat.</i>	<i>Broughan, Thomas P.</i>
<i>Browne, John.</i>	<i>Collins, Joan.</i>
<i>Bruton, Richard.</i>	<i>Colreavy, Michael.</i>
<i>Butler, Ray.</i>	<i>Coppinger, Ruth.</i>
<i>Buttimer, Jerry.</i>	<i>Daly, Clare.</i>
<i>Byrne, Catherine.</i>	<i>Doherty, Pearse.</i>
<i>Calleary, Dara.</i>	<i>Donnelly, Stephen S.</i>
<i>Cannon, Ciarán.</i>	<i>Ellis, Dessie.</i>
<i>Carey, Joe.</i>	<i>Ferris, Martin.</i>
<i>Coffey, Paudie.</i>	<i>Halligan, John.</i>
<i>Collins, Áine.</i>	<i>Healy, Seamus.</i>
<i>Conaghan, Michael.</i>	<i>McGrath, Finian.</i>
<i>Conlan, Seán.</i>	<i>McGrath, Mattie.</i>
<i>Connaughton, Paul J.</i>	<i>McLellan, Sandra.</i>
<i>Conway, Ciara.</i>	<i>Mathews, Peter.</i>
<i>Coonan, Noel.</i>	<i>Murphy, Catherine.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Creighton, Lucinda.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Daly, Jim.</i>	<i>O'Sullivan, Maureen.</i>
<i>Deasy, John.</i>	<i>Pringle, Thomas.</i>
<i>Deenihan, Jimmy.</i>	<i>Ross, Shane.</i>
<i>Deering, Pat.</i>	<i>Shortall, Róisín.</i>
<i>Doherty, Regina.</i>	<i>Stanley, Brian.</i>
<i>Donohoe, Paschal.</i>	<i>Tóibín, Peadar.</i>
<i>Dooley, Timmy.</i>	
<i>Doyle, Andrew.</i>	
<i>Durkan, Bernard J.</i>	
<i>Feighan, Frank.</i>	
<i>Ferris, Anne.</i>	
<i>Flanagan, Charles.</i>	
<i>Flanagan, Terence.</i>	
<i>Grealish, Noel.</i>	
<i>Griffin, Brendan.</i>	

<i>Harrington, Noel.</i>	
<i>Hayes, Tom.</i>	
<i>Heydon, Martin.</i>	
<i>Howlin, Brendan.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Kehoe, Paul.</i>	
<i>Kenny, Seán.</i>	
<i>Kirk, Seamus.</i>	
<i>Kitt, Michael P.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Ciarán.</i>	
<i>McCarthy, Michael.</i>	
<i>McConalogue, Charlie.</i>	
<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Martin, Micheál.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Murphy, Eoghan.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Cuív, Éamon.</i>	
<i>Ó Fearghail, Seán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Phelan, John Paul.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	

<i>Sherlock, Sean.</i>	
<i>Smith, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Troy, Robert.</i>	
<i>Tuffy, Joanna.</i>	
<i>Varadkar, Leo.</i>	
<i>Walsh, Brian.</i>	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Richard Boyd Barrett and John Halligan.

Question declared carried.

1 o'clock

Employment Permits (Amendment) Bill 2014: Instruction to Committee

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I move:

“That, pursuant to Standing Order 177, Standing Order 131 is modified to permit an instruction to the Committee to which the Employment Permits (Amendment) Bill 2014 may be recommitted in respect of certain amendments, that it has power to make provision in the Bill in relation to-

(a) amending the Immigration Act, 2004 to provide for the prescribing of a registration district and the appointment of a registration officer for the purposes of that Act, the removal of the exemption for persons under 16 years from the requirement under that Act to register and the amendment of the provisions relating to notices under section 14 of that Act to allow a person to whom that section applies to be required to temporarily surrender his or her travel documents where this is necessary to facilitate his or her removal in accordance with the law of the State;

(b) amending the Aliens Order 1946 consequent on the above-mentioned amendments to the Immigration Act 2004 relating to registration districts and registration officers, and

(c) amending section 5 of the Illegal Immigrants (Trafficking) Act 2000 with a view to streamlining the procedures under which a person can seek judicial review in the High Court of certain decisions made under legislation relating to immigration and protection, and to provide for the updating of the list of decisions to which that section applies, and

to change the title of the Bill and make other consequential amendments required to take account of the changes above.”

I am introducing, on behalf the Minister for Justice and Equality, amendments to section 5 of the Illegal Immigrants (Trafficking) Act 2000 and two amendments to the Immigration Act

2004 to be set out in Part 4 and Part 5 of the Bill respectively. Deputies will recall that the Minister of State, Deputy Sherlock, indicated on Committee Stage of the Bill that I would be bringing forward these amendments on Report Stage. I understand that Deputies have already received an information note setting out the purpose of the amendments.

The Minister for Justice and Equality wishes to bring forward a number of technical amendments to the Immigration Act 2004 and to the Illegal Immigrants (Trafficking) Act 2000 which will provide for urgent and badly needed efficiencies in the operation of the immigration system. The changes to section 5 of the Act are to streamline the judicial review system in respect of asylum and immigration cases.

The Minister for Justice and Equality also wishes to provide for a number of technical changes to the Immigration Act 2004. These are to provide for the transfer of the immigration registration function from An Garda Síochána to the Irish Naturalisation and Immigration Service; the removal of the exemption from registration for persons under 16 years of age; and changes to section 14 of the Act of 2004 regarding reporting requirements.

I am happy to facilitate these changes in the Employment Permits (Amendment) Bill as it enables these efficiency and cost-saving reforms to be progressed in a speedy way. Although practical in nature, they will give rise to ongoing savings of €4.3 million per annum if the plan to transfer the registration function from the Garda is fully realised, including savings that will result in the release of gardaí to core duties, which is estimated at 50 full-time equivalents. They will also give rise to the possibility of rationalising registration services, a process which is currently carried out in approximately 90 Garda stations throughout the country. They also provide for the removal of the “on-notice” provision in section 5 of the Illegal Immigrants (Trafficking) Act 2000 and for a number of other amendments and new subsections. These other amendments provide for the inclusion of certain safeguards which are considered necessary owing to the removal of the “on-notice” provision. They also take account of other developments relating to judicial reviews in the asylum and immigration area.

The amendments to the Illegal Immigrants (Trafficking) Act 2000 primarily arise from advice of the Attorney General that consideration be given to removing the “on-notice” provision in section 5 of the Act of 2000, with a view to assisting the courts in streamlining the processing of asylum and immigration judicial review applications. At present almost half of all judicial review applications taken in the State each year relate to asylum and immigration matters, and it normally takes a number of years for these cases to be finalised. The majority of other leave applications before the courts are *ex parte*. Some 376 new applications for judicial review were taken in asylum and immigration cases in 2013. These applications were taken against decisions made by the Office of the Refugee Applications Commissioner, the Refugee Appeals Tribunal or the Minister. In total, the Irish Naturalisation and Immigration Service has approximately 1,350 judicial review cases ongoing at present. The speedier processing of judicial reviews will in turn reduce the length of time applicants have to wait for a final decision on their application and correspondingly the length of time they may have to reside in the direct-provision system of accommodation in the State.

All the proposals made by the Minister for Justice and Equality support the aims of the Public Service Stability Agreement 2013-2016, the Haddington Road agreement, and the commitments therein to change the way in which the public service does its business, to reduce costs and continue to meet the need for services and improve the experience of service users with reduced numbers of staff.

I will now outline the key provisions of the amendments. The amendment to section 5 of the Illegal Immigrants (Trafficking) Act 2000 by Part 4 of the Bill primarily provides for the removal of the “on-notice” provision in section 5 of the Act of 2000. A number of other amendments and new subsections are also included. These other amendments provide for the inclusion of certain safeguards which are considered necessary owing to the removal of the “on-notice” proposal. They also take account of other developments relating to judicial reviews in the asylum area.

In summary, the other changes to section 5 of the Act of 2000 are as follows. The list of decisions covered by section 5 of the Act is being updated. The “motion on notice” requirement is being removed. The period of time allowed for making an application for judicial review is being extended to 28 days - from 14, I believe. The rules of court may require an applicant to lodge all papers in regard to an application for judicial review with the court at least four days in advance of the *ex parte* application. The court can direct that an application for judicial review should be heard on notice in certain circumstances. Where leave to apply for judicial review is granted, the court shall specify the reliefs and grounds in respect of which leave is being granted. The Minister may prescribe other decisions under relevant enactments to be a matter to which section 5 applies. The removal of the “on notice” provision in section 5 is likely to give rise to reduced waiting times and cases on hand in the courts, as well as reduced costs to the State. The speedier processing of judicial reviews will in turn reduce the length of time applicants must wait for a final decision on their application and correspondingly, the length of time they may be obliged to remain in direct provision.

The amendment to the Immigration Act 2004 primarily concerns the registration of non-nationals in the State to achieve the following aims. First, it is to provide for the transfer of the registration function from An Garda Síochána, which currently is responsible for it, to the Irish Naturalisation and Immigration Service, INIS, of the Department of Justice and Equality. Second, it is to provide registration facilities to non-nationals, which may be from a single central location or through a number of regional locations around the State and third, it is to remove the exemption to register for persons aged under 16 years.

As part of the reforms being undertaken by the Minister for Justice and Equality in the immigration area, it is proposed that the registration function for non-nationals will be transferred from An Garda Síochána, which currently has statutory responsibility for this function, to the Irish Naturalisation and Immigration Service. This function is administrative in nature and requires the person to supply certain particulars such as their biographical details, address in the State, occupation etc., as well as to supply biometric details in the form of a fingerprint. It also encompasses the issuing to the person of a registration certificate at the end of the process. In addition, it is proposed that this function be provided from a single central location or possibly through a regional structure of two or three offices in locations around the State. This will replace the current arrangements whereby the registration function is carried out by An Garda Síochána in Burgh Quay for the Dublin metropolitan area and in approximately 90 stations around the country. The amendments provide that the Minister for Justice and Equality may prescribe registration districts, which may consist of the whole or any part of the State, and may appoint a member of An Garda Síochána not below the rank of superintendent or one of the Minister’s officers not below the rank of assistant principal officer to be a registration officer. There will be a need to continue with Garda involvement in the registration process for a period to allow an orderly transition of the function from An Garda Síochána to INIS, hence the need to retain the power to appoint a member of An Garda Síochána as a registration officer. It

is estimated that the transfer of the registration function will result in ongoing savings of €4.3 million per annum if the plan to transfer the registration function from An Garda Síochána is fully realised, including savings that will result in the release of gardaí to core duties, which is estimated at 50 full-time equivalents.

At present, section 9(6)(a) of the Immigration Act 2004 exempts persons under 16 years of age from the requirement to register. It is proposed to remove this exemption. The exemption is not considered advantageous from a number of perspectives, not least in terms of the risk to children, from traffickers in particular, where there is no record of their presence in the State, but also in terms of the State taking a cohesive approach to the immigration status of children who may have been in the State for a considerable period before they come to the attention of the authorities when they are required to register at 16.

A further change is proposed to section 14 of the Immigration Act 2004, which provides for the issue of a notice by the Minister to a non-national who is unlawfully in the State requiring him or her to comply with either or both of the following conditions, namely, that he or she reside or remain in a particular place or that he or she report at specified intervals to an immigration officer or member of An Garda Síochána specified in the notice or to his or her registration officer. The amendment proposes the deletion of the current section and the insertion of a new section 14. The amendment repeats the provisions of the current section but also provides that in addition to the Minister, a member of An Garda Síochána or an immigration officer may also issue a notice under section 14 of the Act. It adds a further condition, whereby the person may be required to surrender his or her passport or any other travel document he or she holds but this only will be in circumstances where, and only for so long as, it is reasonably necessary to facilitate his or her removal from the State in accordance with any enactment or other law. The amendment is primarily a practical one in that at weekends and out of hours, it may be difficult to have an officer of the Minister available to issue a notice and making provision that a member of An Garda Síochána or an immigration officer can issue such notices will avoid the need to have someone on call and will ensure 24-hour cover throughout the State. The requirement to surrender a passport or travel document may be necessary to make travel arrangements, including the purchase of tickets or obtaining transit approval from the authorities of other states.

There is a consequential amendment to the Aliens Order 1946. By virtue of section 2 of the Immigration Act 1999, certain orders made before the passing of that Act have statutory effect. The amendment ensures that the changes to the definition of “registration district” and “registration officer”, as well as the removal of the exemption from registration for persons under 16 years are reflected in the Aliens Order 1946.

Deputy Dara Calleary: While I thank the Minister for his attendance, I wish to express a concern. These are very substantial amendments with which I am comfortable only because I am a former spokesperson on justice. Members only received them at 5 p.m. on Tuesday evening and both Deputy Tóibín and I were in the Chamber, together with the Minister, for most of the day yesterday. Consequently, our capacity to consult with our colleagues in justice was quite restricted. I welcome the amendments - although I have a query on one - and they certainly appear to be fair. I welcome anything that will put more gardaí on the street at this time in particular. I hope the estimated 50 full-time equivalents the Minister has predicted will be on the streets and will be available to assist people there. I am concerned about the proposal to rationalise the registration functions services from 90 centres to what I gather from the Minister’s broader remarks may be three or four such facilities. Some of the people concerned have very few resources and as for placing an expectation on them to avail of public transport to travel to

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a registration centre, which may be quite a distance from where they are based, I ask the Minister to tease through how that will work. What provision will be in place for those who have minimal resources to allow them to do this?

I welcome all the other measures, as there is no doubt but that at present, the review process is long and arduous. People are stuck in it for too much time and are left in limbo with regard to their position in the country. Anything to resolve this or to make it more fair is better and I also welcome the extension of time. However, I wish to register formally my concerns about the short notice Members received in this regard. The Minister of State, Deputy Sherlock, signalled that this would be introduced only last week and it is a pure coincidence that I am familiar with the brief from my tenure of a previous portfolio. I am otherwise happy to welcome the amendments, subject to the Minister clarifying the position on the rationalisation of the registration function.

Deputy Peadar Tóibín: I wish to add my voice to the point indicated by Deputy Calleary. Every year, at the end of the year, there appears to be a rush of legislation through the last few weeks of the session. It makes it difficult for proper oversight of the legislation. In most cases, Members experience the delivery to them of legislation in a reasonable manner. I am unsure what situation arose in this case but it definitely has been very difficult to provide oversight of this legislation. Before Committee Stage, there was an avalanche of amendments and it appeared to me as though the drafters of the legislation may not have been fully happy with what had been produced initially and were trying to fix things. In this case also, it is impossible for Deputies and the staff available to them to immerse themselves in the requisite level of detail and consequently, I wish to register this complaint.

An Ceann Comhairle: I will put the question.

Deputy Dara Calleary: Can I get clarification first?

Deputy Richard Bruton: Yes.

An Ceann Comhairle: There is no provision for a reply but I will allow one.

Deputy Richard Bruton: I beg the Ceann Comhairle's pardon.

An Ceann Comhairle: You are okay. Go on.

Deputy Richard Bruton: I accept fully the point made by the Deputies that the time is restrictive. However, I understand these amendments have the support of the Judiciary and the Attorney General and are perceived as measures that do not infringe in any way on the rights of those concerned. In fact, the removal of the "on notice" requirement to make it *ex parte* does not infringe in any way as it is the State, if one likes, that arguably is not getting notification. It simply means the State will not be obliged to turn up, with all the attendant legal costs of turning up at an *ex parte* hearing. All that would be done in any case would be short-listing and the weeding out of cases. From the State's point of view, this measure will save money without in any way eroding the rights of those seeking a judicial review. It is a good and sensible measure, which will help put gardaí back on the street, thereby saving money. The judicial system has become terribly tangled up. That more than half of cases arise from judicial reviews in this area illustrates the need to streamline the system.

The Minister for Justice and Equality will consider reducing the number of registration cen-

tres, while remaining conscious of the requirement to have due regard to the needs of clients. She intends that any rationalisation will be accompanied by customer-friendly developments such as online appointment systems and greater use of online applications. She is also willing to engage in consultation where concerns arise regarding the revised structure. She will be sensitive to the needs and views of those who will be directly affected by the introduction of an alternative structure. The large number of registration centres and the commitment of Garda resources this entails is not a good deployment of scarce Garda time.

I thank Deputies for their willingness to accommodate this welcome reform. The sooner the changes are made, the sooner their benefit will emerge.

Question put and agreed to.

Employment Permits (Amendment) Bill 2014: Order for Report Stage

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

Question put and agreed to.

Employment Permits (Amendment) Bill 2014: Report Stage

Bill recommitted in respect of amendments Nos. 1 to 5, inclusive.

An Ceann Comhairle: Amendments Nos. 1 to 5, inclusive, are consequential on amendments Nos. 79 to 81, inclusive, and may be discussed together by agreement.

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I move amendment No. 1:

In page 5, line 9, after “permits;” to insert the following:

“to amend the Illegal Immigrants (Trafficking) Act 2000; to amend the Immigration Act 2004; to amend the Aliens Order 1946;”.

I am introducing amendments Nos. 1 to 5, inclusive, on behalf of the Minister for Justice and Equality, to amend the Illegal Immigrants (Trafficking) Act 2000, the Immigration Act 2004 and the Aliens Order 1946. The amendments amend the Long Title and section 1 of the Bill to provide for the new provisions I am bringing forward on behalf of the Minister for Justice and Equality. Amendments Nos. 79 to 81, inclusive, insert a new Part 4 and Part 5 in the Bill, which provide for the new provisions I am bringing forward on behalf of the Minister, which amend the Illegal Immigrants (Trafficking) Act 2000, the Immigration Act 2004 and the Aliens Order 1946.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 2:

In page 5, line 16, after “Act” to insert “, other than *Parts 4 and 5*,”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 3:

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In page 5, line 18, after “Act” to insert “, other than *Parts 4 and 5*”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 4:

In page 5, line 20, after “Act” to insert “, other than *Parts 4 and 5*”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 5:

In page 5, between lines 23 and 24, to insert the following:

“(5) *Parts 4 and 5* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 6 to 11, inclusive, are related drafting amendments and may be discussed together by agreement.

Deputy Richard Bruton: I move amendment No. 6:

In page 6, line 25, after “ “ subsection (2)” ” to insert “in each place where it occurs”.

Amendments Nos. 6 to 11, inclusive, are technical and drafting amendments agreed on the advice of the Parliamentary Counsel. Amendment No. 6 is a technical amendment to section 3(e) of the Bill to ensure that wherever subsection (2) of section 2 of the 2003 Act is stated in section 2(4) of the Act of 2003 it includes reference to new subsection (2C).

Amendments Nos. 7 to 9, inclusive, are drafting amendments to section 3(f), which inserts new subsections (10B), (10C) and (10D) into section 2 of the 2003 Act.

Amendments Nos. 10 and 11 are technical amendments to provide for the full Title of the Employment Permits Act 2006 as the “Act of 2006” is not defined in section 1 of the Employment Permits Act 2003.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 7:

In page 6, line 28, to delete “to”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 8:

In page 6, line 29, to delete “a foreign national” and substitute “to a foreign national”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 9:

In page 6, line 31, to delete “the Minister” and substitute “where the Minister”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 10:

In page 7, line 11, to delete “Act of 2006” and substitute “Employment Permits Act 2006”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 11:

In page 7, line 12, to delete “Act of 2006” and substitute “Employment Permits Act 2006”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 12 to 25, inclusive, are related. Amendments Nos. 19 to 22, inclusive, and 24 are consequential on amendment No. 18. The amendments may be discussed together by agreement.

Deputy Richard Bruton: I move amendment No. 12:

In page 7, line 22, to delete “Employment Permits Act 2006” and substitute “Act of 2006”.

Amendment No. 12 is a technical amendment as the “Act of 2006” is not defined in section 1 of the Employment Permits Act 2003.

The effect of amendment No. 13 would be to create a new employment permit scheme specifically for this cohort of foreign nationals. The normal criteria generally applying to employment permits, the purpose of which is to protect the labour market from distortion, would not apply to such cases, for example, a specific job with a specific employer for a specific duration. In general, Government policy is to issue employment permits for the employment of non-EEA nationals for specific vacancies and in response to employer demand where there are demonstrated shortages. Such a permit type would run counter to this policy objective. If a foreign national who has entered such civil proceedings meets the four criteria for the reactivation permit, that is, he or she has a job offer, is not currently working, has a letter of permission from the Minister for Justice and Equality and previously held a permit, he or she may be eligible to apply for that permit.

I emphasise that my intention in bringing forward the new section 2B is to give an undocumented worker the opportunity to be compensated for work done for, or services rendered to, a person, as well as creating an important deterrent effect for any employer contemplating hiring illegal workers. It is not my intention that it would act as a back door for illegal economic migrants who, under current legislation, have not been or would not be granted employment permits.

Deputy Peadar Tóibín: Amendment No. 13 is a compromise amendment, the purpose of which is to address the concerns of migrant workers and enable them to work if they decide to take an action where a permit has not been renewed. Having listened to the Minister’s argument, it remains my view that it is necessary to specifically provide for a mechanism that allows

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persons to be sufficiently confident to proceed with an action. Individuals will be prevented from taking actions if they do not have the economic wherewithal to survive in the period from the commencement to the conclusion of the action. People need to know that they have not only the right but also the means to take an action. If the legislation is to have a deterrent effect, it must provide explicitly for such a mechanism.

Amendment No. 14 addresses circumstances in which other employees in the workplace of the individual taking the case have incomes that are higher than the minimum wage or the rate set under a registered employment agreement. If, in such circumstances, an employer is required to compensate the individual at the level of the minimum wage or registered employment agreement, in other words, at a value less than would have been paid to the individual in question in the relevant workplace, it will mean that the employer, despite having broken the law, will be quids in, as it were, because the compensation paid will be lower than wage that would have been paid. Surely that is illogical, if the Minister is trying to ensure that the person gets paid what he or she is entitled to and that it is a deterrent. I could take the risk of not registering a worker properly or not applying for a permit for him or her because if I get caught, the worst that can happen is I will have to pay the worker 80% of what I would have paid him or her if he or she was employed in a proper scenario.

Amendment No. 23 is an alternative to the first amendment to which I spoke, amendment No. 13. The idea here is to allow for an individual to gain relief or some mechanism of funds to ensure that he or she can proceed to use the structures that the Government is providing for. An individual who cannot feed and clothe his or her family and cannot pay the rent will not take the risk of going down that route.

