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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

DÁIL ÉIREANN

Dé Céadaoin, 10 Nollaig 2014

Wednesday, 10 December 2014

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

Paidir.
Prayer.

Ceisteanna - Questions

Priority Questions

Rent Supplement Scheme Administration

1. **Deputy Willie O'Dea** asked the Tánaiste and Minister for Social Protection her plans on increasing the threshold for rent supplements in 2015; and if she will make a statement on the matter. [47007/14]

Deputy Willie O'Dea: This question relates to rent caps. I wish to ascertain whether the Government is going to increase those caps in view of the fact that actual rents have outstripped the rent cap levels in various parts of the country.

Minister of State at the Department of Social Protection (Deputy Kevin Humphreys): I thank Deputy O'Dea for his question. He is probably aware that approximately 71,800 people currently receive rent supplement. Of particular interest to Deputy O'Dea is the fact that there are approximately 2,500 rent supplement recipients in Limerick, of whom 860 came into the scheme in the past year. Obviously people are able to access the rent supplement scheme, given that 34% of people in the Limerick area in receipt of the supplement joined the scheme in the past year.

There is considerable experience within local community welfare offices and we have been in regular contact with them on this issue. As recently as this week, we contacted officers on the ground with front-line experience to tell them that they have flexibility in the context of rent allowance payments. The most important element of this is to make sure that families currently in receipt of rent supplement are able to stay in their rental properties and keep abreast of what is happening in the rental market. The best way for that to happen is to use the local experience

and knowledge of community welfare officers to meet the needs of families. I am constantly monitoring the situation and the Department is in constant contact with community welfare officers on the ground. It is our intention to ensure that people will be able to access homes.

We must be extremely careful, however, not to give landlords a charter to increase rents. There are many low-income families and individuals in the private rental market and there is a significant supply problem. In that context, we must be very careful to ensure that we strike the right balance in order that people in receipt of rent supplement are able to access homes in the private rental market as well as those on low incomes. While the majority of landlords would not do so, there are some who would take advantage of the current situation and increase rents further. We are using local expertise and knowledge and giving flexibility to local officers to ensure that people are able to stay in the private rental market. In the longer term, we must develop mechanisms to assist people in receipt of rent supplement back into employment.

Deputy Willie O'Dea: I thank the Minister of State for his response. Will he confirm that the Department's directive to community welfare officers in Limerick to allow flexibility represents a change in policy? I represent Limerick city and I am dealing with cases week in and week out. My experience is that no flexibility is being shown in the Limerick area.

At the moment in Limerick, the rent cap for a married couple is €400 per month. There is no place suitable for a married couple in the Limerick city area available for €400 per month. The cap for a married couple with one child is €500 per month. Again, there is nowhere in Limerick city with accommodation suitable for a married couple and a child available for €500 per month. Such accommodation would cost at least €800 per month and if one asks any auctioneer in Limerick, he or she will confirm that. There is a real problem. In some cases, people are paying rent top-ups or under the counter payments which are, strictly speaking, illegal. How far will the flexibility to which the Minister of State referred extend? Will it extend as far as supplementing a married couple with one child who find suitable accommodation costing €800 but for whom the rent cap is €500?

Deputy Kevin Humphreys: I am aware of the difficulties which exist throughout the country because of the lack of supply. Having said that, families and single people are still moving into the rent supplement scheme. As I pointed out earlier, 860 people in Limerick joined the rent supplement scheme in the past year and moved into accommodation in the Limerick area.

We were in contact with the regional managers in July to explain the flexibility that can be exercised and yesterday the Tánaiste spoke to them again about that issue. We have also communicated with them in writing. We want the people with experience on the ground to use that flexibility but we also want consistency throughout the country. We have written to the local officers to outline the powers of discretion they have under article 38 of the relevant statutory instrument. I will be monitoring the situation on an ongoing basis to ensure that flexibility is being exercised and that there is a continuity of service throughout the country. I assure the Deputy that I will follow up on this issue regularly.

Deputy Willie O'Dea: I am glad that the Minister spoke to the district managers again yesterday because the directive issued in July had no impact in Limerick and I can state that quite categorically.

The Minister of State referred to the fact that approximately 860 people in Limerick have moved onto the rent allowance scheme recently. However, if one studied that group, one would

find that a great number of them are paying under the counter payments because rents are way in excess of the rent caps. One will also find that many of them are moving into accommodation that is totally unsuitable. I will monitor progress on the most recent directive issued.

Regarding the housing assistance payment, HAP, scheme, Limerick was used as a pilot for the roll-out of that scheme. The Government committed to the HAP in its programme for Government four years ago. A recent reply to a parliamentary questions indicated that out of approximately 72,000 people in receipt of rent allowance, fewer than 200 have moved to the HAP scheme in the past four years. Will the Minister of State confirm that these figures are correct?

Deputy Kevin Humphreys: The majority of those in receipt of rent supplement are single parents with one child or single people. On the issue of flexibility, I will ensure that it is being exercised. However, if the Deputy is aware of specific cases in Limerick which indicate that it is not being exercised, I would be happy to look into that and talk to regional managers again, if necessary. The priority is to ensure we keep people in their homes. There is a very useful and worthwhile protocol operating successfully within the Dublin area. I intend to look at where that could be extended to other parts of the country.

What I am saying to the Deputy is that I will look at that element of it and ensure there is flexibility, but I also want to ensure there is continuity nationally and that it is operated on the same basis. Other Deputies have brought to my attention instances where there was no continuity or flexibility and I have endeavoured to ensure that has been addressed in the relevant areas. I do not have the HAP figure in front of me, but I will get the figures for the Deputy and revert to him.

Deputy Willie O'Dea: I think it is approximately 200.

Rent Supplement Scheme Administration

2. **Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection her views on figures published by a newspaper (details supplied) on 30 November 2014 that the average gap between the rent supplement caps and actual rent prices now stands at 44% across the State, and is as big as 54% in County Wicklow and 45% in Dublin city; and if she will take emergency action in response to these findings and the resulting rise in homelessness. [47108/14]

Deputy Aengus Ó Snodaigh: My question aims to ascertain whether the Minister appreciates fully the scale of the growing gap between the rent supplement maximum limits where they have been set and the actual price of rents. What, if any, steps will be taken by the Government to stem the rise in homelessness that is resulting from her inaction on rent supplement and that of the Cabinet as a whole?

Deputy Kevin Humphreys: I thank the Deputy. The Deputy's question stems from a newspaper article in *The Mirror* on the percentages. We do not set rent allowances on the basis of what appears in *The Mirror*, even though it is a reputable newspaper. We have different caps across the State reflecting the market. For example, there are two different caps in County Wicklow depending on how close one is to the city. The largest differential within the question the Deputy asked was in the Wicklow area.

As I have noted to the Deputy previously, €344 million was spent on rent supplement last year. We are currently carrying out a review on the cap, which should be completed shortly. In the meantime, I want to ensure that there is a flexibility right across the market operated by community welfare officers who will look at market conditions in particular areas. However, I want cognisance to be taken also of the need to avoid allowing rents to inflate throughout the country on foot of any increase in the caps, as has happened before. There are many low-income families and students within the Dublin area who could be priced out of the market if the caps were lifted. Certainly, the caps within social welfare set the bottom of the market. All landlords look at what the Department of Social Protection caps are and build their rents on top of that. It is not surprising as the Department takes approximately one third of all rental units across the State and we must be careful not to create rent inflation.

That is why I am communicating regularly with the regions and community welfare officers to ensure that they take local circumstances into consideration. In many ways, they are the very ones who are best placed to do that and to work with people on an individual basis. Not only is there a problem in relation to rental income, but it is another element of helping people to get back into the workforce.

Deputy Aengus Ó Snodaigh: I welcome the Minister of State's statement that there is a problem. As he said, 30% of the private rental market is in some way controlled by the State as it is the funder. I am not someone who wants to subsidise private landlords further. In fact, the opposite is the case. The problem is that we have a crisis, especially in Dublin and other areas where the rent cap set by the Department is out of sync with the rents being sought by landlords. In that event, people end up in homelessness or, as they have done for years, having to make an under the counter payment. The problem is that the gap between rent and the rent supplement cap has grown to such an extent that even those who have made a top-up payment in the past can no longer do so.

My specific question is on the Department's rent supplement initiative and family protocol, which I welcomed. I am not opposed to it. The problem is that some of the people who availed of it in the first place are being timed out as it was a temporary initiative. Can it be extended? If it is being extended, it is akin to a different rent supplement cap. Can the Minister of State explain that a bit more?

Deputy Kevin Humphreys: There have been more than 300 applicants in relation to the protocol and it can be extended. To give the Deputy two direct answers to two direct questions, "Yes", and "We are very aware". There is a long-term problem, a medium-term problem and a current problem in the market. The Minister for the Environment, Community and Local Government, Deputy Alan Kelly, announced a comprehensive programme to deal with people who are homeless, which has been very much welcomed. I have been concentrating within the area of rent supplement and have been in constant communication with the Minister's Department on this. The best people to deal with this are those with front-line experience and knowledge of local markets. That is why we are encouraging our officials on the ground to use their discretion.

I agree with Deputy Ó Snodaigh that we do not want to create false rent inflation by having the Department of Social Protection set a floor from which landlords then build a greater and higher rent. We are a substantial element of the rental market in that we take more than 30% and we must be very cautious. There are numerous low-income families who could be quickly priced out of the market. Deputy Ó Snodaigh knows as well as I do that there is no simple

solution to this. There is a shortage in the market which is driving prices. My Department is doing everything in its power to ensure that people can access accommodation and stay in their homes.

Deputy Aengus Ó Snodaigh: The Minister for Social Protection, Deputy Joan Burton, who is sitting next to the Minister of State, will remember a conversation we had on a number of occasions on direct negotiations between the Department and landlords. That proposal was turned down and it was indicated that it was up to the tenant. As the funder of 30% of the rental market, there is a greater onus on the Department. In Ballyfermot, which is my own area, and in general across Dublin, the rent for a three-bedroom house is €1,300 to €1,400 while the maximum rent allowable under the cap is €950. The rent supplement is less than that, given the personal proportionate contribution. I am not suggesting the Department should fully bridge that gap, but there must be a way to negotiate with landlords to reduce rents to a price that is realistic.

Has there been any discussion by the Department and the Minister with responsibility for housing in relation to rent control which would solve some of these problems? The figures I read earlier were from *The Mirror*, but the Simon Community and others have vindicated them since they were published. There must be a whole-of-Government approach to this issue.

Deputy Kevin Humphreys: I agree with the Deputy that local authorities should negotiate. That is what is proposed in HAP to which the Deputy objected and which he opposed when it was going through the House. HAP will provide rent certainty to tenants, allow local authorities to negotiate directly with landlords and end the poverty trap inherent in rent supplement, which often prevents people from going back to work. HAP will allow that. It has been rolled out in some areas and will be rolled out in the Dublin region. I look forward to it as it will provide rent certainty to those who are currently in receipt of rent supplement and allow people to get out of the poverty trap and back into employment. Unfortunately, Sinn Féin has objected to HAP at every hand's turn. It is an excellent scheme that was introduced to this House by the Minister, Deputy Jan O'Sullivan. The pilot has been successful and it is now being rolled out to the remaining local authorities. I hope it will have the support of the Deputy because that will mean the local authorities will be negotiating with the landlords, which will give security of tenure to the person currently receiving rent supplement, and it will also eliminate the poverty trap of rent supplement that prevents people returning to employment.

An Leas-Cheann Comhairle: Thank you, Minister. I call-----

Deputy Kevin Humphreys: I very much look forward to the Deputy's support on this, and I welcome his change of mind on it.

An Leas-Cheann Comhairle: We move on to Question No. 3 in the name of Deputy Thomas Pringle.

Deputy Aengus Ó Snodaigh: I am sorry but I want to correct the record. We did not oppose the housing assistance payment, HAP. We opposed legislation which contained the measure. We had endorsed the HAP.

Deputy Kevin Humphreys: The Deputy looked for excuses to oppose every item of legislation at every hand's turn.

An Leas-Cheann Comhairle: Please-----

Deputy Aengus Ó Snodaigh: If the Minister of State checks the record he will see that we did support the HAP.

An Leas-Cheann Comhairle: We have got that.

Deputy Aengus Ó Snodaigh: We highlighted problems with the rental accommodation scheme, RAS, in particular in Dublin. If the Minister of State looks back on the record he will see that the RAS has not worked in Dublin similar to other areas.

An Leas-Cheann Comhairle: Sorry, Deputy. In fairness to Deputy Pringle he is waiting patiently and we are over time so I ask Members to please watch the clock.

Social Insurance

3. **Deputy Thomas Pringle** asked the Tánaiste and Minister for Social Protection if she will allow fishermen who own their own boats, who are sole traders or may have one or two crew members to pay class P PRSI contributions in order for them to avail of the limited benefits under class P for periods when they are unable to fish due to weather and so on; and if she will make a statement on the matter. [47110/14]

Deputy Thomas Pringle: I do not mind, a Leas-Cheann Comhairle, if you want the discussion on the previous question to continue for a while.

Deputy Aengus Ó Snodaigh: Thank you.

An Leas-Cheann Comhairle: Other Members are waiting to ask questions as well.

Deputy Thomas Pringle: This question relates to the class P PRSI contributions that were established for share fishermen to avail of limited benefits under the social insurance scheme. There has been a poor take-up by share fishermen with regard to the scheme but a number of small inshore fishermen who are sole traders or who own their own boats and who might have one or two crew cannot avail of any social insurance for periods of bad weather when they cannot fish. They are dependent on the catch of the vessel for their income and I ask if the scheme could be extended to include them too, which would give them a worthwhile income.

Tánaiste and Minister for Social Protection (Deputy Joan Burton): I thank the Deputy for the question. The treatment of workers involved in the fishing industry depends on whether they are regarded as an employee or self-employed or, if self-employed, are a share-fisherman-woman for social insurance purposes. A fisherman or woman who is paid a fixed wage or salary may be regarded as an employee of the boat owner or skipper and, similar to employees in other sectors, is liable to pay PRSI contributions at class A. Class A employees pay PRSI at 4 % and have access to the full range of social insurance benefits, including jobseeker's benefit. In addition, their employer makes a PRSI contribution of 10.75%.

Fishermen or women who are not employees may be regarded as self-employed for social insurance purposes. Once annual income exceeds €5,000, they are liable to PRSI at the class S rate of 4%, subject to the minimum payment of €500. This gives entitlement to a more limited range of long-term but valuable benefits such as the State pension, contributory, and widow's, widower's or surviving civil partner's pension, contributory, as well as maternity benefit, adoptive benefit and guardians payment, contributory.

A person who works in the fishing industry on a self-employed basis and is paid solely by the "share" of the value of the catch is regarded as a share-fishermen or women. In addition to their liability to pay class S PRSI contributions, they also have the option to pay additional PRSI contributions at class P. This contribution is over and above the PRSI paid under class S and is charged at 4% of all income over €2,500, subject to a minimum annual payment of €200. Class P entitles the contributor to limited jobseeker's benefit up to 13 weeks in each calendar year, limited illness benefit up to 52 weeks and treatment benefit.

Additional information not given on the floor of the House

In 2012, 16 individuals opted to pay class P contributions. Class P was introduced to reflect the very unique characteristics of share-fishing whereby, following a 1986 High Court ruling, the skipper and crew are regarded to be in partnership. A fisherman who owns his own boat is not precluded from opting to pay class P provided he or she is remunerated by way of "sharing" the catch with his or her crew. Extension of additional entitlements, such as class P entitlements, to other categories of fishermen-women not engaged in share-fishing activities could only be considered in the context of extension of entitlements to other categories of self-employed, whose activities do not have the same unique characteristics which prevail in share-fishing.

Self-employed workers, including share fishermen-women, who cannot work because of poor weather conditions can apply for the means-tested jobseeker's allowance during periods of unemployment. In general, their means will take account of the level of earnings in the last twelve months in determining their expected income for the following year. Typically, over 80% of jobseeker's allowance claims from self-employed persons have been awarded over recent years.

Deputy Thomas Pringle: I thank the Minister for the outline with regard to class P but that is not the question I asked. We have attempted through the Joint Committee on Agriculture, Food and the Marine to tease out this question with the Minister's Department on a number of occasions in the past six or seven months and that is the stock answer we are given. The crux of the issue is that there are fishermen who are owners of their own boats, who are self-employed and treated as self-employed for tax purposes, who depend on the catch for their income. They are inshore fishermen. I am not talking about big trawler owners; they are small inshore fishermen who are excluded from class P because they are not share fishermen employees. They are the employer but they are in the same situation in that they are dependent on the catch. However, for long periods during the storms last year they were prevented from making a livelihood. The Minister will say they are entitled to jobseeker's allowance on a means-test basis but what they want is the right to make a social insurance contribution, which would give them a sense of security in periods of bad weather.

An Leas-Cheann Comhairle: Thank you, Deputy.

Deputy Thomas Pringle: The question is on the definition of share fishermen under the scheme and whether it could be amended to allow them avail of social insurance during periods of bad weather.

Deputy Joan Burton: With the weather in Donegal recently everybody appreciates that the vagaries of the weather can be very tough on people in the fishing industry. I hope the current weather does not cause too many problems.

I understand the Deputy is talking about the boat owner-----

Deputy Thomas Pringle: Yes.

Deputy Joan Burton: -----and that he would like the boat owner to have access to the class P insurance. We can certainly examine that. In 2012, for instance, 16 individuals opted to pay class P contributions. I do not know if the people the Deputy is describing are full-time fishermen or fishermen and farmers because they may have other social welfare connections. We would need to examine it on a case by case basis to determine how many people are likely to be involved. The Deputy is talking about the north west but there might be people for whom this is an issue in other parts of the country. In terms of the income situation of a fisherman or a farmer deteriorating badly as a result of storms, we changed the system to allow them come into it in the context of their current circumstances. It was the case that it was on a preceding year basis. It is means tested, as the Deputy said, but approximately 90% of applications for jobseeker's allowance, providing they meet the means test, are granted whereas three or four years ago very few were granted.

Deputy Thomas Pringle: Most share fishermen now are treated as employees because they are on a contract that takes them out of that self-employment situation but even when they were not so treated there was a very small take-up of it because it was a voluntary contribution and people did not want to voluntarily hand over some of their earnings. We are not talking about huge numbers of people but perhaps 1,000 or 1,500 across the country. However, it would make a huge difference to them in terms of having a social insurance claim-----

Deputy Joan Burton: Yes.

Deputy Thomas Pringle: -----rather than a social assistance claim. It would benefit them greatly. Quite a few of them would be full-time fishermen dependent on fishing for their income. The Department's scope section might look into that to see if there is some way it can be accommodated because it would be of value.

Deputy Joan Burton: I am certainly prepared to look at it because I know that people in the fishing industry work very hard, particularly the inshore fishermen. It is a tough occupation. There is not a vast amount of money in it except from time to time. However, if they decided to go with the class P contribution, and the Deputy is indicating they would accept paying the extra 4% on the terms and conditions, it gives rise to quite good benefits including jobseeker's benefit for 13 weeks and illness benefit for up to 52 weeks but the reports of the advisory group advocated that for an extra 1.5%, all self-employed people would get invalidity benefit. Unfortunately, many of the associations and organisations representing self-employed people in different categories were opposed to that. They suggested doing it on a voluntary basis but it is impossible to do a comprehensive social insurance scheme on a voluntary basis because like all insurance, it is based on many people taking out cover and those who need it benefiting from it.

10 o'clock

I will ask my officials to look at it

European Court of Justice Rulings

4. **Deputy Willie O'Dea** asked the Tánaiste and Minister for Social Protection when she will address the issues arising from the Dano judgment in the Court of Justice of the European Union; her views at the possibility of benefit tourism here; and if she will make a statement on the matter. [47107/14]

Deputy Willie O'Dea: I am asking Minister if her Department has studied the Dano judgment and what actions, if any, it proposes to take on the basis of the judgment.

Deputy Joan Burton: The freedom to move and reside freely within the territory of the member states of the EU is a fundamental right guaranteed under the EU treaties to all citizens. However, it is important that those availing of these freedoms are not intent on abusing the welfare systems of other counties and, specifically, the welfare system of this country. The right of residence afforded citizens from other EU countries is not unconditional and is governed by the terms of the EU residence directive. Under that directive, EU citizens from other countries have an unqualified right of residence in another member state for up to three months. There is no obligation on a member state to provide social assistance to the person or their family during that initial period, with some limited exceptions, or for longer in the case of jobseekers who have not worked here. Thereafter, the right of residence of people not in employment or self-employment depends on them having sufficient resources for themselves and their families so as not to become an unreasonable burden on the social assistance system of the State. Our social insurance system is based on the contributory principle of all our contributors paying in. It is largely confined to the contributors.

The judgment in the Dano case is very welcome as it clarifies the relationship between the equality provisions of EU regulations on the co-ordination of social security systems and rights under the residence directive of 2004. Ms Dano is an EU migrant who moved to Germany but was not in employment. She had argued that, under the EU social security regulations, she was entitled to benefits on the same basis as German citizens in a similar situation.

In its judgment, the court concluded that if it was the case that non-active persons who do not have a right of residence could claim social assistance under the same conditions as nationals of the host member state, this would undermine an objective of the residence directive, which is to prevent nationals of other member states from becoming an unreasonable burden on the social assistance system of the member state. In all member states, particularly in Ireland and the UK, the bedrock of social security law is that people in work contribute and the contributions give them entitlements to claim benefits and other payments.

Additional information not given on the floor of the House

Access to social assistance payments in Ireland is subject to the habitual residence condition which means that those in receipt of such payments are considered to have established their centre of interest in Ireland and to have significant contacts with this country. As well as satisfying this condition the person must also meet all other criteria for the particular scheme: for example, a person claiming jobseeker's allowance must be available for and genuinely seeking full-time employment.

People claiming benefits to which they are not entitled brings the system of welfare coordination provided under EU regulations into disrepute. This not only impacts on migrants who

are genuinely claiming benefits here, but also on Irish citizens in a similar position in other member states. The statistics which are available suggest that foreign nationals are not over represented in the numbers claiming benefits which broadly reflect the number of migrants in the overall population and the workforce.

The clarification of migrant rights found in the Dano case is an important development in this area and its implications are being considered by my Department to see if it can further assist our action to minimise abuses of our social welfare system.

Deputy Willie O'Dea: I tabled a question and received a reply on 18 November, four weeks ago. It said the Department was considering the implications. Can I take it the Department has finished its consideration? The Minister seems to be saying that the judgment, as she understands it, simply underlines the position as it is. The Minister referred to limited exceptions. It makes sense that people with sufficient resources to support themselves will not qualify for a social assistance payment because it is means tested. That is the position in this country. Are there any categories of people who may have sufficient resources or may have the right to reside here and who could qualify for social assistance? They may be excluded from that qualification if the Dano judgment is implemented here.

Deputy Joan Burton: The Department has been considering the implications of the case carefully. In the context of the forthcoming election in the United Kingdom, the Prime Minister of the United Kingdom made a speech setting out his electoral position. These issues are of great significance to Ireland. We examine all of them carefully, particularly the Dano judgment. The consideration is still ongoing but the judgment clarifies, from our point of view, that our systems, which depend on the habitual residency condition, are in line with the court judgment. From our point of view, it underpins our understanding of how the EU freedom of movement works with free movement being used to undermine the sustainability of member states' social insurance systems. The judgment is welcome.

Deputy Willie O'Dea: I understand the Minister's point that it underpins our system. Does it do more if she decided to implement it in Irish law? Would it exclude some categories of EU migrant who can claim social assistance as our scheme operates?

Deputy Joan Burton: We keep the habitual residency condition under review constantly to ensure that only people who have established a strong link with the country can receive benefits. We continue to monitor that because, as the Deputy is aware, returning Irish people may have lived abroad in another country for a long period. Under the habitual residency condition, they must establish definite links with the original home countries. We have a procedure in operation for a significant period of time. Shortly after I became Minister, I reviewed the procedures. We have contacts with Irish organisations abroad and, if people are moving home, the reviewed system works quite well. Deputy Willie O'Dea brought a number of cases to my attention some years ago. We work with a number of Irish organisations abroad where a transfer is taking place.

Domiciliary Care Allowance Review

5. **Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection her views on the findings of the domiciliary care allowance review reports; if she is committed to implementing all the recommendations; and the steps she has taken from April 2013 to date in

2014 to implement same. [47085/14]

Deputy Aengus Ó Snodaigh: I am asking about the recommendation of the report on the domiciliary care allowance scheme and its reform. What are the recommendations and what is outstanding?

Deputy Joan Burton: The domiciliary care allowance scheme transferred to the Department of Social Protection in 2009 and is now paid to over 27,100 parents or guardians in respect of some 29,100 children at a cost of €110 million per annum. In addition, recipients of domiciliary care allowance get a further €38 million through the annual respite care grant. The number of children currently in payment is over 3,000 higher than when the Department took over responsibility for the administration of the scheme in 2009. The scheme has been the subject of two reports commissioned by me during 2012. These were the report on the review of the domiciliary care allowance scheme and the second report of the advisory group on tax and social welfare on the review of budget 2012 proposals regarding disability allowance and domiciliary care allowance. Both were published in April 2013 and are available for download on the Department's website.