Deputy Dara Calleary: I support amendment No. 23. In recent times there has been a number of high profile cases, in one of which the gentleman came to committee. It is a lacuna in the law that somebody taking an action against somebody who holds his or her permit can be left without any recompense to relief and without any basic costs to live, never mind the cost of taking the court order. If we are to somewhat balance the system and give a chance to those who want to take that brave step of an action against a permit holder, we need to put in place some sort of provision. I am happy to support amendment No. 23.

Deputy Richard Bruton: The purpose of this amendment is to deal with the opportunity to take civil proceedings for a person to be compensated where an illegal contract was in place.

The effect of Deputy Tóibín's amendment No. 13 would be to make this into a route through which one would get an employment permit. There are existing rules that are the basis on which a person can apply for an employment permit. We are not willing to make an illegal contract the basis for access to a permit. The criteria for a permit are clear and they are related to the needs of the labour market, the pressure of unemployment, skills or whatever. We must see that there is a justifiable case. What we are providing here is not to turn what was an illegal contract into a route to an employment permit but to protect the person who was a victim of such a situation and give him or her redress.

In terms of the ability to support oneself, the Department of Social Protection has exceptional needs payments which may be available to such a person if he or she launched civil proceedings. It is not intended that this would become a new route for getting permits.

On the amendment in respect of the appropriate payment, we are providing here for compen-

sation based on the national minimum wage. One must bear in mind that we are dealing with illegal contracts and the only unambiguous standard is the national minimum wage because that is a mandatory rate of pay for the job that ought to be applied. These are rates provided for in law. There is no ambiguity or standards of proof for a court in determining how much compensation would have to be paid. This is clear-cut. It also provides that, in being able to go back in time in terms of before the Act was in place, one is not introducing an element of penalty by setting a higher wage. One is avoiding providing any penal element. One is simply saying that there was an obligation that was not met. Not only would the amendment add complexity and ambiguity, it would put the matter at some risk.

We consulted with the Courts Service on the Deputy's Amendment No. 23. It has indicated that in the cases provided for by this section, the only relevant interim relief would involve applying for an order preventing the employer dissipating or reducing his or her assets which might be required to meet the claim if the plaintiff were successful. Such relief would already be available by way of injunction in the High Court or Circuit Court.

If, by this amendment, the Deputy is proposing that the plaintiff could apply for an advance of money that he or she might get in a settlement or court determination, the Courts Service has indicated that it is unaware of such relief being available where there is a dispute and it points to the danger that to allow relief such as proposed would pre-empt the outcome of the proceedings where the case remains to be determined.

Amendment agreed to.

Deputy Peadar Tóibín: I move amendment No. 13:

In page 7, between lines 36 and 37, to insert the following:

“(2A) Where an employer referred to in section 2(1)(a) or, in the case of employment referred to in section 2(1)(b), a person referred to in section 2(1A)(a) or a contractor referred to in section 2(1A)(b) has not paid a foreign national to whom this section applies and where the foreign national institutes civil proceedings he or she may seek and be immediately be awarded an employment permit for the duration of the civil action or longer if the Ministers so deems.”.

Amendment put and declared lost.

Deputy Peadar Tóibín: I move amendment No. 14:

In page 8, between lines 18 and 19, to insert the following:

“(iii) an amount equal to that paid to regularised employees engaged in the same work in the same employment,
or”.

Amendment put and declared lost.

Deputy Richard Bruton: I move amendment No. 15:

In page 8, line 33, to delete “Proceedings” and substitute “Subject to subsection (10), proceedings”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 16:

In page 8, to delete lines 37 to 39 and substitute the following:

“(7) Proceedings under this section shall not be brought in respect of any work, or services, done or rendered more than 6 years prior to the day on which the foreign national ceased his or her employment or service with the employer, a person referred to in section 2(1A)(a) or a contractor referred to in section 2(1A)(b).”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 17:

In page 9, line 15, after “determined” to insert “or have, or has, not been discontinued before being finally determined”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 18:

In page 9, between lines 15 and 16, to insert the following:

“(10) Where—

(a) before the day on which this section comes into operation a foreign national had instituted proceedings or otherwise commenced an action or other claim for work done or services rendered that are, or is, wholly or substantially in respect of work done or services rendered—

(i) during the period in which the foreign national was in the service of an employer in the State, or in employment in the State, without an employment permit referred to in subsection (1), and

(ii) for which he or she has not been paid or has been paid an insufficient amount of money,

and

(b) the foreign national—

(i) has, on or after the day on which this section comes into operation, discontinued the proceedings, action or claim before those proceedings are, or that action or claim is, finally determined, or

(ii) has not, when those proceedings are, or such action or claim is, finally determined, been awarded any amount of money in recompense for such work done or such services rendered,

the foreign national may institute proceedings under this section not later than 2 years from the day on which the proceedings were, or the action or claim was, discontinued or on which such determination was made in respect of such work done or such services rendered during a period of 6 years prior to the day on which he or she

ceased his or her employment or service with the employer, a person referred to in section 2(1A)(a) or a contractor referred to in section 2(1A)(b).”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 19:

In page 9, line 16, to delete “(10) In proceedings” and substitute “(11) In proceedings”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 20:

In page 9, line 19, to delete “(11) The amount” and substitute “(12) The amount”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 21:

In page 9, line 23, to delete “(12) In proceedings” and substitute “(13) In proceedings”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 22:

In page 9, line 28, to delete “(13) Subsection (5)” and substitute “(14) Subsection (5)”.

Amendment agreed to.

Deputy Peadar Tóibín: I move amendment No. 23:

In page 9, between lines 30 and 31, to insert the following:

“(13A) A foreign national who has engaged in civil proceedings as referred to in this section may apply to the court for interim relief.”.

Amendment put and declared lost.

Deputy Richard Bruton: I move amendment No. 24:

In page 9, line 31, to delete “(14) In this section” and substitute “(15) In this section”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 25:

In page 9, between lines 32 and 33, to insert the following:

“ ‘enactment’ has the meaning assigned to it by the Act of 2006;”.

Amendment agreed to.

Acting Chairman (Deputy Paudie Coffey): Amendments Nos. 26 and 27 are related drafting amendments and are to be discussed together.

Deputy Richard Bruton: I move amendment No. 26:

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In page 11, line 9, to delete “the Minister for Justice and Equality has determined is” and substitute “has been determined by the Minister for Justice and Equality to be”.

This is a drafting amendment to the definition of “dependant”. Amendment No. 27 is a technical amendment and defines the term “enactment” for the purpose of the Bill. This term is used in the context of an award under section 4 and the remuneration to be paid to the holder of an employment permit under section 6.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 27:

In page 11, between lines 26 and 27, to insert the following:

“ ‘enactment’ has the meaning assigned to it by the Interpretation Act 2005;”.

Amendment agreed to.

Acting Chairman (Deputy Paudie Coffey): Amendments Nos. 28 to 30, inclusive, are related and are to be discussed together.

Deputy Peadar Tóibín: I move amendment No. 28:

In page 15, line 12, to delete “or civil partner,” and substitute the following:

“, civil partner, or the former spouse or civil partner where a separation has occurred during the period of employment in the State”.

This is to achieve equity and address the difficulty faced by individuals who have been working in Ireland and who have had to separate through no fault of their own. Such individuals should not be treated any differently on separation. It would be very strange if somebody who worked all his life and raised children here had to leave his job because his marriage broke down. Such cases have occurred and have been raised with the Migrant Rights Centre and Nasc. My amendment seeks to address this issue.

Amendment No. 30 is an alternative to the interim relief amendment. I have made my case on this already.

Deputy Richard Bruton: With regard to amendment No. 28, the purpose of providing access to the Irish labour market to the spouses, civil partners and dependants of critical skills employment permit holders and third country researchers under Council Directive No. 2005/71/EC is to differentiate Ireland from its competitors by enhancing its attractiveness as a destination for this cohort of highly skilled migrants. As such, this is a deliberate policy decision. It is not in my remit to define or determine matters relating to divorce or separation. That falls within the remit of the Minister for Justice and Equality.

I understand the Deputy’s motivation in tabling such an amendment, in that such individuals should not be made victims of circumstances by virtue of a separation. However, that is precisely why I have introduced in this Bill the proposed reactivation employment permit, which facilitates such individuals whose circumstances have changed through no fault of their own, such as a separation occurring during the lifetime of the permit. This scheme is very flexible, allowing an individual to work in almost every economic sector, the only salary threshold being the minimum wage. It will not be subject to the labour market needs test either. On that basis,

given that I foresee that the vast majority of cases of separated spouses will be capable of being catered for in the new permits system where they meet the criteria applying, I am not accepting the Deputy's amendment.

With regard to amendment No. 29, the whole purpose of providing access to the Irish labour market for the spouses, civil partners and dependants of critical skills employment permit holders is to differentiate Ireland by enhancing its attractiveness as a destination for this cohort of highly skilled migrants. As the Deputy is aware, the spousal scheme is one of the most flexible schemes, allowing an individual to work in almost every economic sector, the only salary threshold being the minimum wage. Opening up the permits system to all spouses of permit holders under this scheme would go against the Government's stated economic policy and would lead to greatly increased numbers of permit holders entitled to work with no labour market needs test, potentially filling job vacancies that would otherwise go to Irish and EEA nationals currently on the live register.

In formulating employment permits policy, I must have regard to the potential for incentivising illegal foreign nationals to come to the State if measures are too liberal or rules too lenient. In my view, this could be one such measure. The Government's priority is to get Irish and EEA nationals filling job vacancies in all sectors of the economy as it recovers, not to open the Irish labour market to third country nationals who may not even be currently in the State. Therefore, I cannot accept the Deputy's amendment. There is nothing to stop the spouses, partners and dependants in question from applying for any permit type in their own right, provided they meet the criteria that apply.

With regard to amendment No. 30, Deputy Tóibín will be aware that it is my intention that all the conditions pertaining to the issue of a permit under the new reactivation scheme will be mandatory. The four mandatory conditions are designed to deter abuses of the proposed scheme and I believe they are proportional and reasonable given the advantages conferred by this permit type on the holder. If the Deputy's amendment were added to the list of four existing mandatory requirements, it would result in an additional mandatory provision that very few foreign nationals would be able to meet, that is, only foreign nationals who have entered into civil proceedings provided for in the new section 2B inserted into the Act of 2003, which would significantly narrow the field of potential applicants under this permit type. If the Deputy's intention in tabling the amendment is to allow a further permit type, those who have initiated legal proceedings under the new section 2B, I would need to emphasise again that my intention in the creation of this type of employment permit is to facilitate those foreign nationals who have fallen out of the employment permits system to re-enter employment in line with employment permits legislation. It is not a back door for illegal economic migrants who have not been or would not be, under current legislation, granted employment permits. Invariably, some future litigants under section 2B will be entitled to apply for the reactivation scheme without any such amending provision as suggested by the Deputy, while others would never and could never avail themselves of any permit, having always been illegal in the State.

There is another possible unintended consequence of the Deputy's amendment, namely a flood of civil proceedings being brought by litigants, solely or primarily to take advantage of the chance to convert their illegal status to legal status. Incentivising such litigation by the promise of a permit is certainly not what I intended by bringing forward the compensation provision. For all these reasons, I cannot accept the Deputy's amendment.

Amendment put and declared lost.

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Deputy Peadar Tóibín: I move amendment No. 29:

In page 15, line 12, to delete “referred to in section 3C(2)” and substitute “in respect of the purpose referred to in paragraph (a)”.

Amendment put and declared lost.

Deputy Peadar Tóibín: I move amendment No. 30:

In page 16, between lines 16 and 17, to insert the following:

“(v) who has entered into civil proceedings as referred in section 2B of the Act of 2003;”.

Amendment put and declared lost.

Acting Chairman (Deputy Paudie Coffey): Amendments Nos. 31, 33, 34 and 36 are related and are to be discussed together.

Deputy Richard Bruton: I move amendment No. 31:

In page 19, line 22, to delete “the condition” and substitute “in respect of the condition”.

Amendments Nos. 31, 33, 34 and 36, agreed on the advice of the Parliamentary Counsel, are drafting amendments to the new sections 3D and 3E inserted into the Act of 2006.

Amendment agreed to.

Acting Chairman (Deputy Paudie Coffey): Amendments Nos. 32, 35, 41, 42, 44 and 58 are related and are to be discussed together.

Deputy Richard Bruton: I move amendment No. 32:

In page 20, line 28, to delete “prescribed” and substitute “specified in regulations under section 29”.

The amendments are technical amendments agreed on the advice of the Parliamentary Counsel. They insert a cross-reference to the Minister’s regulation-making powers under section 29 of the Act of 2006, as amended by section 29 of the Bill.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 33:

In page 20, line 34, to delete “in respect of”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 34:

In page 22, line 5, to delete “the condition” and substitute “in respect of the condition”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 35:

In page 23, line 9, to delete “prescribed” and substitute “specified in regulations under section 29”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 36:

In page 23, line 15, to delete “in respect of”.

Amendment agreed to.

Acting Chairman (Deputy Paudie Coffey): Amendments Nos. 37 and 45 to 48, inclusive, are related and will be discussed together.

Deputy Richard Bruton: I move amendment No. 37:

In page 24, line 12, to delete “An application” and substitute “Subject to section 10A, an application”.

Amendment No. 37 is a technical amendment to section 4(3) of the 2006 Act to provide that an application for a general employment permit or contract for services employment permit be made within a certain period after the commencement of the labour market needs test and this period is to be specified in regulations. Amendments Nos. 45 to 48, inclusive, which were agreed on the advice of the Parliamentary Counsel, are drafting amendments to section 13.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 38:

In page 26, to delete lines 35 to 40 and substitute the following:

“(i) provide information, documents and evidence in respect of the requirement under section 4(5) in relation to -

(i) the employment, in the period referred to in section 4(5), of any person in the employment that is the subject of the application, and

(ii) the confirmation that such person was not, within such period, dismissed by reason of redundancy from that employment.”.”.

Amendment No. 38 is a drafting amendment to subsection (i) of the new section 6 which is being inserted into the 2006 Act by section 9 of the Bill.

Amendment agreed to.

Acting Chairman (Deputy Paudie Coffey): Amendments Nos. 39 and 40 are related and will be discussed together.

Deputy Richard Bruton: I move amendment No. 39:

In page 27, to delete lines 6 to 20 and substitute the following

“(2) The employment permit so granted shall operate to permit the employment in the State of the foreign national -

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(a) in the employment specified in the application by -

(i) the person, specified in the application, who made the offer of employment,

(ii) in the case of an application referred to in section 4(2)(a), the contractor concerned, or

(iii) in the case of an application referred to in section 4(2)(c), the person party to the arrangement referred to in that section who made the application,

or

(b) in the employment specified in the application in respect of which, in the case of an application referred to in section 4(2)(b), the foreign national is to carry out duties for, or participate in a training programme provided by, the connected person specified in that application.”.”.

Amendment No. 39 is a drafting amendment to section 8(2) of the 2006 Act.

Deputy Peadar Tóibín: Amendment No. 40 deals with an issue we discussed on Committee Stage. The purpose of the amendment is to break the bondage element of the permit where a worker is tied to an employer. The Minister has stated that the purpose of the permit is to bring a foreign national into Ireland to fill an identified gap in a sector. It is not intended to benefit a particular employer directly. If a worker on a two-year permit is not in a position to change employer, this will create an uneven relationship between the two parties and allows for exploitation. Nasc has stated that the 2006 Act allowed for the provision of permits for sectors but that it should have been implemented in a way that would have allowed the permit holder to work in a particular sector. Based on its experience, Nasc identified a risk of workplace exploitation where there are limits to employee mobility. These are the people at the front line. This is not a theoretical issue. Nasc works with some of the most vulnerable people in the State on a daily basis and it is aware of exploitation in this regard. This imbalance exists. The Minister indicated that a person may be able to apply to change employment after a period of 12 months but, at the end of the day, the logic of placing a foreign national in a sector and allowing him or her to provide the skills required in that sector means that all we need to do is allow these individuals to engage with their employers in the same manner as anybody else in the State. There would be a fair and equal relationship between the two parties, thereby negating the opportunity for exploitation.

Deputy Richard Bruton: With regard to amendment No. 40, providing for sector specific employment permits would only be possible were the Department to waive all checks on the employer, which I cannot accept. Currently, all employers of permit holders are on the Department's database, which is regularly checked by the National Employment Rights Authority in the course of its employment permit compliance inspections. Last year in many instances, informed by and with access to the employment permits database, NERA carried out unannounced visits in areas of risk relating to employment permits both during and outside of office hours. These visits are aimed at establishing the level of compliance and identifying potential employment law breaches in workplaces visited. Where issues are encountered a full inspection of the employer is carried out. In 2013 NERA detected 453 possible breaches of the Employment Permits Acts and 472 suspected breaches were detected. Some 48 employers were successfully prosecuted under the Employment Permits Acts in 2013. Almost 100 additional

cases are currently at various stages in the prosecution process for hearing in 2014.

A sectoral permit regime in which I as Minister would potentially have no line of sight on current employers of permit holders runs the risk of undermining this compliance work by NERA and significantly weakening the ability of the State to control and monitor employers of permit holders. Part of the evaluation of the employment permit application is to check the bona fides of the employer as well as establishing that there are actual labour shortages for the job to be filled. Refusals arise where the employer is not deemed to be operating legitimately and where no such labour shortage is demonstrated. The Deputy's amendment would make impossible a targeted approach to meeting labour market skills shortages through the permit system.

In regard to the Deputy's point that our permits system binds employees to employers, the statistics from my processing section simply do not bear this out. Of the nearly 3,100 new permits issued last year, over half were for employees who were changing employer. For these reasons, I cannot accept the Deputy's proposed amendments and deem the existing schemes to best meet the policy rationale for employment permits.

Amendment agreed to.

Deputy Peadar Tóibín: I move amendment No. 40:

In page 27, between lines 20 and 21, to insert the following:

“(c) in the sector specified in the application.”.

Amendment put and declared lost.

Deputy Richard Bruton: I move amendment No. 41:

In page 28, line 31, to delete “prescribed” and substitute “specified in regulations under section 29”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 42:

In page 28, line 39, to delete “prescribed” and substitute “specified in regulations under section 29”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 43:

In page 29, line 33, to delete “subsection” and substitute “subsections”.

Amendment No. 43 is a drafting amendment to the new subsection (2) of section 10 of the 2006 Act.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 44:

In page 30, line 40, to delete “prescribed” and substitute “specified in regulations under

section 29”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 45:

In page 32, line 29, to delete “date” and substitute “day”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 46:

In page 33, line 18, to delete “that” and substitute “that,”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 47:

In page 34, line 12, to delete “first day” and substitute “day”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 48:

In page 34, line 13, to delete “has been published” and substitute “is first published”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 49:

In page 40, line 31, to delete “refuse” and substitute “without prejudice to subsection (1) (a), refuse”.

Amendment No. 49 has been introduced on the advice of the Parliamentary Counsel. It is a technical amendment to the new section 12(1J)(b), which is inserted into the 2006 Act by section 15 of the Bill.

Amendment agreed to.

2 o'clock

Deputy Richard Bruton: I move amendment No. 50:

In page 51, lines 3 and 4, to delete all words from and including “in” in line 3 down to and including line 4 and substitute the following:

“in subsection (2)—

(a) by inserting “or, as the case may be, the connected person” after “the employer”,

and

(b) in paragraph (c), by substituting “the holder or the employer or both of them, or, as the case may be, the holder or the connected person, or both of them, may” for “either or both of them may”.”.

This is a technical amendment to section 16(2) of the Act of 2006, which provides for additional grounds for the revocation of an employment permit and is consequential to the treatment of the intra-company transfer situation in the Bill, as my colleague, the Minister of State, Deputy Sherlock, explained on Committee Stage.

Amendment agreed to.

Acting Chairman (Deputy Paudie Coffey): Amendments Nos. 51 to 53, inclusive, are related drafting amendments and may be discussed together by agreement.

Deputy Richard Bruton: I move amendment No. 51:

In page 53, line 6, after “provide” to insert “, with the application for renewal.”.

These are technical amendments to the new subsection (4A) inserted into section 20 of the 2006 Act by this Bill. These technical amendments provide clarity that documents are required to be provided at the time of application for renewal.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 52:

In page 53, lines 8 and 9, to delete “, within such period as may be specified in regulations under that section”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 53:

In page 53, line 12, after “provide” to insert “, with the application for renewal.”.

Amendment agreed to.

Deputy Peadar Tóibín: I move amendment No. 54:

In page 53, between lines 20 and 21, to insert the following:

“(6) Section 20 of the Act of 2006 is amended by inserting the following subsection after subsection (5):

“(5A) The Minister may, on application made to him or her, waive the prescribed fee.”.

There is a strong view that the fees relating to the process are inordinate. The Migrant Rights Centre of Ireland has argued that the fees for work permits should be reviewed and amended so as to bring Ireland into compliance with article 18 of the Council of Europe’s European Social Charter. Concerns are not confined to the Migrant Rights Centre, the European Committee of Social Rights also considers the fees excessive. With many of the scenarios we have discussed, we are dealing with vulnerable workers who through little or no fault of their own have found themselves in the State but outside the proper registration process and seeking a permit. All we ask is that in such a scenario, the Minister may, on an application to him or her, waive the prescribed fee. It is a logical case and the Minister can use sense to understand if a person is in real need of support. We must ensure individuals at the bottom of the earnings ladder will not see this fee as a barrier to regularising the working relationship in this country.

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Deputy Richard Bruton: A quarter of all permits issued so far this year had no fee attaching to them, and I am carrying out a review of the fee structure for employment permits later this year, with an open consultation exercise part and parcel of that review process. The purpose of this Bill is to place the issue of employment permits on a clear, statutory basis to a significant level of detail in the accompanying regulations. Such an approach would preclude consideration on a case-by case basis of the widely varied circumstances of individual applicants, which is what would be required if the amendment was accepted. Further, the grounds on which such a waiver might be applied would necessarily be based on a third party and possibly unsubstantiated report into the circumstances of the applicant or on an investigation into those circumstances, which would likely cause considerable delay to the issue of the permit and consequently might jeopardise the employment in prospect. There is always the option for the employer to pay the fee, so a waiver provision is not necessary. Given my fee review plans later this year and the unworkable nature of a case-by-case approach to fee waivers, I cannot accept the Deputy's proposed amendment.

Amendment put and declared lost.

Acting Chairman (Deputy Terence Flanagan): Amendments Nos. 55 and 57 are related and may be discussed together by agreement.

Deputy Richard Bruton: I move amendment No. 55:

In page 57, line 16, after "under" to insert ", and in accordance with the requirements of,".

These amendments are technical amendments agreed on the advice of the Parliamentary Counsel to provide that the application for a further employment permit made by a critical skills or general employment permit holder made redundant within the preceding six months is not only made under section 4 of the 2006 Act but is also made in accordance with the requirements of section 4.

Amendment agreed to.

Deputy Peadar Tóibín: I move amendment No. 56:

In page 58, between lines 39 and 40, to insert the following:

"(10) Where an employer has failed to provide a P45 or other relevant document to a foreign national to whom an employment permit in respect of the purpose referred to in section 3A(2)(a) has been granted further to a dismissal by reason of redundancy within the meaning of section 7(2) of the Act of 1967 the Minister shall be responsible for acquiring such documentation from the employer."

In most cases where there is an insolvency - when a business collapses and things go wrong - decent employers or human resources managers will do their best to ensure staff would have everything they need to proceed through the chain, whether that is to another job, social welfare or an application for a permit, etc. There are occasions when this does not happen and the collapse of a business leads to complete confusion, with people not fulfilling their responsibilities.

In such a case this amendment seeks to ensure the trading organisation would provide a permit holder with the necessary documentation to enable him or her to normalise an application. As the Department would already have a relationship with the employer, it should be used to

ensure the appropriate documentation is received. The authority of the Minister and the Department would exceed the authority of a foreign national in the State who may have very little English or knowledge of infrastructure of the State, etc. Will the Minister support the amendment?

Deputy Richard Bruton: The documentation that must be submitted to demonstrate that a dismissal was by reason of redundancy will be set out in regulations. As Minister, I must be satisfied that the dismissal was a genuine redundancy in order to prevent abuse of this provision, which is based on fairness principles, so that someone who through no fault of his or her own was made redundant has another chance to get a job. The kind of documentation likely to satisfy me as Minister that there was a genuine redundancy would include a copy of the P45 but I will also accept other documentation, such as declarations from the employer as to the date, reason for dismissal, etc. I stand over these requirements as they establish the bona fides of the circumstances applying.

In practice, it is very rare that the Department comes across instances where such documentation has not been forthcoming from previous employers. Where this arises, my Department goes directly to the employer concerned and requests that the documentation be forwarded directly to the Minister. This intervention by my Department invariably resolves the matter without requiring the permit holder to engage with a previous employer that for whatever reason is dragging his or her feet in providing the documentation. I consider the amendment to be unnecessary and I will not accept it.

Amendment put and declared lost.

Deputy Richard Bruton: I move amendment No. 57:

In page 59, line 11, after “under” to insert “, and in accordance with the requirements of”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 58:

In page 60, line 41, after “specified” to insert “in regulations”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 59:

In page 63, line 21, to delete “payment” and substitute “the payment”.

This is a drafting amendment to new subsection (5C) which is inserted into section 27 of the Act of 2006 by section 27 of the Bill.

Amendment agreed to.

Acting Chairman (Deputy Terence Flanagan): Amendments Nos. 60, 63 and 69 are consequential on amendment No. 68 and will be discussed together by agreement.

Deputy Richard Bruton: I move amendment No. 60:

In page 65, line 24, to delete “paragraph (bi)” and substitute “paragraph (bh)”.

These are consequential technical amendments to amendment No. 37.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 61:

In page 65, to delete lines 25 to 35 and substitute the following:

“(vii) as the Minister may, without prejudice to the requirement under section 6(i), specify, in respect of the requirement under section 4(5) in relation to—

(I) the employment of any person employed in the employment that is the subject of the application in the period referred to in section 4(5), and

(II) the dismissal by reason of redundancy within that period of any person employed in the employment that is the subject of the application, and”.

This is a drafting amendment to new subsection (2)(ba) inserted into section 29 of the 2006 Act.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 62:

In page 65, line 43, after “section” to insert “and the matters specified in section 10(2B)”.

This is a technical amendment to new section 29(2)(ba) and is consequential to the new subsection (2B) inserted into section 10 of the Act of 2006 by section 12 of the Bill.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 63:

In page 66, line 37, to delete “paragraph (bi)” and substitute “paragraph (bh)”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 64:

In page 67, line 1, after “section 10” to insert “, referred to in paragraph (ba)(viii)(III),”.

This is a technical amendment consequential to amendment No. 62 and to the new subsection (13) inserted into section 20 of the Act of 2006 by section 23 of the Bill.

Amendment agreed to.

Acting Chairman (Deputy Terence Flanagan): Amendments Nos. 65 to 67, inclusive, 70 and 74 to 77, inclusive, are related and will be discussed together by agreement.

Deputy Richard Bruton: I move amendment No. 65:

In page 67, lines 8 and 9, to delete “within a specified period, with an application under section 4” and substitute “with an application under section 4,”.

These amendments amend section 29 of the Bill which amends section 29 of the Act of 2006 to provide clarity that documents are required to be provided at the time of application for the grant or renewal.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 66:

In page 67, line 40, after “Minister” where it firstly occurs to insert “, with an application under section 4,”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 67:

In page 68, line 16, after “Minister” to insert “, with an application under section 20,”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 68:

In page 69, to delete lines 8 to 12.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 69:

In page 69, line 13, to delete “(bi) the specification” and substitute “(bh) the specification”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 70:

In page 69, lines 20 and 21, to delete “within a specified period,”.

Amendment agreed to.

Acting Chairman (Deputy Terence Flanagan): Amendments Nos. 71 to 73, inclusive, are related and will be discussed together by agreement.

Deputy Richard Bruton: I move amendment No. 71:

In page 69, line 22, to delete “permit” and substitute “permit,”.

Amendments Nos. 71 to 73 are drafting and technical amendments to new subsection (2A) inserted into section 29 of the Act of 2006 by section 29 of the Bill.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 72:

In page 69, line 26, to delete “and”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 73:

In page 69, line 27, to delete “for” and substitute the following:

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“in the case of an application for the grant or renewal of an employment permit for the purposes referred to in paragraphs (d) and (e) of section 3A(2),”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 74:

In page 69, to delete lines 38 to 42, and in page 70, to delete line 1 and substitute the following:

“(2B) Without prejudice to the generality of subsections (1) and (2), regulations under this section may provide for the production to the Minister, in respect of the grant or renewal of an employment permit for the purpose referred to in section 3A(2)(b), of information, documents and evidence to verify such information, with—”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 75:

In page 71, line 27, to delete “within a specified period,” and substitute “with an application under section 4,”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 76:

In page 72, to delete lines 24 to 28 and substitute the following:

“(2F) Without prejudice to subsections (1) and (2), in regulations under this section the Minister may provide for the production to the Minister, with an application for the grant or renewal of an employment permit, of information, documents and evidence to verify such information and documents concerning—”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 77:

In page 73, line 4, to delete “under this section”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 78:

In page 73, to delete lines 9 to 17 and substitute the following:

“(2G) In regulations under this section the Minister may provide for the procedure for the payment of any fee that is to accompany an application for the grant or renewal of an employment permit.”.

This is a technical amendment to new subsection (2G) inserted into section 29 of the Act of 2006 by section 29 of the Bill and ensures that (2G) correctly provides only for the procedure for paying fees.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 79:

In page 74, between lines 15 and 16, to insert the following:

“PART 4

AMENDMENT OF ILLEGAL IMMIGRANTS (TRAFFICKING) ACT 2000

Amendment of Illegal Immigrants (Trafficking) Act 2000

34. (1) The Illegal Immigrants (Trafficking) Act 2000 is amended by substituting the following section for section 5:

“Judicial review

5. (1) A person shall not question the validity of—

- (a) a notification under section 3(3)(a) of the Immigration Act 1999,
- (b) a notification under section 3(3)(b)(ii) of the Immigration Act 1999,
- (c) a deportation order under section 3(1) of the Immigration Act 1999,
- (d) a refusal under Article 5 of the Aliens Order 1946 (S.R. and O. No. 395 of 1946),
- (e) a refusal under section 4 of the Immigration Act 2004,
- (f) an exclusion order under section 4 of the Immigration Act 1999,
- (g) a recommendation of the Refugee Applications Commissioner under section 13 (as amended by section 7(h) of the Immigration Act 2003) of the Refugee Act 1996,
- (h) a decision of the Refugee Appeals Tribunal under section 16 (as amended by section 7(i) of the Immigration Act 2003) of the Refugee Act 1996,
- (i) a refusal under section 17 (as amended by Regulation 34 of the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013)) of the Refugee Act 1996,
- (j) a decision under section 21 (as amended by section 11(1)(o) of the Immigration Act 1999) of the Refugee Act 1996,
- (k) a removal order under Regulation 20(1) of the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006),
- (l) an exclusion order under Regulation 23(1) of the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006),
- (m) an order under section 3(11) of the Immigration Act 1999,
- (n) a recommendation of the Refugee Applications Commissioner referred

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to in Regulation 6(2)(b) of the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013),

(o) a decision of the Refugee Appeals Tribunal referred to in Regulation 8(22)(a) of the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013), or

(p) such other decision, determination, recommendation, refusal or order as may be prescribed by the Minister under subsection (9), made on or after the date on which section 34 of the Employment Permits (Amendment) Act 2014 comes into operation, otherwise than by way of an application for judicial review under Order 84 of Rules of the Superior Courts (S.I. No. 15 of 1986) (hereafter in this section referred to as ‘the Order’).

(2) An application for leave to apply for judicial review under the Order in respect of any of the matters referred to in subsection (1) (hereafter in this section referred to as an ‘application’) shall be made within the period of 28 days commencing on the date on which the person was notified of the decision, determination, recommendation, refusal or making of the order concerned unless the High Court considers that there is good and sufficient reason for extending the period within which the application shall be made, and such leave shall not be granted unless the High Court is satisfied that there are substantial grounds for contending that the decision, determination, recommendation, refusal or order is invalid or ought to be quashed.

(3) Notwithstanding the period referred to in subsection (2), rules of court may require an applicant to lodge or file with the High Court, such number of days (which shall not exceed 4 days) as may be specified in the rules before the date on which the application is to be heard, all pleadings and written submissions relating to the application.

(4) Where the High Court considers that an application involves a point of law of exceptional public importance or that, having regard to the likely impact of the proceedings on the respondent or another party, the issues arising or any other matter, it is in the interests of justice to do so, it may—

(a) direct that the application should be heard on notice,

(b) adjourn the application for such period (which shall not be less than 28 days) and on such terms as it may direct,

(c) give such directions as it thinks fit as to the service on the intended respondent and on any other person of notice of the application and copies of any documents lodged under rules of court referred to in subsection (3), and the mode of, and the time allowed for, such service, and

(d) give such other direction or make such order as it considers appropriate.

(5) The High Court, having considered an application—

(a) shall pronounce its determination of the application in public, and

(b) where it grants an application for leave to apply for judicial review in re-

spect of a matter referred to in subsection (1), shall state, in respect of that matter, the relief granted and the grounds upon which that relief is granted.

(6) (a) The determination of the High Court of an application for leave to apply for judicial review to which this section applies, or of an application for such judicial review, shall be final and no appeal shall lie from the decision of the High Court to the Supreme Court in either case except with the leave of the High Court which leave shall only be granted where the High Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Supreme Court.

(b) This subsection shall not apply to a determination of the High Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(7) The High Court shall give such priority as it reasonably can, having regard to all the circumstances, to the disposal of proceedings in that Court under this section.

(8) The Superior Court Rules Committee may make rules to facilitate the giving of effect to subsection (7).

(9) (a) The Minister may prescribe any decision, determination, recommendation, refusal or order—

(i) made under a relevant enactment or, as the case may be, an instrument made under a relevant enactment, and

(ii) concerning the entry into, presence in, removal from or exclusion from the State of a person, the conditions under which a person may be present in the State or the entitlement of a person to international protection in the State, to be a decision, determination, recommendation, refusal or order to which subsection (1) applies.

(b) In exercising his or her power under paragraph (a), the Minister shall have regard to the need for the fair and efficient administration of the relevant enactment concerned and the interests of justice.

(c) In this subsection— ‘international protection’ means protection in the State either as—

(i) a refugee, within the meaning of section 2 of the Refugee Act 1996, or

(ii) a person eligible for subsidiary protection, within the meaning of the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013); ‘relevant enactment’ means—

(i) the Aliens Act 1935,

(ii) the Refugee Act 1996,

(iii) the Immigration Act 1999,

(iv) the Immigration Act 2003,

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(v) the Immigration Act 2004,

(vi) the European Communities (Free Movement of Persons) Regulations 2006 and 2008,

(vii) the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013), and

(viii) any Act, or instrument made under an Act, giving effect to Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013.”.

(2) Notwithstanding the amendment of section 5 of the Illegal Immigrants (Trafficking) Act 2000 by subsection (1), that section, before such amendment, shall continue to apply as if that amendment had not been made, in relation to—

(a) a decision, determination, recommendation, refusal or order referred to in subsection (1) of that section made before the date on which this section comes into operation, and

(b) an application for leave to apply for judicial review, or an application for such judicial review, in respect of any of the matters specified in paragraph (a) that has been made before the date on which this section comes into operation.”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 80:

In page 74, between lines 15 and 16, to insert the following:

“PART 5

AMENDMENT OF IMMIGRATION ACT 2004 AND ALIENS ORDER 1946

Amendment of Immigration Act 2004

35. The Immigration Act 2004 is amended—

(a) in section 1, by deleting the definitions of “registration district” and “registration officer” and substituting the following:

“ ‘registration district’ means a registration district prescribed under section 9A (inserted by section 35 of the Employment Permits (Amendment) Act 2014);

‘registration officer’, subject to subsection (4) of that section, means a registration officer appointed under section 9A (inserted by section 35 of the Employment Permits (Amendment) Act 2014);”.

(b) in section 9(6), by deleting paragraph (a);

(c) by inserting the following after section 9:

“Registration districts and registration officers

9A. (1) The Minister may, for the purpose of the efficient and effective administration of this Act, prescribe an area (which area may consist of the whole or any part of the State) to be a registration district.

(2) The Minister may by order appoint a person, being—

(a) a member of the Garda Síochána not below the rank of Superintendent, or

(b) an officer of the Minister, not below the rank of assistant principal officer, to be the registration officer of the registration district specified in the order.

(3) A registration officer may delegate any of his or her functions (other than this power of delegation) under this Act to—

(a) in the case of a registration officer to whom subsection (2)(a) applies, a member of the Garda Síochána, and

(b) in the case of a registration officer to whom subsection (2)(b) applies, an officer of the Minister.

(4) Where a function of a registration officer is delegated under subsection (3)—

(a) that function may be performed, under the general control of the registration officer concerned, by the person to whom it is delegated,

(b) the delegation does not preclude the registration officer from performing the function delegated, and

(c) a reference, in a provision of this Act relating to the function, to a registration officer includes a reference to the person to whom the function has been delegated.”,

and

(d) by deleting section 14 and substituting the following:

“Provision for particular non-nationals

14. (1) The Minister, an immigration officer or a member of the Garda Síochána may, by notice in writing, require a non-national who does not have permission to be in the State to comply with any or all of the following conditions:

(a) that he or she reside or remain in a particular district or place in the State;

(b) that he or she report at specified intervals to—

(i) an officer of the Minister, an immigration officer or a member of the Garda Síochána specified in the notice, or

(ii) the registration officer of the registration district in which he or she is resident;

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(c) where, and only for so long as, it is reasonably necessary to facilitate his or her removal from the State in accordance with any enactment or other law, that he or she surrender his or her passport and any other travel document that he or she holds, and the non-national shall comply with the requirement.

(2) A non-national who contravenes this section shall be guilty of an offence.

(3) Where a non-national who is complying with a notice under subsection (1)(c), as a result of that compliance, fails to comply with the requirements of section 12(1) (as amended by section 34 of the Civil Law (Miscellaneous Provisions) Act 2011)—

(a) his or her compliance with the notice shall constitute reasonable cause for the purposes of section 12(2)(b), and

(b) in proceedings referred to in section 12(2)(b), a certificate signed by the Minister, an immigration officer or a member of the Garda Síochána stating that the non-national concerned was, at the time of the alleged offence under section 12, in compliance with the notice, shall, in the absence of evidence to the contrary, be proof of that fact.

(4) In this section, ‘enactment’ means—

(a) an Act of the Oireachtas,

(b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or

(c) an instrument made under—

(i) an Act of the Oireachtas, or

(ii) a statute referred to in paragraph (b).”.”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 81:

In page 74, between lines 15 and 16, to insert the following:

“Amendment of Aliens Order 1946

36. The Aliens Order 1946 (S.R. and O. No. 395 of 1946) is amended—

(a) by substituting the following definitions for the definitions of “registration district” and “registration officer”:

“the expression ‘registration district’ has the same meaning as it has in section 1 (as amended by section 35 of the Employment Permits (Amendment) Act 2014) of the Immigration Act 2004;

the expression ‘registration officer’ has the same meaning as it has in section 1 (as amended by section 35* of the Employment Permits (Amendment) Act 2014) of the Immigration Act 2004;”,

and

(b) by revoking Article 11(6)(a).”.

Amendment agreed to.

Deputy Richard Bruton: I move amendment No. 82:

In page 75, to delete lines 27 to 33 and substitute the following:

“(5) Where, before the coming into operation of this section an application has been made for the grant of an employment permit but a decision in respect of the application has not been made by the Minister, then the application (other than an application referred to in subsection (6)) shall be treated as if it were an application for an employment permit under the Act of 2006 as amended by this Act and shall be dealt with accordingly.

(6) Where, by virtue of section 10(1) of the Act of 2006, section 10 of that Act does not apply to an employment permit for which an application is made before the coming into operation of this section and a decision in respect of the application has not been made by the Minister, then the application shall be treated as if it were an application for an employment permit under the Act of 2006 as amended by this Act other than in so far as the amendments relate to the repeal of section 10(1) and the insertion of section 10A of the Act of 2006 and shall be dealt with accordingly.”.

This is a technical amendment which amends existing section 36(5) and inserts new subsection (6) and which provides for transitional arrangements and savings in respect of employment applications on hands immediately before the coming into operation of this section.

Amendment agreed to.

Bill, as amended, received for final consideration.

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

Minister for Jobs, Enterprise and Innovation(Deputy Richard Bruton): I thank the Deputies. There were unfortunately many detailed technical amendments on Report Stage, arising from the increasing obligation to have primary legislation to contain all the details, rather than rely on secondary regulations, which was a feature in the past. It requires, therefore, a level of perfection of the detailed regulatory provision in the House.

I apologise to the Deputies for the number of technical amendments consequential on that. I thank them for supporting this Bill. It is important to have modern legislation that is clear, workable and allows us deal with pressures that can arise in the labour market due to skill shortages while at the same time protecting employment opportunities for Irish people and those within the EEA.

Deputy Dara Calleary: I thank the Minister and the Minister of State at the Department of Jobs, Enterprise and Innovation, Deputy Sean Sherlock, and the officials for the assistance in passing this Bill. I also thank the Migrant Rights Centre Ireland, MRCI, and the Irish Immi-

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grant Support Centre, Nasc, for their assistance and input into the Bill. It is an important Bill. We have to keep the system under review. It would be worthwhile if, six months from now, the Minister for Justice and Equality were to update the Joint Committee on Jobs, Enterprise and Innovation on her changes. This could be the final business we do with the Minister, Deputy Bruton, ahead of the regime change that is under way. It is rather ironic that the Minister who is responsible for employment is not covered by his Department's redundancy and minimum notice provisions. We wish him well in the forthcoming game of chess.

Deputy Peadar Tóibín: It might be more like a game of snakes and ladders than a game of chess. Ba mhaith liom buíochas a ghabháil leis na hoifigigh go léir sa Roinn a thug cabhair dúinn, go háirithe ar Chéim an Choiste. Bíonn deacrachtaí ann i gcónaí, ach b'fhéidir go raibh níos mó deacrachtaí i gceist sa chás seo. Is Bille uafásach tábhachtach é an Bille seo. Tá sé tábhachtach don gheilleagar. Tá súil agam go dtabharfaidh an reachtaíocht seo tacaíocht don gheilleagar as seo amach. Ní cheart go mbeimid leisciúil sa todhcháí. Caithfidimid díriú isteach ar na daoine sa tír seo atá dífhostaithe, go háirithe iad siúd nach bhfuil na scileanna cuí acu. Ba chóir dúinn iarracht tréan a dhéanamh oideachas a thabhairt dóibh ionas go mbeidh siad in ann na poist seo a líonadh. Tá níos mó ná 300,000 duine dífhostaithe sa tír seo. Ba cheart go mbeidís páirteach sa scéal seo freisin. Tá an reachtaíocht seo tábhachtach freisin dóibh siúd a thagann anseo ó thíortha eile. Is oth liom a rá go bhfuil sé fíor - uaireanta - nach mbíonn na caighdeáin chéanna ag na daoine a thagann anseo. Ba cheart dúinn a chinntiú go bhfaigheann siad gach rud atá de dhíth orthu. Tá acmhainní de dhíth sa chóras seo. I mo chuid taithí, nuair a bhíonn daoine ag dul i dteagmháil leis an Roinn Gnóthaí Eachtracha agus Trádála agus an tSeirbhís Eadóirseachta agus Inimirce na hÉireann, is minic a bhíonn an-chuid moill ar an teagmháil eatarthu. Ba cheart go mbeadh níos mó airgid ag dul isteach sa Roinn sin ionas go mbeidh na hoifigigh in ann cabhair a thabhairt agus gach rud a dhéanamh go tapaidh. Bíonn sé an-deacair ar dhaoine nuair atá siad ag fanacht agus ag fanacht. Guím gach rath ar an Aire in the upcoming game of snakes and ladders. I am sure he will not be sliding downwards.

Question put and agreed to.

Public Health (Standard Packaging of Tobacco) Bill 2014: Second Stage (Resumed)

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

Deputy Maureen O'Sullivan: I am sharing time with Deputies Finian McGrath and Seamus Healy.