The recommendations contained in the review of the domiciliary care allowance scheme have been fully implemented in the period since April 2013. The recommendations included a revised application form, improved information provision with new information guidelines and advance notification to the customers of an upcoming review and an extended period, now 60 days, to return the review form with any supporting documentation parents may wish to have considered, and an additional medical specialist form for use with applications involving children with pervasive developmental disorders. The changes made also include improved feedback to customers on decisions. The implementation group continues to meet to monitor the impact of these changes and ensure they have a positive outcome for parents and guardians.

We have discussed this before but, from talking to parents and guardians, I believe the changes have certainly improved the situation. The critical issue is to provide the required information on the care needs of children when submitting a claim as this leads to improved outcomes and ensures the appropriate decision is made on domiciliary care allowance claims at the earliest opportunity.

Deputy Aengus Ó Snodaigh: One of the positive outcomes of the reviews discussed previously was the change to the form. I welcomed that change but some people were not consulted and have issues. The Tánaiste mentioned the medical specialist assessment form and we discussed the fact that problems can arise due to delay on the part of some consultants. The 60-day notice is welcome but consideration could be given to a longer notice period as it could help families with children with disabilities to be on the ball as early as possible. Over 2,000 children have been waiting more than a year for a speech and language therapy assessment, for example - if an assessment is not carried out in the first place there will be difficulties completing the medical specialist assessment form. I ask the Tánaiste to consider extending the 60-day notice by giving families notice earlier.

Deputy Joan Burton: I am happy to that because co-operation exists on both sides of the House on the reviews of the domiciliary care allowance and there is a number of groups, including a stakeholder group, in the Department addressing this issue. The stakeholder group includes parents, obviously, and they help with the design of the forms, which is important. Parents in receipt of the domiciliary care allowance give care above and beyond what might be

imagined and they often face very challenging situations. As the Deputy is aware, a significant number of parents in receipt of the domiciliary care allowance go on to receive the carer's allowance so I am happy to examine this matter.

The best way to address this issue might be for the committee to hold a hearing with the relevant officials. We have invested significantly in information technology, IT, and communications in this area and I recognise that some of the time periods involving specialists can be lengthy. I have no difficulty in extending the period as outlined by the Deputy but two months, plus the notification period, amounts to a lengthy period. The committee might meet the officials to discuss this but, in principle, there is no difficulty.

Deputy Aengus Ó Snodaigh: I will raise this with the committee because delays caused by waiting on documentation from specialists can be frustrating for families and the Department. Such delays have consequences because if an applicant fails to submit documentation on time it can have a detrimental effect, especially with regard to carer's allowance.

Can the same approach be taken on other forms? I refer to the form for carer's allowance and other such allowances. A useful approach was taken to the evolution of this form as it is now comprehensible to applicants and easier for the Department and specialists to read.

Deputy Joan Burton: I am a strong supporter of plain English and plain Gaeilge forms. The forms we are discussing can have very significant income consequences for people but a certain amount of officialese is required. I am happy to do what the Deputy has requested. The stakeholders groups include carers and we meet carers associations regularly - I meet them several times a year in the Department and in pre-budget forums. I am happy to support suggestions in this area, particularly those relating to the plain English campaign.

It is important to disseminate some procedural information on a topic we have discussed previously. If people have additional information they should have it reviewed rather than lodge an appeal. The appeals system is a different structure with legal timeframes so things inevitably take longer.

Other Questions

European Court of Justice Rulings

6. **Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection the implications of the European Court of Justice ruling that member states may refuse non-contributory benefits to economically inactive EU migrants; her views that this effectively excludes persons with disabilities so severe that they cannot work from the right to freedom of movement; and if she will make a statement on the matter. [47083/14]

Deputy Aengus Ó Snodaigh: The Tánaiste spoke on this matter earlier as my question relates to the Dano judgment of the European Court of Justice, ECJ. Member states can now

refuse social assistance payments to certain "economically inactive" people, to use the words that I think the court used. Does the Tánaiste share my concern that this ruling could affect people with severe disabilities that mean they cannot work but are in a member state, such as Ireland, to access medical expertise?

Deputy Joan Burton: Under Article 20 of the Treaty on the Functioning of the European Union, every citizen has the right to move and reside freely within the territories of the member states. Those rights can be exercised in accordance with the conditions and limits defined by the treaties and by the measures adopted thereunder. The conditions governing free movement and the right of residence are set out in EU Directive No. 38 of 2004. Freedom of movement among member states is probably one of the most important and positive aspects of the EU for Irish people.

Under the directive, every EU citizen has an unqualified right of residence in another member state for up to 3 months. A right of residence for longer than 3 months is dependent on being employed or self-employed and holding comprehensive sickness insurance. If such people are not active in the labour market they must have sufficient resources for themselves and their families so as not to become an unreasonable burden on the social assistance system of the host member state. The Irish system is built on the contributory principle and this is the case in many of the better EU welfare systems. In the case in question, the person concerned is a migrant who is not in employment but argued that, in line with the equality provisions that coordinate social security systems across the EU, she was entitled to a social assistance payment on the same basis as citizens of the host country in the same position.

In its judgment the court found that to accept that persons who do not have a right of residence under EU Directive No. 38 of 2004 may claim entitlement to social benefits under the same conditions as those applicable to nationals of the host member state would run counter to an objective of the directive, set out in recital 10 in its preamble. This objective aims to prevent EU citizens who are nationals of other member states from becoming an unreasonable burden on the social assistance system of the host member state.

The judgment of the court has not introduced any new restrictions on free movement but has clarified EU law in this area. Accordingly, the free movement rights of disabled people, or other migrant groups, are not affected by the judgment. The judgment merely confirms what was understood to be the EU legal position.

Deputy Aengus Ó Snodaigh: I take it that this does not interfere with the right of an EU citizen to reside in Ireland if a social welfare payment, or its equivalent, is being paid by his or her member state of origin.

Deputy Joan Burton: Yes.

Deputy Aengus Ó Snodaigh: I was setting out the position of someone who travelled to a location within the European Union on health grounds and I was making the point that such a person should be supported by his original country and that there is a problem with that. Obviously, not all the social welfare rates are the same. Someone might move to Ireland because we have a specialty in heart operations but the person might not be given a provision for the different inflationary measures in Ireland. We discussed rent earlier, for example. The rent is higher here than elsewhere. On the basis of health grounds such a person may need to be close to specialty services. Is there any way this can be facilitated in such cases?

Was the State a co-sponsor of the action through the court, as suggested in Carl O'Brien's article in *The Irish Times*? He reported that Germany's position was supported by the Irish Government, Britain and Denmark. Was it simply that we were watching in the wings to see what would result?

Deputy Joan Burton: No, Ireland intervened at the Court of Justice of the European Union along with several other countries in support of the German authorities since it was considered that the outcome of the case could seriously affect our ability to refuse assistance to non-employed European Union citizens who had arrived in the country never having been in employment here, with no resources and never having made contributions.

As I have often said to Deputy Ó Snodaigh, I have a responsibility to the people who pay PRSI and taxes. They are paying into a contributory system. For example, when they become older, they may be entitled to a contributory social welfare pension or a non-contributory means-tested social welfare pension if they do not have enough contributions. The same is true of other countries like Ireland which have strong and high-paying social security payments. We supported the case because it enforces what was the understanding of European Union law.

Deputy Ó Snodaigh gave an example of someone who might come to Ireland for medical treatment. The same would apply in the case of an Irish person, perhaps with a child, going for medical treatment in another country. If that person was in receipt of a social welfare payment, she should go to the local social welfare office and explain the circumstances. As Deputy Ó Snodaigh is aware, temporary absences for such purposes are entertained and cases have arisen from time to time. The person in question should go to the local social welfare office to discuss the matter and explain the circumstances.

Private Rented Accommodation Costs

7. **Deputy Richard Boyd Barrett** asked the Tánaiste and Minister for Social Protection as an emergency measure, in the interests of preventing more persons moving into homeless services and to allow those currently in these services to secure private rented accommodation, whether she will issue instructions to community welfare officers to allow for rents in excess of the caps when an applicant secures a home within the average rents of a given area; and if she will make a statement on the matter. [47098/14]

Deputy Richard Boyd Barrett: As we are all aware, rents are absolutely skyrocketing throughout the country, particularly in Dublin and the big urban centres. The rent caps are woefully inadequate to meet rising rent costs. We all know the consequences. This is leading people into homelessness and dire circumstances. There are many associated issues, including the provision of social housing, the possibility of rent controls, etc. but I have no wish to go into that now. By the way, I thank the Minister of State for intervening in a case I raised last week. The person in question got the letter.

We need an instruction to go to community welfare officers throughout the country pending any wider review of rent caps to the effect that if someone comes in and explains that he is going to become homeless unless the CWO raises the rent cap to the level of rents in the area, then the community welfare officer should not decide that the cap applies and explain that there is nothing he can do. Instead, the officer should consult the *daft.ie* website and agree that a given rent is reasonable and agree to a rent cap at that given level. Otherwise the homelessness crisis

will continue.

Deputy Kevin Humphreys: We discussed this at length earlier on. By the way, I take this opportunity to point out that Deputy Ó Snodaigh did in fact vote for that and I am happy to correct the record. I know he had many arguments on the matter. I am happy to correct the point immediately.

We are taking proactive action and measures. The Tánaiste met all the regional managers yesterday to explain section 38, which gives a certain flexibility. We have been in correspondence as recently as this week with all the community welfare officers and regional managers. We are keen to see consistency. I have no wish to set rent limits by the *daft.ie* website. I want to be proactive with the community welfare officers, who know in detail the market in their local area. That is important. We also need consistency throughout the country.

I was pleased when Deputy Boyd Barrett raised the issue in question in the House last week. I was listening upstairs and that was why I contacted the Deputy on the matter. I want our front-line staff to be proactive, to know exactly the nature of local market circumstances, to ensure that we get value for taxpayers' money and, above all, to ensure no tenant loses his tenancy.

Deputy Boyd Barrett can advise people who come to him for assistance in two ways. If a case relates to the Dublin area, he can refer them to the tenancy protection service operated by Threshold. The person should contact this service which will act as an advocate for the individual and work with the Department of Social Protection to ensure that the person will be able to stay in his tenancy and negotiate a solution. In cases outside Dublin, people should contact the health services.

The Tánaiste and I are being proactive. We want consistency throughout the country. We have no wish to see people losing their tenancy because of increases in rents. However, I have no wish to give a landlord's charter. After all, the Department of Social Protection has under its control over 30% of the market. We must be careful that we do not inflate rates throughout the country. I accept the Deputy's point. There is a problem. However, I assure the Deputy that I will be most proactive on this issue throughout the country. I represent an inner city constituency that has been affected by rent inflation due to the number of people who are going back to employment in the area.

Deputy Richard Boyd Barrett: I welcome the positive indications that the Minister and Minister of State are giving and the fact that the Minister met the regional managers and CWOs. That is a positive development and I hope it pans out. I genuinely welcome the intervention of the Minister of State around the particular case I raised. I am seeking as strong an assurance as I can get on this issue. The rent cap for someone with a couple of children in Dún Laoghaire is €975, but there is absolutely nothing for €975, €1,075 or €1,175 there. A person might get something for €1,200, but that person would have to be rather lucky. More likely, he would get something, not altogether brilliant, for €1,300.

A further three people came to my office this week who are in this situation. They asked whether they will go homeless, what services are available and how the system works. I have put it to them that the Minister is saying there is flexibility and if a person can find somewhere that is the best place he can find and which is reasonable, at least we can argue the case for him. However, we are encountering difficulty even when we refer people to Threshold. In the case I brought to the attention of the Minister of State last week, we had referred the people in ques-

tion to Threshold but it could not get the community welfare officer to move either. It only happened as a result of the intervention of the Minister of State. While I appreciate the intervention of the Minister of State, we cannot do that for every case. There must be genuine flexibility and a reasonableness on the part of community welfare officers. They should be able to decide that a given rent level is fair and they should be able to prevent a person falling into homelessness.

Deputy Kevin Humphreys: I explained to Deputy Boyd Barrett previously that in the particular case, Threshold did not work, but in the past week we have been working to ensure consistency of service and that flexibility is operated throughout the stream. Again, it is best for people to engage with the services and, indeed, for Deputy Boyd Barrett to engage with the services. The Deputy is correct that I cannot intervene, but I did not intervene. What I was seeking was a consistency of service and quality of services. By and large the best people to understand the local market are those front-line staff who are dealing with it day in, day out. We must be very cautious about this. The lifting of the rent caps might have an effect on people on low income, students and families who are working and are currently in the rental market, because we could cause rent inflation.

It is a difficult issue. One solution does not fit every area, which is why there are a number of rent caps across the country. However, I assure the Deputy that we are monitoring this on a weekly basis. I am anxious to ensure that the front-line staff operate the discretionary powers they have under section 38 and we have outlined those powers to the staff in correspondence this week.

Deputy Richard Boyd Barrett: There were figures in *The Irish Times* a few days ago on how bad the situation is in Dublin. Dublin is a disaster but the situation in Dún Laoghaire is much worse. Dún Laoghaire had over 4,000 people on the list but 1,000 have joined it in a year so the list will now number 5,200. There has been a 20% increase in the number of people on the list in one year. This is due to rising rents. It is just a disaster; I cannot overstate it. I have no choice but to monitor it and to engage with the services every week. I telephone the people at Threshold but they are at their wits' end and I get the same rubbish from the local community welfare officer.

If there is a problem with landlords jacking up rents, which there is, we need rent controls. In the meantime, the Minister must not allow the person who needs a roof over their head to be piggy in the middle in the Minister's battle with the landlords. We must sort out rent control and the issue of the supply of affordable housing. The Minister must issue a stern instruction to community welfare officers to approve rent allowance to the level that is necessary to get somebody into a home, rather than to go into homeless services.

Deputy Kevin Humphreys: The Minister for the Environment, Community and Local Government has launched a medium and long-term investment of €2.3 billion in social housing. There is also a short-term problem. It is a complicated problem and we must move carefully through it. The roll-out of the pilot scheme of HAP will be very useful and worthwhile as the local authorities will engage directly with the landlords. It will also assist people getting back into work. In my constituency the rent inflation I have witnessed is very much driven by the number of people who have gone into employment. What is happening throughout the country is different in each location. That is the reason we are engaging with the local front-line staff, to ensure that they have the flexibility which is provided for in legislation. We have emphasised that. I will do my best to endeavour to ensure that there is consistency of service across the country and to ensure the flexibility is operated.

However, we must be careful that we do not create rent inflation for young families who are working and renting in the private sector, so they can no longer afford it, as well as students seeking accommodation across the country. There is another layer involved and if we create that rent inflation, we will be responsible for causing another problem. We must be careful. It is a complex problem and we will work with might and main to try to deal with it.

Rent Supplement Scheme Administration

8. **Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection the reforms she will introduce to the rent supplement scheme in response to the recent High Court ruling that the Department was wrong to discount the accommodation needs of a separated father's children when assessing his housing need; her views that the scheme as operated served to deny children their right to the care of both their parents; and the estimated number of persons for whom the ruling could potentially have implications. [47084/14]

Deputy Aengus Ó Snodaigh: This question relates to the recent High Court ruling that the Department of Social Protection was wrong to discount or ignore the accommodation needs of a separated father's children when assessing his housing need for the purpose of rent supplement. Does the Minister agree that the scheme as operated served to deny children their right to care from both of their parents and will she take action to remedy this denial of children's rights?

Deputy Kevin Humphreys: The High Court judgment did not find that the scheme as operated denies children their right to care of both their parents. As acknowledged in the judgment, the legislation provides that decision makers must have due regard to the circumstances of an individual and the relationship with his/her children in terms of financial and material support and dependency. In this particular case, however, the judge considered that the decision makers did not have regard to certain specified matters relating to financial and material support in deciding the case and remitted the matter to be reconsidered in the light of those issues.

The Department is reviewing the implications of the case and, if appropriate, revised guidelines will issue to staff. There are many criteria applying to rent supplement. Where there is a need, that is assessed and dealt with. It is not the Department's policy unilaterally to refuse rent supplement to fathers who have shared custody for anything other than a one-bedroom unit. Every claim for rent supplement is determined having regard to the particular circumstances of the applicant. We are currently reviewing the implications of the case and we will revisit the guidelines and re-issue them to staff where necessary.

Deputy Aengus Ó Snodaigh: According to the most recent Central Statistics Office, CSO, census figures there are 88,918 separated men in this country. That is an increase of almost 16,000 on the figure for the census taken prior to that. Not all of these have part custody of children or are in need of rent supplement, although obviously a portion of them are. Has the Department estimated the number of separated parents in housing need with partial custody or joint custody of their children to assess fully the implications of the judgment? Is the Minister aware that there was a linked ruling by the Equality Tribunal about a year ago? The Equality Tribunal found that the Department's community welfare service had discriminated against an unmarried separated father of two who had moved from Britain to Ireland to be near his children. His rent supplement payment for a one-parent family with two children was rejected as his ex-partner was receiving it. If the Department is aware of that, why did it force the other man who took the most recent case to the High Court to fight his battle all the way through the

courts?

Deputy Kevin Humphreys: I do not know whether the Department has the statistics the Deputy requested. If we have them, I will forward them to him. The Deputy is correct about the figure of more than 88,000. As the Deputy correctly said, a proportion of those might not have custody. The Department is commencing a technical review of rent supplement legislation and procedures to ensure they are compliant with the Equal Status Act, with particular reference to how separated or unmarried parents are treated. The High Court ruling will inform the review. We will examine the judgment closely. I do not have the statistics the Deputy requires but if they are available in the Department, I will ensure they are sent to him.

Deputy Aengus Ó Snodaigh: Has a timeframe been set for the review to ensure that within a number of months or perhaps a year the implications of the outcomes of the High Court case and the Equality Tribunal case from October 2013 are fully worked out and also to implement whatever changes are required to bring the rent supplement scheme into line with those judgments?

Deputy Kevin Humphreys: The Department is reviewing the implications of the case and that should be carried out within a reasonable amount of time. With regard to the Equal Status Act and the technical review being undertaken, I am not sure of the length of time involved but I will make inquiries.

An Leas-Cheann Comhairle: Question No. 9 is in the name of Deputy Creighton. She is not present so it cannot be taken.

Question No. 9 replied to with Written Answers.

Rent Supplement Scheme Administration

10. **Deputy Bernard J. Durkan** asked the Tánaiste and Minister for Social Protection the extent to which she might be prepared to extend the emergency housing alleviation measures to address short-term housing needs currently available in Dublin to County Kildare and adjoining counties, having particular regard to the critical housing shortage arising from rent increases; and if she will make a statement on the matter. [47050/14]

Deputy Bernard J. Durkan: This question relates to the need for the provision of facilities in counties adjoining Dublin, where already alleviation measures have correctly been put in place in respect of those who are becoming homeless, and asks that they might be extended to the adjoining county of Kildare. I am sure Meath and Wicklow will be able to look after themselves.

Deputy Kevin Humphreys: I am wondering how many times I can answer the same questions in a different manner. I know the Deputy's interest is in the Kildare area. The regional managers within the Kildare area were met by the Tánaiste yesterday. We are ensuring flexibility is given by the front-line officers to reflect the local market costs within those areas. Correspondence is going out to all front-line staff in regard to rent allowance. The protocol which is operating in the Dublin area has been working extremely well and we are considering the extension of that protocol to other larger urban areas. That is currently under review and we are working with Threshold in that regard.

With regard to Kildare specifically, I ask anyone who is currently in difficulty to recontact the community welfare services, which will have received correspondence from myself and the Department this week outlining their discretionary powers under section 38. We want to see that flexibility operated and we certainly do not want to see anybody who is currently in a tenancy lose it. However, we want to make sure it is operated in a fair and consistent manner across the country, and Kildare would not get a preference over Meath or Wicklow, obviously.

It is a very serious issue and people are extremely worried and anxious in this regard. It is witnessed in every clinic held by Deputies or councillors. We have given instructions in this regard and the Tánaiste met the regional managers only yesterday. What we want to see is flexibility, consistency and fairness. However, on the same basis, we do not want to see rent inflation created by the Department. There are families on low and middle income in the rental market also and we do not want to inflate rents as this would put them under pressure. It is a complex situation and we are doing our best. The Deputy knows very well about the long-term and the medium-term. What we need to do is get over this particular issue until the supply comes.

Deputy Bernard J. Durkan: I thank the Minister of State for that comprehensive reply and thank the Tánaiste for her work in this area over a considerable time. For my sins, I deal with quite a number of queries from the Dublin area as well in regard to housing, strange as it may seem. I was only joking when I referred to Meath and Wicklow looking after themselves. It is an overspill of the situation from the Dublin area.

The Minister of State correctly referred to those on low incomes in rental accommodation. On a point that is applicable in some cases but not all, might it be possible to look again at the cases where people on low incomes have a need for some portion of supplement in order to alleviate the most severe hardship that might come their way? I agree entirely that the purpose of the exercise would not be to inflate rents, which would make the whole exercise self-defeating. Nonetheless, it might be possible to be selective in looking at the cases where there is hardship for people who are at work, or not at work, as the case may be, but who are also victims of the market surge in rents that is outside their control.

Deputy Kevin Humphreys: I am well aware of this issue. I am sure every Deputy deals with queries from outside their own constituencies on all issues. I accept there is particular difficulty in the greater Dublin area but also in the Kildare area, where there has been a surge of employment, for example, in the construction industry, following the announcement of the jobs at Kerry Group and given the lift in employment in the IT sector, including at Intel, and in other areas. While that growth in employment is welcome, there has been a knock-on effect, especially in the Kildare and outer Dublin areas, whereby the numbers seeking employment in the private sector have caused the rent inflation that has happened.

While there are no plans at present to extend the protocol to the Kildare area, the front-line staff have been told to take into consideration the local market forces and to do everything within their remit to keep tenancies sustained. However, as I said, we also have to look at the other elements. It is very fine balance that we must achieve. The real answer to this is to get Kildare County Council building homes and the €2.3 billion that has been put into the budget for 2015 will certainly assist that. There is a strong case for some of those properties to be built in Kildare.

Deputy Bernard J. Durkan: I again thank the Minister of State for a knowledgeable and

comprehensive reply. The rents in Kildare are generally higher on average than rents in the Dublin area. I have compared them from time to time and they are surging ahead, unfortunately or fortunately, as the case may be. We may be successful from the point of view of generating employment for a variety of reasons but, at the same time, it is hugely important we recognise the pressure people in rented accommodation are under, and that this pressure is getting greater. Many people have found themselves out of their homes and have floated into Dublin itself, because they were not able to find accommodation in Kildare, and they are now beneficiaries of the protocol that is applicable in the Dublin area. While we are grateful for that, at the same time, we need to try to resolve that problem by virtue of a similar procedure to that which applies in Dublin.

Deputy Mick Wallace: The Minister of State said the Department does not want to cause rent inflation, which is understandable, but rent inflation is already happening. A two-bed apartment in Dominick Street has gone from €1,000 a month to €1,400 a month in two and a half years. The reason for this is very simple, namely, there is a new problem in the private rental market. Given that the Government intends to be dependent on this going forward, it has to address the problem that much of the rental market is now controlled by a small number of players because NAMA and the banks have sold many of the apartments that are up for rent to investors, many from outside the country. The truth of the matter is that, unless the Government actively controls the private rental market in some way, this problem is not going to be solved, given that so few players have such control over a huge chunk of the private rental market in Dublin. Our private rental market is not regulated, although the market is regulated in many European countries, and this is something the Government will have to do.

Deputy Kevin Humphreys: I am not too certain of that, although I will look at it with a small group. My experience, certainly in my Dublin city centre constituency, is that the vast number of those taking rent supplement are in the buy-to-let area, where a single person had bought the property for their pension or otherwise. Some describe them as hobby landlords and, in many cases, that created problems because they did not give a professional service and there was not the required scale.

As Deputy Durkan outlined, there is a real problem of rent inflation within the city centre and we are in constant communication in that regard. I have seen this in the Ringsend-Pearse Street area because of the huge growth in employment in the IT sector. There has also been huge rent inflation in the central Dublin area, which started in the Docklands and has spread out very much from there. Therefore, I am not surprised by Deputy Wallace's point about rent increases in Dominick Street and areas like that.

I am not sure if Deputy Wallace was in the House when I explained this, but we have written to the front-line staff this week, asking them to operate under section 38 and to utilise the flexibility contained therein. The Tánaiste met with senior management and area managers from across the country yesterday to explain that we want to make sure tenancies are sustainable and that nobody would lose their home. We are urging Deputies to use the tenancy protocol that is in operation within the area. Where that is not in operation, we are looking for a direct connection with community welfare services. My experience is that the people on the ground have a good understanding of what is happening and I am looking for statistics from them on a regular basis to see what is happening within areas and within the market. It is obvious this is happening in Dublin, but it is also happening outside Dublin in places where there is pressure and there has been little built during the recession. I hope the €2.3 billion outlined in the 2015 budget indicates again the start of the capital programme of building local authority houses. I

hope this will happen as quickly as possible.

Written Answers follow Adjournment.

Homelessness: Statements

Minister for the Environment, Community and Local Government (Deputy Alan Kelly): I thank the House for providing me with this opportunity to update Deputies on the further actions we are taking to address the issue of homelessness. I assure Deputies of the commitment of my Government colleagues to taking on the issue in a focused and co-ordinated way. I commend and thank politicians on all sides and political persuasions for the manner in which they have worked with me over the recent period on this issue. I appreciate their co-operation, which goes beyond politics, and commend everyone on their contributions and co-operation over the past number of weeks.

Last week, my colleague, the Minister of State, Deputy Paudie Coffey, and I convened a special forum on homelessness. We met with the Catholic and Church of Ireland Archbishops of Dublin, Deputies from this House, officials and politicians from the Dublin local authorities, a vast number of people from the NGO sector involved in the delivery of homeless services and officials from a range of Departments and State agencies. I want to express my appreciation and gratitude to all of those who attended and contributed. It was an excellent forum and we all learned a significant amount about the issue in a collaborative way and we will be stronger as a result.

I have often said that nobody has a monopoly on solutions to homelessness and this was proved at the forum, where new measures were proposed, immediate responses were identified and additional resources were committed. At the end of the forum, I was well placed to outline some of the measures identified and a roadmap of the next steps we need to take. Since then, I have worked with all the stakeholders involved to develop and implement the action plan on homelessness approved by the Government on Tuesday.

Yesterday, the Minister of State, Deputy Coffey, and I announced details of the Government's 20-point action plan to address homelessness and a copy of this plan is available on my Department's website. The plan commits to €20 million plus in additional expenditure and includes the immediate provision of over 260 additional emergency beds for people sleeping rough in Dublin, a "Nite Café" to provide a contact point for homeless people who do not want to be placed in emergency accommodation and the provision of transport with support services to bring people sleeping rough to emergency accommodation where they will be cared for and provided with the health and care supports they need. A number of measures have been identified and will be put in place in other cities and urban areas also. We are aware this issue is not confined to Dublin, although there is an acute issue there.

I acknowledge the efforts by all who are making properties and beds available to meet the urgent need. Some of these 260 beds are already in place while works are being carried out to other properties to ensure that all beds will be available before Christmas.

While every effort is being made to provide beds, the provision of emergency accommodation is not a viable long-term solution to homelessness. The Government's homelessness policy statement emphasises a housing-led approach to homelessness, which is about providing permanent housing as the primary response to homelessness. This approach is also articulated in the Government's implementation plan on the State's response to homelessness. Increasing the supply of housing is critical to addressing housing need and homelessness. This will be achieved through the Government's construction 2020 plan and the Government's six year social housing strategy which I recently launched. This strategy will deliver in excess of 35,000 new social housing units over a six year period. There is also a significant programme of work identified and committed to for the period to the end of 2016 under the Government's implementation plan on the State's response to homelessness.

In the short term, however, it is essential to increase the volume of housing supply that is being made available to homeless households. Therefore, I will issue a direction to the four Dublin housing authorities to allocate 50% of all housing allocations to homeless households and other vulnerable groups for the next six months, taking account of the time spent by these households on the homeless and other housing lists as at 1 December 2014.

It is worth noting that funding, which is being provided through my Department, will result in a significant number of vacant local authority properties being brought back into productive use. In addition, I will sign regulations next week to provide for the new housing assistance payment to be rolled out in the Dublin region on a pilot basis and this is specifically focused on homeless households. This pilot will ensure that homeless households in the Dublin region can access accommodation in the private housing market. These three measures will have a significant positive impact on the homeless households on the Dublin local authorities' homeless and housing waiting lists.

Prevention is an important aspect in the response to homelessness. The prevention campaign launched by Dublin City Council last June has been very successful in stemming the flow of families becoming homeless and in assisting families and others in dealing with private rented accommodation issues. The interim tenancy sustainment protocol involving the Department of Social Protection, the Dublin local authorities and Threshold has made significant interventions on behalf of families at risk of homelessness. This has made a difference and will continue. I fully support this excellent initiative. A "Stay in your Home" campaign will be put in place to raise further awareness of tenants' rights and ensure that families and other individuals at risk of losing their tenancies will be assisted to stay in their homes. The support service currently operated by Threshold in Dublin will be provided with additional staff this week and the service will be extended to Cork imminently.

Homelessness is not just a Dublin issue but it is most acute in the Dublin region. We will respond on issues in other cities and urban areas also. Housing authorities in our other cities are urgently assessing the scale of action they need to take and we are in touch with them constantly. However, homelessness is not just about accommodation. A number of other responses must also be implemented to ensure that the necessary supports are in place for households whose accommodation needs have been met.

The integrated services hub, which currently provides a one-stop shop service for homeless persons in the Dublin region, will further develop its case management model with the Department of Social Protection to include income support and job activation measures. I was in Parkgate Street yesterday and I saw at first hand the excellent model of collaboration involving

the State and non-State sector in assisting clients who are homeless or facing homelessness as they grapple with the difficult situation they find themselves in. I would encourage and would accompany Opposition spokesperson on this issue to visit and see the worthwhile work going on there.

Homeless families are of particular concern to me and my colleagues. Their situation is not acceptable. Our agencies, charged with responsibilities for child protection and welfare needs and others, must co-ordinate operations to ensure that services are fully responsive to the particular protection and welfare needs that might arise for families in emergency accommodation.

The special forum shone a spotlight on how we co-ordinate our services, both in terms of housing supply and our health and care supports. In this regard, the HSE plays a key role and co-ordination of health services for the homeless will be co-ordinated at senior management level in the Dublin region from 15 December. Specialist consultant-led mental health and primary care services will be streamlined in quarter one of 2015 to ensure in-reach services into all emergency accommodation settings across the Dublin region. This will make it easier for homeless people to access the services, as service providers will come to them rather than the other way around. The HSE will also put in place a formal discharge protocol with Dublin hospitals and homeless services to ensure that, as far as possible, no patient will be discharged into homelessness. This will be operational early in the new year.

The purpose of last week's forum on homelessness was to step outside of the current response and implementation models to see what could be done in the immediate short term. I believe there is an opportunity for our businesses and companies – large, medium and small – to get involved as well and to focus their corporate social responsibility programmes on responding to this issue.

11 o'clock

I am open to any offers that anybody wishes to come forward with and will listen to them very carefully.

Together with my colleague, the Minister of State, Deputy Coffey, I have stressed the need for collaborative action by Departments, State agencies, NGOs and the wider voluntary sector. That is the spirit with which we approached the forum and which runs through the action plan I have announced. We brought together all stakeholders involved in this issue on a policy and operational basis. We asked them for their views, what needed to be done and to come forward with real and tangible contributions to a solution. The Government has not been found wanting.

In addition to the €55 million allocated for tackling homelessness nationally in 2015, we approved a further €20 million for an urgent targeted action plan to tackle rough sleeping in Dublin and throughout the country, and to provide everyone who needs emergency overnight accommodation with it before Christmas. Anyone who is sleeping rough will have accommodation if he or she wishes to choose it. We will also provide other services to ensure that everyone's dignity can be maintained, such as the Nite Café and transport services, to ensure people have options and do not feel that if they turn down accommodation, they have nowhere else to go. The Nite Café is an important initiative, given the fact that it can hold more than 50 people. It is a step in the direction I feel is necessary given the circumstances and complex issues of many people who are homeless and sleeping rough.

A comprehensive and effective response to homelessness is an obligation shared by all in

the House. I have said that on previous occasions. I compliment and thank everyone who has made a contribution, including Members opposite. It goes beyond any action by the Government and its agencies. It is an obligation on all of us in our communities and as individuals. In our communities we must be prepared to reach out a hand to each homeless person and not to shun him or her on the other side of the street.

I ask communities and public representatives everywhere to accept and work with the emergency solutions we are putting in place. This is above and beyond political thought and the usual day-to-day raggle-taggle of political discussion in the House. This is a very human issue. It is about people's dignity, putting together a quick plan to back up the homeless action plan which is in place and backing up the social housing strategy.

These are not just people who are homeless. Only for a quirk of fate, any of us in the House or any of our families could be in the same situation. They are fathers, mothers, sons and daughters, and are all part of a family. I ask all of us to engage with that sense of responsibility and respect people's dignity. I am willing to work with everybody inside and outside of the House to ensure that we deliver the best service possible to these very vulnerable people.

Deputy Michael P. Kitt: I wish to share time with Deputy Barry Cowen.

Acting Chairman (Deputy Olivia Mitchell): Is that agreed? Agreed.

Deputy Michael P. Kitt: I welcome the opportunity to contribute to this debate. Deputy Cowen has published a policy document on housing. One of the points we have made consistently in this House is the fact that we are falling way behind in regard to the number of housing units we need to build per year. We have raised the issue of homelessness on many occasions, and I submitted a Topical Issue matter on it last September. Dublin is always quoted as a very serious issue, but it is not the only part of the country which has serious housing problems. There are a range of proposals, some of which the Minister has referred to, from different sources to tackle these issues.

COPE in County Galway was one of the first organisations to propose an allocation of €500 million for the social housing building programme. It wanted a portion of the funding ring-fenced for homelessness, in particular for the Government proposal to eliminate long-term homelessness and the need to help people who are sleeping rough, and for this to be done by 2016. This week I read in local newspapers that while COPE welcomed the funding, it emphasised the short-term situation and the need to deal with the issue of people who need help immediately, not in two or three years' time.

The death of Jonathan Corrie showed all of us the scale of the challenge we face. There have been social welfare cuts and rents have escalated, in particular in Dublin, which has led to people becoming homeless. I refer in particular to older people. The CEO of ALONE indicated that 25% of the calls to his organisation related to housing need for older people. It is a measure of the seriousness of the situation that more than 4,700 older people in this country are in need of housing. It is just one aspect of the issue.

I know from colleagues and people I have met that entire families are now living in hotels, bed and breakfast accommodation and hostels in Dublin. I found it interesting that Brother Kevin Crowley, founder of the Capuchin Day Centre for homeless people, talked about the urgent need for emergency accommodation in the city and the cessation of the night bus service. Will the Minister refer to that in his conclusion? The night bus service was very important, as

Brother Crowley pointed out, and there was provision to include the ring-fencing of money for accommodation. I hope the very vulnerable people to whom he referred will not be pushed to the bottom of the housing list when it comes to dealing with the housing crisis.

The Simon Community has put together a ten-point plan. It referred to the long-term plan under the social housing strategy and the current homeless crisis, in particular the private rented sector and rent supplement. It is concerned about the strategy, which involves 75,000 households being provided for in the private rented sector, and about the capacity in the private rented sector to deliver on that. It made the point that prevention and early intervention services are important but are also very expensive. I appreciate that and I am sure the Minister knows that.

The situation regarding NAMA properties and the approved housing bodies is always used as an example of what we could do to increase the supply of housing. I suggested during the previous debate that every local authority should have a dedicated NAMA transfer unit. We were told two years ago that 2,000 housing units could be made available through NAMA for people on the social housing waiting lists, but this has not happened. In fact, large numbers of apartments have been sold by NAMA to developers.

In the case of approved public bodies, there is an issue in terms of trying to get finance through the capital assistance schemes to provide houses. The Simon Community is correct when it states that the private rental sector is imploding, rents are rising and the number of properties available is reducing. In a recent RTE television programme, "Through the Roof", comments about it being a good time to be a landlord and a sad comment that single people would not even bother asking where they were on the housing lists were made. The issues of housing, mental health and drugs are not being linked by the Government.

The Minister referred to the Nite Café, which I welcome, but people like Father Peter McVerry have spoken about restorative practices to tackle the problems and to try to deal with situations where relations have broken down and people feel they had to leave home. I welcome the debate. We have a lot of issues to deal with and I hope we can make progress because we all know the seriousness of the situation. The problem is not just about Christmas. A long-term approach is needed.

Deputy Barry Cowen: I, like the previous speaker, welcome the opportunity to discuss these issues. I thank the Minister for the manner in which he responded to the crisis which existed last week on foot of the unfortunate death of Jonathan Corrie. I pay tribute to the stakeholders who engaged with the Minister and his staff, and to Archbishop Martin who was quick out of the traps and showed some leadership on this issue when he made available a property and initiated the forum which ensued. I welcome what has come from that, the programme announced by the Minister and what is contained within it. The fact that he has reacted accordingly and listened to many of the initiatives proposed during the course of events over the past week is welcome.

It is unfortunate that it took the death of a homeless person to lead to this. There has been a failure by Government to address the issue and to end homelessness. The one issue that has failed to be addressed and that I ask the Minister to revisit is that of rental assistance. It will be necessary on a temporary basis to give consideration to the subjects of rent caps and rent allowance to address the crisis that exists at present and the numbers of people who find themselves in the position whereby they cannot meet the commitments being asked of them in the marketplace. This call emanates both from my party and from many other parties in opposition and

from many of the stakeholders the Minister met last week, which have made the same point. To deal with the situation in a temporary manner and in the absence of the measures announced in the strategy coming into effect, it will be important that the Minister makes every effort to deal with the issue in the short term. In time, there may be an option to reduce that thereafter.

Another issue I will mention is the failure on the part of NAMA to provide the sort of social dividend that was predicted by that body and the Government in this regard. In any debates that have taken place over the past two to three years, the Minister of State with responsibility in this regard, of whom there have been three, has always given the commitment that up to 2,000 or 3,000 units would accrue to the State as a social dividend. This has not happened and the State has been lucky to get between 400 and 500 units since the process began. This is in no way reflective of the needs that exist and I ask the Minister to consider the prospect of each local authority having a dedicated unit to deal with this issue to garner the type of dividend that had been envisaged and some success might ensue from so doing.

Overall, it is important to acknowledge the effort and commitment by the Minister and his Department to react to the crisis, unfortunate as were the circumstances that provided the opportunity to so do. Nonetheless, one must recognise the effort and commitment, as well as the €20 million. I also ask the Minister to consider rolling out a similar effort and programme in other cities and throughout the local authority network. Various stakeholders, such as Simon Communities Ireland, for example, have a mechanism in place to deal with homelessness in the midlands and other regions nationwide. It is important that the Minister carries on the progress that has been evident over the past week in other regions to ascertain whether the same effort and commitment can be given to those areas to meet the immediacy of the problem that is obvious on the ground. The programme and strategy announced by the Minister last week was late in coming to the table but Members must acknowledge its presence and that there is a commitment to expend considerable funds. Aligned to that programme and strategy, I hope to see in the coming weeks and months a programme coming from each local authority that will be ready to meet the demands of that strategy and how it might be reflected in those areas. In addition, a roadmap should be put in place for effective delivery of units because obviously, housing units are what will solve this problem. However, I acknowledge the immediacy that existed and the problems that were there, as well as the effort by the Government to address that. As I stated, it would be well received were the Minister to make the same commitment to other regions and cities and in parallel, were the local authorities and the Minister to work in tandem and allow Members to see there is a prospect of delivering units throughout the country and that they could see that effort in tangible form.

Deputy Dessie Ellis: At the recent summit with the Minister, Deputy Kelly, the Minister of State, Deputy Coffey, officials, managers of local authorities and politicians, Sinn Féin outlined that an immediate response and provision of emergency accommodation was essential. My party also outlined how it envisaged this issue could be tackled and put forward a number of suggestions. Sinn Féin did not want the forum to be a talking shop but also wished to make clear why homelessness was now such a big problem and that longer-term and short-term solutions were needed urgently. My party outlined that the haemorrhaging of people from the rent supplement scheme and the rental accommodation scheme, RAS, needed to be stopped. Sinn Féin also noted the cases of many people who have lost their homes or are under the threat of losing their homes due to their landlords' mortgage difficulties, as well as people with distressed mortgages who have been obliged to give up their homes or have had them repossessed.

Much of this problem comes down to rent rates, which clearly are too high. Although de-

mand can usually push a product to a price ceiling above which no one will pay for it, housing is different and landlords have shown an unwillingness to set fair rents for their tenants and are even leaving residences idle because no one possibly could afford the rates being asked. If one looks on *Daft.ie* right now, modest flats and houses are going up in price by the hundreds. The Government has a responsibility to protect tenants and ensure the market is reasonable and fair. That is why Sinn Féin has ardently demanded rent controls both within and between tenancies. These are not rent freezes or rent caps *per se*. They are simply regulations that ensure the rent being charged on accommodation reflects the quality of that accommodation and is affordable now and in the longer term. Deputy Rabbitte recently stated he believed it was necessary as an emergency measure and Fr. Peter McVerry has also stated it is needed. Focus Ireland and Threshold also have weighed in with their support. Opposition to this measure does not truly take into account the human cost of allowing things to continue as they are.

However, we also have a crisis in emergency accommodation right now that can only be solved by providing more places immediately. Sinn Féin has been telling the Government for years that the bodies providing these beds are at bursting point and are operating at capacity. They also have been making this point and things have only got worse. Part of this is down to the Government's failure to move people out of homelessness and emergency accommodation into housing. Emergency accommodation must be truly for an emergency and real housing must be provided for those people who have been in emergency accommodation for an extended period. Otherwise, the personal problems that homelessness causes only deepen and others who need emergency accommodation must go without.

I welcome the announcement of 260 extra beds in Dublin by Christmas, which is late in coming but is necessary. The night café is also a welcome initiative for those who do not want to be in hostels but need support. I note also that 50% of housing allocations in Dublin for the next six months will be focused on people in homelessness but how much does that actually represent? The Government has a miserable record on delivering housing. People are waiting for years to be allocated homes and are living in terrible conditions. How many people actually will be allocated homes in Dublin in the next six months? In addition, while this plan sounds good, what of the people who have been on the housing list for ages and are in bad accommodation they can no longer afford? These will be the new homeless and the Minister might well just create a vicious cycle in which some are housed while others are forced out of housing. The local authorities have medical priorities, welfare priorities and other priorities, many of which involve people who have been waiting for several years. What does the direction to the local authorities mean? Does the Minister have the powers to direct local authorities to devote 50% of the allocation to homelessness?

Deputy Alan Kelly: Yes.

Deputy Dessie Ellis: Local authorities have a scheme of letting that is signed off by councillors and is in place. That is the question I wished to ask the Minister.

The key is that tenants must be protected and emergency accommodation must be provided. Housing must be provided for those in emergency accommodation and for those on social housing lists and all such provision must be continued into the future. The Government thus far has failed to do all of these things and that is why we are in this crisis. The Government has failed to dedicate itself to real housing solutions and instead has relied on the private market. The only way to end homelessness is with Government action in the provision of housing because, otherwise, Members will be here again and again.

Deputy Jonathan O'Brien: First, I acknowledge the Minister's response to the recent tragedy and his announcement the other day certainly is welcome. All sides in this Chamber are willing to work with him as the Minister with responsibility to try to resolve this issue once and for all.

Homelessness is multifaceted. One is dealing with families who have lost their homes through the economic crash, people with mental health issues and people with drug addiction so no one solution will fit everyone. I want to focus on one cohort of people, namely, people who suffer from drug addiction, because it is very close to my heart. I know heroin addicts who have worked extremely hard to get their lives back on track, gone to rehab, left their families, made tough decisions on a personal level to get clean and to come off methadone or prescription drugs and spent three months in a rehab centre in Carlow with no contact with the outside world. I know a person who came out of that centre feeling energised and that he had got his life back. He wanted that helping hand to get back on the right track to try and make a positive contribution to society. The first issue he faced when he came out of that rehab centre clean after having been on heroin for a number of years was the fact that he had nowhere to live. He ended up going back into a homeless shelter - emergency accommodation - where the temptation of drugs was under his nose every day. Despite that, he battled on and was able to get rent allowance because he was registered as homeless. He went looking for a property to rent. We should remember that this is a man who is in a very fragile state of mind and has just kicked a very serious addiction. He needed those supports and persons to help him through that difficult period. He needed them to be close to him. He could not find accommodation to fit the rent allowance. It was impossible to find it so he had no choice but to stay in the homeless shelter. Eventually, he found accommodation that came under the rent allowance limits but this was 30 miles away from his case worker and the treatment centre he needed to attend daily so he was left with a decision. He either stays where he is and faces the temptation of drugs every day while trying to resist that temptation and regain the social skills he needs to get back on a normal footing or he moves 30 miles away from the very people he needs to support him. Those are the tough decisions that people who are coming out of addiction face.

While the €20 million and the extra emergency beds are very welcome, we need to go further in the longer term. We need to ensure that people who come out of rehab centres and who are trying to get their lives back on track have suitable and affordable accommodation available to them. That is not happening. Rents are running away from people. The rent allowance people get is not sufficient. Until we deal with that, which is the one glaring omission from the Minister's 20 point plan, people will face those tough choices - either take accommodation that they can afford 20 miles away from their key workers and the supports they need to help them stay off drugs or leave themselves in a position where they must remain in a homeless shelter where those temptations are there every day.

I ask the Minister to look at that. I know he cannot do everything at once and as I said, everything he has done is welcome but there are real challenges facing people. It is not just about putting a roof over their heads. We are talking about people who are very fragile, whether it is through mental health problems or drug addiction. As I said, it is an issue that is very close to my heart. My own sibling is one of those individuals and he faces that battle every day. Unless we deal with it, it will be a tragedy for my family and it is not something I want. I plead with the Minister to look at those issues in the longer term.

Deputy Michael Fitzmaurice: Like everybody else, I believe the moves the Minister made last week must be welcomed. It is a step in the right direction. There was a lot of focus on

homelessness last week. For some people, having ten or 20 houses would not solve the underlying problem. Having experienced somebody belonging to me coming through a situation like this, I know that the underlying problems that must be addressed. There is a general acceptance in this country of a drinking culture. When one tries to help someone, barriers are put in front of one every way one tries to do it. I am firm believer that when somebody has a genuine problem that needs to be addressed and if two or three doctors are prepared to put it on the line that there is a major problem, we must take action. I am a firm believer that people must be put on courses whether they like it or not. They talk about skid row and I understand all that but if we do not start to address that problem, there will be more of what happened last week. I know civil liberties groups will say that people are entitled to this, that and the other but sometimes in the best interests of a person, one needs to be cruel to be kind.

There are 80,000 people looking for houses. If one looks at people in arrears, one can see that there are approximately 37,000 more. Last week in the west of Ireland, 380 letters went out for repossession orders. We can bury our heads in the sand as long as we want but the reality is that another 20,000 people are about to lose their homes in the next three to six months. If there is no initiative from the Government to resolve this, those 80,000 people waiting on the housing list will basically become homeless again. There is an old saying down the country and I am sure the Minister often heard it - "when poverty comes in the door, love goes out the window". One then has rows, people going to pubs and family break-ups.

A proposal about which I have been thinking in the past few weeks is that we need to do something for the 20,000 people and indeed all people in mortgage distress. We need to look outside the box and bring something in that will give them a 30, 40 or possibly 50-year mortgage. I have seen in my own area how people were evicted from their property and the State has paid for the past five years. These people are within €7,000 of what that house made but somebody else owns it. I know the Minister is making moves to resolve the social housing problem but given the land banks that exist, we need to tie in a certain price at which houses are built for the simple reason that people around the country need houses they can afford.

There are also situations where councils or housing agencies do not know who is to buy the house. We have seen scenarios where one will start bidding against the other. Clear direction needs to be given in the next few months to start tackling this problem, particularly from the beginning of next year. There is no point in having drawings and planning permission and then waiting for the following year. We need to give people in the different councils around the country the scope and basically the go-ahead to get planning permission ready and get everything in place to make sure we avert a bigger crisis coming down the tracks.

Deputy Joan Collins: I note that on 24 November 2014, the Lord Mayor of Dublin, Christy Burke, was very angry that the Minister cancelled a meeting with councillors about the homelessness crisis in the capital. It was only a couple of days afterwards that the tragic situation outside the House happened. I welcome the Minister bringing those groups together along with the Lord Mayor and Members of this House so quickly. Some of the proposals made are quite positive. Given the acute situation, next week we should have a similar debate to discuss the week-to-week progress on the emergency accommodation and establishing the night café. When we come back we should have another 20 minute or half-hour debate with the Minister reporting regularly to the House on the matter. That is the sort of attention that is needed. We need to see the figure of 158 rough sleepers reducing - we know it is more because many people hide their night sleeping on the streets.

I saw a report that Focus Ireland and the Peter McVerry Trust had set up emergency accommodation providing initially 30 beds and then another ten beds to get rough sleepers off the streets over the winter. I was amazed to read at the very end of that report that these beds would be closed down in March when the weather gets better. I presume those people will be going into longer-term accommodation in housing rather than finding themselves back on the streets again when the weather gets better, which is what we have seen repeatedly over recent years when there is a knee-jerk reaction with no longer-term provision.

Some Deputies spoke about the longer-term problems. We have 90,000 on housing lists - it is probably more now. We have another 100,000 people in mortgage distress. We know that many of them will be evicted. The Minister did not accept the Private Members' Bill forcing the banks to adhere to the code of conduct - they are only guidelines at the moment and the banks are not adhering to them. The Government had an opportunity to force the banks to implement this and give people the alternative of staying in their homes rather than going on local authority housing lists and finding themselves homeless.