Acting Chairman (Deputy Terence Flanagan): Is that agreed? Agreed.

Deputy Maureen O'Sullivan: We are all very aware of the consequences of smoking. Somebody who smokes today does so in the full knowledge of the possible consequences for his or her health. While I do not smoke and have never done so, both of my parents were heavy smokers for all of their adult lives. Of course they started to smoke at a time when no one was aware of the health risks of smoking. They both enjoyed smoking too much to give it up. Unfortunately, they paid the price when they died in their early 70s from smoking-related illnesses. There is a part of me that can accept the adult decision to smoke. I know there are Deputies in this House who enjoy smoking. However, I think we have to do all we can from a prevention and education perspective to discourage young people, in particular, from smoking. We should also give those who wish to give up smoking every encouragement and incentive to do so.

The statistics in this regard are frightening. The explanatory memorandum that accompa-

nies this Bill informs us that “tobacco smoking is the greatest single cause of preventable illness and premature death in Ireland” and that “approximately €500 million of health expenditure in Ireland is directly due to smoking related diseases”. I know the Minister has taken a very firm stand against the lobbying powers of the tobacco companies. We have one of the highest smoking rates in Europe. The explanatory memorandum states that “smoking prevalence in Ireland remains high at 22%”, but I have seen reports that suggest that the figure is closer to 28% or 29%. I have observed from my work as a teacher and through my involvement in youth work that the number of young boys who smoke has decreased, but the number of young girls who smoke has undoubtedly increased. This initiative will not work on its own. It has to be part of a comprehensive and holistic approach to controlling smoking nationally. It is obvious that a multi-pronged approach is needed.

It is notable that this legislation is supported by a number of children’s and health charities, some of which presented some interesting evidence in a comprehensive briefing document. They argued that if cigarette packets are the same drab colour, size and shape, it will result in a reduction in the number of smokers. I have my doubts about that. If somebody wants to smoke, I do not think it will matter to them what size, shape or colour the packet is. The charities referred to some evidence on plain packaging from New Zealand, Scotland, Brazil and Canada. There is no doubt that drab plain packaging will be less attractive than branded cigarette packaging, but the question of whether that will cause people to stop buying cigarettes is a different matter, given that nicotine and cigarettes are highly addictive. The charities also suggested that plain packaging will eliminate the tobacco industry’s last great marketing tool. I have some doubts in that regard, in light of the amount of money tobacco companies spend on marketing. I am quite sure other marketing tools will be found to boost cigarette sales. That is why I am arguing for a much more holistic and comprehensive approach.

This is a very lucrative business. In that context, I was quite bemused to read Simon Carswell reporting in *The Irish Times* that “a US congressman has written again to the Irish Ambassador in Washington urging the Government to scrap plans to introduce plain packaging on cigarettes”. It seems that the congressman in question is arguing that this legislation will restrict “the intellectual property of legal products”. Given that he represents the state of Virginia, which is home to the world’s second largest tobacco company, which employs approximately 4,000 people in Virginia, I suggest that he has a vested interest in writing this letter. While I am totally in favour of strategies that will lead to a decrease in the number of smokers, I am somewhat dubious or sceptical about the claim that plain packaging will lead to a real reduction in the number of smokers in the absence of other strategies to bring about the tobacco-free Ireland that the Minister is supporting and that I would certainly also like to see.

Australia is often lauded as a success story even though there are conflicting reports about the effect of plain packaging there. It depends on who one believes. According to one source, the number of calls to the Australian quit line increased by 78% after the introduction of standardised packaging. That source did not confirm how many of those people actually succeeded in giving up cigarettes. Furthermore, I understand that the calls in question were made in the months of January and February, which is a traditional time of the year for people to try to give up smoking. According to an alternative source, in the first year after the introduction of plain packaging Australia, some 59 million more cigarettes and roll-you-own products were purchased by comparison with the previous year. What is the truth? There is a need for reliable data that is provided independent of all the lobbies.

I recently tabled a parliamentary question to the Minister, Deputy Reilly, seeking evidence

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of international best practice in this area. His reply referred to “the wealth of evidence available” in this regard and mentioned an international expert, Professor David Hammond. The Minister pointed out that “research has been conducted in 10 different countries”, leading to the view that “tobacco packaging is a critically important form of tobacco promotion”. He argued there is “strong evidence that standardised packaging would be effective with regard to four of Ireland’s tobacco control policy objectives, namely preventing children and young people from starting to smoke, encouraging current smokers to quit, reducing the risk of those who have quit from relapsing, and encouraging the denormalisation of smoking in society, thereby protecting children from the marketing practices of the tobacco industry”. He also referred to other research, such as Moodie’s review and Sir Cyril Chantler’s independent review, which found that “branded packaging contributes to increased tobacco consumption”. The Minister acknowledged in his answer that “a year on from the introduction of plain packaging in Australia, we have a limited amount of research on the effects of the policy”. I think this is borne out by what I said earlier.

An issue that must be addressed in the context of these provisions is one I regularly encounter in parts of the constituency I represent, namely, the illicit or black market trade in cigarettes. There are genuine concerns in this regard on the part of small retailers, with some of whom I have spoken. These retailers have been to the fore in supporting other initiatives to help people to stop smoking, such as the ban on the sale of packs of ten or smaller quantities and the prohibitions regarding the display of tobacco products in retail premises. Many of the retailers to whom I have spoken tell me they would support a complete ban on cigarettes but, in the absence of such a measure, they are concerned that the plain packaging initiative will lead to an even larger black market in tobacco, which will have devastating effects on their businesses and their ability to retain and create jobs. A recent seizure by the Garda of illegal tobacco comprised 32 million cigarettes and 4,000 kg of tobacco. There have been reports recently from Britain of foreign crime gangs operating a multi-million pound racket which is flooding that country with illegal cigarettes. There is a more significant problem with such products because nobody knows what it is in them. At least we know what branded cigarettes contain.

If we are serious about safeguarding people’s health and encouraging them to give up smoking or refrain from starting in the first place, we cannot be dismissive of the concerns around the illicit trade in tobacco. The retailers I have engaged with find it offensive that their questioning of these proposals is equated with an attempted defence of the tobacco industry. They emphasise that their concern is to protect their own business interests and that so long as the product remains legal, they expect to be recognised as responsible retailers who are competing with a criminal underworld. These retailers, who have willingly complied with Government policy on underage smoking, have genuine concerns that plain packaging will create opportunities for smugglers and counterfeit traders who are unconcerned about whether the person who purchases the product is under age and have no qualms about selling cigarettes in quantities of ten, five or even fewer. Certainly, I have not been convinced by the arguments that plain packaging will not make it easier for counterfeiters.

Retailers have offered several useful suggestions for combating tobacco smuggling, such as the provision of additional mobile scanners at ports, only two of which are in operation at present. They have also called for increased penalties under the Casual Trading Act and the development of an app to enable consumers to verify that tobacco products are legitimate. Such measures would be of great assistance to gardaí in their efforts to combat the illicit trade in tobacco.

I listened to a debate this morning on the radio on electronic cigarettes in which Professor Luke Clancy was a participant. I know people who have had success in switching from cigarettes to electronic devices. However, I am not sure we know enough about those devices to be able to say whether they are a safe and effective alternative to tobacco. I simply do not know whether that is the case. Having said that, if people are finding them a useful aid to giving up smoking, consideration should be given to ensuring their availability outside regular retail hours.

Retailers have called for a regulatory impact assessment to be presented alongside the Bill which would address the issues they have raised. As it stands, they have reasonable concerns about the unintended consequences for their business, the broader economy and smokers. We know this Bill will be passed by the House. I support all efforts to curb, curtail and eliminate smoking, but concerns regarding the potential for an increased black market trade in tobacco are genuine. In that context, I ask the Minister to consider undertaking a serious independent analysis, one year after the enactment of the legislation, to determine its impact on the illicit trade in tobacco.

Deputy Finian McGrath: I welcome the opportunity to contribute to this debate and will be taking a different view from the majority of Members. Mine is a dissenting voice on this legislation, which will help to ensure a proper debate based on the facts and the reality for many people, particularly smokers. I must declare a special or vested interest in that I am a smoker or, in other words, a person who is addicted to cigarettes. The overriding question for me in considering this legislation is whether its provisions will encourage me or the 25% of the population who are smokers to give up tobacco or smoke less. It is not politically correct to take the position I am taking, but it is important to have dissenting voices on this issue and challenge the cosy consensus that exists around it.

I totally accept that smoking is not good for one's health, but nor is excessive eating or binge drinking. However, it seems always to be smokers who get hammered, notwithstanding the €1.2 billion in taxes we contribute to the Exchequer each year. That is a lot of money and it helps to run a lot of services. My philosophy in life is moderation, whether in regard to alcohol, cigarettes or food. Unfortunately, decisions in these matters are being made by the nanny state brigade, with the rest of us expected to toe the line. The superior attitude displayed by some of these people gets up my nose, with their constant lecturing and talking down to people who happen to have an addiction that is harming nobody but themselves. It is time to get real and bring some common sense into this debate.

It is important, too, that we have an honest debate, to which end I intend to point out some of the dishonest statements I have heard in recent weeks. I fully accept that smoking is bad for one's health. I try every day to give up, but bullying, marginalising and hectoring will never work with me. We have seen the disgraceful treatment of people who are using electronic cigarettes as a way of overcoming their addiction. CIE, for example, reacted to a couple of cranks by imposing a total ban on the use of these devices on trains and buses. In Leinster House efforts are being made to ban their use in the private and public bars. That is not a good thing. On the day that a company has announced the creation of 80 new jobs in the manufacture of electronic devices, surely it is time to introduce some element of common sense into our consideration of these matters. I am asking the Government to wise up, cop on and take on board dissenting voices like mine.

I take this opportunity to challenge some of the organisations that have put misleading in-

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formation into the public domain. For example, the Irish Cancer Society recently stated that the annual cost of smoking to the health budget is €2 billion. However, the Chief Medical Officer gave evidence to the health committee, under the chairmanship of Deputy Jerry Buttimer, in December 2013 that the cost is €664 million. I asked the Minister in a parliamentary question yesterday whether there is a need for the Chief Medical Officer to correct his evidence in light of this discrepancy. The response explained that the Chief Medical Officer based his evidence on a report by the Directorate General for Health and Consumers on liability and the health costs of smoking across all EU member states. The report showed that for Ireland, health expenditure on smoking diseases is €498 million, productivity losses due to absenteeism amount to €15 million, and long-term incapacity caused by smoking costs €151 million. These figures give a total of €664 million and show there is no requirement to correct the parliamentary record. In other words, one group has already been caught out in giving false and misleading information. To reiterate, I am not arguing that smoking is good for one's health but that we should have honest presentation of the facts.

Turning to the legislation, these provisions will have far-reaching implications for retailers and in their impact on jobs, cigarette smuggling and the infringement of intellectual property rights. We are being asked to support the Bill in the absence of information regarding the regulatory impact assessment that was conducted last February. In effect, Deputies do not know what the cost benefit and the impact of this Bill will be or if the tobacco companies sought compensation in their submissions. This information should be made available to Deputies so they know for what they are voting. Regardless of one's personal attitude to cigarettes and tobacco products, the Minister will agree that they are serious issues for all Members of the Oireachtas.

Additionally, the Minister should be asked if the Attorney General has reviewed this Bill and whether she has any outstanding concerns about its integrity and if she is confident it will withstand legal challenge. We have had a financial crisis and we need money but a case like this could cost taxpayers more money. The Minister and the Government should wake up and smell the coffee and not squander any more taxpayers' money as they have done. We need every cent for our health and disability services and I do not want to see a legal challenge where the State is caught for hundreds of millions of euro.

Let us look at the other facts when it comes to dealing with the packaging issue. It will make counterfeiting easier. By removing branding, smokers will definitely gravitate towards the cheapest products, increasing the amount they smoke. That is something at which the Minister should look. Smoking initiation and ongoing consumption are driven by factors unrelated to packaging. That is the reality. There is no evidence in the form of randomised control trials that proves standardised packaging reduces smoking uptake. That is something at which the Minister should also look. Again, I emphasise that I am giving a different view on these issues.

It is a pity the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, is not here. The Government did not proceed with abolishing upward only rent reviews as it would have required the payment of compensation to landlords whose rights were infringed. The Minister, Deputy Bruton, said on 10 June 2014 that the Government did not want the taxpayers to pick up that bill. What is the connection here? The connection is that we could find ourselves in a situation where there could be a legal challenge costing hundreds of millions of euro. As this plain packaging legislation proposes to deprive tobacco companies of their rights, the same principle applies here.

As many Deputies know, tobacco companies made this point in their submissions to the De-

partment of Health's regulatory impact analysis, which remains unpublished. The Minister is inviting the Dáil to vote for a pig in a poke as long as the regulatory impact analysis conducted on this Bill remains unpublished.

I am warning people that they must be vigilant. The Law Society is concerned about this legislation and yet where has one heard this? The political nanny state brigade have not raised this issue. Irish law protects creative ideas, inventions, designs and music by creating intellectual property rights in respect of them. Intellectual property rights are protected. Under Irish law the right to a trademark is governed by the Trademarks Act 1996. Ireland is a signatory to a number of international agreements, the aim of which is to protect intellectual property rights.

A number of stakeholders, including the Law Society, have raised concerns about the potential negative impact standardised packaging may have on intellectual property rights, that is, the trademarks of tobacco companies and, consequently, on Ireland's international and commercial reputation. That is the Law Society talking and not Deputy Finian McGrath.

I have put forward alternative views in this debate and I would like the Minister to listen to them. If one is bringing in legislation, it should be well thought out because it could end up costing this State. One also has a duty to provide all the information and all the facts to the citizens of this State who deserve truth, honesty and above all not to be caught again and stung in their pockets.

Deputy Seamus Healy: I welcome the opportunity to speak on the Public Health (Standard Packaging of Tobacco) Bill 2014. I compliment the Minister on bringing this measure forward and confirm my support for the legislation. It is important to remember some key facts and figures in regard to smoking and the effect of smoking on the health of individuals and the public generally.

Smoking kills one in every two users. Tobacco smoke contains approximately 4,000 different chemicals, more than 70 of which could cause cancer. Each year, at least 5,200 people die from tobacco-related diseases. Some 78% of Irish people start to smoke before they reach the age of 18 and 53% before they reach the age of 15. Smokers lose on average between ten and 15 years from their life expectancy and smoking is the single most important preventable cause of illness and death in Ireland.

Approximately 1,700 people die from lung cancer each year and more than 90% of lung cancers are caused by smoking. Approximately 1,500 people die annually from chronic obstructive pulmonary disease and more than 90% of these are smokers or ex-smokers. One quarter of the deaths from coronary heart disease and 11% of stroke-related deaths are attributable to smoking. It is estimated that the workplace ban on smoking introduced in 2004 has resulted in more than 3,500 deaths being avoided as a result of tobacco consumption.

There is no doubt in my mind that any measures which can be brought forward - obviously, there must be a suite of measures - to deal with tobacco and smoking and to help public health policy are welcome. Smoking is a major cause of preventable death in Ireland and the control and regulation of tobacco products and tobacco use is a key public health policy objective. The proposals in this Bill are part of a range of measures designed to tackle tobacco consumption.

Plain packaging has been dealt with in some other jurisdictions, although not many. Australia was the first to do so and it is being considered in the United Kingdom and New Zealand. The position in regard to smoking and plain packaging has been dealt with by the Joint Com-

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mittee on Health and Children and the various organisations put their views forward to that committee, including the Irish Cancer Society and the Irish Heart Foundation. From studies done by the organisations in 2013, it is clear that plain packaging will help to stop young people taking up the habit. The tobacco companies need an additional 50 smokers per day to continue in business. These smokers are generally from the younger age group. In Ireland, more young people smoke and take up smoking than in any other European country.

Mr. Chris Macey from the Irish Heart Foundation said at the committee hearings that plain packaging would turn the concept of peer pressure on its head, making young people fear judgment and shame from their peers. The committee also heard evidence from other stakeholders, including Dr. Ross Morgan, the chairperson of ASH Ireland. He highlighted the fact that young people are the primary targets of marketing by the tobacco industry.

The legislation is appropriate and timely. I welcome it as a part of a range of measures to prevent smoking and help public health policy and the health of individuals in this country. There are difficulties with illegal and black market cigarettes but they will be dealt with by other agencies. I welcome the Bill and confirm my support for it.

Acting Chairman (Deputy Terence Flanagan): The next speaker is Deputy Olivia Mitchell. I believe she is sharing time.

Deputy Jerry Buttimer: You are wrong, Acting Chairman.

Acting Chairman (Deputy Terence Flanagan): I apologise if the schedule is wrong.

Deputy Jerry Buttimer: As Chairman of the Joint Committee on Health and Children, I should be next but I will allow Deputy Mitchell to go first. I have half an hour.

Deputy Olivia Mitchell: If Deputy Buttimer is sure about that, I thank him.

Deputy Jerry Buttimer: You were incorrect in what you said, Acting Chairman.

Acting Chairman (Deputy Terence Flanagan): I apologise. I am just working off the information in front of me on the screen. I am sorry about that. I call Deputy Mitchell. Is she sharing time?

Deputy Olivia Mitchell: I am not aware of that but I know I have ten minutes.

Acting Chairman (Deputy Terence Flanagan): Deputy McLoughlin has ten minutes also. Is that agreed?

Deputy Olivia Mitchell: That is agreed. I fully support efforts by the Minister in particular to stamp out smoking. Unlike others, I accept the evidence that smoking really does kill and before it kills one, it makes one very unhealthy and it greatly reduces one's quality of life. I also accept that advertising works and that few are more skilled at advertising than the cigarette manufacturers and wholesalers. I support all measures that have been taken to date to deter smoking but I must confess I have a problem with accepting how changing packaging will affect either the number of those already smoking or how it will reduce smoking among young people, which is the target of the legislation. It is hoped by making the packet less appealing that somehow it will make smoking less appealing. We are talking about a packet that already contains a death threat and it is difficult to see how it could become more threatening or less attractive than is the case already.

I am concerned about minimalist packaging in the sense that it might be considered more attractive. My evidence for that is when one looks at the more expensive shops, they always have more minimalist and plainer packaging and bags for their products. My main concern is that since packaging can no longer be seen, given that cigarettes are no longer on display – I do not know when I last saw a cigarette packet – the only people who come into contact with cigarette packets are people who smoke already. While the legislation is aimed at young people, the reality is that one does not come into contact with a cigarette packet until one is already a smoker.

Research has shown mixed results on the outcomes of plain packaging. I have spoken to a number of smokers who scoffed at the notion that they would be in any way deterred from smoking by a change in the packet in which cigarettes come. As most people probably know, I am a former very heavy smoker. No smoker will be deterred by the sort of packaging in which cigarettes come. If they were wrapped in a dirty rag, not alone would a smoker smoke them but the tragedy is that he or she would grow to love the dirty rag, such is the nature of addiction. That is what it means to be addicted. I am not an expert in behavioural analysis and it is long time since I smoked but from experience I can say that the smoking of the cigarette is far more likely to influence one's perception of the packet it came in than the packet is to influence one's attitude towards the cigarette itself. That is really why heroin addicts use dirty needles and employ desperate measures in order to get their fix. That is also why methadone users turn up every day to get methadone. It does not matter a hoot to them whether it is in a bottle or a packet. They will still turn up because of their addiction. Packaging just does not figure when it comes to addiction.

If, as I suggest, young people do not come into contact with a packet until they are smokers, it begs the question of what does trigger the decision to start smoking, given that we have zero advertising of cigarettes and very few examples of people smoking on television or in movies. The only visual enticement to smoking comes from observing either family members or their peers. In the case of girls, the desire to control their weight is a major factor in starting to smoke and in continuing to smoke. Much research has been done to identify the causes of addiction in general. In spite of the efforts made to investigate why people take heroin or to examine drug addiction generally, the truth is that it is still an unsolved mystery. I do not know any smoker who does not want to give up smoking. Every single smoker wants to give up smoking. No person acting rationally wants to indulge in a habit which they know will probably kill them and it will certainly do damage to the people around them whom they love, yet in many cases they find it almost impossible to give up smoking. The desire to give up smoking is seldom as great as the urge to have a cigarette.

Much research has taken place on how to break addiction. We must put more resources into the area because we have made so little progress with all the measures we have taken. Worldwide, significant amounts of money are raised on taxes on cigarettes yet it seems to be treated more as a handy way of raising revenue rather than a source of funding for research. There has been talk of increasing the price of cigarettes, even doubling the price of a packet of cigarettes. I would support that if I thought the revenue would go into research, helping addicts and funding diversion activities for young people to keep them away from cigarettes in the first place. However, it is folly if the belief is that increasing the price of cigarettes will somehow stop smokers smoking. One will never price an addict out of the market. It just does not happen as it is not a normal market. All one has to do is look at the market for illicit drugs and the extent to which criminals go, often resorting to violence. Addicts get themselves into appalling circumstances in order to get the money to support their habit.

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In the past ten years we have seen a tenfold increase in the price of cigarettes but that has had a negligible effect on the number of people smoking. The inverse relationship between price and the quantity demanded that exists for a normal product simply does not exist when addiction is involved. However, if the price were to increase, as the Minister suggested, I would support that if I thought the money went to help addicts and into diversion activities.

Deputy Finian McGrath referred to the debate on e-cigarettes. I do not often agree with him but based on the evidence available to date I would not rush to judgment on e-cigarettes, notwithstanding the fact that they are being promoted by cigarette companies of whom I would be fairly sceptical. To my knowledge they are being used by some people as a crutch on their way to giving up cigarettes. Even if that is not the case and those who use them do not give up cigarettes eventually, there is merit in exposing people only to the lesser substance of nicotine rather than to the toxic cocktail of the conventional cigarette.

3 o'clock

However, I realise more research and monitoring is needed on the components of e-cigarettes and their long-term effects. If they are found to be less harmful, we should follow the example of the methadone programme that is applied to drug addicts in terms of harm reduction. It is known that the methadone programme is not ideal and it would be better if people quit drugs altogether but it is infinitely preferable to heroin addiction. Perhaps we should consider this when comparing the use of cigarettes and e-cigarettes.