I raised this during the week and I want to emphasise it today. The need for rent control is becoming more urgent. I got an e-mail from a resident in a big apartment block in my area stating that on 27 November every person in the complex received notice that they were facing a rent increase from €1,300 to €1,600, a 23% increase. There are many people in the complex on rent supplement and many people who are privately renting. Only weeks ago these apartments were transferred from NAMA to IRES REIT, backed by a foreign investor. These people are being regarded as cash cows now as opposed to people who need a home to live in. These investors are coming in and increasing rents dramatically. We propose that these people go to the PRTB as a collective force to fight their case, as this is way above the market rent at the moment. We need to get more feedback on what is happening with rent increases in communities and complexes.

I would like us to get an update next week on the number of beds put in place for rough sleepers, particularly those who find themselves in emergency accommodation, including families in hotels. We need to keep an ongoing check on it. Through those debates and discussions we might all be able to come up with better ideas to deal with these issues in the longer term. I do not believe we have sufficient resources for social housing to be built, but that is another day's debate.

Acting Chairman (Deputy Olivia Mitchell): I call Deputy McFadden, who is sharing time with Deputy Fitzpatrick.

Deputy Gabrielle McFadden: I commend the recent work of the Minister, Deputy Kelly, and the Minister of State, Deputy Coffey, in addressing the crisis in Dublin. I point out that the crisis is not just confined to Dublin, but is a nationwide problem.

The Government's 20-point action plan to tackle emergency and short-term homelessness has committed €20 million to provide 260 additional emergency beds for people sleeping rough in Dublin and a "Nite Café" to provide a contact point for homeless people who do not want to be placed in emergency accommodation.

The programme for Government contains a commitment to end long-term homelessness by using a housing-led approach by 2016. Following a request by the Department of the Environment, Community and Local Government, Dr. Eoin O' Sullivan published a paper entitled

Ending Homelessness: Towards a Housing-Led Approach. The paper was critical of homeless services that were focused primarily on providing hostel accommodation as opposed to supporting people to attain their own homes.

Funding is very important but we also need to adopt a systematic approach to addressing long-term homelessness. For example, the midlands Simon Community has shown this through its very successful regional settlement service which is based on the housing first model. This model provides the stability of a home is the first step in helping people overcome the issues of homelessness. This model is not just proven to be an efficient and cost effective method of helping people move out of homelessness, but has also proven to benefit the lives of service users.

The midlands regional settlement service operates in the counties of Laois, Longford, Offaly and Westmeath in conjunction with the four local authorities and in partnership with HSE, and the Department of Environment, Community and Local Government. The service works with individuals, couples and families who are referred to the service by the local authorities. They are supported to move out of homelessness and into a home of their own through the development of a personal action plan.

I strongly agree with the recent comments of Midlands Simon Community CEO, Mr. Tony O'Riordan, who has said that homelessness in the midlands is an invisible problem. In Dublin, we can see the problem in a visible way. As Mr. O'Riordan has said, in the midlands, people sleep in their cars, on couches or on the floors of friends' homes, none of which appears in any official statistics.

An official report in 2011, Review of Services Addressing Homelessness in the Midlands 2011, found that despite receiving the lowest level of section 10 funding from the national homelessness budget, the midlands region achieves very significant outcomes and results. Unfortunately, this review found that funding for the midlands region was well below the State average on a *per capita* scale and the basis of the amount spent on each service user. Ongoing data that the midlands region regularly provides to the Department of the Environment, Community and Local Government show that the region continues to perform competently with meagre resources.

In the context of doing a lot more with few resources, I compliment the work of Westmeath County Council, which is the lead authority on behalf of the midlands homelessness region which also covers Longford, Offaly and Laois. Unfortunately, the low level of overall funding for the midlands region continues to put huge pressure on services at a time when there has been a 30% increase in demand for these services. I ask the Minister to be cognisant of the efficiencies and value in the delivery of homelessness services in the midlands and for this to be acknowledged with increased resources when the national budget is approved.

In the week 20 to 26 October 2014, data provided by the Department of the Environment, Community and Local Government showed that 2,580 individuals were homeless and accessing emergency accommodation nationally. This figure does not include people sleeping rough. Charities working with homeless people nationally also estimate that up to 5,000 people could be homeless in this country. It is very clear the scale of the problem is huge.

The Government's plan envisages the delivery of 2,700 units between now and the end of 2016. Some of the main mechanisms identified in the plan include bringing vacant proper-

ties back into use; ensuring that local authority allocation schemes give priority to vulnerable groups such as homeless families and individuals; working with NAMA and the voluntary sector to ensure that units are prioritised for homeless households; and ensuring that leasing arrangements facilitate the use and accessibility of these properties by homeless households.

It is imperative that the momentum we have now to address this crisis is sustained until we achieve meaningful results right across the country.

Deputy Peter Fitzpatrick: I am grateful for the opportunity to speak on this matter today. Homelessness in Ireland is a growing problem not only for the homeless themselves, but also for their families and friends. It causes great stress and worry for all concerned. As a society we have to deal with this issue. It is not an issue for the Government alone but for each and every one of us, from all sides of the political divide and all sections of the community. It is not an issue that should be used for political gain or for playing party politics. It is a human issue first and foremost.

In my home town of Dundalk, I recently visited some of the many voluntary bodies that deal with homelessness. They include the local Simon Community, the local counselling centre in Seatown Place, and St. Patrick's parish soup kitchen in Roden Place. All these organisations are providing a wonderful service and some truly inspirational people give their time to help the homeless around Dundalk.

Although the problem of homelessness is mainly centred in our capital city of Dublin, it is also important to highlight the issue in smaller regional areas and towns. As I said, homelessness is an issue for each and every one of us. As a Government, we will not eradicate the problem of homelessness on our own. Money alone will not solve this matter and neither will raising the rent supplement cap. We need the help and support of all sections of society.

In many cases those who have become homeless have lost all contact with their family and friends. We must try harder as a society to ensure that this does not happen. We must help those families who have sons, daughters, brothers, sisters, mothers or fathers who have become homeless.

We must remove the stigma of homelessness. In many cases people who find themselves homeless cannot face their families or friends, so the problem escalates. This must not be allowed to continue. How can society help to solve the homelessness issue? First and foremost, we need to understand the reasons for homelessness and ask why it is happening. Why are certain sections of society more vulnerable? Why do people make it a choice to be homeless?

The Government is trying to tackle this problem and has made available an extra €10.5 million in funding for accommodation in 2015. Work has started on converting 245 vacant units back to their original state with an additional 410 being converted over the coming four to six months. In addition, funding for housing is being increased by 40% to €800 million in this year's budget. That is an increase of over €230 million on the previous year. The Government is committed to building 7,500 new homes in 2015, as well as contributing €30 million in 2014 in order to make available 1,800 vacant properties for housing needs.

As I have already stated, money alone will not solve this issue. We need to act as a society to ensure that the problem of homelessness in Ireland will eventually become a thing of the past. We need to look out for our families and friends who may be in danger of becoming homeless. We also need to support the many wonderful organisations that are fighting this issue on a daily

basis.

In Dundalk, much good work is being done by those voluntary bodies. I recently met volunteers with the St. Patrick's parish soup kitchen who work six days a week. Working alongside the Simon Community and the housing officer, those volunteers are feeding homeless people every day, giving them soup, sandwiches and dinner, as well as runners and other footwear. They ensure that whoever calls does not leave with an empty stomach. Such volunteers may be called by the Simon Community or a housing officer who seek their help in accommodating homeless people. They will ensure that a homeless person gets a bed for the night.

The only funding that voluntary organisations receive is from public donations. The St. Patrick's parish soup kitchen will have church gate collections on Sunday, 20 December in the Dundalk and Blackrock areas. I call on people to support them. That is only one example of the work undertaken by voluntary bodies all over the country. We would be lost without these volunteers.

We must not give up on the homeless who, now more than ever, need our support.

Deputy Robert Troy: I welcome the opportunity to contribute to this debate. At the outset, I wish to acknowledge the speed with which the Government reacted in the past week. It is a poor reflection on all of us in this House, however, that it took the death of Jonathan Corrie to provoke such a reaction.

Far too often, both Government and Opposition react and are not out in front leading the charge. I cannot imagine the loneliness, isolation and anxiety of people who must live on our streets and sleep rough at night. If anything positive is to come from the death of Jonathan Corrie we must have a lasting solution to the problem of homelessness. At a minimum, the State should provide the basic human need and human right to a roof over one's head.

We all know that homelessness arises for a variety of reasons, including substance abuse, mental health issues, marital breakdown and the loss of a job. We now need to ensure that a holistic approach is taken to this crisis. While in the region of 200 people are sleeping rough in our city streets at the moment, the problem is much wider and greater than that. While we could have 200 extra beds in the morning, not everybody will accept a bed in emergency accommodation. That is a fact. All the money in the world would not encourage some people to accept such accommodation, for whatever personal reasons and experiences.

There is a bigger issue out there. Over 1,500 people are staying in emergency accommodation. They have lost their homes and they include children who do not know where to call home. Those children should be excited about the arrival of Christmas, but they do not know if Santa will come to them due to the uncertainty over accommodation.

I do not want to make a political issue of this, but people have lost their homes as a result of policy decisions. When one cuts rent allowance, it has a drastic effect on someone who is reliant on that payment. In addition, banks have been heavy handed in evicting people from their homes. The buy-to-let market is so volatile that banks are moving in and landlords are left with no choice but to sell rented properties. That, in turn, is forcing people out into emergency accommodation.

The homeless person is not just the stereotype suffering from substance abuse or psychological issues. People from all walks of life are currently in emergency accommodation. Some

of them are bedding down and sleeping on couches. Two weeks ago, a woman was in my constituency office. She is holding down a full-time job but her marriage broke up and she is trying to sort out a house in negative equity. That lady in her 50s is bunking down in accommodation with her son who is sharing with five other people. Those are the type of problems we are facing at the moment.

The Minister's oversight group, which was established last year, talked about moving people away from emergency accommodation to free it up for others. However, some people are bed-blocking by staying in emergency accommodation longer than they should. They are doing so because there is no other accommodation for them to move into. We need to examine that situation.

The Minister said one of the answers to the problem is to get more houses in the private rental market, but that system has failed. It has failed all the more spectacularly in recent years as rents have increased. I have never seen anything like it in my own constituency clinic over the last 12 months. People are coming in because their houses are being sold from under them. The banks are forcing landlords to sell property and rental accommodation schemes are being terminated at an unprecedented rate in local authorities because those authorities have not been provided with the funding to ensure they can continue to supply houses.

The forum was a welcome initiative last week but it was unfortunate that it focused mainly on Dublin. The problem is clearly more profound in Dublin but the issue is nevertheless much wider. I take this opportunity to highlight a concern in my constituency of Longford-Westmeath, where there are two homeless facilities operating. Bethany House provides 19 places for women with mental health issues, young women leaving residential care, people suffering from drug and alcohol abuse or people fleeing domestic violence. St. Martha's hostel provides 11 emergency short-term places for men. These two facilities are helping men and women at a time when they face very challenging personal circumstances and homelessness. Both facilities are running a deficit in excess of €100,000 for the past 18 months. That deficit comes as a result of a reduction in section 10 funding to those services. The €100,000 deficit has been met in the past 18 months by the Society of St. Vincent de Paul, but that is no longer in a position to meet the deficit. These two institutions - Bethany House for women and St. Martha's hostel for men - need additional funding to ensure the services in the midlands can be put on a sustainable footing. The necessary funding should be put in place to ensure these services can be kept open. The crisis may be more profound in Dublin and other large urban areas but there is still a crisis throughout the country.

The Minister must also examine how these institutions are funded and how funding is allocated to various regions. My region of the midlands has the second lowest allocation of funding in the country at €649,707. Meanwhile, the neighbouring north-east region, which services a smaller population, has funding of €1 million. That does not add up. I conclude by wishing the Minister well in his endeavours to eradicate the homelessness crisis. He will have the full support of all Members of the House in ensuring this awful crisis is solved. It is unfortunate that it took the death of a man for the Government to find the additional €20 million needed to tackle the crisis. I hope that when the news moves on, the sense of priority and urgency witnessed in recent days will remain.

An Ceann Comhairle: As we were delayed starting the business, is it agreed to allow the Taoiseach his full allocation of ten minutes? Agreed.

The Taoiseach: I will take a few minutes today to express my observations from my engagement and consideration of the homelessness issue last Thursday night and Friday morning. On Camden Street, Harcourt Street, South Great George's Street, Smock Alley and Temple Bar, there were no bells from the church, no urban foxes and no first snowflakes, just the sound of music in the distance and rats skittering across the sodden blankets and beds of needles. On the journey I travelled, there were people laughing and enjoying themselves, making the most of their night out under Christmas lights strung high on the streets over strung-out people in some cases. On Grafton Street, the Gucci sign beamed out over the remnants of humanity, only "remnants" is the wrong word. That night, I discovered the richness of humanity with the Lord Mayor of Dublin, Mr. Burke, and his team. I found it both in the team which did this night after night on a voluntary basis and, signally, in the men and women wrapped in their blue sleeping bags and to whom food is brought, along with comfort and a degree of company. Above all, the message was that we recognise these people's personal dignity. With this team, these people have an ear and a voice; they are not alone.

I pay particular tribute to the Lord Mayor of Dublin, Mr. Burke, and his team on behalf of everybody. People administer to these men and women, often very young, who have no home. It is an example to the city and the country in what are powerful works of mercy. I say "having no home" deliberately as the terms "homeless" and "homelessness" have become a kind of anaesthetic or political or social general absolution, as if the homeless and homelessness were sorts of conditions within our society. Of course, they are not.

In the early hours of Friday morning in the cold and rain I met alcoholics, drug addicts and returned emigrants. Some of them shook my hand and a young man thanked me for looking after his sleeping bag while he went to find and use facilities nearby. There were men and women with addiction, heroin addicts, people on methadone and so on. They were still able to find a kind word. They said: "I have to rob, I have to beg; I need this to keep me going. Do you understand me?" I do, to an extent. On Thursday night and Friday morning, I experienced a sobering reflection on what is happening to some people on some streets in this city. It is a replica of what happens in other places.

I have listened to some of the debate involving Members of the House and the causes of homelessness are myriad and complex. Both the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, and the Minister of State, Deputy Paudie Coffey, will do all they can with new major co-operation across the Departments of Social Protection, Health, Children and Youth Affairs, Finance, Justice and Equality, Education and Skills, and the Environment, Community and Local Government. We are now spending more than €50 million in tackling homelessness, and we all have a responsibility to ensure the resources and work are co-ordinated in the best possible way. That is why part of the Government's 20-point plan, adopted on the recommendation of the Minister, Deputy Kelly, yesterday is to review the homeless sector, service delivery and co-ordination arrangements early next year.

Crucially, there is to be €2 billion in investment for social housing, and although results will not be achieved overnight - I accept there are processes to be followed through - there is a willingness by some who will use their expertise in property management and accommodation provision to help alleviate current bed and housing difficulties. The Minister and Minister of State will work with those people. I have listened to parents who are without a home and, to a woman and a man, they tell me that they need immediate shelter but it is not sufficient in the long term. Their children and the family need a home so they can have a life. The unprecedented capacity and potential of more than €2 billion in investment means we will now have

the opportunity to provide for that.

I will say a word or two about how soul-destroying it is for people in emergency accommodation. They grieve not alone for what they had but, more crucially, for what they used to be when they had the privacy and dignity of a family life. I spoke a few weeks ago at a conference on mental health and suicide and I was heartened that the views expressed drew a serious and passionate response from practitioners in the area. Many men and women sleeping rough on our streets do so because of the disintegration of their interior life. That can be caused and medicated by an addiction to drugs, gambling, alcohol and so on. They sleep in the wet and cold because of the breakdown of their lives, caused by the break-up of a marriage or family. There are blue dots on the streets because of depression or more serious disturbances in mental well-being which can be so finely balanced and which so many can take for granted. These people huddle in doorways, under arches and in the open under the eye of closed circuit television. They are just out of prison or out of the State's care, too often with nowhere to go. Maybe they are just emotionally or psychologically fragile, with the glue to reality or normality removed by the death of a sibling or parent, for example, or a family row. Perhaps they are paralysed by disappointment as because of what they did or was done to them, life did not turn out as they dreamed or imagined it should be.

12 o'clock

The shift we see in many countries and across Europe has at its heart something far bigger and deeper than just politics itself. In the rush to abandon the architecture we have had and have taken for granted, sometimes people tend to run away from something but the question is, what are they running towards? In the years ahead, issues of identity, dignity and belonging will come very much more to fore as the ground shifts beneath us and as we write a new blueprint for public life and for a kinder and more equal and a better society. In all, it is clear that our shared humanity as people and our shared values of what constitutes a good life are what is important. That is a bond that has to be developed to a far greater extent between the Irish people and their Government. It is a restoring of the old form of the concept of dúthracht, the care and the active and responsible connection between people and all of those who attend around us.

When one meets these people in these circumstances and they look at one through yellowed eyes or have shivering hands, it is not the bond yields, the debt equity or the economic sovereignty in which they are interested but another opportunity for five more minutes of oblivion. As many people have pointed out, these are very complex and individual cases.

We need a strong and sensible economic policy, which I hope Ministers will implement, together with all the agencies. We also need a new human and social chemistry, in particular in that interface between public and private lives. Even when the Celtic tiger was deafening, men and women died on the streets of our country. In a way, the homeless crisis is a kind of autopsy of our national life and of our priorities.

Mr. Jonathan Corrie died on the Dáil's and the nation's doorstep just a few days ago. His death and the manner of it does not make Mr. Corrie or his story public property and in the outpouring of sadness for him and the way he lived and died, we have to be careful to protect his boundaries. He was clearly a man of intelligence, depth and insight. He was also a man of great dignity and I believe the best way we can honour his life is by acting, once and for all, on this issue of homelessness, right now in the emergency shelter, in the long-term housing plan, in addressing the causes of pain and alienation in our society.

I thank the Lord Mayor of Dublin, Mr. Christy Burke, and the men and women I met last Friday morning for the opportunity they gave me and the generosity they showed me. I was privileged to be able to walk with them as they attended to those less fortunate in our society. For my part, I have assured every one of them that the efforts of the Minister, Deputy Kelly, the Minister of State, Deputy Coffey, and all of the agencies will deal with this effectively and in the most human and best way we can. I thank the Ceann Comhairle for this opportunity to speak.

Leaders' Questions

Deputy Micheál Martin: The House will be united today in anger, shock and horror at the revelations in "Prime Time: Inside Bungalow Three" last evening. I commend RTE and "Prime Time" for an excellent example of public service broadcasting at its best. The revelations were shocking and they represented violations of human rights of senior citizens with intellectual disabilities. These citizens, Ivy McGinty, Mary Garvan and Mary Maloney, among others, had their basic human rights violated to an extraordinary degree. They were subject to torture, physical abuse and emotional abuse and the treatment was without question degrading. They were kicked and dragged, at times they were shouted at and they were not even allowed to attend to the basic necessities of life, which was revealed harrowingly in the programme.

There are many lessons to be learned from it. The Minister of State, Deputy Lynch, said to the programme that she could not give an assurance that this type of behaviour was not happening in other centres. I put it to the Taoiseach that we need to give that assurance and the Government needs to work very quickly, in terms of devising an action plan for every centre, to ensure we can give that assurance to other relatives of people with intellectual disabilities in similar centres across the country.

Professional staff should be recruited. It has emerged that the staff in bungalow three, for example, had at most ten hours training which, in itself, is disgraceful. One could see that from the programme itself. The culture that was allowed to fester should be wiped out completely. I feel for the relatives because they trusted the HSE and people to care for their loved ones, people with severe intellectual disabilities, and that trust has been breached. It is clear we need an independent inquiry, separate from the HSE and even from HIQA, into Áras Attracta, into what happened and into the culture and practices there so that we can learn lesson for the future.

In June 2011, a report was published by the congregated settings working group which fundamentally challenged the existence of these congregated settings and stated that "Congregated provision is in breach of Ireland's obligations under UN Conventions. The provision contradicts the policy of mainstreaming underpinning the Government's National Disability Strategy". It also stated that "The ethical case to move people from isolation to community, and in some cases, from lives lived without dignity, is beyond debate". There were approximately 32 recommendations in that report from June 2011 and I believe a national implementation group was established. Can the Taoiseach outline the progress in implementing those 32 recommendations? A seven-year plan was outlined for the implementation of the recommendations, which involves all the stakeholders and all the groups working with the HSE.

The report stated that the case for taking action now to address the situation of people liv-

ing in congregated settings is powerful and unassailable. It also mentioned the ethical case to move people from isolation to the community. Will the Taoiseach outline the progress made in regard to the implementation of those recommendations? Will he also answer my question on the need for an independent inquiry?

Deputy Finian McGrath: Stop cutting respite services.

The Taoiseach: Last night's programme was another example of what we had in Leas Cross some years ago. This was frightening, sickening and infuriating. People will legitimately ask the question, how this could happen in 2014 with trained nurses and health care workers qualified to FETAC level 5. It was not an example of care but an example of control of fragile, vulnerable and voiceless people. I found it sickening.

The situation here is that following a HIQA inspection earlier in the summer, 59 recommendations were made to be implemented and they have all been implemented, including 400 hours of training. Some 100 hours of those 400 hours were allocated here.

As Deputy Martin is aware, a number of investigations are going on at the moment. The television coverage, on which I have commended RTE, has all been handed over to the Garda. I do not want to say anything here that may prejudice, in any way, the outcome of those investigations or whether criminal prosecutions will take place but the rights of these defenceless and voiceless people were trampled on. This was not an example of any kind of standard in terms of care and consideration but was an example of control.

As Deputy Martin will be aware, the chief executive of the HSE wrote to the chief executives of all the service providers and they are being called together next Tuesday because the question being asked is, is this an isolated incident? Can we be assured this has not happened, and is not happening, in any other centre? I mention the report written by Mr. Christy Lynch, chief executive of KARE, who independently chaired the review of the services and who is acknowledged as a genuine expert in this field. His services are quite exceptional. We cannot afford to have any loss of concentration on what happened. This is absolutely disgraceful. It is appropriate that the HSE would call all those chief executives together early next week. It is also important that the investigations under way be concluded quickly in everybody's interests, including those in Áras Attracta, some of whom I know, and their families. Many genuine health care workers who take pride in the job they do have had their names and reputations damaged by what happened.

I do not rule out what Deputy Martin says about investigations but it is important that the investigations under way be concluded and that we have an opportunity to discuss them here and that the HSE, the Department and Ministers involved see their outcome. I do not want to prejudice anything that might arise from the investigations currently being concluded by the Garda Síochána.

Deputy Micheál Martin: I am somewhat disappointed by the Taoiseach's response. There is a compelling need for an independent inquiry. One could be established that would not jeopardise any criminal proceedings. There are fundamental issues that go to the heart of what happened at Áras Attracta that need independent investigation, separate from the HSE and HIQA. The Government should move on that and consider that as a response of substance to the revelations in yesterday's "Prime Time" programme. Nothing less will suffice. There has been a fundamental breach of trust which can only be restored by a fully independent inquiry

into what happened.

In terms of assurances for similar centres, I do not think calling the chief executives together next Tuesday to ask them if everything is okay is sufficient. I have no doubt most of them will say yes, it is grand. If we have learnt anything from the revelations yesterday it is that we cannot take any glib assurances that things are grand and fine in a particular institution.

Deputy Finian McGrath: It is a trust issue.

Deputy Micheál Martin: I thought an action team would have been established with resources to go to every centre in the country similar to Áras Attracta and carry out a thorough examination of practices and culture, to give that assurance to relatives and to affirm the basic human rights of people living in other centres. I am not casting any aspersions on the hundreds of good staff out there who do good work.

The Taoiseach did not address my most important question about the report of the congregated settings group, which is fundamental to last night's programme because it recommends that the country should move from congregated settings to a community model over a seven-year period. It states:

> ... the Working Group took the view that the case for taking action now to address the situation of people living in congregated settings is powerful and unassailable. The ethical case to move people from isolation to community, and in some cases, from lives lived without dignity, is beyond debate.

That report involved everybody and was published in 2011. Will the Taoiseach give me some sense of the progress on the 32 recommendations of that report? Where are they now?

The Taoiseach: Christy Lynch wrote the congregated settings report. I do not think anybody can question his experience or independence.

Deputy Micheál Martin: I am asking what has happened to the report.

The Taoiseach: He wrote the congregated settings report.

Deputy Finian McGrath: We know that.

The Taoiseach: No more than so many other things, the capacity to implement that report in terms of the economy and the shortage of housing just has not happened. That is the unfortunate reality.

Deputy Micheál Martin: The Government can cut tax for a couple of hundred million euro. That is the debate in this society.

The Taoiseach: I do not think the Deputy would argue with the report. It was written by somebody-----

Deputy Micheál Martin: I think it is very good. It is an excellent report.

The Taoiseach: It is being moved along but it is not implemented.

Deputy Micheál Martin: It is about the institutionalisation problem in this country.

The Taoiseach: Mr. Lynch is the former vice chairman of the Equality Authority. He is

a former chairman of the Federation of Voluntary Bodies. He is the project manager of the congregated settings review that is being implemented but not to the extent that one would like because of that issue.

Deputy Micheál Martin: We know all this. Nobody is asking about Christy Lynch.

Deputy Willie O'Dea: How many of the recommendations has the Government implemented?

The Taoiseach: There is an action team in there at the moment. Three people have been brought in from outside the country. The head of that is the person who is really experienced at dealing with challenging behaviour in different settings. That is quite complex, as the Deputy can understand. It is not a case of wanting to say "Here is an answer" by calling the chief executives together. The Minister of State at the Department of Health asked whether we can be sure this is not happening or has not happened in some other location. Every chief executive and manager in these positions has a duty and responsibility to see this does not happen in the facilities where they are in charge.

I listened to Mr. O'Brien talking this morning about the need for the possibility of having continuous undercover agents or whistleblowers-----

Deputy Micheál Martin: Did anything happen on the recommendations? That is what we need to know.

The Taoiseach: Let us take the opportunity to have a far more detailed discussion of these matters in the House in order that the Deputy can get an up-to-date detailed report from the Minister for Health about this as it moves along. I do not object to that in the interests of information for everybody. It is a matter of deep concern to us all personally.

Deputy Finian McGrath: It is a trust issue as well.

Deputy Gerry Adams: Last night's very important RTE documentary on Áras Attracta in County Mayo provided a shocking insight into the treatment of vulnerable citizens with intellectual disabilities. As the Taoiseach has quite properly acknowledged, this programme has deeply upset and disturbed citizens, not least the relatives of those involved and those with family members and loved ones in care. What we witnessed was nothing less than the physical, mental and emotional abuse of the most vulnerable of our citizens.

HIQA has stated that following an inspection of Áras Attracta last February, it raised its concerns with the HSE which then put in place an action plan. HIQA also states that it found substantial improvements during a follow-up inspection in May. The Minister for Health says the HIQA recommendations were implemented. If this was the case, the systems in place in care homes have been a catastrophic failure. Does the Taoiseach know what, if any, oversight mechanisms are in place in these institutions? While the HSE has ordered an investigation under an independent chairperson, Inclusion Ireland, the national association for people with intellectual disabilities, has said this is not adequate. Inclusion Ireland says it is not appropriate for the social care division alone to investigate its own service. Will the Taoiseach put in place a fully independent root and branch investigation?

The Taoiseach: The Deputy has raised several important items. He knows as well as I do that if an inspection arrives from HIQA or any other agency, attitudes can change within a

facility very quickly. That is why the HSE chief executive has pointed out the possibility of continuing to have undercover agents, whistleblowers and far greater scrutiny of what happens within the facilities. There is a requirement for a person dealing with vulnerable adults in each facility and for a safeguarding team in each region. It is impossible to guarantee that some other incident has not happened or does not happen in any other facility. What do we have to do to ensure that families and particularly the individuals concerned are not being treated in the inhuman way that we saw on television screens yesterday? What is the best thing to do? Deputy Martin pointed to the report on congregated settings. Many people have moved on from congregated settings but not as many as we would wish. A regime of unannounced inspections is needed to ensure there is a continual stream of information about what happens here. When whistleblowers come forward, they must be protected and the information they provide must be acted upon quickly, efficiently, properly and professionally in the interests of the people who are in these facilities. As we have mentioned, Deputy Ó Caoláin spoke very movingly yesterday evening about his knowledge, which is based on family circumstances, of the challenges that face workers and individuals in these cases. I have to say I found it traumatic to see people who are completely voiceless and helpless being treated in this fashion. It is a case of not having any political division about what needs to be done here. We must do the right thing and do it effectively. The Garda and the HSE have been notified. The 59 recommendations made by HIQA have been implemented. It has been pointed out that the 100 hours of training that were given here were not implemented in any fashion by people who were professionally qualified nurses and FETAC 5 level qualified health care workers. This is just not acceptable. It has got to be dealt with and it will be dealt with.

Deputy Gerry Adams: I think the Taoiseach understands that when something like this is highlighted, his responsibility is to reassure citizens, particularly those affected and their families, that the Government is on the job and knows what to do. We do not expect the Taoiseach to have all the answers. When I come here to ask questions, I do not expect him to trot out all the answers. I asked the Taoiseach two questions. I asked whether he knows what, if any, oversight mechanisms are in place. If he does not know, that is okay, but he did not answer me. I also asked whether the Government will put in place an independent inquiry into this matter. We all know that the treatment of citizens with disabilities is a scandalous legacy on which we need to act. The cut in the respite care grant is an example of this treatment. The State has yet to sign up to the United Nations Convention on the Rights of Persons with Disabilities. The reason we have not signed up to it is that we do not have the legislation in place to allow us to do so. The Taoiseach acknowledged a moment ago that the congregated settings review has not been implemented. These are our responsibilities. What happened in Áras Attracta needs to be dealt with properly. As the Taoiseach has said, there should be no division across the Oireachtas about our responsibilities.

I would like to revisit some of the recent details. HIQA says it has received an average of three complaints a week since it took responsibility for the regulation of these services in November 2013. It is reported that 160 complaints relating to care facilities for people with disabilities have been made but have not been fully investigated. It is claimed that some of these cases involve the type of abusive treatment shown in last night's RTE documentary. HIQA has admitted that individual complaints are not being probed and are merely being filed away. Why is this? Could it be the case that this failure allowed the abusive practices in Áras Attracta to continue until they were exposed by the very fine RTE investigation? The Minister of State, Deputy Kathleen Lynch, has said that the safety of citizens in care homes cannot be guaranteed. I understand why she made that statement. In light of all these aspects of the matter, will the

Government commit to a root and branch inquiry into care facilities for people with intellectual disabilities in this State? I repeat that I do not expect the Taoiseach to have all the answers to all these questions. It is now our responsibility. It has been brought to our attention. We have to respond to it appropriately. These are the most vulnerable citizens in this society. They and their families depend on us. We have to respond appropriately. Given that the National Association for People with an Intellectual Disability has said a fully independent root and branch investigation is needed, surely that is the least the Government can do.

The Taoiseach: I do not think we have a disagreement.

Deputy Finian McGrath: Except on the inquiry.

The Taoiseach: What affects people when they see something like this going on in this kind of setting and do not do something about it? Would anybody here in this House not act appropriately if they were to be in such a situation?

Deputy Gerry Adams: I am asking the Taoiseach to act.

The Taoiseach: Yes. I am just making the point that we do not have any disagreement here. In times gone by, the State always denied these kinds of issues. This has happened. We know it has happened. The question is what is the best, right, correct and most effective thing to do now. I recall meeting Christy Lynch a number of years ago. I found him to be quite an extraordinary person. He has the capacity to do a really effective job here. The HSE has immediately responded by getting him to carry out an investigation. I understand three investigations are going on. The first thing we have to do is let that continue. An action team from abroad is working on this at the moment. The results of the Áras Attracta investigation and analysis will be applied elsewhere. The legislation referred to by the Deputy will be debated on Committee Stage here early in the next session. The other point is that HIQA does not investigate individual complaints. When individual complaints are received, they are always part of the overall investigation into facility X or Y that takes place. The HSE has written to the chief executive of each individual service provider. They are all being called together on Tuesday. They have already been warned about this. It is something that is intolerable. Can I give a guarantee to the House here today that this has not happened in some other facility around the country? I do not know. Am I supposed to know? I suppose it could be said that I am. We have to put in place a system whereby the Minister of State with responsibility and the HSE have a continuous stream of up-to-date information about what is happening.

I was struck by what Deputy Ó Caoláin said last night. These people are voiceless. They are completely vulnerable. We saw it on our television screens. The question is what we will do about it. There are three investigations going on. It is possible that criminal charges will be levied here. That does not solve problems for the future. The lessons learned from Áras Attracta will apply to the rest of the system. The legislation will be dealt with on Committee Stage early in the new year. The action team led by an international expert in challenging behaviour is already doing its work. The chief executive of KARE, Christy Lynch, who has complete independence, is already drafting his report. I am not ruling out the question that Deputy Martin asked. It is important to let these investigations conclude so we can find out what is there and what further needs to be done. I do not rule it out, but we need to conclude what is under way at the moment in terms of these investigations so we can see what happens. We can then put that in the system so this should not happen anywhere else. I know this is a cause of great concern for the families of people in other facilities. I am sure the health care workers in the other units

in Áras Attracta feel very damaged when they consider that this happened in the complex or campus in which they work.

Deputy Catherine Murphy: As we speak, thousands of people are making their way to Dublin for this afternoon's protest. I believe they are coming for two main reasons. They want the Taoiseach to listen and they want to get answers. Yesterday, the Taoiseach claimed once again that all the issues of concern with regard to water charges have been addressed. I hate to break it to him that the thousands of people who will be outside Leinster House this afternoon disagree with him. I agree with the Taoiseach that this is about more than water. Many people, including some who are in favour of water charges, have major concerns about the circumstances surrounding the creation of Irish Water and the awarding of the metering contracts. They want some very specific questions to be answered, but those answers do not appear to be forthcoming. I asked some of those questions when I spoke on the Water Services Bill 2014 in this House last week, but I am still waiting to receive answers. I have also tabled parliamentary questions. One of my parliamentary questions was flatly refused and the answer to the other was so anemic that it was a non-answer. The questions referred to the circumstances surrounding the awarding of the Irish Water metering contract and how the company, Millington Limited, was able to acquire Siteserv and, thus, GMC/Sierra Limited at a significantly reduced cost from IBRC, a deal that saw the State lose €105 million. GMC/Sierra went on to win the metering contract.

There are some known facts. We know that the bids had to be in by 30 June 2013. We know that one of the companies awarded one of the major contracts did not exist until 15 July, weeks after the closing date for bids. As such, I wish to ask some of the questions that I asked but to which I have not managed to get answers. If the closing date for applications to be considered for the contract was 30 June 2013 according to a parliamentary reply last year from the former Minister, Mr. Phil Hogan, how did GMC/Sierra, company registration No. 530230 and which did not come into existence until 15 July, manage to win a contract? How could a company that did not satisfy the requirement to have a tax clearance certificate be considered for the contract?

Deputy Timmy Dooley: Tell me more.

Deputy Catherine Murphy: How did the procurement process satisfy EU rules? Why did IBRC choose to accept a bid from Denis O'Brien's Millington for Siteserv when it was actually the lowest of the bids and resulted in a loss to the State of €105 million?

The Taoiseach: Deputy Murphy is asking me specific questions about details of contracts.

Deputy Sandra McLellan: Can we have the answers?

The Taoiseach: I do not have the answers to her questions.

Deputy Mattie McGrath: Bring back Big Phil.

Deputy Finian McGrath: Closing date.

The Taoiseach: I will take the Deputy's questions, though, and find the answers for her from Irish Water.

Deputy Mattie McGrath: Big Phil has gone to Brussels.

Deputy Micheál Martin: That is that.

Deputy Catherine Murphy: I welcome the fact that the Taoiseach has committed to giving me the answers. I ask him to put them on the public record-----

Deputy Finian McGrath: Hear, hear.

Deputy Catherine Murphy: -----rather than providing them to me directly. It is essential that we move to address people's concerns. There has been a sizable engagement on this issue for some considerable time, mostly via social media and online. It is critical that this be above board. We all know that European rules apply to these matters and that one must comply with statutory provisions on the treatment of employees, conflicts of interest and tax clearance certificates. These are specific requirements. It is critical that everything be above board. Otherwise, an entire set of other issues will dog this company if it survives, about which there is a major doubt.

The Taoiseach: As I recall, the only discussions we have had at Cabinet sub-committee meetings about that was that there would be regional contracts awarded for the installation of meters and that those contractors would be entitled to employ subcontractors and that there would be a requirement that a 25% allocation would come off the live register, that is, people who might have been involved in the construction sector before.

As I said, the Deputy has asked very specific questions. I will have those transmitted to Irish Water today. I hope we do not get a watery reply. I will see that the detail the Deputy has asked for is provided. Of course it should be on the public record.

Deputy Finian McGrath: Short and savvy, like the Taoiseach's own answers.

Deputy Mattie McGrath: Ring Big Phil.

Deputy Finian McGrath: Can we have extra time for that, a Cheann Comhairle?

(Interruptions).

Appointment of Minister of State

An Ceann Comhairle: Before commencing the Order of Business, I call on the Taoiseach to make an announcement to the House.

Deputy Finian McGrath: Two weeks off.

The Taoiseach: I wish to announce for the information of the Dáil that the Government yesterday assigned Deputy Ann Phelan to be Minister of State at the Department of the Environment, Community and Local Government with special responsibility for local community rural economic development issues, including implementation of the CEDRA report. This is in addition to her existing responsibilities as Minister of State at the Department of Agriculture, Food and the Marine and the Department of Transport, Tourism and Sport with special responsibility for rural economic development, implementation of the CEDRA report and rural transport.

Deputy Finian McGrath: I thought Deputy Butler might have got a job.

Deputy Timmy Dooley: Pat Spillane will listen to that with interest.

Deputy Micheál Martin: On a point of order, is there any opportunity to discuss that matter or the report?

Deputy Finian McGrath: Could we have extra time?

An Ceann Comhairle: No. There is no provision for it in the Standing Orders. This is an announcement.

Deputy Micheál Martin: I know, but it is very late in the day. The story of the Government regarding rural Ireland has been one of consistent neglect.

Deputy Finian McGrath: Ask Pat Spillane.

Deputy Micheál Martin: Pat Spillane said that.

Deputy Sandra McLellan: He is one of the Government's advisers.

The Taoiseach: As Deputies are aware, there is a €2.5 billion allocation for rural Ireland in the rural development programme.

Deputy Mattie McGrath: Big Phil Hogan went to Brussels.

(Interruptions).

Deputy Patrick O'Donovan: Remember insulation aid? Fianna Fáil got rid of that.

Deputy Finian McGrath: There is a new super junior Minister coming up.

The Taoiseach: As Deputy Martin is aware, there is a €2.5 billion allocation for rural development under the CAP programme.

(Interruptions).

Deputy Noel Coonan: A few hundred quid.

Deputy Mattie McGrath: Phil Hogan put paid to that.

(Interruptions).

Order of Business

The Taoiseach: It is proposed to take No. 33, Social Welfare Bill 2014 - Report Stage (Resumed) and Final Stage; No. 34, Health Insurance (Amendment) Bill 2014 - Order for Report, Report and Final Stages; No. 35, Merchant Shipping (Registration of Ships) Bill 2014 [*Seanad*] - Fifth Stage; and No. 1, Companies Bill 2012 - amendments from the Seanad. It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 9 p.m. and shall adjourn no later than 10 p.m.; in the event a division is in progress at the time fixed for Private Members' business, which shall be No. 175, motion re Palestine (Resumed), Standing Order 121(3) shall not apply and Private Members' business shall, if not previously concluded, be

brought to a conclusion after 90 minutes; and there shall be no Topical Issues tomorrow. Tomorrow's business after Oral Questions shall be No. 31, Water Services Bill 2014 - Committee Stage (Resumed) and Remaining Stages.

An Ceann Comhairle: There are three proposals to be put to the House. Is the proposal for dealing with the late sitting agreed to? Agreed. Is the proposal for dealing with Private Members' business agreed to? Agreed. Is the proposal that there should be no Topical Issues tomorrow agreed to?

Deputy Gerry Adams: It is not agreed. I object to Topical Issue matters not being included in tomorrow's schedule. It is the second week in a row that this change has been made in order to facilitate the fast-tracking of the Water Services Bill. As I understand it, the convention is that, when Second Stage of a Bill concludes, a minimum of two weeks should pass before Committee Stage commences. Yesterday, we had the farcical situation of a Second Stage voted being called after the Order of Business, with Committee Stage starting four hours later close to midnight. Some of us were here until after 1 a.m. I do not believe it to be appropriate or proper that Teachtaí are not allowed to proposed Topical Issue matters for the Ceann Comhairle's consideration. It highlights the unacceptable way that the Government is forcing through legislation in order to pave the way for the introduction of water charges.

Deputy Micheál Martin: I protested strongly at the Government's behaviour in ordering yesterday's schedule, which was farcical. No lessons have been learned - meeting at midnight and beyond for an hour's debate on the Water Services Bill. I do not know what it is with the Government and water, but the former cannot get it right-----

Deputy Mattie McGrath: Swimming against the tide.

Deputy Micheál Martin: -----in terms of the Parliament debating the matter properly.

Deputy Joe Carey: No guillotine.

Deputy Micheál Martin: As the Taoiseach knows, the legislation was rammed through this time last year. That was a disaster and consequences arose.

I do not understand why the Government is suppressing Topical Issue matters. The Members of the House, irrespective of their parties or position as Independents, are entitled to raise Topical Issue matters. I did not realise that the Government was axing Topical Issues tomorrow. That is wrong. The Taoiseach should amend the Standing Order to ensure that Topical Issue matter can be allocated to Deputies and held. Last night, we had the Order of Business at around 7.50 p.m.

Deputy Robert Troy: For yesterday.

Deputy Micheál Martin: We had already had about six hours of debate. We had the Order of Business six hours after starting business. We had Leaders' Questions at about 5.30 p.m. The entire thing was farcical.

An Ceann Comhairle: We will not go through yesterday's business. We will deal with today's.

Deputy Micheál Martin: I know, but it is about reform of the House, how we do business and how we present ourselves to the public.

An Ceann Comhairle: I am conscious of the time.

Deputy Micheál Martin: We are not doing it well. The Taoiseach is not doing it well.

The Taoiseach: Back in 2010, I recall there was a motion of confidence. Fianna Fáil did the very same thing itself, but that is beside the point. Tomorrow, we are going to have-----

Deputy Mattie McGrath: The Government said it would be different.

The Taoiseach: -----parliamentary questions, Leaders' Questions, an Order of Business-----

Deputy Noel Coonan: Why does the Deputy not leave-----

The Taoiseach: As to this crowd over there, Topical Issue matters were abandoned because people sat in the Chamber and refused to obey the rules. All Deputy Martin wants-----

Deputy Patrick O'Donovan: Sinn Féin might have another "Sit-in Thursday" tomorrow.

Deputy Robert Dowds: Hear, hear.

Deputy Sandra McLellan: "This crowd"? That is not very respectful.

The Taoiseach: What Deputy Martin would love to happen, of course, is that the Government would try to guillotine Bills. There has been no guillotine introduced this year and there will not be.

Deputy Micheál Martin: The Government is getting rid of a legitimate mechanism that parliamentarians use to raise issues.

The Taoiseach: This is an issue on which if the Deputy did not have the opportunity to have full discussions about water, he would have a different complaint.

Deputy Micheál Martin: The Taoiseach is a bit of a dictator. That is the problem.

The Taoiseach: No.

An Ceann Comhairle: Deputy, please.

Deputy Brendan Howlin: Deputy Martin would like to dictate.

(Interruptions).

Deputy Micheál Martin: The Taoiseach is being a bit of a dictator.

The Taoiseach: Tomorrow we will have Question Time, Leaders' Questions, the Order of Business and Committee and Remaining Stages of the Water Services Bill 2014. The House will, in addition, sit on Friday to continue the debate on the Water Services Bill.

Question, "That there be no Topical Issue Debate tomorrow", put and declared carried.

Deputy Micheál Martin: In the light of last night's "Prime Time" report, will the Taoiseach indicate the status of the Assisted Decision-Making (Capacity) Bill 2013, which went to select committee last December but has not since been progressed? It is a long time in the system at this stage.

Second, will the Taoiseach indicate the status of the review that was to take place of the fair deal scheme? It is unacceptable that nearly 2,000 people are waiting up to 15 weeks for access to eligibility under the scheme. Some families will have to spend up to €10,000 if their loved ones are already in care but do not have eligibility. The situation has got progressively worse in the past 12 months. It is a programme for Government commitment that the fair deal system of financing nursing home care would be reviewed, with a view to developing a secure and equitable system of financing community long-term care which supports older people to stay in their own homes. Four years since the Government gave that written commitment, which provided that investment in the supply of more and better care for older people in the community and in residential settings would be a priority for this Administration, the situation continues to get worse for families of older people. Will the Taoiseach outline where stands that commitment and what additionality has been brought to the public system as a result of actions taken by his Government in this area?

Third, will the Taoiseach outline the status of the proposed integrated care agency? He promised legislation to establish such an agency under the aegis of the Minister for Health.

The Taoiseach: I will get back to the Deputy on the legislation to introduce the integrated care agency.

Deputy Micheál Martin: I appreciate that, but it is frustrating that this so often is the response in regard to legislation on health matters.

Deputy Kathleen Lynch: This from the man who did not read the report.

An Ceann Comhairle: The Taoiseach, without interruption.

The Taoiseach: Committee Stage of the Assisted Decision-Making (Capacity) Bill 2013 will be taken early in the new year. The reason for the delay is that the advanced directive protocols, for which we are waiting 20 years, had to be written.

The fair deal review is under way. In addition to the normal allocation of 515 beds per month, an extra 1,000 have been released. The waiting list is down from 18 weeks to 11 as a consequence of the extra money allocated in the budget for 2015, which is currently being spent.

Deputy Micheál Martin: There should be no waiting list.

The Taoiseach: That extra €25 million means better home care packages, enhanced care packages and so on. The review of the fair deal scheme will be brought to the Minister's attention as soon as it is concluded. As I said, 1,000 extra beds have been released in addition to the normal 515. The waiting list, I understand, is up as far as 4 December.

Deputy Micheál Martin: It is not good enough.

Deputy Gerry Adams: Ba mhaith liom ceist a cur faoi an criminal justice (offences relating to information systems) Bill. This legislation, I understand, is designed to enable the implementation of the EU directive on cyber crime, which is on the increase across this island. What progress has been made in bringing forward that Bill?

Gabhann an cheist eile atá agam leis an Assisted Decision-Making (Capacity) Bill. Thug an Taoiseach freagra ach níl mé sásta leis. Caithfimid a bheith níos gasta faoi seo. This legislation

needs to be progressed more quickly. It is about safeguarding vulnerable adults, an issue that has gripped public attention following the RTE revelations. It is unacceptable that this State is not yet in a position to sign up to the UN Convention on the Rights of Persons with Disabilities. It does not matter that we have been waiting 20 years for certain actions to be taken; the delay is happening now on the Taoiseach's watch. There must be greater urgency from the Government on this issue. When will the Committee Stage amendments be drafted and the Bill returned to the House?

The Taoiseach: The Bill being taken in committee in the new year will be the most advanced and up-to-date of its type. As I said, the reason it was delayed was the requirement to draw up the protocols in respect of the advanced directive. The progress made in this regard will bring us much further down the road we wish to go.

The criminal justice (offences relating to information systems) Bill is due in the middle of next year.

Deputy John Deasy: The most recent Teagasc report indicates that there could be a 50% drop in dairy farming incomes next year. Many young farmers in particular are investing massive sums of money in farm infrastructure. It would be devastating for them and for rural communities around then country if that report were to prove even remotely correct. Will the Government, through the Whips, set aside time at the earliest date to debate this issue in the Chamber? The matter will be discussed by the agriculture committee, of course, but it cannot be dealt with adequately in this House by way of Topical Issue matter or parliamentary question.

The Taoiseach: I had to look twice when I saw Deputy Deasy changing seats. It was because his microphone was broken but, for a moment, it looked like he was moving to be closer to Deputy Peter Mathews.

Deputies: The Taoiseach wishes.

Deputy Peter Mathews: Can we not be friends, a Thaoisigh?

The Taoiseach: This is a fundamentally important issue for the agricultural sector and for young farmers all over the country. I will bring the Deputy's proposal to the attention of the Minister for Agriculture, Food and the Marine. I listened to the president of the Irish Creamery Milk Suppliers Association speaking about this recently. It is something that is of great importance nationally. The Deputy can take it there will be discussion here early in the new session.

Deputy Colm Keaveney: When I asked the Taoiseach last May about the status of the expert group review that was provided for under A Vision for Change, he said it would be presented to the House in four weeks. When I asked the same question in September, he indicated it would come before the House within two weeks. When can we expect the publication of that report, which is to provide the roadmap for implementation of the policy set out under A Vision for Change?

Second, when can we expect the review of the Mental Health Act to commence?

The Taoiseach: We are awaiting the report on the review of the Mental Health Act. The review is complete, but the report has not been presented. We expect that to happen very soon. The expert group will be set up following our receipt of that report.

Deputy Patrick O'Donovan: In the light of the programme last night detailing events in County Mayo, will the Taoiseach indicate when the Health Act 2007 (amendment) Bill, which will bring the provision of home care, whether privately or publicly funded, under the remit of the Health Information and Quality Authority, will be published? Is it possible that publication might be expedited, particularly in view of the fact that the Minister of State at the Department of Health, Deputy Lynch, is allocating approximately €50 million in respect of the provision of essential services to very vulnerable people and to adults in their own homes? In the context of last night's television programme, can the Bill be prioritised to ensure that HIQA will be given the responsibility to carry out inspections in respect of private and publicly funded home care provision?