Cigarettes are expensive, there is a death threat on every packet and it is unattractive and uncomfortable to smoke in public. Cigarette smoking is a social no-no, users are regarded as social miscreants and nobody over the age of three is unaware of the fact that smoking kills. Despite all this, people continue to smoke. Many measures have been taken against smoking but they have had only a marginal impact on the number of smokers.

The Minister has made a priority of deterring young people from taking up smoking and he is right to do so because this approach has a greater likelihood of success than stopping existing smokers. Physical activity is spoken of as a useful tool in diverting people away from smoking but it must be made as accessible, attractive and beguiling as a cigarette. Physical activity can give a rush but much lip-service is paid to it and many schools around the country do not have the right facilities. Not enough attention is paid to young girls because many sports are on offer but they are competitive and require large teams to play. We must change our understanding of sport to include physical activities like yoga, dance and running to get young people involved. We cannot simply depend on the GAA to come into schools and set up teams as this will only work for some young people, though it is very important.

I am not optimistic about the deterrent effect of changing cigarette packaging but I support the Minister's efforts. Even if only a few people are persuaded to avoid smoking, his efforts will have been worthwhile. I know the Minister feels very strongly about this issue and is committed to limiting the damage and death toll caused by smoking.

Deputy Tony McLoughlin: I am grateful for the opportunity to speak on this Bill, which without doubt will have a long-lasting positive impact on many families across Ireland. The prime aim of the Bill is to protect our young people and future generations from addiction to tobacco products by taking yet another step and making tobacco products look less attractive to consumers, especially children and young adults.

The dangers of tobacco smoking are proven and well documented. Every adult knows, or should know, about the harmful effects of smoking and yet nearly 22% of the Irish population spends money on tobacco products on a daily basis. According to the Health Service Executive, HSE, smoking rates are highest among young adults from 18 to 34 years of age and they reach 30.7% in the 18 to 24 year old age group. Due to the fact that smoking is highly addictive, the majority of the young people will continue smoking for many more years.

Building on the existing legislation related to the restriction on advertising by tobacco companies and the ban on smoking in enclosed public spaces, we want to take a further step towards a tobacco-free society. We will show our strong commitment towards a healthy Europe by complying proactively with Directive 2014/40/EU, which set the standard that the nations of Europe, as a family, will take care of their future generations. By restricting the labelling and packaging of tobacco products we will not only promote a healthy lifestyle, but also considerably cut spending on tobacco related diseases, which amounts to €500 million. This is a long-term strategy of wise savings that will allow for funds to be used in other ways.

Ireland can lead the way by introducing legislation that will deal with the core of this issue, the irresponsible trading of companies that continue to profit from a highly addictive and unhealthy habit. We are also giving a warning and a chance to these highly successful financial entities to divert their trading activities into other profitable areas of investment. We should remind them that it is in their interest that their employees and customers live longer and healthier lives.

Tobacco companies also maintain that they do not target children in their marketing campaigns and that the sole purpose of their advertising is to persuade adult smokers to switch brands. However, the statistical data indicates that children start smoking at a very early age. Does this really have nothing to do with the ways cigarettes are advertised? Bearing in mind that today's teenager is tomorrow's potential customer, tobacco companies use a variety of tricks in order to promote their product and mislead consumers about the harmful effects of smoking. Tobacco companies fully exploit the fact that teenagers worldwide follow trends and want to be seen in a certain light. That is why it is less the product that they seek to sell and more an image and lifestyle. They want to persuade teenagers that smoking is fashionable and associated with being independent, rebellious and sophisticated. Colours, box shape and imagery are used to lure children into a smoking trap and create an extremely addictive killer habit. That is why we believe this law will help to reduce the appeal of tobacco products to our children and stop them from taking up smoking in the first place. By breaking the link between the product image and the product itself, we aim to help our citizens decide for themselves and purchase tobacco for what it really is.

This legislation is mainly aimed at protecting the younger generation, especially our children. If the younger generation does not take up smoking, the population of smokers will be limited to an older age group, thus reducing the chain effect of fashionable attitudes spreading in the younger age groups. It has also been proven that smokers are keener to quit if there is a clear and visible health warning and attention is not diverted by colours and images on the packaging.

A breach of the articles of the Bill would have legal consequences ranging from a fine to imprisonment or both. Removal from the national register of tobacco retailers is also included as a punishment to deal with those in commercial enterprises. This legislation will strengthen the role of the HSE by empowering it to enforce the current legislation. I would like to men-

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tion the tobacco retailers who we, as legislators, ask to control the sale of tobacco products in Ireland. They are governed by law not to sell tobacco products to people under the age of 16. The House will be aware that retailers have a very small profit margin on what is an expensive product to stock. The product they sell at an average price of €10 is retailed by smugglers on the streets at around €3. This is becoming a real problem and it was brought to my attention by retailers at a seminar in Sligo some months ago. It seems that such illegal products are ever more available on our streets.

It is thought the introduction of plain packaging may allow producers of illegal cigarettes to bring to the market generic cigarettes masquerading as well-known brands. This is a concern that needs to be considered. I know that there are obvious security markings on genuine packages but work will be more difficult for the people involved in detection at the Customs and Excise. I believe that the Government must make a determined effort to counteract cigarette smuggling in Ireland which, in my opinion, is rampant, especially in some Border areas. Some 25% of all cigarettes smoked in Ireland are believed to be illegal. Customs and Excise and the Garda need resources to fight this crime as children will be more enticed to start smoking cigarettes at €3 per packet than at €10 per packet.

I suggest to the Ministers for Health, Justice and Equality and Finance that any further excise increases on tobacco be ring-fenced to fund a special unit within Customs and Excise and the Garda to solely tackle the importation and distribution of illegal tobacco products. There needs to be an intelligence-led strategy with officers seconded to this unit from the Garda and Customs and Excise who will target the importers and distributors. It will cost money but I suggest this funding can be obtained through a levy or tax on cigarettes, rather than directly from the Exchequer.

It is clear from the facts that we are not winning the battle with the smugglers. I believe that a sub-committee of Cabinet should be convened to consider how representatives of Customs and Excise, Revenue, the Garda, and, perhaps, the Naval Service could set up a unit similar to the Criminal Assets Bureau, CAB. It would need a proper budget and mandate to tackle the crime of tobacco smuggling, which is estimated to cost the taxpayer €450 million per year. I understand from media reports that a small number of Irish criminals have made millions of euro from smuggling illegal cigarettes into the country. Recent press reports suggest that prominent Irish gangsters are involved in this activity, and that one of the main crime kings from Dublin, who is well known to CAB but is based on Spain's Costa del Sol, has made millions from smuggling illegal cigarettes over the past two decades. Following this legislation, the next step will be to tackle the smugglers. I thank the Seanad for bringing forward the legislation as another stepping stone towards a healthy Irish nation. I fully support the Bill and its consequent enforcement in the country.

Deputy Jerry Buttimer: If it is in order, I wish to share time with Deputy Willie Penrose.

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

Deputy Jerry Buttimer: As Chairman of the Joint Committee on Health and Children, it is my privilege to speak in the House on the Bill. As we begin our consideration of the Bill it is worthwhile to put smoking and the problems it causes in context. Today is a momentous day for our public health system and those in charge of it. The smoking rates in Ireland, as of December 2013, were that 21.5% more men smoked than women; the age group with the highest percentage of smokers was young adults aged between 18 and 34 at 30.7%; and smok-

ing was lowest among those aged 65 and over, at 9.7%. While there was little variation in regional trends, there were significant variations between socio-economic groups, with farmers and groups with higher levels of education least likely to smoke.

In yesterday's *Irish Examiner* it was reported that more than one fifth of young people were considered as current smokers in 1998, compared to 11.9% in 2010. This shows a welcome reduction of approximately 50% in the past 15 years. If this trend was to continue, Ireland would be a smoke free country by 2025, the date set by the Minister's tobacco free Ireland initiative.

What are the effects of the decision of this 21.5% of the population who smoke? Smokers lose an average of ten to 15 years from their life expectancy. As other speakers have stated, each year at least 5,200 people die in Ireland from tobacco-related diseases, which is 100 people each week and 14 people each day.

Before I continue I would like to put briefly the tobacco industry in a financial context. The tobacco industry generates approximately €1.4 billion in tax revenue for the State each year and creates considerable employment, but the effect of this product costs the State approximately €1 billion in caring for the adverse effects of smoking in our public health system. In pure financial terms, the State makes a profit of approximately €400 million from tobacco but the cost to society must be kept to the forefront, which is that every year 5,200 of our family and friends die. We would all agree that saving these lives is worth forgoing any revenue that may accrue to the State. Those who died from cancer would have liked to have been able to kick the habit and their families would certainly like to have their loved ones back and would agree with us.

Smoking is the single most important preventable cause of illness and death in Ireland, and thankfully we can take effective steps to reduce smoking. The Public Health (Standardised Packaging of Tobacco) Bill 2013 is one part of a suite of past and future measures designed to tackle tobacco consumption and the harm caused by smoking in Ireland. The Bill builds upon previous successful measures, including the introduction of the workplace smoking ban in 2004; the introduction of graphic warnings on cigarette packets in 2013; and the publication of Healthy Ireland - A Framework for Improved Health and Wellbeing 2013-2025.

In October 2013, the Minister for Health launched the Government's latest tobacco control policy document, Tobacco Free Ireland. The overall aim of the policy is to reduce the harm caused by tobacco use, ultimately achieving a tobacco-free Ireland by 2025. While the Minister for Health accepts this is an extraordinary challenge, he has stated in the House that if we work together to denormalise smoking, we can do it. This is a challenge that all of society should embrace and support.

Tobacco Free Ireland has 60 recommendations and measures designed to assist key stakeholders, including the Government, in reaching its target. The main recommendations are the introduction of plain packaging for tobacco products; banning the sale of tobacco products from mobile units and containers; making nicotine replacement therapy more widely available; monitoring and reviewing the effectiveness of smoke-free legislation; developing national smoking cessation guidelines; enhancing educational initiatives, particularly those aimed at preventing young people from starting to smoke; and legislating to prohibit smoking in cars where children are present. In this regard, the Minister for Health has indicated his support for the Private Members' Bill in the Seanad. Other targets we must consider include an increase in excise duty on tobacco products to be applied over a continuous five year period; the introduction of a tobacco industry levy, which would be ring-fenced to fund health promotion and tobacco

control initiatives, such as ending the illicit trade in tobacco products, as Deputy McLoughlin highlighted; and collaboration between North and South.

In November 2013, the Government approved and published the general scheme of the Public Health (Standardised Packaging of Tobacco) Bill 2013 and sent it to the Joint Committee on Health and Children. As part of the pre-legislative scrutiny process, the joint committee considered and reviewed the general scheme and submitted a report to the Minister. This Bill has often been incorrectly referred to as being about plain packaging, but it is not; it is about making it mandatory for tobacco to be sold in standardised packaging, which will greatly increase the health warnings and reduce the ability of tobacco manufacturers to promote their brand.

The purpose of the pre-legislative scrutiny process was to facilitate consultation with key stakeholders before the Bill was finalised and presented to the House for consideration as part of the formal legislative process. In organising its work, the committee was first briefed on the general scheme by the Minister for Health and the Chief Medical Officer, Mr. Tony Holohan, at a meeting on 5 December 2013. The joint committee invited written submissions from interested groups and individuals on the general scheme and held a series of meetings with key stakeholders and experts, including those involved in the tobacco industry. All committee members appreciated the opportunity to be involved in contributing to this critical legislation. The pre-legislative scrutiny process allowed committee members to be fully informed about the issues involved and enabled all members to provide meaningful input into the legislation and make observations and suggestions before finalisation of the Bill.

During January the committee sought written submissions on the Bill and began a series of consultative hearings which took place in January and February. This was an opportunity for us to hear at first hand from interested groups and stakeholders with regard to contributing to the drafting of the legislation. As part of the wider consultation process, the committee held public hearings with various interest groups and stakeholders to obtain in a meaningful way their input and views. I hope our intensive scrutiny, which culminated in a two-volume tome of a report, assisted the Minister, the Department and the Government in their further consideration and formulation of the legislation.

In our hearings, the committee met representatives of the Garda, the Revenue Commissioners and the National Tobacco Control Office. We also heard from health advocacy bodies, charities and youth organisations. We also engaged with retail organisations to hear their views on the Bill and on how the changes might affect their businesses. They raised many interesting and thought-provoking points. During our final day of hearings we engaged directly with the tobacco industry and a smokers' lobby group. The committee decided to meet a wide variety of groups with different perspective on the Bill so we could accurately reflected the points made throughout society. Many committee members had misgivings about direct engagement with the tobacco industry, but as a group we took the decision that it was better to engage with its representatives in an open forum, in a setting where we could listen to their views and challenge them if necessary, rather than to allow our work and the Bill be criticised for a lack of engagement. The result of this wide-ranging engagement is that every party has been listened to, and all concerns have been raised and considered.

Tobacco packaging has been described as the last billboard for the tobacco industry, and the legislation will force the industry to show with greater clarity the devastating effects of smoking on the health of citizens. Committee members have seen for themselves the packets of various shapes, sizes and colours used by tobacco companies to attract young people to take up smok-

ing. Standardised packaging with much larger health warnings will act as a deterrent.

Every year, 5,200 Irish people die from smoking-related illnesses and diseases. Protecting our children and young people from taking up smoking is a key policy for the Minister for Health and of all of us in this House irrespective of our party affiliation or none. There is a wealth of international evidence on the effects of tobacco packaging in general and on perceptions and reactions to standardised packaging which support the introduction of this measure.

I wish to put on the record of the House the conclusions and recommendations from the committee's work. Our recommendations are wide-ranging, including some that go beyond the scope of the Bill and look at wider policy on reducing tobacco consumption, which hopefully can be incorporated with further initiatives to move towards a tobacco-free Ireland by 2025. The recommendations are clear and cogent. The recommendations and measures set out in Tobacco Free Ireland should be implemented as soon as possible, including the ban on smoking in cars where children are present; prohibiting the sale of tobacco products from mobile units and containers at fairs and markets; and making nicotine replacement therapies more widely available, including in retail outlets where tobacco products are sold. These measures should be given prominence because of their importance.

It is important that the proposed legislation specifically sets out that its provisions will come within the WHO Framework Convention on Tobacco Control and the revised EU tobacco products directive. The rise in the number of calls to the Quitline in Australia could be viewed as evidence that the inclusion of a quit-line number on tobacco packaging in Ireland could be another essential way of encouraging smokers to start thinking about quitting. The Irish Cancer Society strongly recommends the inclusion of a quit-line number in the legislation. The Department, in conjunction with other key stakeholders, should monitor and review the effectiveness of standardised packaging on the prevalence of smoking and the scale of the illicit tobacco market in Ireland.

Consideration should be given to providing a lead-in period of at least 12 months to allow retailers and tobacco manufacturers time to comply with the law, which is a necessary and reasonable timeframe. Consideration should also be given to decreasing the level of duty-free allowance in respect of tobacco products in general. We note 6% of cigarettes are purchased abroad and brought back into Ireland legitimately for personal use. Alternatively, we believe that consideration should be given to decreasing the level of duty-free allowance in respect of non-compliant tobacco products.

The proposed legislation should include provisions to provide for: the standardisation of the size of tobacco packaging; the inner packaging of tobacco products to be the same colour as the outside surface; a separate and distinct definition for brand, company and business name so as to prevent tobacco manufacturers from promoting brand variants to the status of brands; and the maximum length and number of characters in brand and variant names. We also believe that consideration should be given to permitting a small distinguishing mark, for example a colour code, being applied to the bottom surfaces of cigarette packs so as to reduce the risk of consumers being sold the wrong product.

The committee took the view that consideration should be given to an amendment similar to the one introduced by the Australian Government to address a technical manufacturing issue - that is the use of round corners on the inside lip of cigarette packs. Information messages which set out the ingredients and emissions of tobacco products, similar to those used in Australia,

should be required on at least one side of tobacco packaging.

In its deliberations the committee also formed the view that the proposed legislation should prohibit the use of brand and variant names appearing on individual cigarette sticks, but allow manufacturers to use an alphanumeric code instead. Consideration should be given to expanding the enforcement powers of authorised officers under the proposed legislation to include the seizure, removal and detention of non-conforming products. We also believe consideration should also be given to providing that the offender pay the costs associated with the seizure, removal and detention of non-conforming products including the cost of their destruction. The legislation should also include an offence for the possession by retailers of non-conforming tobacco products.

The committee also took the view that the primary sanction upon conviction would be the suspension, and in the case of repeat offences, the loss of the privilege to sell tobacco products. The proposed legislation should provide a wider range of penalties to include official warnings, cautions and on-the-spot fines. We also looked at introducing a ban on proxy purchasing as a matter of urgency.

The Department of Health should assess with the Department of Finance the potential impact that raising excise duties would have on the sale of illicit tobacco products. More investment should be made in educational programmes and youth projects designed to raise awareness around smoking to complement other strategies designed to prevent young people from starting to smoke. In addition, more investment should be made in cessation and quit programmes so as to give the four out of five people who want to quit smoking the necessary aids and supports to do so.

We also looked at the way that we should help to incentivise retailers to become tobacco-free zones. Consideration should be given to the introduction of a “polluter pays” type levy on tobacco manufacturers to be used to offset the health-care costs associated with tobacco use. The introduction of mandatory opening and trading hours for tobacco products should be considered by not selling them during or after a certain time, for example, between 7 a.m. and 9 a.m. or after 6 p.m.

We also took the view that prohibiting the sale of cigarettes in licensed premises might be considered. The regulation of e-cigarettes should be given consideration. A freefone complaints line and e-mail address to encourage compliance should also be established.

I want to put on record my appreciation, and that of my colleagues on the committee, of the many different interest groups who made both oral and written submissions to the joint committee in its preparation of our report. I acknowledge the contribution of Ms Monica Boyle from the Oireachtas Library and Research Service for her assistance with this body of work, the clerk to the committee and the staff of the committee secretariat. As everyone in this House knows, the committee’s work is only as good as the service it gets from the staff. We are very fortunate to have very good staff working on our committee secretariat, for which I thank them.

The control and regulation of tobacco products and tobacco use is a key public health policy objective in our country. We have a successful record in implementing many legislative and policy initiatives that have helped to reduce the incidence of smoking. Internationally, Ireland is regarded as one of the leaders in this area of public policy. The Tobacco Control Scale 2010 in Europe ranks Ireland second out of 31 European countries in terms of tobacco control. I hope

that the work of the committee was of assistance in bringing about this Bill which proposes to introduce standardised packaging for all tobacco products and also determine the size and position of health warnings on cigarette packets.

I commend the Minister and ask him to continue to lead on this issue. When this Bill has been passed, I hope he will take the other recommendations in the committee's report as the basis for the next policy step in our efforts to continue to reduce the rate of smoking in Ireland.

The saving of 5,200 lives is of paramount importance to all of us. I take issue with Deputy Finian McGrath's comments that we are becoming a nanny state. It is about the preservation of life and the elimination of a cancer-generating product which affects the lives of our people and the country's overall public health. I commend the Bill to the House.

Deputy Willie Penrose: I thank my colleague for allowing me the time to speak. I welcome the Public Health (Standard Packaging of Tobacco) Bill and compliment the Minister on introducing it. I also compliment the work of the Oireachtas Joint Committee on Health and Children following the consultations outlined so eloquently by that committee's Chairman, Deputy Buttimer. Everybody got a chance to make an input, which is important.

Notwithstanding that I am a non-smoker and a non-drinker, I understand that people have a different view on matters and in a democracy every view is entitled to get ventilated and articulated. As a non-smoker and a pioneer, if somebody told me that I had to take up one or the other, I think I would rather have a few pints than smoke. I am vehemently opposed to smoking because of its impact on people's health although I recognise that people are entitled to choose to do things. As Deputy Buttimer has outlined, we are all fully aware that 100 people die each week, which is 14 to 15 people each day, from diseases, including cancer, caused by smoking. Many young people are lured or enticed into the smoking habit at a very young age - many below the age of 16.

Many small retailers act very responsibly. They have spent €500 to €1,000 in putting up special cases in order to have cigarettes concealed and not have them on display and impacting on people. Many small retailers and shops across the country take the responsibility very seriously by asking for the age of people and ignoring the usual excuses of getting cigarettes for parents or an older brother. However, we should distinguish between them. Many of them are concerned and I know of many shopkeepers in Westmeath who are concerned. They are aware that the introduction of plain packaging will affect them in ways. Their concern is it will increase illegal trade by making counterfeit products easier to make, distribute and sell and note that innovative packs, such as bevelled-edged or slide packs, are rarely copied. This is a real concern and every effort must be made to counteract this and, as Deputy McLoughlin stated, to ensure this illegal or illicit trade does not boom and take off in the context of what Members are trying to do. It will lead to down-trading and where price becomes more important as a product differentiator, margins will suffer, which of course probably will have a downstream impact on employment. Members also should be aware of all these factors and notwithstanding that I am in favour of the Bill, it is important to put the counter side of the argument.

I reiterate that I am completely in favour of any measures to reduce tobacco or cigarette smoking. The achievement of the objective the Minister has set out of a tobacco-free Ireland will play an important role in the health of future generations and of the country in general, as well as having an impact on health expenditure. However, to do this, a considerable suite of ancillary measures will be needed to accompany this plain packaging initiative. I acknowledge

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it is wider than that but to achieve this important public health policy priority, the areas that must be addressed include the illicit or black-market trade in cigarettes. It is this aspect of the market that exercises the minds of the small retailers who already play a positive role in helping to control the distribution and sale of cigarettes. As I stated, they have spent thousands of euro in installing cigarette machines and ensuring they are concealed and not visible and are not openly or flagrantly displaying or advocating cigarette sales. Responsible retailers are trying to compete with the illegal markets. They are paying taxes and everything else and therefore are at the very butt end of this. They are complying in full in respect of the under-age policy and in respect of young people. In particular, they make sure they are not selling cigarettes to children under 16 and in my view, the plain packaging of cigarettes will not contribute a single iota in this area as far as young people are concerned.