An Ceann Comhairle: I must ask Deputies not to make speeches. Some 13 other Members are waiting to pose questions.

The Taoiseach: I do not have a date for the publication of the legislation. However, I will revert to the Deputy with up-to-date information on the work that is being done in respect of it.

Deputy Dinny McGinley: I gclár reachtaíochta an Rialtais, dúradh go mbeifí ag tabhairt isteach Bille chun leasú a dhéanamh ar Acht na dTeangacha Oifigiúla. Cuireadh tréimhse chomhairliúcháin ar bun trí bliana ó shin, a mhair bliain, agus anois táimid ag fanacht leis an mBille. An bhféadfadh an Taoiseach a rá ag an bpointe seo an mbeidh an Bille seo foilsithe roimh dheireadh na bliana seo? Freisin, an mbeidh reachtaíocht curtha tríd an Teach, de réir mar a bhí geallta i gclár an Rialtais, sula dtagann deireadh le tréimhse an Rialtais?

The Taoiseach: Sílim go raibh an Bille sin os comhair an choiste.

Deputy Dinny McGinley: Bhí sé os comhair an choiste ach ní fhaca siad an Bille.

The Taoiseach: Sea, níor tháinig sé isteach anseo. Sílim go dtiocfaidh sé os comhair an Tí go luath.

Deputy Dinny McGinley: Roimh an Nollaig?

The Taoiseach: Ní hea, tiocfaidh sé go luath.

Deputy Dinny McGinley: Dúradh go mbeadh sé againn roimh an Nollaig.

The Taoiseach: Ní bheidh sé anseo roimh an Nollaig, ach go luath i Mí Eanáir.

Deputy Brendan Griffin: Bhí mise freisin ag féachaint ar an gclár teilifíse aréir agus bhí fearg orm agus bhí mé fíor bhrónach agus mé ag féachaint air. An mbeidh seans ag gach Teachta an t-ábhar sin a phlé sa Dáil nó an mbeidh díospóireacht againn chun é a phlé agus chun ár gcuid smaointe a chur chun cinn chun cabhrú leis an fhadhb seo a réiteach.

The Taoiseach: Tá iniúchadh ar siúl faoi láthair ag na comhairleoirí éagsúla agus is dóigh go mbeidh seans ag an Dáil an t-ábhar ar fad a phlé sa chéad seisiún eile.

Deputy Ray Butler: In the context of the broadcasting (amendment) Bill, recent media reports indicate that a DJ returning to RTE is going to be paid €500,000 per year.

An Ceann Comhairle: We do not need a speech from the Deputy.

Deputy Ray Butler: There is a need to introduce a salary cap in RTE in order that local

radio and commercial public service broadcasters such as TV3 will be in a position to benefit. It is ridiculous that certain individuals in RTE are being paid €500 million a year.

Deputy Brendan Howlin: I think the amount is €500,000.

Deputy Ray Butler: I apologise, €500,000.

The Taoiseach: The broadcasting (amendment) Bill is due to be published early in the next session.

Deputy Mattie McGrath: Earlier, the Taoiseach referred to certain state-of-the-art legislation that is due to be brought forward. Is any impact analysis ever carried out into legislation before it is introduced? Under the Road Traffic Act 2014, drivers must ensure that they have up-to-date NCT certificates displayed on their vehicles. I have been contacted by many of the thousands of people throughout the country who cannot get appointments to have their cars tested and whose current certificates are out of date. If these people are stopped by the Garda, they will be given penalty points and will need to pay a fixed charge.

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

Deputy Mattie McGrath: I have done so. I also sought a Topical Issue debate on the matter.

An Ceann Comhairle: I think that is due to be taken today.

Deputy Mattie McGrath: It is not because it was refused. I do not blame the Ceann Comhairle for that because a large number of matters are being submitted by Deputies.

An Ceann Comhairle: The Deputy was given permission to raise another matter in recent days. He is not doing too badly.

Deputy Micheál Martin: I appreciate that and I wish the Ceann Comhairle a happy Christmas.

An Ceann Comhairle: The Deputy should confine himself to the Order of Business.

Deputy Mattie McGrath: Thousands of people who drive to work do not have valid NCT certificates.

An Ceann Comhairle: That is grand, but we cannot deal with the matter on the Order of Business.

Deputy Mattie McGrath: If they are stopped on three occasions and do not have valid certificates, they will be put off the road altogether.

An Ceann Comhairle: I know, but we are not dealing with the matter on the Order of Business.

Deputy Mattie McGrath: The impact of the relevant legislation must be taken into account.

Deputy Micheál Martin: Tá an ceart aige. The Deputy is right.

An Ceann Comhairle: I call Deputy Grealish.

Deputy Mattie McGrath: Can I get a freagra?

The Taoiseach: The Minister for Transport, Tourism and Sport is reviewing the situation. He is aware of the matter, which has been raised by Deputy Butler and others in the recent past.

Deputy Mattie McGrath: I hope he is reviewing the position. Many people are going to be in trouble.

Deputy Micheál Martin: The Minister is already reviewing legislation that was only just passed.

Deputy Noel Grealish: On proposed legislation, is the Government committed to Ireland hosting the European capital of culture in 2020?

An Ceann Comhairle: To what legislation is that relevant?

Deputy Noel Grealish: Will the Minister issue an immediate national call for submissions before the 31 December deadline specified in legislation passed by the House?

An Ceann Comhairle: If the Deputy wishes to pose a question in respect of specific legislation, he should do so.

Deputy Noel Grealish: As the Taoiseach is aware, Galway is preparing a bid to host-----

An Ceann Comhairle: That is fine. In which legislation is the Deputy interested?

Deputy Noel Grealish: -----the European capital of culture in 2020. In that context, when will the national cultural institutions (No. 1) Bill be brought before the Dáil?

The Taoiseach: Proposals relating to the European capital of culture are being worked on by the Minister for Arts, Heritage and the Gaeltacht at present. The Bill to which the Deputy refers is due early in the next session.

Deputy Micheál Martin: The Minister would want to hurry up because we are running out of time.

Deputy Dara Calleary: Would it be possible to set time aside next week for a discussion on the broader public policy issues that arise on foot of last night's programme on the situation at Áras Attracta?

An Ceann Comhairle: We already dealt with that matter.

Deputy Dara Calleary: After she has met the chief executive of Áras Attracta, perhaps the Minister of State, Deputy Kathleen Lynch, might furnish the House with a report on the matter.

An Ceann Comhairle: The Taoiseach has already dealt with that matter.

An Ceann Comhairle: The Ceann Comhairle is fluent as Gaeilge. As stated earlier, there will be an opportunity to discuss the broader policy issues in the next session.

Deputy Patrick O'Donovan: Deputy Calleary would want to brush up on his Irish.

Deputy Joe Carey: When will the education (admission to school) Bill be brought before the House for debate?

The Taoiseach: Drafting of that legislation is well advanced. A number of issues have given rise to concern but it is hoped to publish the Bill before the beginning of the next session.

Deputy Terence Flanagan: What is the position regarding the building control Bill, the purpose of which is to regulate the construction industry and ensure that a proper register of builders is kept? In view of the emphasis the Government has placed on housing and in order that we might avoid another Priory Hall, when will the Bill be brought forward?

As the Taoiseach is aware, there is an unhealthy relationship between sports organisations and alcohol. In that context, when is it proposed to introduce the public health (alcohol) Bill? The legislation in question will also deal with the issue of minimum pricing of alcohol products.

The Taoiseach: The second Bill referred to will be introduced next year. Legislation relating to construction was passed by the House and the agency to be established under its provisions will be set up within the Department of Jobs, Enterprise and Innovation.

Deputy Timmy Dooley: During the course of business yesterday, the Minister for Transport, Tourism and Sport made it clear that a serious issue has arisen in the context of the imposition of penalty points. He indicated that he is awaiting comments from the Attorney General on the matter and stated that there may be a requirement to introduce emergency legislation. Is the position relating to this issue any clearer today?

The Taoiseach: The Minister is taking advice on the matter. If necessary, he will bring forward amending legislation. It is not yet clear as to whether such legislation will actually be required.

Deputy Bernard J. Durkan: Will the Taoiseach indicate the progress that has been made in respect of the proposed landlord and tenant Bill? Have the heads been cleared by the Cabinet and when is the legislation likely to come before the House?

Will the Taoiseach also indicate the current position with regard to the publication of revised regulations in respect of the operation of wind farms, set-back distances, etc.?

The Taoiseach: The landlord and tenant Bill is expected in the middle of next year. I will contact the Minister for Communications, Energy and Natural Resources, Deputy White, to establish the position with regard to the revised regulations to which the Deputy refers.

Deputy Joe O'Reilly: Given that there would be a great deal of merit in alleviating the financial stress being experienced by people over 70 who may fall ill and in view of the fact that early detection is vital, when will the health (general practitioner service) (No. 2) Bill, which will grant such people universal access to GPs, be introduced? This is important and progressive proposed legislation.

The Taoiseach: The process relating to the legislation is very well advanced. It was on the list for this session and I would say that it will be published early in the next session.

Deputy Willie O'Dea: The Tánaiste has been very vocal regarding the problem of low pay in the private sector. The legislation to establish a commission to examine this problem is not expected until sometime late next year. In view of the fact that the Tánaiste is so concerned, does this not imply a distinct lack of urgency in respect of this matter? Would it be possible for the legislation to be brought forward sooner?

The Taoiseach: What is going to happen is that the commission will be established on a non-statutory basis immediately. Provision has been made to facilitate this in the relevant Estimate and the legislation will follow.

Deputy Regina Doherty: When will the Horse Racing Ireland (amendment) Bill be introduced?

Deputy Brendan Howlin: It is galloping up on us.

The Taoiseach: That must be a fast piece of legislation, particularly as it has already undergone pre-legislative scrutiny. The white flag has been raised.

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 Finian McGrath - the school completion programme in the Donaghmede, Ayrfield and Edenmore areas of Dublin; (2) Deputy Terence Flanagan - the processing of medical card applications in the primary care reimbursement service; (3) Deputy Patrick O'Donovan - the need for a review of the laws relating to speed detection cameras and the use of GoSafe vans on roads here; (4) Deputy Eric Byrne - the online appointments system at the Garda National Immigration Bureau; (5) Deputy Dara Calleary - the revelations on the "Prime Time" television programme regarding Áras Attracta, Swinford, County Mayo; (6) Deputy James Bannon - the need to fill the vacant Garda superintendent position in County Longford; (7) Deputy Michael Colreavy - the mammography services at Sligo Regional Hospital; (8) Deputy Lucinda Creighton - the need to intervene to ensure an equitable solution to the ongoing Irish airlines superannuation scheme dispute; (9) Deputy Paul J. Connaughton - concerns over the use of compulsory purchase orders on the Dublin to Galway greenway; (10) Deputy Michael McGrath - the loss of routes and reduction of services at Cork Airport; (11) Deputy Thomas P. Broughan - the need to review the methadone treatment scheme; (12) Deputy Derek Keating - the interface between the Health Service Executive, Dublin Fire Brigade and the ambulance service; (13) Deputy Fergus O'Dowd - the revelations on the "Prime Time" television programme regarding Áras Attracta, Swinford, County Mayo; (14) Deputy Ciara Conway - the revelations on the "Prime Time" television programme regarding Áras Attracta, Swinford, County Mayo; (15) Deputy Brendan Griffin - the revelations on the "Prime Time" television programme regarding Áras Attracta, Swinford, County Mayo; (16) Deputy Seán Ó Fearghaíl - the position regarding the scheme to support national organisations funding; (17) Deputy Robert Troy - the measures to be taken to ensure the Childline night-time service remains open; (18) Deputy Billy Kelleher - the loss of routes and reduction of services at Cork Airport; (19) Deputy Colm Keaveney - the revelations on the "Prime Time" television programme regarding Áras Attracta, Swinford, County Mayo; (20) Deputy Mick Wallace - the role of Shannon Airport in respect of the US rendition program following the publication of the CIA report; (21) Deputy Clare Daly - the CIA-published report into rendition, detention and interrogation methods; and (22) Deputy Mattie McGrath - the reason for no decisions being issued by the new Court of Appeal.

The matters raised by Deputies Finian McGrath, Robert Troy, Patrick O'Donovan and Lucinda Creighton have been selected for discussion.

Sitting suspended at 1 p.m. and resumed at 2 p.m.

2 o'clock

Topical Issue Debate

School Completion Programme

Deputy Finian McGrath: Could the Minister for Children and Youth Affairs support strongly the school completion programme in the Donaghmede, Ayrfield and Edenmore areas of north Dublin because it is excellent? Those concerned need our full support to deal with the issue of early school learning.

The Minister will be aware that the school completion programme is a targeted initiative that aims to retain in school those most at risk of early school leaving. The programme was introduced in 2002 as a follow-up to the SSRI programme at senior cycle level. Initially, the programme was partially funded by the European Social Fund and also the Department of Education and Science. Later, the programme was funded through the Department of Finance with the Department of Education and Skills.

The programme was introduced in the Donaghmede-Ayrfield-Edenmore area in November 2002 and is now an integral part of the work of the schools in the area. It is aimed at the most vulnerable and disadvantaged children in those schools. Nationwide, it caters for between 35,0000 and 53,000 children. As the Minister knows, the programme provides excellent services to children at risk. It provides funding for the breakfast clubs and school curriculum supports, including drama, music, yoga, trips, attendance awards and attendance tracking and monitoring. It also supports excellent after-school curricular supports, including homework clubs, study support and games and activities, including boxing, football and gymnastics. It also supports out-of-school supports and summer camps.

Since 2008, the national budget for the programme has been cut from €32.9 million to €24.7 million. This is a massive cut of 33%. There are eight schools in the cluster that I mentioned. They have had to tolerate a cut and survive on €47,000. In light of the amount of funding allocated nationally, this is a small sum. The schools, comprising two secondary schools and six primary schools, are doing an excellent job and have targeted 1,800 children. The good news from the assessment of the programme is that it has increased school attendance. In many cases, the attendance rate has increased to 95%. This is amazing among children who come from economically and socially disadvantaged families. Many of the families are homeless and some are living in temporary accommodation, including hotel bedrooms.

It is important that there be no further cuts. Since the project is so excellent, the Minister needs to protect the €24.7 million available nationally. In light of the review by Tusla and the Department of Children and Youth Affairs, he needs to consider seriously increasing the funding for the project in question. It has been proven by bodies such as the ESRI that it works and

is very positive. I ask the Minister again to reinstate the funding as the programme is seriously doing something about economic disadvantage, particularly on the north side of Dublin.

Minister for Children and Youth Affairs (Deputy James Reilly): I thank the Deputy for raising this important issue.

As the Deputy knows, the school completion programme aims to retain young people in the formal education system until their completion of the senior cycle and to improve generally their school attendance, participation and retention in education. The programme is a targeted intervention aimed at those school communities that are identified through the action plan for educational inclusion of the Department of Education and Skills, DEIS.

The programme involves 124 locally managed projects and related initiatives that operate across 470 primary and 224 post-primary schools. It provides targeted supports to some 36,000 children and young people who may be at risk of educational disadvantage. The projects within the school completion programme are each managed and directed by a local management committee, which includes representatives of schools, parents, and other education stakeholders in the locality. The programme's project model approach gives local communities the autonomy to devise innovative approaches to address the needs of young people most at risk of early school leaving. That is critical.

Typically, projects offer homework clubs, breakfast clubs, mentoring programmes, learning support, social and personal development programmes for young people and out-of-school supports including music, art and sports and a range of activities during holiday periods.

Since 1 January 2014, the Child and Family Agency has had operational responsibility for the school completion programme, including the allocation of funds to local projects. In 2014, an allocation of €24.756 million has been provided for the programme. The agency has approved local projects' school retention plans for the 2014-15 academic year. The first instalment of 2014-15 funding was issued to local projects last September. Further payments, totalling approximately €9.5 million, will be issued this month, with a third instalment in May 2015. The Child and Family Agency will continue to work closely with local management committees, schools and local school completion programme co-ordinators to assist projects through the process and offer support in the delivery of their plan for young people.

The school completion project in the area mentioned by the Deputy comprises six primary schools and two post-primary schools. I am advised that €214,184 was allocated by the agency to the project for the school year 2014-15. The amount provided for 2014-15 takes account of the savings requirements in the comprehensive review of expenditure for the period 2012 to 2014.

The allocation of the funding across the range of interventions planned for young people and between the local schools in the school completion programme project for the area is a matter for the local management committee.

The Estimate for the Child and Family Agency for 2015 is €635 million, a 4.3% increase on its 2014 allocation. My Department will issue a performance statement this month under section 45 of the Child and Family Agency Act 2013. This will include my priorities for consideration in the development of the agency's 2015 business plan. The business plan will set out the agency's proposed activities, programmes and priorities for 2015, including provision for the school completion programme, in light of the moneys available.

The Deputy may be aware that a review of the school completion programme has commenced. The review is an important initiative in planning for the future development of the school completion programme.

It is anticipated that the review will assist in identifying the reforms necessary to both consolidate the programme on a sustainable footing for the future and in line with the aims of Better Outcomes, Brighter Futures: the National Policy Framework for Children and Young People, and ensure that available funds are targeted to those services that provide the greatest contribution to good educational outcomes for children and young people at risk of educational disadvantage.

An Ceann Comhairle: The balance of the Minister's statement will be made available.

Deputy Finian McGrath: I thank the Minister for his response to my query on the school completion programme.

I would make a number of points on the review. First, an issue that must come up as well is that there are non-DEIS schools that form part of this project. Some seem to think that if one is not in a DEIS schools, one does not have disadvantaged children. I had a meeting with a number of people on Monday night last in my constituency office in Donnycarney and they emphasised that there is a constant stream of poor and disadvantaged pupils in non-DEIS schools. I would ask the Minister to ensure that they are not excluded in the review and that the funding is not solely targeted at schools in a particular category.

I have a feeling from the response from the Minister - I hope I am right - that deep down he knows that the school completion programme is a good programme. It is important that we say so. Representatives of one of the schools said to me on Monday night last that, because of the cuts to the programme, the school had to cut back its homework clubs, from four days to two days a week, which is having an adverse effect on the pupils and on their parents and guardians. They also advised me that since the introduction of the programme in my constituency in 2002, the attendance figures have increased by over 8% and these cutbacks could undo all the good that has been done to date. In this regard the Minister referred to a business plan. Even though in one school attendance has increased by 8%, another school had been forced to let go its attendance officer and it can no longer pay for a teacher for in-school support. These are the kind of real issues on the ground.

I would like to see the reversal of the overall national 33% cut, but also that the Minister would look at it objectively and let the review group see that the project services 1,800 children in disadvantaged communities. They need our support.

Deputy James Reilly: I echo the Deputy's sentiment that they need our support. I fully subscribe to that.

I will refer to the review for a moment because I think it is making people nervous and it should not. It is being overseen by a steering committee involving officials of the Child and Family Agency, my Department and the Department of Education and Skills, and it is being carried out by the Economic Social Research Institute following a procurement process which was managed by the agency. The review will seek to examine the programme and how it can best support an integrated approach to address early school leaving. It will analyse the interventions provided and make recommendations for evidence informed supports designed to secure the best educational outcomes for young people. It is envisaged that the review will be completed

during the 2014-15 academic year.

I note what Deputy McGrath stated about deprived children at risk in non-DEIS schools. I am pleased to say that I was invited by Deputies Regina Doherty and Helen McEntee to visit Kells where we looked at one such school completion programme and I was impressed by what I saw. There were young men and women who are interested in what they are learning in these situations around cooking, for which they fortunately have a Ballymaloe trained chef, and woodwork. They have an excellent sculptor too. It is important when we bring children back into the educational system that we make available subjects that are of interest to them and with which they can engage, and thereby also bring in the other issues around literacy and numeracy.

This is an important scheme. If I were to put it in one simple line, the review is about finding out what is working and transposing that across the entire scheme to ensure, as we are duty bound to, that the money we spend is achieving the best outcomes for the children we hope to serve.

Child Safety

Deputy Robert Troy: I appreciate the Ceann Comhairle selecting this important Topical Issue matter for debate. The Minister will be aware that one of the national newspapers today highlighted the serious situation that Childline faces. Childline is the only 24 hour free-of charge listening service of its kind and because it is in such a precarious financial position, for the first time since 1998 the voices of the most vulnerable children will be silenced. There is a shortfall of €1 million and if that is not found before the end of the year, the service risks being closed, from 3 p.m. to 8 a.m.

This 24-hour service has been in place since 1998. It provides an invaluable and critical service to children who are in distress and who may be suffering from abuse, fear and isolation. The ISPCC estimates that 11% of the calls are received at night. Some of the most harrowing tails are received at night time. It is because of domestic arrangements that some of these calls can only be made at night. If this service ceases, 45,000 calls will go unanswered in 2015. These represent 45,000 children who are suffering from isolation, distress and perhaps abuse. A range of issues will go unanswered.

The Government pats itself on the back for initiating the children's referendum. That constitutional amendment, which the people voted for, ensured the rights of the child were enshrined in the Constitution, ensured the voice of the child must be heard and ensured that the best interests of the child is of paramount consideration. Childline is providing a service that the State is failing to provide. We have no out-of-hours social work. According to the ISPCC, up to October of this year, 74 cases have been referred on to the Garda and 38 cases have been referred to the Child and Family Agency.

The Taoiseach is on record pledging the protection of children as a national priority. He stated that children are the most precious possession of all and that safeguarding their integrity and innocence must be a national priority. Earlier this year, in March, the Minister's predecessor, the Minister for Justice and Equality, Deputy Frances Fitzgerald, launched Better Outcomes, Brighter Futures: the National Policy Framework for Children and Young People 2014 - 2020, which states, "Our vision is for Ireland to be one of the best small countries in the world in which to grow up and raise a family, and where the rights of all children and young people

are respected, protected and fulfilled; where their voices are heard and where they are supported to realise their maximum potential now and in the future".

Childline survives primarily on the generosity of the people. Unfortunately, because of scandals in CRC and Rehab, there has been a notable drop in contributions. The State only contributes 5%. I ask the Minister, in light of his overarching policy, Better Outcomes, Brighter Futures, the key objective of which is providing a safe environment and protecting children from harm, and ensuring their voices are heard and supported, what funding he will ring-fence to ensure the protection, retention and expansion of this critical service, Childline.

Deputy James Reilly: I thank Deputy Troy for raising this issue and I welcome the opportunity to clarify the Government's approach to the funding of ISPPC services, including Childline. The Irish Society for the Protection of Cruelty to Children has a long history of service delivery and advocacy on behalf of children. I acknowledge the work of the society over the years in providing support services to children and their families. The ISPCC has indicated that its Childline service will have a shortfall of €1.2 million by the end of this year. The service currently operates on a 24-hour basis, but the ISPCC has stated that as a result of the shortfall in funding, the night-time service may have to be discontinued.

While the costs of the Childline service have always been met by ISPCC fundraising activities, Tusla, the Child and Family Agency, funds the ISPCC in respect of core running costs and towards a number of projects on a regional basis. The level of funding provided in 2014 is €476,000. Separately, my Department funds the ISPCC to provide the missing children's hotline, which takes calls in relation to any missing child, including from the general public, family members, or potentially, the missing child themselves.

Childline is a free, confidential service that can be accessed seven days a week, 365 days a year. It was set up by the ISPCC in 1988. The focus was changed from 1992 to an active listening service for all children and the service was extended to a 24-hour basis in 1998. The Childline service is used by children who want to talk, rather than children with serious child welfare and protection issues and the overwhelming majority of calls, thankfully, do not relate to serious child welfare or protection concerns.

I have met with the ISPCC and I am aware that a fall in the level of public donations for Childline has created financial difficulties for the service. The ISPCC informed me that it was embarking on a major fundraising campaign, and also that it would provide details of the nature and cost of the service. I have asked officials in my Department to meet with the ISPCC, along with Tusla, the Child and Family Agency, to examine how best such a service can be provided to the greatest benefit of children.

The Government will continue to promote and support the welfare and protection of vulnerable children and families. We are making significant improvements in this regard. Key initiatives to date include the establishment of the Department of Children and Youth Affairs, in June 2011; the establishment of the Child and Family Agency in January 2014; a proposal to which the Deputy alluded, to amend the Constitution to ensure that children's rights are strengthened was put to the people in a referendum in November 2012; and Better Outcomes: Brighter Futures, the National Policy Framework for Children and Young People 2014-2020, was published in April 2014. It is Ireland's first overarching children and young people's policy framework which spans the age ranges from birth to 24 years.

In addition, there has been the introduction of a suite of child protection legislation, including the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act, 2012, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and the Children First Bill 2014. The provisions of Children First: National Guidance for the Protection and Welfare of Children in 2011 have been revised and updated. The Children First Bill will put key elements of the Children First Guidance on a statutory footing. Key provisions in this regard include introducing a mandatory requirement to report child welfare and protection concerns to Tusla, and to assist in investigation of such concerns if required. Every organisation that provides services to children is required to develop a child safeguarding statement. The Children First interdepartmental group will be put on a statutory footing. The Children First Bill has completed Second Stage in the Dáil and Committee Stage will be scheduled early in 2015.

I assure Deputies that I am committed to ensuring children benefit to the greatest extent from every euro we spend. In that context, I have asked my Department to meet again with the ISPCC and Tusla so that we can work towards a sustainable service focused on achieving the best possible outcomes for all our children.

Deputy Robert Troy: I thank the Minister for his reply. We could speak more about the record of the Government on children since the formation of the Department in light of what has been delivered, as opposed to what has been promised, announced, launched or re-launched but what I am speaking about today is the dramatic decrease in funding to a critical and important service for children.

In his reply the Minister stated the Childline service is used by children who want to talk, rather than children with serious child welfare and protection issues and the overwhelming majority of calls, approximately 80%, do not relate to serious child welfare or protection concerns. By my reckoning that means 20% of 45,000 calls next year, which is in the region of 9,000 calls, will relate to child welfare and child protection. At a time when we do not provide out-of-hours services for social workers, at a very minimum we should provide a service that children who need direct access and help can call. Those who give of their time and volunteer for the service say that the most harrowing stories come at night time when children feel safe, when their parents are away or in bed and they can creep down the stairs and use the phone. That is the time the service is most needed.

The Minister referred to Better Outcomes: Brighter Futures. His Government's vision is for Ireland to be one of the best countries in the world in which children grow up, raise a family and where the rights of children and young people are respected, protected, fulfilled; where their voices are heard and where they are supported to realise their maximum potential now and in the future. In light of the overarching policy framework, will the Minister indicate not what meetings or deputations will take place, but what money will be ring-fenced to ensure this critical service is protected in the future?

Deputy James Reilly: I refer to Deputy Troy's opening comment in his riposte about the record of the Government on child care. We could do well to talk about the record of his party in government over 14 years and its failure to disclose for many years the number of children dying in care. Deputy Alan Shatter had to drag that out of the Government over a prolonged period in order to bring it to the light of day. In regard to this service, in the interests of children and ensuring we get the best results for children, we need to examine with the ISPCC, Tusla and my Department how best to continue the service and ensure the best outcomes for children.

Given the Deputy's closing remark about additional funding, I am minded of the *modus operandi* of his party's leader and Government in the past, namely, to throw money at everything. Health spending quadrupled over a 14-year period yet we still ended up with the worst trolley count in the history of the State since records began.

Deputy Robert Troy: The Minister lasted a long time in the Department of Health himself.

Deputy James Reilly: Yes, indeed, I was there for three and a half years and we made progress.

Deputy Robert Troy: The Minister did such a good job that the Taoiseach moved him.

Deputy James Reilly: I made much more progress than the Deputy's party leader, Deputy Martin, ever made.

An Ceann Comhairle: Please.

Deputy James Reilly: However, notwithstanding that, the reality in which the children of this country and their parents and those who care about children are interested is that we have a service that is appropriate to the needs of children. I believe the ISPCC, the new Child and Family Agency, Tusla, and my Department will get the best result by co-operating, examining how the service is delivered, drawing up a business plan, and a service level agreement if necessary, in order that we can all be sure that the money we spend gets the result we require. Evidence-based policy is the only way to ensure the best outcome for children.

Road Safety

Deputy Patrick O'Donovan: Thank you, a Cheann Comhairle, for allowing this Topical Issue matter to go forward because it is very topical and it covers two Departments, namely, Justice and Equality, and Transport, Tourism and Sport. Everyone is singing from the one hymn sheet, in the sense that we all believe that anything which could be done to make roads safer is a good thing. There is no doubt in the recent past the behaviour of drivers on roads has changed for the better. Unfortunately, in recent years, especially last year, the number of road fatalities has begun to creep up again. That said, a very worrying development has also been taking place in recent years, whereby cases are being thrown out by the District Court in considerable numbers. It is not exaggeration that since 2009, 1,393 cases involving GoSafe vans have been thrown out by District Courts. The difficulty I have is that if the implementation of the speed detection system is to be seen to be fair and impartial and to be doing what it says on the tin, so to speak, then this should not be happening. This year alone, 59 cases have been thrown out in Castlebar; 133 in Ennis; 71 in Gorey; 68 in Nenagh; 71 in Wexford, along with a whole clatter of others. This culminated last week in a situation in a court in the Cavan-Monaghan area where the judge within his remit referred to the law being brought into disrepute. This is a very serious situation. I refer to the person who is informed by post that he or she has incurred penalty points and is fined - as happened to me in the recent past - and the person accepts the situation. However, on the other hand, a person will say they did not receive the notice, the case will go to court and it is thrown out. There is a massive unfairness built into this system which needs to be addressed as a matter of urgency.

Two problems arise, in my view. Legitimately detected speeding offences are not being

upheld by the system because the system is flawed massively, it seems. In other cases, people will do the right thing; they will admit they broke the speed limit, they will take the penalty points and they will pay the fine. Where do those people stand now? What is the situation as regards the penalty points on their licences and the increase in the cost of insurance premiums as a result of having penalty points?

The penalty points system has been dogged by controversy in the recent past. I refer in particular to the whistleblowers and the GoSafe vans. The law needs to be seen to be impartial and blind to interference, be that from loopholes that one could drive a lorry through or interference from members of the Garda Síochána, as was reported by whistleblowers. The law must be seen to be fair.

Ultimately we must ensure the roads are safer and this system is an attempt to change people's behaviours. However, people's behaviours will not change and they will probably get worse if they believe there is a way out of getting penalty points if all one needs to say is, "Judge, I never received it". I have no doubt that among the lists of District Court hearings there are legitimate reasons for non-receipt of penalty points. However, I would be very dubious that the summonses, notices or letters issued to 1,393 people since 2009 just vanished into thin air or were at the bottom of a post bag and ended up in the Liffey. I do not believe this to be the case and I do not think anyone believes it. It is time this was fixed.

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): On behalf of the Minister for Justice and Equality, I thank the Deputy for raising this important issue. The Minister regrets that she is unable to be present as she is abroad on official business. The Minister has asked that I emphasise that the initial decision to introduce outsourced safety cameras came after a number of years of detailed analysis and was identified as a key additional measure to reduce deaths and serious collisions on our roads. I need not remind the Deputy that the Road Safety Authority, An Garda Síochána and many others working in the field of road safety, continue to emphasise the role played by speeding in serious collisions. Excessive and inappropriate speed is the number one road safety concern. The advice to the Minister is that in many instances, reducing speed by even a few kilometres per hour can made all the difference to the severity of a collision.

It was against this background that GoSafe was awarded the contract to provide outsourced safety cameras in November 2009, following a tendering process. Operations commenced in November 2010 and were supported by advertising and an awareness-raising campaign highlighting the life-saving objective of the cameras.

The Minister wishes to clarify that GoSafe is paid according to the number of hours of surveys and monitoring. The number of detections has no bearing on the payments made. The service provided by GoSafe operates under the overall direction and oversight of An Garda Síochána, including with respect to scheduling of speed monitoring, training and quality assurance. Vans operate in defined speed enforcement zones, the location of which is in the public domain, including on the Garda website. These zones were identified following an objective and evidence-based analysis of collision data and speed surveys.

Compliance has increased across the zones since the network was introduced. For example, between January 2011 and October 2013, compliance in 50 km/h limit zones increased from 62% to 98%, while compliance in 80 km/h zones increased to 96%. The Garda authorities are reviewing the location of the zones on a continuous basis to ensure the cameras are located

where they can have the most impact on safety. All of the analysis carried out points to the conclusion that the safety cameras have saved lives and therefore bring very significant human and economic benefits. Moreover, research carried out on behalf of the RSA earlier this year found that 81% of adults surveyed supported the use of safety cameras and 71% surveyed believe them to be effective in influencing motorists to drive more safely. It is also important to bear in mind that the safety cameras free up Garda resources for other road safety enforcement, including more mobile operations, as well as carrying out alcohol checkpoints.

The Minister is aware of the recent court cases in which GoSafe speeding detections have been dismissed. The Deputy will appreciate that it would not be appropriate for the Minister to comment on the outcome of specific cases before the courts. She has, however, discussed the matter with the Garda authorities and understands that they are carefully studying the recent rulings and taking legal advice, including with respect to the possibility of seeking clarification from the higher courts. This is being addressed by the Garda authorities as a matter of urgency and developments will be reported to the Minister.

In so far as the question of reviewing the law is concerned, the legislation governing the operation by An Garda Síochána of speed detection cameras and the use of outsource safety cameras, is contained in section 81 of the Road Traffic Act 2010, which comes under the remit of the Department of Transport, Tourism and Sport. The advice from An Garda Síochána, however, is that the recent court cases do not identify issues which would warrant amendment of the legislation. I thank the Deputy for raising this important issue and I will certainly communicate the points he has made to the Minister.

Deputy Patrick O'Donovan: I acknowledge the presence of the Minister for Transport, Tourism and Sport and the discussions I have had with him on this matter.

The reply from the Minister of State is fine in that it tells me everything I know about the speed detection system but that is not what I asked. I refer to information from the Department. In 2012, 111 cases were thrown out at Naas District Court. This has nothing to do with what has happened in the past couple of weeks because it has been ongoing since 2009. In 2012 alone, 936 cases were thrown out of court across the country. It is not today or yesterday that this problem began. The law as it is constructed is definitely not seen to be fair. If a person can say in court that he or she did not receive the necessary documentation in the post, based on the figures I have given, the court will likely come down on the side of that person and decide that it was probably not received. As a result, 1,393 cases since 2009 have been thrown out. I do not know how this situation can be resolved.

At a meeting of the transport committee this morning my proposal was accepted that both Departments as well the Garda Síochána and legal practitioners should come to the committee to discuss what is a fundamental issue of road safety and also an issue to do with the fairness of the law. For example, I may have received three penalty points because I accepted the notice and the accompanying picture of my car as detected in County Limerick breaking the speed limit and I paid the fine, and the same notice was posted to another person who claimed in court he or she did not receive it and the case was thrown out. There is a gross unfairness which must be resolved. Penalty points are being attached to licences and insurance premiums are increased, and rightly so, but other people are getting off scot free. This situation needs to be addressed. I would like both Departments to co-operate on providing a more comprehensive answer.

The advice from the Garda Síochána is that recent court cases do not identify issues that would warrant a change in the legislation. The judge in Monaghan last week said the law was being brought into disrepute. What more needs to be said from the bench of an independent court before something is done?

Deputy Aodhán Ó Ríordáin: I thank the Deputy for his contribution. I acknowledge his contribution was not about the effect of the speed cameras. The Deputy will appreciate that the reply as provided indicates the Minister takes the issue seriously and has liaised with the Garda authorities. I am not in a position to discuss the individual cases the Deputy has outlined.

The Garda is studying the recent rulings and taking legal advice with respect to the possibility of seeking clarification from the higher courts. I take on board the points made by the Deputy and will communicate them to the Minister for Justice and Equality. It is convenient the Minister for Transport, Tourism and Sport is here. I will endeavour to get a more detailed response for the Deputy. The Minister for Justice and Equality is unable to comment on individual cases. The issues raised by the Deputy have been discussed with the Garda authorities and they are aware of them. We will endeavour to work on a cross-departmental basis to provide the Deputy with a more direct response if he requires one.

Irish Airlines Superannuation Scheme

Deputy Lucinda Creighton: I thank the Minister for being present in the Chamber. Deputy Peter Mathews has submitted this Topical Issue matter every day since 22 October and I want to acknowledge this. It is unfortunate he will not have a chance to speak on it today. Aer Lingus was a State company when these contracts were entered into and when current and deferred pensioners paid into the defined benefit pension scheme. Today the Government has a 25% shareholding in Aer Lingus, so it has a moral duty of care in this respect. What I have encountered from discussing this with pensioners who are on small meagre pensions is that it is the difference between survival and not. It is a most serious issue. It is taking bread from the table of families and older people, in particular in the city but in a wider area also.

Pensioners have been abandoned by Aer Lingus, the DAA and the trade union involved, Impact. It is outrageous that pensioners were excluded from a decision-making process which affected their pensions. Others voted to benefit themselves while excluding those who would take the hit. A total of 70% of Aer Lingus current employees voted to cut pensioners' annual income, starting in January 2015. This is completely out of kilter with any sense of justice or fairness. In other unions, such as teachers' unions, retired members have just as much influence as and an equal say to those in current employment. It beggars belief that this has happened.

A total of €175 million of the pensioners' defined benefit pension saving fund was redirected without their permission or consent. They were not even consulted. Various figures are circulating, but at least 5,000 retired people are involved and at least 5,000 deferred pensioners and possibly more. It was a unilateral decision which did not involve any consultation, and it was completely unfair. Pensioners themselves had no involvement whatsoever in any of the resolution of the Irish airlines superannuation scheme, IASS, deficit negotiations which led to this decision on cutting their income. They are the only group of members of the IASS pension scheme to whom the employers, namely, Aer Lingus and the DAA, decided not to provide any compensation to mitigate against this cut in their yearly pension.

This is all at a time when the Aer Lingus share price is rising. What is most reprehensible is that the price of Aer Lingus shares rose fairly substantially when ICTU told the company the ballot had resulted in a 70% vote in favour. This had a direct impact on the value of shares in Aer Lingus, which is extraordinary.

A 10% cut may be perceived to be minor or negligible in some people's minds, but to low income pensioners it is substantial. I could read some of the e-mails and letters I have received. The matter has already been raised in the Dáil by Deputy Clare Daly and others. I received an e-mail-----

An Ceann Comhairle: Sorry Deputy we are over time.

Deputy Lucinda Creighton: -----from a lady who stated that for 38 years she paid into a defined benefit pension scheme which guaranteed a pension. It was all part of the contract, but now she can look forward to a diminished pension and will struggle to pay her bills. It is not acceptable and the Minister needs to intervene.

Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe): I thank the Deputy for raising the matter. I know other colleagues have sought to have it selected. In responding to the points I will begin by stating I am deeply aware of the impact of the proposed changes on many people. I have met them and read a huge amount of correspondence from them. I have heard at first hand the personal consequences of this crisis for them and their prospects for the future. The plight they face and the scale of difficulties present in the fund weigh heavily on me.

In framing my response to the Deputy, I want to begin by emphasising a number of points on where it stands at present. Legal responsibility, and responsibility with regard to resolving this great difficulty, is primarily a matter for the trustees, the company, the scheme members and the Pensions Authority. The Deputy did not touch on the scale of difficulty in the fund, but I am sure she is aware of it. In 2011 the deficit for the fund, which is the largest fund of its kind in our country, was €344 million. In March 2013 it was €769 million in deficit. I understand that at present the deficit is approximately between €700 million and €750 million, with the potential to affect up to 15,000 members.

I have thoroughly investigated where it stands legislatively. Based on the minimum funding standard available from the IASS actuaries in December 2013, the estimated coverage for deferred as well as active members' benefits is approximately 24% to 31%. This is what people would have claim to in the pension fund. This takes direct account of the 2013 pensions legislation allowing reductions to be made in pension payments. I completely understand the initial level of pensions which many people have at present is modest after many years of work. This pension fund, which sources pension payments, now has a deficit which we estimate to be between €700 million and €750 million.

With regard to the process the Deputy described, an expert panel was established. As a result of this process the total contribution proposed by the employers aimed at resolving the difficulties now amounts to €260 million. With regard to the point made by the Deputy on the lack of a share of this additional money for deferred pensioners, it is an increase of €20 million on what was proposed by the original employers, in addition to the €40 million already there, bringing the proposed amount to be available to deferred pensioners to €60 million. On Friday, 14 November, the trustee sought approval from the Pensions Authority for a funding proposal

and requested me to commence provisions to facilitate implementation if approved. The trustees confirmed they believed this was in the best interests of the fund. This was also the view of the expert panel. Having considered this and reflecting on all the issues involved in such a significant deficit, I signed the order. Had I not signed the order - this was done with the support of Government - it would have posed an unquantifiable risk to the entire scheme, which would have had profoundly serious implications for all members of it.

Deputy Lucinda Creighton: Are any of the trustees beneficiaries of the deferred scheme? I do not have the answer, but it certainly arises as a potential conflict of interest.

Aer Lingus is now returning a fairly substantial profit and is doing quite well commercially. However, it seems very unwilling to deal with the problem. The Government has not pursued that issue. I am conscious that this is recently on the Minister's watch. He has drawn attention to the fact that the deficit increased substantially from €344 million to €769 million between early 2011 and March 2013, which was under the watch of this Government. The Taoiseach made some extraordinary comments on the matter in the Dáil in recent weeks. He said that the issue had dragged on for years and had been allowed to drift. However, he did not seem to assume any responsibility for that or provide any solutions. I am afraid that what the trustees recommended to the Minister in November does not offer a solution.

We are aware of the water protest outside the gates of Leinster House today. People are protesting for different reasons - many because they cannot pay and many others not for that reason but because they are frustrated over how the Irish Water quango was established. These are people who are terrified that they genuinely will not be able to pay the water charges. Many of them are living in rented accommodation and cannot pay their rents and have no security of tenure. These are genuine risks.

I believe the Minister has serious concern for their plight, but we need a better solution than what has been put on the table by Aer Lingus and the DAA. We need something much more comprehensive than the trustees' proposal.

Deputy Paschal Donohoe: The Deputy asked me a direct question about a trustee which I cannot answer.

The Deputy asked about the responsibility of the different individuals who have been involved in this. The implementation and management of the pension fund in the first place is the responsibility of the trustees and I have to recognise that. The Deputy asked me what had happened. Nearly four years of work has gone into trying to come up with a resolution to this difficulty. Nearly every labour body or institution of the State has been involved in it. Various difficulties led to the appointment of a group of people who were charged with trying to resolve the issue. An expert panel was appointed to try to do it. Considerable effort has gone in to get it to this point.

I return to the figures with which I began. The scale of the deficit is now between €700 million and €750 million. Some people have suggested that I, having received a communication from the people whose job it is to run the fund that has a deficit of this magnitude, should not do what they believed was in the best interest of the fund. I took this very seriously. I considered all the consequences of what could happen if this resolution could not be delivered. Given all that had happened up to this point, I made the strong judgment that all the alternatives that were facing the fund were considerably worse than what is being faced at the moment. For those

reasons I made the decision to enact the legislation that had been introduced because I had to respond to what the trustees of the fund were recommending. I looked at all the other options and consequences for everybody. It is apparent to me at the moment that they would have been dramatically more serious and unknown than what we are facing now.

I am acutely aware of people's concern over their future as a result of this matter. The Deputy asked me a question that I am not in a position to answer. However, if I can secure the information, I will come back to her.

Social Welfare Bill 2014: Report Stage (Resumed) and Final Stage

Debate resumed on amendment No. 18:

In page 4, between lines 21 and 22, to insert the following:

"Non-Contributory State Pension

4. The Minister for Social Protection shall review the impact of the closure or significant deterioration in the value of defined benefit pension schemes on expenditure on the State Pension (non-contributory) and produce a strategy to prevent further closures or decline in value so that the State's exposure is reduced and pensioners' incomes are protected.".

- (Deputy Róisín Shortall)

Deputy Thomas P. Broughan: Obviously I strongly support these amendments. I echo the comments of colleagues last week when we began the discussion of these amendments. Having just listened to the debate on the Topical Issue raised by Deputy Creighton, we know that the Minister, Deputy Donohoe, feels the pain of the deferred pensioners and believes it is a shocking situation. However, this is cold comfort for the pensioners and their families, and I believe the Tánaiste has expressed similar views.

In a week when some effort was made to address the plight of the Waterford Glass pensioners, it is very sad that the pensioners of the airport companies are still left in this shocking situation. As I said last week, I have received streams of e-mails and have met delegations of deferred pensioners. They are feeling great stress over the prospect of what might happen to their pensions after 30, 35, 40 or even 42 years of work for Aer Lingus or DAA. It is a truly shocking situation.

The Minister outlined some of the parameters of the issue on the last occasion. Obviously the 2009 Act has played a detrimental role in the plight of these pensioners. The ability of the companies, Aer Lingus in particular-----

An Ceann Comhairle: The Deputy should stick to the amendment.

Deputy Thomas P. Broughan: -----to just walk away from its obligations is truly shocking.

While we know that the Minister, Deputy Donohoe, and the Tánaiste have both expressed deep sympathy for the deferred pensioners and the retired workforce - the 10,000 people involved - much more significant legislative action is necessary. Therefore, I again support the amendments before us.

An Ceann Comhairle: I call Deputy Ryan.

Deputy Brendan Ryan: This set of amendments-----

An Ceann Comhairle: Before the Deputy starts, I remind the House that we are debating amendments Nos. 18 to 21, inclusive, 25, 27 and 28 together.

3 o'clock

The Tánaiste and Minister for Social Protection has indicated that there is an error in amendment No. 22, which she intends to request be corrected. The reference in amendment No. 22 to the Social Welfare and Pensions Act 2013 should be to the Social Welfare and Pensions (No. 2) Act 2013. We will note all those things. I call Deputy Ryan to proceed.

Deputy Brendan Ryan: This set of amendments is driven by what is happening to the-----

Deputy Róisín Shortall: On a point of order, is there a formal amendment from the Minister?

An Ceann Comhairle: About what?

Deputy Róisín Shortall: About the amendment that the Ceann Comhairle mentioned.

An Ceann Comhairle: We have not reached it yet. I am just giving notice.

Deputy Róisín Shortall: Yes, but is it going to be circulated?

An Ceann Comhairle: It is only a correction to an error in the wording. It has no significance as such. It should be called the (No. 2) Act instead of the Social Welfare and Pensions Act 2013.

Deputy Róisín Shortall: From a procedural point of view, is there an actual amendment to that?

Tánaiste and Minister for Social Protection (Deputy Joan Burton): It was done last week, Deputy.

An Ceann Comhairle: I was asked to point it out when I took the Chair, so there is no need. I call Deputy Ryan.

Deputy Brendan Ryan: Thank you, a Cheann Comhairle. I welcome the Leas-Cheann Comhairle who is taking the Chair. These amendments are driven by what is happening to the Irish airlines superannuation scheme, which is affecting airport workers both past and present. The central problem is that the IAS scheme is in the region of €720 million in deficit. I am reliably informed that if the scheme were wound up now, without any resolution on the table, each beneficiary of the scheme would receive approximately 5% of their entitlement. This incredible deficit is a result of the companies abusing the scheme over many years. The scheme was used as a slush fund to get people out of the companies, in actions which could possibly have been

outside the law. It was a flagrant abuse of the scheme and the result has left workers, both past and present, in a desperate situation. The trustees of the scheme in particular have really let down the beneficiaries by allowing it to be abused to the point of massive deficit.

There is a proposal on the table for the beneficiaries which would mean winding up the existing scheme and setting up a new defined contribution scheme. This would see the three groups within the scheme face a level of cuts which vary depending on their standing within the IAS scheme. There are three categories of beneficiary: active workers, retired members, and deferred members, which are those who have left the company but have not yet reached retirement age. Each group of beneficiary is facing a cut in their pension entitlement and it would be fair to say that each group would see the cause and solution to their situation in different ways.

The active members are due to take a 10% cut, with retired members in line to take cuts ranging from 1% to 20%, and with deferred members in line to take cuts of up to 60%. The disproportionate level of pain for the deferred members is the result of a complex set of circumstances. However, this does not mask the fact that the deferred members have cause to be especially aggrieved by these cuts. The active workers I have spoken to see this matter as an industrial relations dispute, and they have enacted an industrial relations response through their unions. Retired members see the source of their change in fortunes in the 2013 social welfare legislation which created the law allowing schemes in deficit to include retired members to burden share in order to move schemes out of deficit or when winding up. It was then up to trustees of the scheme to make a decision based on their legal requirement to treat all members equitably. The trustees of this scheme have included cuts to retired members in the winding up proposal for the IAS scheme.

Deferred members feel they are victims of the passing of the 2009 social welfare legislation by the previous Government, which moved the deferred members out of the protections provided to retired members and into the same grouping as the active members. Deferred members are seeking a legislative amendment to place them back within the level of protections which are still afforded to retired members. Some of those amendments are before the House today.

Over the course of this year, I have been working with my colleagues in the Labour Party, from Dublin to Clare, to pursue any possible solution to the matter of the disproportionate hit taken by the deferred members. The Minister will attest to our persistent efforts to find a solution and the various meetings that took place. Through our representations, it has become clear that the one bottom line on this matter is that further money will be required to resolve it in a more equitable manner, but where does the money come from? The companies would argue that they have already provided funds towards a solution in winding up the scheme and setting up the new defined contribution scheme. This is despite shareholder resistance, in particular from one notable shareholder which did not want to give any money towards a new pension scheme. The companies are reportedly adamant that there will be no more money put into it. With no legal requirement that the companies provide any funds at all and the message from the companies that they have already gone as far as they are willing to go, there is uncertainty as to what would happen if the existing proposal on the table was revisited.