There must be an analysis of the impact of this Bill upon the trade and I agree with Deputy Maureen O'Sullivan, who also advocated that this course of action be reviewed in 12 months to ascertain how things are going. The Minister's main objective is to prevent children from smoking, to break that cycle and to intervene at an early age, which is extremely important and with which I certainly concur. However, Members must wait for credible evidence to be produced that will sustain the argument that plain packaging will deliver such a reduction in smoking. I understand that Australia, which is the country cited as being the most advanced in this regard, is due to publish an impact study in December 2014. It would be interesting to learn what emanates from that study, given that country is at the vanguard of this policy, to inform and underpin the objectives of the Bill. Moreover, by the time this Bill reaches the Statute Book and subject to the various evaluations and assessments, this regulatory evaluation in Australia due in December 2014 probably will be available. It might serve to inform Members to enable them to make the Bill's impact even stronger.

The most important issue now is to make smoking unattractive to young people. I know many young people, as well as many older people, who have tried to break the cycle. It seems impossible and I have lots of experience in that I have been described as a food addict. I was, it took me a long time to break that and I know what it is like. It is not easy and I would not lecture anybody. One must give people every help and every encouragement to so do. Were I Minister for Finance, I certainly would use the taxation system. I know doing so will not break that system because I remember the old days when the price of a packet of 20 cigarettes was increased by a thruppenny bit or a tanner. Everyone then would say they would down tools and the same would apply to an increase in the price of a pint. However, the reason that successive Ministers for Finance always increased taxes on those items is they are discretionary and it is easy. I note Deputy Matthews is in the Chamber and he would be aware the cost of these items used to feed into the consumer price index but they were removed from the basket of goods. Ultimately, however, the increase was only a weekly deterrent, in that by the second week, it all was forgotten about. As for the change, the price at that time was £1 1s. 11d., and the old penny was left on the counter. People did not even pick it up, which meant the Minister could even have increased the price by another penny. That is the theory of taxation but were I Minister for Finance, this is an area on which I certainly would focus. The smokers out there should be glad I am not Minister for Finance because I would be very strong in this regard, as I believe it would be a help. However, one cannot put the money that would be gained in the way I advocate into the greedy Exchequer Central Fund. Instead, I would put it into a fund for health promotion and for major projects that could divert young people in areas in which such projects are needed. It is very important to give people alternatives in sport and in health and leisure pursuits and I note the capital sports grants were announced today. There were grants

of €40,000 or €50,000 and my own club received €45,000. It would have taken us five years to raise that amount in the small village of Ballynacargy. Consequently, it would be a help to be able to get money from the Central Fund.

Funnily enough, I come from a family whose members were non-smokers but I have neighbours in whose families everyone smoked. Sometimes, that just happens. However, there are huge costs associated with health-related issues arising from tobacco. It costs up to €1 billion per year, not to mention the deaths that arise from cancer that is triggered by or derived from smoking. I also would ban smoking in cars when children are present. Anyone who has travelled with me over the years would know that one could do what one liked in the car but smoking was a no-no. Perhaps I was known as a cantankerous fellow down through the years because of it but that was what I did.

To give some element of balance to this debate, I note some people suggest that adverse consequences will arise as a result. First, the provisions of the Bill will apply to only three quarters of the tobacco market in Ireland, as approximately 24% of the tobacco smoked in Ireland is either purchased in the black market or overseas. This is the reason there must be a whole-of-Government approach in this regard. Indeed, the Revenue Commissioners do not measure rolling tobacco in their calculations, which means the aforementioned 24% should be even greater, which is an important point. There is an argument that the introduction of standardised packaging will flood the Irish market with cheap illegal tobacco products, which then would benefit organised criminality and would make it easier and cheaper to produce counterfeit standardised tobacco packaging and so on. However, I imagine that all these things could be overcome.

The major issue that I have concerns patents and trademarking. If Ireland introduces standardised packaging but it is not applied across the European Union, an incongruity would then arise. The measure would not apply to Irish smokers who chose to purchase their tobacco products in other European Union member states. This is where I foresee an issue arising. Irish consumers who wish to continue to purchase a legal branded product can continue to do so in another jurisdiction at a price discount, because they will encounter lower tax rates there than they would in respect of a tobacco product bought in Ireland. This will be an interesting point. However, the issue I foresee as a barrister is the impact of this measure on intellectual property rights and the possibility or rather the probability, that the Irish State or Government will face action, perhaps at European Union or international level. Members should be honest about this because that is what will happen.

Deputy Peter Mathews: More briefs for Deputy Penrose.

Deputy Willie Penrose: I do not ever get any of those funds.

However, there are the property rights established under Bunreacht na hÉireann, as well as right to the free movement and travel of goods under Article 34 of the Treaty on the Functioning of the European Union. The types of issues that will arise in respect of European law will be whether these measures are necessary to achieve the objective being pursued or whether they are disproportionate. In addition, I refer to the fundamental human rights guaranteed in Articles 11, 16 and 17 of the Charter of Fundamental Human Rights of the European Union, as well as the Irish and European Union trademark law, which I believe was updated in 1996. There also will be issues in respect of the World Trade Organization.

I wish to put on record a counter-argument that has been provided to me, which is that the il-

licit trade has increased in Australia since the introduction of standardised packaging, according to a report prepared by KPMG on illicit tobacco in Australia from October 2013. The argument is the Irish market would be flooded with cheap illegal products, due to the well-established smuggling networks that already are in operation. This would reduce the VAT and excise duty income to the Irish Exchequer without any reduction in the incidence of smoking. While such arguments exist, overall, if one takes it all in the round and having put out those arguments because as a barrister, one must argue the pros and cons, I am strongly in the pro-camp with regard to what the Minister is doing. However, the legal advice would be important. I have no doubt but that this legislation will be subject to judicial pronouncement at national level, at European Union level or even at world trade level in a global forum. I would make for a difficult Minister for Finance because I would spend an hour in this Chamber on budget night explaining the reasons I had increased the price of cigarettes by 30% or 40%.

Deputy Ruth Coppinger: It is incredible that the House is debating the issue of deglamorising of one of the most deadly products on the planet. Tobacco smoking is the greatest single cause of preventable illness and premature death in Ireland and the percentage of smokers in the population remains high, at 22%. After many decades of lying and deceit by the tobacco companies, we know their product leads to a deadly habit. Many of us who have fallen victim to tobacco smoking in the past can testify to this.

A previous speaker from the Fine Gael Party argued that the proposal would only influence other smokers. That is incorrect as anybody who has smoked will know that the branding and appearance of tobacco products add to their allure and attraction. It is possible to judge social class by the brand of cigarette a person smokes. Those who want to be cool and youthful will smoke Marlboro Lights, while those who want to display status will smoke other cigarette brands. The suggestion that branding and packaging are unrelated to the attractiveness of cigarettes is untrue.

The Bill will introduce plain packaging to deglamorise smoking for potential new smokers. All the representative organisations in the area of health as well as a large number of non-governmental organisations, including those involved in the cancer area, have called for this measure. The tobacco industry is virtually the only group that is up in arms about the proposal. It is amazing that Philip Morris has challenged the right of governments across the globe to introduce health legislation in this area. When the Taoiseach arrived in the United States to take part in the St. Patrick's Day festivities it seems he was greeted with a letter from the American Chamber of Commerce in which it questioned the Irish Government's right to introduce this legislation. The letter stated that its provisions on branding could degrade intellectual property rights and affect American and Irish business. Philip Morris, the company that makes Marlboro cigarettes, is leading the charge on this issue. As I noted, Marlboro relies heavily on image, including its image as an attractive product for young people. Anyone who smokes will be aware that this is the case. If one visits a pub or nightclub on a Saturday night, one will see many young people with Marlboro cigarettes. It is important to the company to be able to maintain its image because for many people their products call to mind images of cowboys and so forth.

In the course of this debate, we have heard that smoking rates increased in Australia after plain packaging was introduced. I have heard a similar argument being made on the streets when this topic was being discussed. If smoking rates increased in Australia following the introduction of plain packaging, why would cigarette companies take the Australian Government to court? Why are they threatening to take court cases against every country that considers this type of measure? They do so because plain packaging has the potential to discourage young

people from starting to smoke.

For me, as a socialist, intellectual property rights and branding go to the heart of capitalism. Capitalism will take a stand to save a brand and the right of companies to brand in a certain way to sell products that people do not need or want or could do without and to make them sound attractive. In the case of cigarettes, which we all know are extremely damaging, the tobacco companies want to maintain their sacred capitalist right to be able to brand any product in any way they wish. This shows how the free market capitalist system operates in a way that runs counter to what is needed, namely, a generalised policy of opposition to the tobacco industry.

A previous speaker referred to methadone. There is nothing glamorous about methadone and no young person wants to be a methadone addict. Addiction is a slow process. People do not set out to become addicts. Addiction usually occurs because the activity in question makes a person feel good or glamorous or creates a feeling of bonding. The argument that packaging has no effect because smokers' only concern is smoking is wrong. Packaging adds to the allure of smoking and it is important for this reason that countries take a stance on the issue.

Most addiction relates to three areas, namely, tobacco, alcohol and food, a major problem to which previous speakers referred. Measures could be introduced to tackle addiction to alcohol, gambling and so forth, which are also glamorised. However, this is a specific measure with the specific aim, based on the fact that most people who smoke start smoking at a young age, of removing a certain association that has been created by the marketing and advertising industries.

It is sickening how much money is wasted marketing goods to people. This money could be spent creating things that society needs, for example, houses and hospitals. The amount of money spent on marketing should be challenged at all levels.

I am pleased to support this move towards plain packaging.

Deputy Joan Collins: For years, the tobacco industry tried to hide the fact but all the medical evidence shows that smoking kills. While the odd smoker may be lucky enough to reach the age of 80 or 90 years, smokers generally do not live to old age. The tobacco industry is one of the most invidious industries in the world. It has been able to buy off governments, organisations and politicians across the globe and has nearly bought off Europe in its effort to keep the industry going. Moreover, it has done so in the knowledge that it is killing people with its products.

As a smoker, I will support any measure aimed at encouraging people to stop smoking. Those who quit smoking remain smokers because they are always open to the temptation of starting to smoke again. When I started smoking at the age of 13 years, packaging was not an issue as I was able to buy single cigarettes in shops. My decision was not related to branding or the colour of the packet but the result of peer pressure. My cousin and friends were smoking and I decided, out of curiosity, to try it out. I now smoke electronic cigarettes, which are controversial.

People with an addiction will do anything to get hold of the product to which they are addicted. Attempts to price cigarettes out of smokers' reach have failed because smokers will always find money to pay for a packet of cigarettes, even it means going without a meal at the end of the week. The removal of branding from cigarette vending machines has not had a significant impact as 22% of the population continues to smoke. The ban on smoking in workplaces, which was introduced ten years ago, had an impact and caused some people to stop smoking.

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However, unless people want to stop smoking, none of these measures will matter because they are addicted.

Plain packaging will not matter because people will still be addicted. If I was a young person with a smoking addiction, I would buy a nice box to put my cigarettes in when the measure is introduced. This would avoid the embarrassment of having a plain packet. There are many ways to get around this measure. Small shops are selling little cigarette boxes featuring nice colours and designs to encourage young people who smoke to put their cigarettes in them and there is no doubt that people will buy them.

While I am not opposed in principle to plain packaging, I do not believe the measure will achieve the objective the Minister has set. I hope the review to be carried out in Australia at the end of 2014 will produce accurate figures on whether smoking in that country has increased or decreased. It looks as though there has been an increase in the illegal trade of cigarettes in Australia over the period. I would like to see the figures in the review and how much of an impact on the sale of cigarettes plain packaging has had.

The reason I raise these issues is that the point was made about encouraging young people into sports. I started smoking when I was 13. I was a runner and I ran with Clonliffe Harriers, I was a basketball player and I was a swimmer. I was involved in sports all my life until my mid-30s, but that did not distract me from smoking. Once I took that first drag or the second drag, and the second cigarette, I was addicted. The issue is broader than what the Minister is introducing here.

It was always a big bugbear of mine that while those with alcohol problem can access detox clinics to pull themselves out of society for three months and get detoxed, and drug addicts can access similar facilities, the view is that smokers should just give them up. One cannot just stop smoking. Nicotine and the rubbish they have in cigarettes is more addictive than heroin. It is not possible to just give them up; it involves a change of mindset. Anybody who has smoked and has stopped will be aware that the smoker himself or herself must make that decision.

The only thing that has made me want to move to stop smoking is when I ended up with pleurisy, pneumonia and the first stages of emphysema. That made me say that I have to stop and I do not want to be going around with an oxygen tank on my back when I am 55 or 60 years of age. That is what stopped me in my tracks.

If the Minister seriously wants to encourage smokers to stop, the first step is to help them see that smoking kills. We all think we are invincible and it will not happen to us. The Minister should provide detox clinics where smokers can take themselves out of society for three months so as not to be engaged with the social scene of smoking because one needs that time to be able to stop smoking. I stopped smoking without any support for two years and I went back on them again. I have used nicotine chewing gum. I have used the patches. I have used everything to try and stop smoking. The response has to be bigger. I do not accept what the Minister says, that plain packaging has an impact on many young people. It might have an impact on some of them but if someone gives a friend a pull of a cigarette and he or she starts that one cigarette or the second one, he or she will most likely become addicted, although some do not become addicted.

Those are the sort of measures that should be put in place to support those who are coming off cigarettes. Those who do not smoke do not realise that a smoker's system crashes as such

because the loss of nicotine in their system affects their blood. When one stops smoking, there are times when, walking down the street, one will suddenly become dizzy, cannot walk and must sit down. One has to take time out. One gets cranky. One gets narky with members of your family. It is very difficult to cease the addiction.

I will not oppose the Bill but it will not be enough. It will not achieve the outcome with smokers that some believe it will because, as I said, once one is addicted, one will do anything in one's power and find ways to keep one's addiction, but using ways to prevent it in a different way. It is those areas that should be looked at. The supports for those who want to stop smoking have to be looked at because without those supports there will be fewer deciding to stop. Those thinking about stopping smoking are on their own. One can go to a chemist who will talk about the Nicorette chewing gum, tablet or patch, but then one is on one's own, the decision must be made alone. There have to be other ways to be able to support smokers to go into a clinic for a period of time to break the cycle of addiction. Then those who are making their mind up can go somewhere like that and get support. That would be much more effective than plain packaging.

Deputy Paudie Coffey: I wish to share time with Deputy Regina Doherty.

An Leas-Cheann Comhairle: And, possibly, Deputy Kyne.

Deputy Paudie Coffey: And Deputy Kyne.

An Leas-Cheann Comhairle: That is what I was told.

Deputy Paudie Coffey: I welcome the opportunity to contribute to this debate.

At the outset, I recognise that smoking is a personal decision for one who wishes to smoke. I also wish to state clearly that I do not like smoking because I have seen at first hand the damage that it has caused to personal health within my own family. However, I do not lecture those who smoke because I understand that it is an addiction, as spelled out by the previous speaker, that is not easily given up. We need to acknowledge that. I sympathise with those who smoke who genuinely try to give them up, find it increasingly difficult and cannot succeed in doing so. I would support the thought, and any effort, that could be put into resources to assist those who are trying to give up smoking to do so. As I said, I come from a family that has had heavy smokers. Indeed, it has caused heart disease and death in my family. It is for that reason, since I was a young man, that I have opposed the idea of smoking. It was because of the health consequences of smoking.

I listened with interest earlier to Deputy Finian McGrath. It is important in any debate to have dissenting voices and the Deputy made it clear that his was such a voice, to which he is entitled. However, he made the claim that because of this legislation, smokers are being hampered. I would pose the question, "How so?" I suspect that the Deputy was playing the victim here and, I suppose, appealing to smokers such as himself, but there are real victims when we speak about smoking.

The statistics are available and other Members have already outlined them. Between 6,500 and 7,000 smokers die each year in Ireland due to the habit. Approximately, 28,000 persons die each year in Ireland. That figure is down, from 35,000 in 1950, but it is still far too many. I suspect that any hospital consultant who deals with lung cancer or heart disease would say that one can always trace the problem back in many cases to smoking. That is a serious liability on

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families, but also on the health services. For that reason, I welcome any initiative that has the potential to reduce smoking and the number taking up smoking in this country. There is nothing positive I can say about smoking for the reasons I have outlined.

I take this opportunity to give credit to Fianna Fáil and former Minister, Deputy Martin - something I do not often do. I commend him on the introduction of the smoking ban in workplaces in 2004. It was a progressive move and the Irish people, and smokers as well, responded positively to it. I also commend the Government and the Minister, Deputy Reilly, on his further efforts to reduce the harmful effects of smoking on citizens and society.

The Bill will play some part but it is clearly not the only answer. There has to be a suite of changes, in resource allocation and in legislation to stop the marketing of cigarettes. However, it is an element and it will go some way in reducing smoking.

I have here with me a small advertisement from a packet of cigarettes that was brought to my attention last year. It states on one side that smoking kills and it has all the precautionary messages on it. However, it also markets what the company calls the “ICEBALL” capsule, the purpose of which is to “crush, to experience a fresh burst”. That is the experience the smoker would have - a fresh burst of menthol or something like that. It is to make the experience even more pleasant, but it does not say anything about the thousands of lethal bursts of inhalation that smokers take when they inhale tar and nicotine from cigarettes. It is a cynical attempt by the tobacco industry to make the smoking experience even more attractive. That is wrong, especially when we are aware of the health effects that it can have.

The tobacco industry is vociferously opposing this move. Some Members have said that the Bill will not have an impact. If it would not have an impact, the tobacco industry would not be getting involved to the extent that it is.

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It will have an impact, especially on young smokers of the future. As I stated, cigarette companies have made cigarette packaging attractive. There is pink cigarette packaging to make smoking attractive to young ladies. This legislation is a clear, positive statement by the Government that smoking has serious health implications, and it is not an initiative of a nanny state. Society and taxpayers ultimately pay for the implications of smoking because we must provide health services to treat those affected by smoking-related diseases.

Deputy Regina Doherty: Deputy Penrose said that if he were Minister for Finance, he would be taxing the living daylight out of tobacco because he regards it as a discretionary product. I disagree with him because there is nothing discretionary about addiction. Anybody in this House who has ever had to watch somebody he or she cared about die from a tobacco-related disease caused by addiction knows full well it is far from discretionary. The vast majority of people who smoke in this country will tell one that they do not do so because they want to but because they cannot stop. This Bill is all about ensuring that my teenagers at home and the vast majority of other teenagers will not start. On that basis, it is a bloody marvellous initiative.

Tobacco is the only product on the market that, when used exactly as the manufacturer intends, kills one. When one says that, it floors one. The Irish and other nationalities do not genuinely appreciate the real and serious harm caused by smoking. This is borne out by a survey by the HSE in 2010. It reported that only 7% of the people surveyed knew that smoking killed half of smokers in the longer term. The most recent media campaign by the Irish Cancer Society

shows also that one in every two smokers will die from smoking. This is phenomenal. Some 5,500 to 7,500 people die from smoking-related diseases in this country every year. Some 44% of the deaths are from cancer, and 90% of lung cancers are attributable to smoking. Some 30% of all cancers are caused by smoking. Some 25% of those who have heart attacks have them because they smoke, and 11% of all people who die from strokes do so because they smoke. These are startling statistics. That only 7% of people in Ireland know about them indicates we are probably not giving the Irish Cancer Society enough money to get the message across.

The message from this Bill is loud and clear. The tobacco industry will no longer be able to use its marketing tools to encourage our young people to start smoking. The industry needs to recruit 50 of our children every single day just to maintain its market. It does not want to maintain its market but to grow it. Our job is to make sure it shrinks. This Bill will take away one of the industry's key tools of promotion. The majority of smokers start when they are young adults or children, and packaging is mainly aimed at young people. The consequences for children, adult smokers and health services are absolutely enormous. The last statistic I saw was that nearly €3 billion of the €13 billion we spend on health services is for services for people with tobacco-related illnesses.

I am very proud of the current Minister's mission to tackle the powerful industry. The tobacco industry will not be given a veto over our public health policy, regardless of the legal thrusts. Some have already been made and, by Jove, I am sure there will be many more. Tobacco packaging and branding comprise one of the last remaining ways for the industry to market its products among our children. We will not be putting shareholders of international companies ahead of the future health of our children.

This is a battle that must be won. I agree with Deputy Joan Collins that this Bill is not the only initiative required. There will certainly be a reaction from the tobacco industry, not just a legal one but one based on marketing and packaging. The Deputy stated packets will be made to slip into plain packets. This is a battle that we must win and we must be ready. This legislation is just one prong of an approach to ensure we will be tobacco free in Ireland by 2025. I very much support the initiative and all the organisations who have supported it, including the group that got together to seek a tobacco-free Ireland.

The legislation puts Ireland to the forefront in the implementation of legal obligations under the UN treaty and the World Health Organization's Framework Convention on Tobacco Control. By setting an example for other European countries, we will be demonstrating that the benefits of this legislation should not be confined to our shores. The legislation will help to protect current and future generations of Irish children, particularly those from underprivileged areas who are more prone to taking up smoking. We hope to look forward to long and healthy lives free of tobacco-related illnesses. I advocate speedy adoption of this legislation by the Houses and genuinely look forward to the day when Ireland can claim to be tobacco free.

Deputy Seán Kyne: As has been said by others, up to 5,200 people, including relatives, friends, colleagues and fellow citizens, die from smoking every year. That is nearly 20 times the number of people who lose their lives on Irish roads each year. While there is always some initial grumbling, measures to improve road safety and save lives on the roads are generally put in place and adhered to without a struggle. However, with tobacco the situation is very different. The process of regulating and restricting the consumption of tobacco and cigarettes has been a struggle that has been ongoing for decades. The power and might of the tobacco companies and their lobbyists have acted as a deterrent to legislators and public representatives

across the world.

Only this week we heard from US public representatives on the threat this Bill poses to business interests and rights. This is indicative of a growing trend of international pressure being brought to bear on Irish public representatives and others. International groups and, more significantly, international resources and money, are featuring increasingly in the democratic process here in Ireland. We have seen this most recently in other health-related legislation, and I have no doubt that we will see it again during the marriage equality referendum campaign, most likely because that referendum will be the first nationwide referendum on that issue. Without doubt, there will be those trying to exert an influence from outside Ireland in the hope of shaping the outcome on the question of extending the right to marry to all citizens, irrespective of sexual orientation.

On the issue of smoking, it is intriguing to see the pressure and lobbying in favour of tobacco consumption continuing long after the negative and deathly consequences have been demonstrated. For decades, inescapable proof has been available to show that smoking kills. Smoking causes a range of illnesses that cause suffering and limit lives, yet the progress made in combating the public health threat has been slow, not least because of the pressure placed on public representatives.

In Ireland, the first efforts at effectively warning people of the dangers came in 1964 with the launch of a voluntary code on advertising. It was another seven years before tobacco advertising was banned on television and yet another seven until the Oireachtas introduced legislation in the form of the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Act. A further ten years passed before the sale of tobacco products to children was outlawed with the Tobacco (Health Promotion and Protection) Act 1988. It was only in the 1990s and early years of this century that successive Governments intensified efforts with the amendments to tobacco control legislation and new regulations. Perhaps the most widely known measure is the Public Health (Tobacco) (Amendment) Act 2004, which introduced the smoking ban in workplaces, as alluded to by Deputy Coffey.

Health is a subject that occupies a huge number of column inches and radio and television airtime. Most of the commentary and news coverage is negative, and unfairly so. The successes of our health system are rarely accepted or highlighted and the Minister for Health has one of the most difficult jobs in any Government. There is a constant barrage of criticism and a constant stream of negativity, which surely erodes confidence and positivity. However, no citizen, public representative, lobbyist, journalist, broadcaster or commentator can dispute the commitment of the Minister, Deputy James Reilly, to combating the public health crisis that smoking represents. He has been steadfast in his commitment to improving and protecting the health of the people by tackling smoking and by utilising the national Parliament to achieve this.

Given the facts, the extent of opposition to tobacco control and other measures to help people avoid the deadly addiction beggars belief. One in every two smokers will die of a tobacco-related disease. The cost to the State of tobacco-related diseases in 2009 was €500 million. The cost to the State of premature mortality caused by smoking in 2009 was €3.5 billion. The most important fact is that 5,200 Irish people, from every city, town and village, die prematurely from smoking-related illness every single year. The Public Health (Standard Packaging of Tobacco) Bill 2014 is the Minister's latest legislation aimed at saving lives. It is not an issue of restricting rights or damaging retailers. It is about saving lives. The Bill will control

the design and appearance of tobacco products and cigarette packaging and reduce the appeal of tobacco products. Nobody can deny that colourful and eye-catching packaging attracts the attention of consumers. The size of health warnings will be increased so that a person is left in no doubt about what smoking is doing to them. The Bill will also eliminate some of the misleading nonsense peddled to consumers about the effects of smoking. Many stakeholders with an interest in protecting and preserving public health agree it will discourage young people and, hopefully, adults from taking up smoking. Increased health warnings will give people further reasons to reflect on the activity. I commend the various groups involved in warning us about the dangers of smoking, including the Irish Cancer Society, ASH Ireland, the Asthma Society, the Irish Heart Foundation and Croí in the west of Ireland.

The arguments against this Bill do not stand up to scrutiny. One argument is that it will make counterfeiting easier, but if groups or criminal organisations are intent on counterfeiting tobacco products, no amount of legislation will dissuade them. Another argument is that placing further restrictions on tobacco products harms the retail sector. It probably is the case that some business in retail stores is generated through tobacco sales. The retailers will speak about the importance of getting footfall through the door because customers will also purchase other products. However, it is unrealistic to expect the Government to do nothing to combat an activity or addiction which is so harmful to smokers and the wider society.

Another concern expressed about illegal cigarettes pertains to the quality of their contents and the potential that they include higher quantities of harmful products. It has been estimated, based on assessments of discarded packaging of whether duty was paid on them, that up to 30% of cigarettes are illegal. I commend all those involved in the recent seizure of cigarettes, which was the biggest seizure in Europe this year. We need to remain vigilant of the criminals involved in the illicit trade in tobacco. We also need to tighten the policing of those who are intent on breaking the law. I understand the need to save money in a recession but converting from legal to illegal cigarettes does not save as much money as giving them up entirely. This Bill will go some way towards reducing the number of people who take up smoking.

Another argument put forward is based on intellectual property rights. The Irish Cancer Society has pointed out that while the Constitution protects property rights under Article 40.3.2° and Article 43, it also recognises that in a civil society property rights have to be regulated by principles of social justice and in accordance with the common good. By introducing plain packaging, this legislation seeks to protect and promote public health by preventing young persons from taking up smoking and consuming tobacco products. On the issue of trademarks, the society pointed out that the Bill does not cause the loss of any rights under the Trade Marks Act 1996 but only a justified and proportionate restriction of the use of trademarks. We already restrict the use of tobacco related trademarks in that they cannot advertise on television, billboards or retail premises.

Another argument against this Bill is that no evidence exists to show that standardised packaging will put customers off. If this was really the case, why do companies from every sector spend substantial sums of money on designing packaging to attract customers? Why would companies go to this expense if it did not influence a person's purchasing choices? Standardised packaging was introduced in Australia in December 2012 and it has had the desired impact of reducing the number of people who smoke. Standardised packaging will reduce the appeal of tobacco products to young people and end the belief among smokers that some cigarettes are less harmful than others. It will also make health warnings more effective and increase negative feelings about smoking. This has been demonstrated in surveys carried out

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in Australia. A recent study carried out in the state of Victoria found that those who smoked cigarettes from standardised packs perceived them as being lower in quality and less satisfying, were more likely to have thought about quitting at least once per day, rated quitting as a higher priority and tended to support the policy on standardised packaging. Research published in the *Medical Journal of Australia* found that the number of calls to a quit line increased by 78% following the introduction of standardised packaging. New research by the Cancer Council of Victoria observed a decline in the number of patrons who smoked in cafés when packs were displayed on tables. The research clearly shows that the policy works. If it did not work we would not be subjected to such a level of lobbying from opponents of the Bill working in the tobacco industry. They know the Bill will help to reduce the number of young people taking up smoking, and that is why I support it.

Deputy Peter Mathews: I welcome the opportunity to speak on this Bill. I found the debate to be very informative and I thank Deputy Buttimer in particular for synthesising the work of the Joint Committee on Health and Children and presenting statistics on age cohorts, usage rates and what has happened over the years in terms of how many people died have directly or through smoking related diseases. It is shocking that 100 people die every week from a habit that has received acceptance from society. That is the equivalent of five primary school classes.

Cigarette and pipe smoking has been an accepted behavioural pattern in society for more than 100 years. Compare this with asbestos, which was the accepted way of insulating buildings in the 1960s and 1970s. Asbestos had its own brands and trademark names, but as soon as it was discovered that it could cause asbestosis, a form of cancer that developed many years after people breathed in asbestos fibres, the buildings containing it were evacuated. The UN building in Brussels was deemed to be a health hazard and nobody was allowed to work in it. Imagine if the burgers that contained horsemeat were allowed to remain on the shelves. They did not even cause deaths; they were simply substandard in quality. They were whipped off the shelves and out of the factories and we were able to trace them back to their origins. However, when it comes to cigarettes, there appears to be a vague and foggy tolerance even though we are irrefutably aware of the death and destruction they cause.

Deputy Copping made a robust and comprehensive contribution. I fully support the introduction of standardised packaging and frightening pictures of what smoking does to an individual's health and body. If such packaging does not make a difference, why are tobacco companies and those involved in the trade exercised about it? Clearly it makes a difference. Younger people are impressionable. When I smoked the red packets of Carrolls Number 1, it was regarded as a superior product to Sweet Afton untipped. It was "Aaah" for an Afton and meant to be like breathing in fresh air but it was not fresh air.

It was a great idea to remove smoking from the workplace and public places but there is now a tolerance for creating areas on the doorsteps of pubs and lounges, which makes them a social space for young people. In such areas, the lethal cocktail of alcohol and cigarettes looks cool, as this is where people are sociable and have a chat. If people want a drink or two while having a chat, they have to almost run a gauntlet in getting through this "social corridor" into the pub. The cool conversations, cigarettes and alcohol are on the doorsteps.

Television channel BBC 4 did a documentary a couple of years ago about Philip Morris and British American Tobacco and their efforts to ensure they expanded production and sales across the globe, particularly in developing countries. I do not know how senior managers and the boards of directors in these companies can face humanity knowing what they do. It

is ironic that a recent chairman of the Bank of Ireland moved from that position, with a salary of approximately €500,000, to a job worth £600,000 per year as chairman of British American Tobacco. Banks were badly and irresponsibly led for seven or eight years so maybe it is an easy move for such people.

There is the issue of contraband and the problem of security packaging being easily counterfeited by illegal organisations and criminals. It is possible to put into the proposed standard packages with off-putting pictures of harm to the body some form of security printed coupon. Packages can have the equivalent security level as legal currency in some countries, and high-quality security printing can be done so packages can contain coupons. Perhaps that would help in the detection of counterfeit products. The fines relating to criminal activity and illegal importing are not particularly off-putting, so perhaps penalties should be imposed on those who ship the products. Even if they are innocent of what is in the containers on the ships, if there was a possibility that a fine of €500,000, for example, would be imposed if illegal cargo is found, the shippers would ensure they know the contents of their cargo. We can get real about this.

In an effort to put off people from using cigarettes, the highly flavoured and sweetened additives for tobacco could be substituted through force with compounds that smell awful. The people currently addicted would have a new flavour that may help them break the addiction. It would certainly put off younger people if the taste was bad. When most people start smoking cigarettes, it is not a pleasant experience and they do it to identify with a peer group or be “cool”. Deputy Joan Collins described the struggle of addiction to cigarettes and anybody who smoked knows about it. Nevertheless, the day a person gives up cigarettes comes down to a decision. It is the same for a person on illegal drugs such as cocaine, and one day that person has to decide whether to stay on the treadmill of addiction, which could lead to disimproving health and perhaps death. It is not easy to make such a decision.

The tolerance of smoking in society makes us a bit wishy-washy about this. This packaging measure is a start and it will take out the glamour from being introduced to what could become a smoking habit. It is a deterrent but I would go further. I would force manufacturers to include an additive with a bad smell or taste. It would lead to an outcry but so what? When horsemeat was found in burgers, everybody wanted products whipped from the shelves. There was a Perrier water scandal because the company was unsure of the contents in some bottles and every bottle was removed from the shelves. Nevertheless, the cigarettes we know for certain will kill one from every two smokers in the long run, amounting to 5,200 people per year, are still on the shelves. Perhaps younger people could see patients with emphysema in hospitals struggling to breathe on visits to wards. Such real-life experience would do much more than seeing a photograph, which is inert. People have been desensitised and a photograph will not do as much to put off people than hearing somebody struggling to breathe and coughing. Such a sight can be very upsetting.

The Minister is dead right that this is part of a range of measures to bring smoking rates to 5% or less by 2025. It is aimed at teenagers, for whom smoking is like a rite of passage. There is a cocktail involved in this rite, consisting of alcohol and cigarettes. There are also iPhone apps for gambling on football matches, etc., which leads to more instant gratification and rebellion. That can happen as soon as a boy’s voice breaks or he gets some fuzz on his chin. These are rites of passage into the adult world. Young people do not see the truthful counterbalance as everything is packaged, as Deputy Coppinger noted, in glamorous presentations. It is the big lie.

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We can now see in television soaps pub scenes which glamorise drink, chat, socialising and easily accessible betting apps. In the more upmarket soaps like “The Good Wife” there are top-class lawyers at the peak of their careers and after a day’s work in the court, they are rewarded with a big glass of red wine. They sniff it to savour the vapours and have sophisticated social chat while using mobile telephones. This is a subtle suggestion to people that these are little moments of enjoyment which take the edge from daily living but that is misleading.

This brings us back to the point of sale of the product. The Minister is right, the fact that all his medical colleagues fully support the Bill and that the manufacturers of cigarettes and tobacco are against it makes it a slam dunk that it is the right thing to do. As Deputy Penrose said, the other way to get at this is to start putting upward pressure on the price of cigarettes through taxation. I know people will say that is regressive taxation because so many who do not have the benefit of education are severely addicted and it will hit their pockets more than it will the pockets of those who are well-to-do. If the Minister explains that the extra revenue to be gained temporarily from this move will be ring-fenced and directed to sports investments for young people or medical supports for people with emphysema and so on, the message becomes clear. It will connect the tax with something which we hope will be eliminated from our way of life. Those extra taxes will be used to support the physical costs of that habit.

Breaking the habit is a decision and people can use supports to help commit to that decision. Deputy Joan Collins said she was off cigarettes for two years then went back on them. That could happen at an occasion or a celebration where somebody says, “ah go on, just have one”. Unfortunately one cannot afford to go back. I speak from personal experience. A total of 100 people a week, the equivalent of five primary school classes of 20, die unnecessarily. Our society came to accept smoking, although it did not accept toxins in food. Inhaling cigarette smoke is as bad as ingesting toxins in food. We have zero tolerance for anything that contaminates our food. Perrier spent €5 million or €10 million when it removed its product from the shelf over two days. It did not want its brand name hurt. The irony is that cigarette manufacturers talk about their trademarks and brand names, which are instruments of death. They might as well be called Kalashnikovs.

I thank the Minister for introducing this Bill. It will, I hope, make young people aware that smoking is better avoided. The sociable buzz of the annexes to pubs and lounges where people enjoy beers, which is fine at the right level, and cigarettes, makes them the cool place to be. Unfortunately, it counteracts the direction of this Bill. Why can we not just legislate to force manufacturers to introduce a distasteful ingredient rather than one that improves the taste. To add to the addiction, as they do, with scent and pleasant flavours, such as menthol, is doubly sinister and wrong.

Huge fines should be imposed on shippers and importers even if they say they did not know their containers held cigarettes. If they are fined €500,000 they will begin to know and take an interest in what is in their containers. That will complement the efforts of customs and excise officers and the police to counteract the activities of criminals. Contraband includes perfume and spirits as well as cigarettes on the mainland of Europe. This trade can be tackled if the penalties are serious and applied.

Deputy Joe O’Reilly: I congratulate the Minister on this ground-breaking legislation, which is the first of its kind in Europe. The measure has already been introduced in Australia and New Zealand. Two fundamental questions arise. Do we accept that cigarettes do harm? If we accept that, do we see a link between packaging and smoking? Does it make smoking more attractive?

If the answer is yes it is absolutely necessary to support the legislation enthusiastically.

The evidence that cigarettes harm people is compelling in that 5,200 die each year as a result of diseases caused by smoking. One in two smokers die from smoking-related illnesses. Cigarette smoking costs the State €650 million a year. One point that does not get enough currency, which relates to a point made in Deputy Mathews' very erudite contribution, is that cigarettes contribute significantly to poverty. I discovered this through working with, and visiting, people in estates. Those who smoke regularly spend such a disproportionate amount of their income on cigarettes that it contributes to their poverty.

A group of retailers in Cavan town approached me to say they would lose revenue through illicit trade in cigarettes which would grow because of the plain packaging. The shopkeepers' concerns are understandable given that, in Border constituencies in particular, they suffer from fuel laundering, and cigarette smuggling. While I support the legislation, we must take cognisance of their concern. A total of €650 million a year would be saved if we could eliminate cigarette smoking and maybe we could deflect money to more supervision by customs and police officers on the streets. It is wonderful that significant finds of illegal cigarettes were made in Drogheda the other day. We need to up the ante in this respect because shopkeepers deserve such support. As these shopkeepers have children, they would not suggest that the answer lies in making cigarette smoking or packaging attractive. While their point that illicit cigarette sales are affecting their livelihoods and businesses might not be politically correct, it merits being put on the record.

There is empirical evidence of a direct link between the use of attractive packaging and the increased prevalence of smoking. There is evidence from Australia and New Zealand that the use of plain packaging reduced considerably the rate of cigarette smoking. It is interesting that when the packaging is plain, people think cigarettes taste less well and are less attractive. There is even a suggestion that people think the plainly packaged cigarettes are not of the same quality as the cigarettes they bought previously. The link between packaging and the popularity of cigarettes has been well established. I will go through all of the figures the next time this Bill comes before the House.

Debate adjourned.

Topical Issue Debate

Education and Training Boards

Deputy Brendan Smith: I thank the Ceann Comhairle for giving me an opportunity to raise this important matter on Topical Issues. As the Minister of State, Deputy Cannon, will know, the Cavan and Monaghan Education and Training Board has submitted a detailed proposal to the Department of Education and Skills in respect of the delivery of training in Cavan and Monaghan from 2015 onwards. The Dundalk training centre has transferred to the Louth and Meath Education and Training Board with effect from 1 July, but no arrangements have been finalised to confirm the Cavan and Monaghan Education and Training Board's transfer share of the training function budget and the associated staffing. Through the new structures, an obligation quite rightly has been placed on the Cavan and Monaghan Education and Training Board to deliver on its training function, as enshrined in legislation. The situation that exists at present is not satisfactory, to put it mildly. It is a cause of serious concern to the members of the education

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and training board in counties Cavan and Monaghan. Equally, it will be a matter of concern for learners, staff, people wishing to access training and local enterprises in both counties.

I understand every effort is being made by officials in the Cavan and Monaghan Education and Training Board to make progress with the necessary proposals, in conjunction with the Louth and Meath Education and Training Board, but there has not been a satisfactory outcome to date. I want to make it clear that this lack of progress cannot be attributed in any way to the Cavan and Monaghan Education and Training Board. In that context, I can inform the House that the Cavan and Monaghan Education and Training Board has submitted detailed proposals to the Department about the transfer of training functions, the migration of information and communications technology systems, the transfer of the budget from 2015 onwards, the transfer of five further education and training staff from Cavan and Monaghan Education and Training Board from Dundalk training centre, the provision of additional further education and training staff for Cavan and Monaghan Education and Training Board and the proposed planning schedule. Each of those proposals was fleshed out in great detail in the submission the Cavan and Monaghan Education and Training Board made to the Department.

The Cavan-Monaghan area has been very fortunate over the years because the committed and diligent officials in the former VECs, and now in the education and training board, have worked extremely hard to deliver the progressive policies and programmes under their remit. We are fortunate that Mr. Martin O'Brien is the chief executive of the education and training board. I would also like to mention the work of Mr. John Kearney, who is the board's further education and training officer. Mr. O'Brien, Mr. Kearney and all of their staff want to deliver training as they are obliged to do under the legislation passed by the Oireachtas in the last two years. They have not yet received full engagement from the Louth and Meath Education and Training Board. This matter has been raised by my party colleague, Senator Diarmuid Wilson. My constituency colleague, Deputy Joe O'Reilly, who also has been very active on this issue shares the views I am expressing this evening. I hope the Minister of State can give me an assurance that the training functions that have been devolved to the education and training boards will be assigned to the Cavan and Monaghan Education and Training Board. The representatives of those two counties want to ensure the board is in a position to deliver training, upskilling and support to the people who need to access it at local level.

Minister of State at the Department of Education and Skills (Deputy Ciarán Cannon):

I thank the Deputy for raising this matter and for giving me an opportunity to outline to the House the position regarding the delivery of training in Cavan and Monaghan from 2015 onwards. Through a series of Government decisions, it was decided to replace the 33 vocational education committees with 16 new entities, to be known as education and training boards or ETBs, and to establish SOLAS to replace FÁS. As part of the reform of the further education and training sector, as the Deputy has said it is envisaged that the ETBs will play a key role in delivering further education and training in an integrated manner. This involves the transfer of training centres from SOLAS to the ETBs. Seven training centres and their staff transferred to ETBs on 1 January 2014. A further 12 training centres transferred to seven ETBs earlier this week, on 1 July. Each training centre, including the training centre in Dundalk, moved to the ETB of the functional area in which the centre is located. Five ETBs, including Cavan and Monaghan ETB, did not receive a training centre. The Education and Training Boards Act 2013 makes no distinction between the 11 ETBs that are receiving centres and the five that are not. All 16 ETBs must ensure the delivery of education and training. This reflects the Government decision. The question to be considered by the five ETBs that did not receive training centres

is how best they can deliver on the Government commitment.

There have been extensive discussions on this matter between the ETBs, SOLAS and the Department. Under the agreed position for 2014 that is in place, ETBs with training centres will retain primary responsibility for training and continue to provide services to areas which do not have training centres. The position for 2015 and beyond is under consideration at present. The ETB-SOLAS programme board, which is responsible for the stewardship of the ETB-SOLAS reform programme and is chaired by the Secretary General of the Department, agreed that a project should be established to examine the most likely options for a longer-term solution for the five non-training centre ETBs. A group comprising representatives of boards that are receiving training centres and boards that are not, as well as SOLAS and the Department, has been put in place and has concluded that each non-training centre ETB should engage with those ETBs having or receiving training centres and with SOLAS. This engagement should involve each non-training centre ETB preparing a joint proposal with the other ETBs, informed by the support of SOLAS. My Department is committed to assisting Cavan and Monaghan ETB in carrying out its role in the provision of further and training services. To this end, it invested more than €15 million in capital works in the Monaghan Institute of Further Education and training last year. In addition, in January of this year, approximately €100,000 was provided for works at the Castleblayney Youthreach centre.

On 24 June, my Department received a proposal from Cavan and Monaghan Education and Training Board regarding the delivery of training in those counties from 2015 onwards. This proposal, together with other proposals received regarding the delivery of training in the areas covered by the five ETBs which did not receive training centres, is being considered in my Department.

Deputy Brendan Smith: I thank the Minister of State for his reply. I sincerely hope that the proposal from Cavan and Monaghan ETB will indeed be considered in detail and subsequently approved. It will not be acceptable to anybody in Cavan-Monaghan if we do not have our own training remit. We are fortunate that in the past two decades we have built up a very good further education structure in the area. For example, Cavan Institute received a completely new premises in the early 2000s. In 2009, an education campus was approved for Monaghan town, incorporating the Monaghan Institute of Further Education and Training. Our concern is to maximise the potential of those two facilities. We have the leadership within the education and training board and at official level, supported by the members of the committee and Oireachtas Members representing the area.

Louth and Meath as a two-county unit would have more than double the population of Cavan-Monaghan. There is no question that if we are the lesser element in a situation where training is delivered on a four-county basis, then we will suffer. We do not want to see that happening. As spokesperson on education for my party, I supported the Government's proposals for new further education structures, involving a greater synergy and the merging of some of the functions of the former VECs. However, we must ensure that the implementation of these proposals affords every area the opportunity to maximise training opportunities and ensure there is access to placements for people in the area.

The Minister of State told the House yesterday, in response to another Topical Issue, that 33 VECs have been replaced by 16 education and training boards, with the latter having "full responsibility" for the planning and delivery of education and training in their areas. He also highlighted, as we all have done in the course of debates on this issue, the need to have local in-

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put and the capacity to react to the local market and business needs. That will only be achieved in Cavan and Monaghan if training is provided by our own education and training board. I sincerely hope the Minister of State will ensure that the detailed proposal put forward by the training board is approved. It envisages a realistic timescale and will not involve any disruption during 2014. We need the proposal to be approved.

Deputy Ciarán Cannon: I stand over all the points I made yesterday. If the new structures for the delivery of further education and training are to work effectively, they must reflect the needs of learners within a particular region as well as the needs of industry and enterprise within that region. That is why we have given significant autonomy to each ETB to determine the type of training and further education to be delivered within its area. The paramount consideration for my Department in this and all matters relating to further education and training is to ensure the best and most meaningful intervention and support for each individual seeking that support.

I take on board what the Deputy and his Oireachtas colleagues in Cavan-Monaghan are saying on this issue. I agree it is desirable that certainty be brought to the position for 2015 and beyond well in advance of the end of this year. I assure the Deputy once again that the proposal put forward by Cavan and Monaghan ETB is receiving active consideration within my Department.

Construction Contracts

Deputy Thomas P. Broughan: Some weeks ago I sought to raise allegations regarding social welfare and tax fraud at certain public capital programme construction sites with the Taoiseach on the Order of Business. Last week, Deputy Robert Troy raised serious concerns about alleged malpractice at the construction site at St. Patrick's College, Drumcondra, concerns which I echoed at the same Order of Business with the Minister for Education and Skills, Deputy Ruairí Quinn. Further allegations have been communicated to me to the effect that some of the companies involved in the construction of buildings funded by the State, in particular under the schools building programme, are employing individuals who are not registered for PAYE or PRSI. It is further alleged that some of these individuals may be claiming social protection benefits in Northern Ireland.

I have been informed that this matter, in particular the contract involving St. Patrick's College, has been raised with the Minister, Deputy Quinn, and his colleague, the Minister for Social Protection, Deputy Joan Burton, by the whistleblowers concerned on a number of occasions. It is additionally alleged by these whistleblowers that any contractor or subcontractor involved in these projects would have to be aware that some workers are signing on in the North while working on their sites in the Republic.

The collapse of the construction industry from 2008 led to more than 150,000 construction workers losing their jobs. The very valuable public capital construction programme and the very modest revival of house-building to perhaps 10,000 units this year offered some hope at last to tens of thousands of unemployed construction workers. That is why whistleblowers in the construction industry are so profoundly alarmed by these allegations of hidden economy workers. Moreover, these practices could potentially be costing the State many millions of euro in lost tax and social insurance revenue.

As well as raising this issue directly with the Minister for Education and Skills, I have tabled

parliamentary questions to the Ministers for Social Protection, Finance, and Public Expenditure and Reform to determine what actions are being taken to tackle the hidden or shadow economy in construction. The current regime of site visits, although it has uncovered some illegal practices on some sites, does not seem to represent the kind of strong invigilation needed to tackle the problems of alleged illegal behaviour associated with certain projects funded by the State. Whistleblowers have inquired as to why the Revenue Commissioners, the Department of Social Protection, the Department of Education and Skills and the Garda Bureau of Fraud Investigation have not more regularly inspected these sites. Will the Minister explain why he and the Minister for Public Expenditure and Reform did not insert a system of full compliance pre-entry checks for contractors, subcontractors and workers involved in the public capital programme? I understand such checks are the norm in the private sector, including, for example, at the huge Intel site in County Kildare where up to 4,000 construction workers were employed at one stage. The Minister also needs to explain why officials from the trade unions BATU and SIPTU are blacklisted and banned from the public sector project sites concerned, given the important role both these unions played in ensuring tax compliance during the Celtic tiger period.

Finally, one must ask whether an element of hypocrisy is at play in the public tendering construction process. I have a copy of the post-tender clarifications for a contract between JJ Rhatigan & Company, the main contractor, and Rapid Developments of 799 Lisburn Road, Belfast, a large subcontractor, for block and brickwork at the St. Patrick's College campus development site in Drumcondra. It has been put to me by whistleblowers that the costs identified in the post-tender clarifications are examples of unsustainable costings resulting from below-cost tendering. I am informed that figures set out in the document are some 50% lower than what is considered sustainable cost and pricing. Does the Government stand over unsustainable and even below-cost tendering for the €2.1 billion schools building programme and other public infrastructure projects? Given the report and anomalies identified above, what will the Minister do to address and answer the allegations reported to me, Deputy Troy and others, which I have outlined? I am not sure of the exact status of the Minister, Deputy Quinn, at this time.

Deputy Ciarán Cannon: He is still the Minister for Education and Skills.

Deputy Thomas P. Broughan: In that case, I am disappointed he is not the Chamber given that this issue was brought to his attention last October. It is an issue deserving of urgent attention given the importance of the schools building programme, including to construction workers.

Deputy Ciarán Cannon: I thank the Deputy for raising this matter as it gives me an opportunity to outline to the House the measures the Minister for Education and Skills, Deputy Ruairí Quinn, has put in place to ensure companies working on contracts awarded under the Department's schools building programme are compliant with tax and employment laws. In common with the rest of the public sector, all Department of Education and Skills capital works projects are tendered and awarded under the standard public works contracts, as required by the Department of Public Expenditure and Reform and the Government construction contracts committee, GCCC. The guidelines require a competitive process carried out in an open, objective and transparent manner to achieve best value for money in public procurement. Essential principles to be observed in conducting all procurement functions include non-discrimination, equal treatment, transparency, mutual recognition, proportionality, freedom to provide service and freedom of establishment.

Any contractor wishing to tender for any building project funded by my Department must

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sign a personal situation declaration under oath confirming the company's compliance with Regulation 53 of SI 329 of 2006, which requires the contractor, among other things, to confirm that the company has not been convicted for failing to fulfil an obligation to pay a social security contribution or to pay a tax or levy as required under a law of the country or territory. Where a contractor fails to provide this declaration, it is excluded from tender competitions being run by my Department.

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Contractors must also produce a tax clearance certificate or demonstrate a satisfactory level of tax compliance before they are awarded a contract. Furthermore, where my Department becomes aware of issues on building projects it funds, these issues are brought to the attention of the relevant statutory authorities. I am keen to ensure that building contractors operating legitimately are protected while those who seek to avoid their obligations under the terms of the public works contracts will be reported to the statutory agencies and penalised, where appropriate.

I am happy that the vast majority of building contractors are compliant. However, given the large sums of public money involved in the capital spend of the education sector, my Department appointed Contractors Administration Services, CAS, in April 2013 to conduct random audits on school building projects in order to verify compliance with the relevant pay and conditions clauses in the public works contracts. In tandem with the appointment of CAS, my Department also provided an online complaint system on its website to enable individuals bring to the Department's attention cases where they are of the opinion that issues of non-compliance are taking place.

Contractors Administration Services are continuing to conduct audits on school and college building projects and any issues of non-compliance brought to the attention of my Department will be audited by CAS and should irregularities be uncovered in terms of non-compliance with employment law, enforcement and prosecution falls under the remit of NERA. My Department will liaise with NERA on the progress of the random audits by CAS and will report any discrepancies found to it. If an audit uncovers any other matters of concern in regard to tax compliance or social welfare fraud, such matters will be referred to either the Revenue Commissioners and-or the Department of Social Protection, as appropriate.

Deputy Thomas P. Broughan: The Minister of State outlined a process for public tendering. Are the main contractors not responsible for all subcontractors and the workers of all subcontractors on a site? What can the Government do if it finds non-compliance? Can a contract be terminated? Could it apply to re-tender it? What kind of sanctions are in place for a main contractor who does not seem to be observing the rules the Minister of State outlined?

The Minister of State mentioned Contractors Administration Services but whistleblowers have asked me if CAS has the kind of expertise required. It seems to be mainly a private forensic accounting and auditing company. Why are the State agencies not ensuring the laws are being upheld? The Minister of State did not respond to my question on pre-entry checks on all workers and all personnel going onto sites. I referred to sites of companies such as Intel. When it was building all its fabs, there was very strict invigilation as to who entered the site.

Is there a race to the bottom in terms of the contracts themselves, one of which I have in my possession, and where the pricing system does not seem to allow for any kind of adequate wages or returns for the workers? Have the Minister of State's Department, other Departments

and public tendering officials the expertise to invigilate cost structures? Why are trade union officials blacklisted from sites such as those in Drumcondra and Lucan? There are serious allegations that workers are being denied pay and pension rights on those sites.

Will the Government put the hidden economy monitoring group, which I understand involves a number of Departments and agencies, on a statutory footing and introduce a Bill to ensure there is no more of this chicanery and alleged serious criminality in the hidden economy, or the black economy, which is supposed to cost our country billions of euro in GDP each year?

Deputy Ciarán Cannon: The reason CAS was chosen as the body to carry out these random audits is that it has the expertise, including significant forensic accounting expertise, to determine whether labour law is being complied with on these various sites. So far, CAS has completed 16 random audits on school and college construction sites, with one audit ongoing. As a result of those audits, information in regard to five projects have been referred to the Revenue Commissioners, one to the Department of social protection and one to NERA. Again, these are the entities with the legislative backing and the expertise to take any action required in terms of punishment or sanction for the contractors concerned.

The Deputy will appreciate that while I am happy that the vast majority of building contractors are compliant with their obligations under the public works contract, the Department is also keen to ensure building contractors operating legitimately are protected while those who seek to avoid their obligations under the terms of the public works contracts will be reported to the statutory agencies and penalised, where appropriate. We have within the machinery of the State significant expertise and significant sanctions to be able to take action in instances where such transgressions take place. We are proactively addressing the issues raised by whistleblowers through CAS architecture.

Bank Branch Closures

Deputy Catherine Byrne: I thank the Ceann Comhairle for the opportunity to raise this issue. It was with great shock and disappointment that I learned this week of the decision of Ulster Bank to close nine branches across the country, including two in my constituency of Dublin South-Central. The branches in Inchicore and Kimmage are scheduled to close by the end of November. However, I take the opportunity to take the staff in the Inchicore and Kimmage branches for their courtesy and the professionalism shown to the customers over the past number of years. I bank in the branch in Inchicore. I am glad the staff will not lose their jobs but the move will have dire consequences for our local community as we will be left with no local bank facility after Ulster Bank pulls out.

More than 4,000 households live in Inchicore and it was once home to three main banks - Bank of Ireland, AIB and Permanent TSB - and a number of buildings societies but all of them have closed their doors. The closure of the Ulster Bank branch will be very inconvenient for local people who will have to travel into town to access over-the-counter banking services. It will also mean the loss an ATM service for the village, which will be a major inconvenience.

I understand the bank is moving more of its services online to cut costs but it must recognise online banking does not work for many people for a variety of reasons. Elderly customers, in particular, will be targeted. They are being punished due to their inability to access the nearest branches. There is no direct bus service to the nearest Ulster Bank branch in Palmerstown. For

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many years, the bank relied on the custom of local people but now those very people are being penalised for their loyalty. They are angry and frustrated at the closure of their local banks.

I share the concerns expressed by local business people that the closure will result in the loss of business locally in Inchicore and Kimmage, with fewer people coming into the villages to do business. The village of Inchicore can ill afford another empty shop unit as currently there are seven.

People feel especially hard done by when they see how banking institutions have been supported by the State and are now returning to profitability. They feel that they should also be supported but instead they feel abandoned. This is not the first announcement of branches closing and, sadly, it may not be the last. It is the end of retail banking as communities know it. We need to maintain a decent level of service for customers, young and old, and, therefore, I urge the Minister to engage with the banking sector to keep branches - at least one branch - open in our towns and villages where people can get a proper banking service.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank Deputy Catherine Byrne for raising this important topic. I am aware of the recent Ulster Bank announcement in regard to the closure of branches and sub-offices over the next few months. This is a commercial and operational matter for Ulster Bank.

Ulster Bank is part of the Royal Bank of Scotland group and the bank had previously announced its intention to reduce its network and this current announcement is confirming the locations. It would not be appropriate for the Minister for Finance to become directly involved in the selection of branches the bank may decide to close. That said, I fully understand and appreciate the concerns of Ulster Bank customer and their employees at this time, in particular those in the Deputy's constituency. The statement that there will be no additional job losses as a result of the announcement is to be welcomed. I understand that staff will be redeployed within the branch network.

Ulster Bank has said it is reducing the number of branches in response to changing customer behaviours, in particular the use of mobile and online banking. The change is not unique to Ulster Bank customers and the move to increased usage of mobile and online banking is evident across the banking landscape. The national payments plan, which was agreed by Government last year, estimates that savings of up to €1 billion per annum could be made to the economy as Ireland migrates away from cheques and cash in favour of electronic payments. The Deputy may be aware that figures recently released by the Central Bank show that the number of business cheques written in Ireland has dropped by 21% since 2012. The Deputy may also be aware of e-Day, which is on 19 September. E-Day is the day from which all State agencies will no longer accept cheques from businesses or write cheques to them. I assure the House that consumers are not affected by e-Day.

The Minister for Finance has previously said he expected that the restructuring of the banking sector in Ireland and the recovery of the economy will present opportunities for the entry of new market participants. The Deputy may be aware that Bank of Ireland announced on 26 June last that it had agreed to sell the distribution platform, together with €250 million of mortgage assets at par, to Dilosk Limited. No deposits are transferring as part of the sale. That follows an amendment to its restructuring plan which allowed the bank to retain its life assurance subsidiary, New Ireland. The bank committed to certain substitution measures including the sale of the ICS distribution platform together with, at the option of the acquirer of the platform, up to €1

billion of mortgage assets and a similar quantum of matching deposits. The purpose of the ICS substitution measure is to support new entrants in the Irish mortgage market thereby increasing competition to the benefit of the consumer.

Dilosk Limited has confirmed that it has applied for authorisation from the Central Bank of Ireland as a retail credit firm and once it is so authorised, it will be required to fully comply with all relevant consumer protection codes, including the code of conduct on mortgage arrears. Mortgage holders will therefore be afforded protection. Given the reduced number of lenders now operating in the mortgage market, this transaction is to be welcomed as it introduces a new entrant and should therefore contribute to greater competition.

The concerns of Ulster Bank customers and its employees at this time are fully understood, however, this decision is not one in which the Minister for Finance has any role. The bank will continue to have a substantial branch presence across the country and Royal Bank of Scotland has publicly committed to building on Ulster Bank's current position to make it a compelling challenger bank to the main domestic banks and to focus firmly on the customer. That is to be welcomed. The continued presence of a viable and active Ulster Bank in the Irish market will be important in fostering competition for banking services. It is vital that businesses and consumers have a range of banking options available when using financial services and accessing credit - all of which will become increasingly important as the economy recovers.

Deputy Catherine Byrne: I listened with regret to the response of the Minister of State but I did not raise the matter in the expectation of a miracle. I raised it because of the human factor. I have been contacted by many local people, in particular elderly people, many of whom are unable to access transport or a bus service to the nearest bank, which means many of them will have to go to another bank and go through the entire process of changing where they bank. Such a change fills older people with fear and might prompt them to withdraw their money from the bank and put it under their mattress. I would be concerned about that.

The proposed change to mobile and online banking might be progress for the banks and result in significant savings but customers in the area welcomed the personal touch from staff in Ulster Bank following the closure of Bank of Ireland. I did not raise the matter because I expected a miracle and the decision to be overturned but because it was important to signal the human cost to customers in my local area. Banks have a responsibility to look after people who supported them for years. I thank the Minister of State for his reply.

Deputy Tom Hayes: In the first part of my contribution I outlined the position from the banking perspective. The Deputy accepted that the Minister for Finance cannot interfere in the closure of bank branches. Deputy Byrne is an experienced public representative. I have encountered the phenomenon in my constituency and I understand the fear to which she referred. Such fear and concern is real. People could decide to withdraw their money. I appeal to the Deputy to tell her constituents that it is not a good idea to take their money out of a bank and put it under the mattresses or elsewhere in their homes, because people with cash are often robbed or attacked in their homes. The banks should deal with customers individually. The Minister for Finance will impress on the banks the need to address the concerns of customers. If people in an area have become fearful due to the closure of a bank branch the bank has a responsibility to allay their fears. It is important that banks deal with the issue.

Deputy Byrne has made a strong case on the human aspect of the closure of branches of Ulster Bank. I will relay the matter to the Minister so that he can express those concerns to

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the banks and to ask them to deal with the concerns of individuals, who might withdraw their money for fear that the bank will close. We have witnessed the closure of bank branches in rural communities in particular and people have adjusted to the situation in time. I accept that they need help and support. Deputy Catherine Byrne, as a concerned public representative, has brought their pain to the attention of the Oireachtas. We cannot interfere but we will certainly help to allay people's fears.

NAMA Social Housing Provision

Deputy Seán Kenny: Thank you, a Cheann Comhairle for the opportunity to raise this matter. I refer to the inordinate delay in the handing over of 48 apartment units at Clare Village, Malahide Road, Dublin 17, from NAMA to Tuath Housing for allocation by Dublin City Council to families on the council's homeless list. There is a housing crisis in the country and a serious homelessness problem, which dates to the collapse of the property market and the cessation of building projects. To address the situation the Government instructed NAMA to make available vacant units under its administration that were built by builders who went out of business or otherwise into liquidation and whose units were lying idle. Clare Village, Malahide Road is a case in point.

There are half a dozen homeless families in my constituency who come to me on a regular basis. At the beginning of January this year they were informed through Dublin City Council that they were to be selected for the allocation of those particular units. They had been homeless for some time before that but they were hopeful of being housed in the near future. Their expectation was that it would happen within a short time. I know of a number of cases of ongoing delays. I am full of praise for the homeless section at Dublin City Council because its job is difficult but is done properly and professionally.

In January a family was told it would be allocated a unit and could move in towards the end of March. The family had previously been in refuge and temporary accommodation and there are other such families who must move around. I do not know the reason but March passed and the family were not allowed to move in. Instead they were told they could move in towards the end of April but this did not happen either. At the beginning of April the family were told there were unspecified administrative difficulties but that they could move into the unit in eight weeks. This period has long passed. The family were then told they could move in at the end of June and this has now changed to the end of July. There is a pattern to this.

I asked Dublin City Council to explain the delay but it will not tell me nor the two housing associations that contacted it. This accommodation is under the control of NAMA and that is a difficult body to deal with because of the regulations under which it operates. One must be careful what one says if one contacts NAMA because one could be accused of lobbying.

The point is, there are half a dozen such families in my constituency and there are 48 apartments available, so families from across the city could be housed. Instead they are still in emergency accommodation and hostels waiting to occupy units that are ready. I do not know the reason for the delays. It could be a matter of legal conveyancing, administration or simply somebody not getting on with things, but it is unacceptable.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): I answer this question on behalf of the Minister of

State at the Department of the Environment, Community and Local Government, Deputy Jan O'Sullivan, who has special responsibility for housing but is unavoidably delayed.

I thank Deputy Seán Kenny for raising this matter and I have listened with interest to what he has said. The Department of the Environment, Community and Local Government continues to work closely and successfully with NAMA, the Housing Agency, local authorities and approved housing bodies on the delivery of social housing. To the end of the first quarter of this year 1,849 available units identified by NAMA have been confirmed by local authorities as being suitable for social housing. Some 684 units have been contracted or committed for social housing use. A further 451 properties are considered as being active transactions where terms are agreed or active negotiation is ongoing by all parties concerned or where a detailed appraisal, determining the most likely delivery mechanism, is being carried out. An additional 702 properties are to be further appraised, signalling likely delivery in 2015 and 2016. Some 367 units were delivered in 2013 alone, a significant increase on 2012. Updated information on the delivery of NAMA sourced units for the second quarter of this year is being finalised and will be made available shortly on the Housing Agency's website.

The Minister of State, Deputy Jan O'Sullivan, has no statutory function in the allocation of tenancies and she is precluded from intervening in the decisions made by housing authorities in the allocation of particular dwellings. However, the Department is working with Tuath, NAMA, Dublin City Council and the Housing Agency to expedite timely delivery of these units at Clare Village.

It is important to note that the process of delivery of units at Clare Village involves a significant multi-unit transaction. With this comes the added complexity of getting agreement from a number of parties who, while fully committed to the process, are operating within an environment subject to a range of legal and financial challenges, including ensuring compliance with the Multi-Units Development Act.

Within this context significant progress has been made, and I understand that contractual arrangements to secure these units for social housing, which involve the NAMA special purpose vehicle, National Asset Residential Property Services Limited, are expected to be finalised shortly. Once that process has been completed, the remaining lease agreements involving the various stakeholders, which are being progressed in parallel, can be completed. I understand that, barring any unforeseen events, these units are expected to be made available for allocation in the coming weeks.

Deputy Seán Kenny: I thank the Minister of State for that reply. I understand the Minister of State, Deputy Jan O'Sullivan, has no role in the allocation of units but that is not the issue I was trying to raise. A decision has already been made in these cases to allocate apartment units. I am baffled by the complexity of this matter because it involves four bodies, Tuath, a voluntary body, NAMA, Dublin City Council and the Housing Agency, and a special purpose vehicle was mentioned also. There is a need for co-ordination on this.

It is very difficult to get a precise reason for the delay. I hope what the Minister of State said is correct and that the units will be available in a couple of weeks, but I am aware of similar developments that have seen months of delays. There should be a detailed analysis of the cause of the delays rather than references to multi-unit developments and the many bodies involved. I also seek a more specific answer on the timescale.

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Deputy Fergus O'Dowd: I am happy to raise these comments with the Department, along with the assurances on the timeline the Deputy seeks as they are not included in the speech I have given. I will ask the Department to contact the Deputy as a matter of urgency and I support the views he expressed. Regardless of the complexity of the matter, it is the intention of all concerned, particularly the Minister of State, Deputy Jan O'Sullivan, to deliver these units as quickly as possible.

Message from Select Committee

An Ceann Comhairle: The Select Committee on Jobs, Enterprise and Innovation has completed its consideration of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Bill 2013 without amendment.

The Dáil adjourned at 5.30 p.m. until 10 a.m. on Friday, 4 July 2014.