If these amendments were to be accepted or passed today, would the trustees be required to share the burden again to make fair the injustice of what has happened to deferred members? What would happen then? Deferred members could achieve further equity, but without more cash the equity would have to come from existing money within the resolution proposal. Aer Lingus workers have already voted in favour of the proposal, so the consequence would be a

nullification of that vote and a return to the company to seek a further distribution of funds. I presume that if this were on the table, the active workers would go back to the company and look for more money, similar to what they would lose in a redistribution. How would the company respond to such a move? It is unknown but, given the position the company has taken in the recent past, it is not unreasonable to assume that the company would disregard such a move and play hardball. Would the active members then threaten industrial action? Would this threat work? Would the pressure force the company to provide more money? Would the active members take industrial action? Would this achieve their objectives? If not, and if the amendment ensured that the existing funds be further redistributed among the three groupings, would the active members then replace the deferred members as the most aggrieved group? The question then is whether the State should contribute funds towards the resolution of this dispute.

I am firmly of the view that the State should be strongly active in pushing the companies to provide more funds for the deferred members from outside the current resolution proposals and I believe more time should have been given to try to achieve this. We have reliably been informed that the sum it would take to resolve the matter is approximately €50 million. In the context of the cash reserves within the companies, this is not an extraordinary amount of money. It is possible that, with negotiation, a lower sum might have been acceptable. There is a moral obligation on the companies to act on this matter and provide some solution. For too long they used the pension pot as a slush fund to achieve efficiencies and entice workers out of the companies. They should not get away with it. They have the money to resolve this. The trustees should also be called to account for their lack of action.

There is a lot of uncertainty and many questions for which we do not know the answers. There are roads which could be taken which are risky and none of us knows the ramifications of taking such choices. The deferred members are taking a disproportionate hit and I believe it is incumbent on the companies to find further funds to address this injustice. It is incumbent upon the State to push the companies to find such a resolution. I look forward to the Minister's response to these amendments and to the issues I have raised.

Deputy Dessie Ellis: I speak in support of amendment No. 20 which has been tabled by my colleague, Deputy Ó Snodaigh. Sinn Féin appreciates the desperate situation that deferred members of the IASS are left in. Deputy Mary Lou McDonald and I recently met representatives of the IASS deferred group. I knew their story but hearing it again from their own mouths was shocking. An appeals process is necessary for these people. Deferred members of defined benefit schemes are particularly vulnerable, given their exclusion from the industrial relations process and the fact that the current legislation offers grossly inadequate protection. These issues have been raised repeatedly with the responsible Minister, Deputy Burton, over recent years.

I have also raised them with the current and previous Minister for Transport, Tourism and Sport. I was vocal on this issue as the former Minister, Deputy Varadkar, created a dangerous legal precedent of interfering in pension schemes already established through legislation, despite it being claimed to be a private pension scheme, which could not be interfered with, while also being a pension scheme for a company partly owned by the State. The Minister must now introduce fairer protections for defined benefit scheme members.

This amendment has been allowed through, but other amendments on this issue have been conveniently rejected by the Government and thus prevented from ever being considered. In addition to amendment No. 20, Sinn Féin also submitted a further amendment to ensure deferred

members are not impacted disproportionately in any scheme restructuring with an associated appeals mechanism and to enable participation of representatives of deferred members in such appeals. Members of defined benefit pensions have been left vulnerable by this Government and people fear their entire pension could be wiped out, despite the fact they did everything they were meant to do.

The Minister may have rejected our amendments but I call on her to review them and take inspiration from them in resolving this problem through the Bill. Sinn Féin previously outlined the priority order that must be introduced for restructuring of defined benefit schemes that are in deficit. I will restate them. First, a PRSI contributions record sufficient to ensure eligibility for the full State pension should be purchased from the Social Insurance Fund for every scheme member who has not attained such a record. Second, provision should be made for 100% of pensioners' benefits below €12,000, excluding post-retirement increases. Third, active and deferred members under 55 should have disbursed to them the lower of 50% or €6,000 of benefits, or if they are over 55, they should have disbursed to them the lower of 75% or €9,000, excluding post-retirement increases. Fourth, there is a suggestion regarding 75% of pensioner benefits exceeding the initial €12,000 up to a maximum of €30,000, excluding post-retirement increases. Finally, 75% of active and deferred member benefits exceeding the initial sum up to a maximum of €30,000, excluding post-retirement increases, should be the fifth round, as it were, with the sixth round entailing the remaining benefits for pensioners, excluding post-retirement increases. The seventh round would entail active and deferred member remaining benefits, with the eighth round relating to the remaining pensioners and active and deferred members.

This is about treating deferred members fairly and striving to honour the plans they signed up to and lived up to. It is simply not good enough that bad management of these schemes will leave these members in the lurch, with no way of supporting themselves. I ask the Minister to support the amendment and examine the other Sinn Féin amendments relating to deferred members again.

Aer Lingus is a profit-making company and before it was partly privatised, it was a State-run organisation. Many of these deferred members were part of the pension scheme when the company was State-owned. Deferred members are taking the biggest hit with this and it is clear from conversations that I and the Minister have had with deferred members and their representatives that this does not seem right. Many people put money into a pension pot for ten, 20 or 30 years but they are now being pulverised. That is not good enough and the State has a responsibility in this matter. We are repeatedly told that the trustees should take the blame and the expert panel made the recommendations. There is scope to put more money into the pension pot.

Deputy Peter Mathews: I thank the Minister for attending. Everything is interrelated on the Government books. There are off-balance sheet items in the water debate that is expressing itself on the streets outside and now there are 15,000 former employees of a semi-State airline and related businesses who would not have had a problem if they had been full State employees because they would have had a State pension, which is paid from the Central Fund. However, there was a separate pension fund outside the pure State arrangements. When interest rates fall, it benefits the Government and central funding of the country but it is to the disadvantage of pensioners, whether they are existing or deferred pensioners or current employees. This is because one would require more funding to pay the same income level of pensions when interest rates fall. That is the reason the pension deficit went from €344 million in 2011 to €769 million in March 2013, as indicated by the Minister for Transport, Tourism and Sport, Deputy Donohoe. Equities, if they are in the pension fund, will have grown rather than collapsed in that time

but the near-cash equivalents - or bonds - have fallen. More of this would hence be required to have a flow in order to pay pensions.

Within this interrelated picture, the Government boasts daily to people in newspapers that the cost of the national debt is falling, thanks to the efforts of the public that is being squeezed, hurt, crunched and steamrolled. That is why more than 80,000 people are on Merrion Square and the other side of the campus. We must be fair and the Minister cannot have her cake and eat it. It is wrong that we are getting e-mails such as that described by Deputies Creighton and Ryan. After 40 years of reasonable expectation and staff cost rationalisation within that time, it is wrong that these people are beaten up and told that the pensions are only worth half or even 25% of what they could reasonably have expected. There is something going very wrong amid the smoke and mirrors of the accounting.

The Minister is an accountant and will understand these questions. Is there a deferred member trustee or a fully retired member trustee? Are there a few of them? Is there a current employee among the trustees? These actuarial experts push things around like trolleys on wheels and then send out fee notes plus VAT at 23% in any event. We need skin in the game, as they say, and that will be when we can get good trustee management and people who understand the issue. It is not rocket science and one day of coaching would teach anybody how to be a trustee. If there is difficulty in understanding, I will do the work *pro bono*. There is too much jargon and too many multi-syllable words. There are too many lever-arch or ordinary files with too much fudge. It is clearly wrong that 15,000 people are being messed around as they are. The Government must come clean, be fully transparent and spell out exactly what are the intentions. Even if there is a bit of a deficit that is objectively extraneous to the understanding and capabilities of people inside the black box, one might say there is a shortfall of 10% or 15%; that can be shared fairly, with a simple explanation of what is happening.

There are people going around with metaphorical bits of string, Sellotape, blindfolds, smoke and mirrors in labyrinthine corridors. That does not do it for me. One could put the plight of these 15,000 people on a wall and show the age profiles by decile, along with who contributed the different amounts. We should remember that there were employee contributions and they did not all come from employers. There was rationalisation and people were told that there had to be improvements in operating results, profit-and-loss accounts and balance sheets. When elements are moved off balance sheet, what were employees are changed to deferred pensioners. That goes off the balance sheet and profit-and-loss accounts into the trustee balance sheet and actuarial funding equations.

It is smoke and mirrors. It is a practice we must put a stop to. We can start doing so by taking the iron-clad brake of the whip system from the Government parties. It already has a majority, so does it not trust itself to be able to debate the pros and cons of aspects of legislation needed for the circumstances in which the country finds itself? Unemployment is down by 100,000 and jobs are up by 81,000 but what about the 500,000 who have emigrated? Somebody said to me last Friday that the rate of unemployment is falling but I said my second son is not in that statistic. We just saw him off earlier this morning for two years. That is the second one. The atmosphere here is not even good for people of that age. They are asked to fill out an income tax form 11, which is 23 pages. God almighty. It is a simple thing. Where is the simplicity? Even with property tax and water charges, a new bureaucracy is born. People have to pay them out of their incomes, so if we got a good fix on the incomes-----

An Leas-Cheann Comhairle: Deputy Mathews, you are moving slightly away from the

amendments.

Deputy Peter Mathews: I am wrapping these amendments up into the big picture.

An Leas-Cheann Comhairle: Good.

Deputy Peter Mathews: I am showing where the connectivity is. I am offering to help coach the trustees of the scheme. There are a few thoughts. Let us get honest, let us get real and let us shine clear light on this. We are fighting this ship coming down the slipway and we cannot stop it. The Minister will stand in front of the microphones and say that we have achieved such a fiscal turnaround, the interest rates are down. All the interest rates are down because the Americans are churning money off the printing presses. Draghi says he will do that, so the market fund managers think he will and behave accordingly. We need a bit of grown up thinking.

I am sorry if I sound a bit cranky but maybe I am. We are four years into this and the facts have not changed. Diarmuid O'Flynn, who was nearly elected as an MEP, is on Merrion Square today. He is inviting people to the Ballyhea protest march on 28 December, which is a Sunday. We should all be there because that is what Draghi will pay attention to. There is €25 billion of misplaced losses. We have nothing to do with them and that is why Irish Water is trying to squeeze, steamroll and crunch the people to pay €10 billion to get the reservoirs, the treatment plants and the pipes working. When they are working, then maybe bring in meters if we want a bit of conservation.

An Leas-Cheann Comhairle: That is very interesting, Deputy-----

Deputy Peter Mathews: It is still all interconnected. Is it not?

An Leas-Cheann Comhairle: -----but we are on the Social Welfare Bill 2014.

Deputy Peter Mathews: It is still all interconnected.

An Leas-Cheann Comhairle: If there are others who want to speak-----

Deputy Peter Mathews: I know that. I am seeking a thumbs up. Deputy Brendan Ryan made a very good contribution and Deputy Dessie Ellis made an excellent one. I am just trying to simplify it. Does anybody want me to stop? Those in favour say "Tá" and those against say "Níl".

An Leas-Cheann Comhairle: The Chair would like you to talk about the Bill. If you have made your contribution, I will call on the Minister to reply.

Deputy Joan Burton: In regard to the points made by Deputy Brendan Ryan, he expressed his concerns about the different people, including the 5,000 people at work who are affected by the different changes and who have decisions to make on the changes proposed by the company and the trustees in respect of the IASS pension fund. I refer also to a very important matter Deputy Clare Daly raised the last day when she made her contribution. Deputy Brendan Ryan went into the same area, so I will address those two points.

In regard to the actions of the trustees of the Irish Airlines Superannuation Scheme, the Pensions Authority has the power under section 18 of the Pensions Act 1990 to investigate the state or conduct of a pension scheme. The Pensions Authority has wide-reaching powers of investigations in regard to trustees. Under section 18 of the Pensions Act, the authority may

authorise in writing such and so many persons it considers necessary to be authorised persons to inspect or to investigate on its behalf the state and conduct of an occupational pension scheme. For clarity, I wanted to say that in regard to Deputy Ryan's comments.

The powers conferred on the authority by section 18 of the Act are extensive. They include the power to require persons to provide such information, explanation and documents as may be specified in a notice to enter premises for the purposes of inspecting, copying and-or removing books, documents and records and the power to obtain a warrant from the District Court in respect of entering upon a person's private dwelling.

Section 18(5) makes it an offence for a person *inter alia* to obstruct willfully an authorised person in the exercise of his or her powers and the penalties attaching to that and the power of the authority to conduct an investigation under section 18. It cannot be exercised lightly and it must be exercised with a view to the possibility of the authority either initiating a criminal prosecution or invoking one or other of its powers.

Deputy Thomas P. Broughan: This is all passing the buck.

Deputy Joan Burton: Two Deputies made quite valid comments. I believe I am answering those comments. Other Deputies made valid comments also and I am going to try to answer them. The power of the authority can be exercised.

I ask Deputies Ryan and Daly to formally bring any concerns that either of them have in regard to the conduct of the trustees to the attention of the Pensions Authority. I think Deputy Broughan or Deputy Shortall mentioned the very significant fall in the value of what was once a very large pension fund and the enormous deficit that opened up as a consequence of that falling value. I think everybody has recognised that.

I refer to the amendment put forward by Deputy Ó Snodaigh. Essentially, that amendment put in an alternative wind-up priority order. It gives first priority to awarding the full State pension. The pension fund legislation deals with the distribution of the occupational defined benefit pension scheme funds. There is actually no direct connection between the contributions made to benefits received from an occupational defined benefit scheme in the private sector and an actual payment of a State pension. I said previously that the provisions contained in section 48 of the Pensions Act, which set out how the assets of a scheme are distributed and the wind up of a scheme, have no impact on any entitlement to the State pension or the PRSI contributory system. The contributory principle, where there is a direct link between social insurance contributions made and resulting entitlement to a varying range of benefits and pensions that are payable as a right, is an underlying feature of principle of Ireland's pay related social insurance system.

The State pension contributory is paid from the Social Insurance Fund to any individual from the age of 66 who meets the qualifying criteria and has sufficient contribution. The rate of State pension payable is linked to the overall-----

Deputy Thomas P. Broughan: On a point of order, the Minister is addressing amendment No. 23 which is not in the group we are discussing.

Deputy Joan Burton: I am addressing the specific Sinn Féin amendment in the name of Deputy Ó Snodaigh.

Deputy Thomas P. Broughan: That is amendment No. 23. What number is it?

Deputy Joan Burton: It is amendment No. 23.

Deputy Róisín Shortall: That is not in the group.

Deputy Joan Burton: Under the rules of the House, Deputy Ellis is entitled to speak about an amendment which has been ruled out of order and I am entitled to comment on the point he raised.

Deputy Thomas P. Broughan: It is on the clár. It has not been ruled out of order.

Deputy Joan Burton: I am referring to the one to which Deputy Ellis referred. The Deputies seem very reluctant to allow anybody's points to be addressed. That is a pity.

Deputy Róisín Shortall: They will come up later.

Deputy Joan Burton: I am aware of the issues arising around the IAS Scheme and recently met, as have several people here, with representatives of the deferred members' groups. They articulated very clearly their concerns arising from proposals to address the significant deficit which I referred to earlier that has unfortunately arisen in this pension fund. That is the source of the difficulties and the problems that the 5,000 retired members, the 5,000 people at work and the 5,000 deferred members have difficulty consequential upon that enormous deficit. That is the cause of the problem. Deputy Mathews acknowledged that in his contribution and indicated that were he training trustees, he would perhaps give them better advice.

Deputy Peter Mathews: The State should make up the difference in the deficit.

Deputy Joan Burton: I do not propose to accept the amendments in the names of Deputies Willie O'Dea, Róisín Shortall, Joan Collins, Aengus Ó Snodaigh, Thomas P. Broughan and Clare Daly. They broadly entail placing a debt or obligation on employers to secure or guarantee a level of scheme funding, changing the manner in which the assets of the pension scheme are distributed in the event of the wind-up of a pension scheme and provision of an appeals mechanism for scheme members where trustees have decided upon reduced benefits for members. Defined benefit pension schemes in Ireland are set up and maintained by employers on a voluntary basis. There has never been a statutory obligation on employers under Irish law to contribute to their pension scheme. Rather, when a defined benefit scheme is set up, the level of employer and employee contributions is agreed and established in contract in each scheme's trust deeds and rules. The trust deeds and rules differ from scheme to scheme, as I am sure Deputy Mathews is well aware. As with any contractual situation, they reflect the parameters on the level of obligation of the parties involved. This is an issue which has been considered on several occasions over the past decade.

The funding standard expert group of the Pensions Authority recommended against the introduction of a debt on employers in 2004 and 2005. They saw it as introducing a retrospective cost on employers and feared that it would undermine the voluntary basis on which defined benefit schemes were set up. The Green Paper on pensions, which was published in 2007 by the previous Government, considered "debt on employer" and referred to the recommendations of the Pensions Authority in 2004 and 2005. Following the public consultation process on the Green Paper, the national pensions framework was published by the previous Government in 2010 and did not include any provision for a debt on the employer. While the Organisation for

Economic Co-operation and Development, OECD, review of the Irish pensions system, which was published last year, considered the issue of the debt on the employer, its findings are not prescriptive. In tabling its views the OECD advised:

> In considering these alternatives, it should be kept in mind that each of the national schemes and reforms discussed was adopted in a specific national economic, social and political setting. There is no blueprint for reform which Ireland could take off-the-shelf and implement directly. Any solution has to fit the Irish situation.

A debt on an employer would require employers to account for any deficit in the pension scheme in its annual accounts following changes to accounting requirements as set out in financial reporting standard, FRS, 17. Notwithstanding the outcome of previous considerations of this issue, very serious consideration was given in developing the measures contained in the Social Welfare and Pensions (No. 2) Act 2013 to imposing a statutory obligation on employers to secure scheme level funding. I recall having very detailed discussions on this with quite a few people present in the House here today.

Internationally, the structures needed to administer such arrangements are complex and costly. It has resulted in increased and detailed State involvement in sponsoring employers' business decisions. Given the very small proportion of defined benefit schemes in Ireland, linked to employers who have a credit rating or other reliably accurate and consistent measure of solvency, it is not the case that a workable "anti-avoidance framework" to "selectively apply" a debt on an employer is easily achievable.

I suggested previously that many schemes are making great efforts to ensure their ongoing viability. Many have been very successful in doing that. Employers and members have often made significant financial contributions over and above those required by their particular trust rules. This process is generally managed through dialogue between trustees, employers and members where efforts are made to reach agreement regarding the steps that have to be taken to secure scheme viability, which may include a mixture of measures such as those outlined in several contributions today.

I do not propose to accept the amendments put forward but in response to the points raised by Deputy Ryan and just as we were finishing on the previous day by Deputy Clare Daly, I want to draw attention to the powers of the Pensions Authority in respect of the matters they raised.

Deputy Róisín Shortall: The strength of feeling expressed last week and here today about the myriad problems arising in respect of current employees and current and deferred benefit pensioners within the IASS highlights and underlines the hotch potch of policy underpinning pension policy in this country. I suppose it is because of the failure of successive governments to take responsibility for this area and to introduce a coherent pensions framework that we find ourselves in this situation in respect of the IASS and increasingly in respect of so many other schemes that have run into difficulty.

In recent years the State has been spending in the region of €3 billion a year on its principal pension policy, which is to provide a facility for tax relief for people with private pensions. It has been estimated that some 80% of that €3 billion in tax expenditure has been to the benefit of 20% of the highest earners in this country. That is at the root of all the problems associated with pensions here. We have a pensions policy that is highly inequitable, very expensive and benefits the better off. A great many people with very little pension provision for themselves or

no pension provision at all are subsidising the better off who have pension pots up to €5 million and beyond in some cases. That is a highly inequitable system and that needs to be tackled.

Deputy Willie O'Dea: I am sorry the Minister has left the House because I find her response totally unconvincing. Every Deputy has received numerous e-mails, telephone calls, letters and correspondence about the flawed proposal to deal with the IASS pension scheme, particularly from deferred pensioners. The scheme has been set up in such a way that they are taking the brunt of the hit and small wonder because they had absolutely no hand, act or part in deciding how the chips were going to fall. That is wrong. It is immoral. I listened carefully to Deputy Ryan's contribution. He suggested that an extra contribution of €50 million from the companies that are contributing would solve this problem. I am sure he has done his research and that what he is saying is correct. It is a very small amount of money in the context of the sums we are talking about here. The Government should have made a better and more strenuous effort to sort out this problem before the Minister for Transport, Tourism and Sport rushed out to sign the order and thereby consign these people to their fates. If the gap is as narrow as Deputy Ryan has suggested, surely it is not beyond the capacity of the Government to get it solved.

Two of the amendments, Nos. 19 and 20, are in my name. Amendment No. 19 proposes that a solvent and financially healthy company operating a defined benefit pension scheme should not be allowed to close that scheme until it has reached a level of 90% funding. That would protect the workers and the future deferred pensioners, etc. We are also saying there should be an appeal mechanism for the trustees. The Tánaiste mentioned that the matter can be referred to the Pensions Authority. Did she refer this matter to the authority? How many of these cases have been referred to the authority? I believe the authority will not consider these cases other than in the most extreme circumstances. In light of all the stories in the public domain about the mismanagement of pension funds by trustees in this case, not to mention all the allegations about conflicts of interest, etc., I am at a loss to know why the Tánaiste did not refer the conduct of those trustees to the authority. I ask the Tánaiste to give the House an assurance that the Government will bring these matters to the attention of the Pensions Authority immediately.

Deputy Clare Daly: I found the Tánaiste's response wholly inadequate. We have to restate the background to this matter. I refer to the imminent erosion of the living standards of existing pensioners and the threat that the same thing will happen to deferred pensioners and present members of the scheme in the future. The Government has attempted to portray this as a problem of the trustees, the company and the members. There has been a suggestion that it has nothing to do with the Government itself. That is completely wrong. The trustees adopted a "freeze and de-risk " strategy at the behest of the employers. We should remember that one of these employers - the Dublin Aviation Authority - is 100% owned by the State. At key times in the history of Aer Lingus, it was fully owned by the State. It is still 25% owned by the State. We have an ability to curtail the antics of these companies. That is what these amendments seek to do.

Deputy Ryan suggested that the companies have abdicated their responsibilities. He claimed they have acted outside the law. If that is the case, the behaviour of the companies has profound implications. In such circumstances, why has the Deputy not referred the matter to the Garda? If he really believed it was the case that the companies are responsible, he would be supporting these amendments, which seek to ensure solvent companies that have a responsibility live up to that responsibility. These issues should have been examined before the Minister for Transport, Tourism and Sport signed the order.

I noted the Tánaiste's comments about the powers of the Pensions Authority. I fully intend to pass information I have about certain antics in this scheme to the Pensions Authority, which has been in contact with me. Against that background, surely the Minister for Transport, Tourism and Sport would have waited before he signed the order and surely we have a responsibility now to implement these amendments, which would seek to curtail the antics of companies, one of which is meeting as we speak. The vote is probably over now. I refer to the Aer Lingus extraordinary general meeting, which was on at 2 o'clock. I do not doubt that it has sealed its approval for this measure. This is the 11th hour. We need to move on this.

Deputy Brendan Ryan: I would like to clarify that I said in my contribution that the behaviour of the trustees could possibly have been outside the law. I support Deputy O'Dea's call for the Tánaiste to ask the Pensions Authority to examine the behaviour of the trustees in this case. I ask the Tánaiste to give serious consideration to this.

Minister of State at the Department of Social Protection (Deputy Kevin Humphreys): I welcome Deputy Clare Daly's confirmation that she intends to bring her concerns and her information to the Pensions Authority. That would be helpful. She might have more information on the matter than I have. In fairness to the Tánaiste, she has covered a lot of the ground. She has gone over the issue and the history of the last ten years. In light of the uncertainty about the overall impact and potential for unintended consequences of applying debt on the employer, selectively or otherwise, it is not proposed to make changes of this nature. The Tánaiste has certainly looked at elements of this. She has proposed a package of measures that would assist pension schemes and probably nurse them back into sustainable funding positions. I do not intend to revisit everything the Tánaiste said in the last few minutes. I have nothing further to add to what she said. I do not propose to accept these amendments.

Deputy Róisín Shortall: It is disappointing that the Tánaiste did not deem it necessary to stay in the House to discuss these amendments.

Deputy Kevin Humphreys: In fairness to the Tánaiste, she has spent 13 hours on the Social Welfare Bill through this-----

Deputy Róisín Shortall: She has spent very little time on this important issue, which affects a huge number of people. That is the difficulty.

Deputy Kevin Humphreys: She has been here for over 13 hours.

Deputy Róisín Shortall: It affects 15,000 people.

Deputy Kevin Humphreys: The Deputy should be fair to the Tánaiste.

Deputy Róisín Shortall: Excuse me. I have the floor.

Deputy Kevin Humphreys: She should have some sense of fairness, at least.

An Leas-Cheann Comhairle: I ask the Minister of State to allow Deputy Shortall to continue.

Deputy Róisín Shortall: Given that this issue affects 15,000 people in the Irish airlines superannuation scheme, the least the Tánaiste could have done was stay to engage in some kind of meaningful debate about what is going on.

I spoke earlier about the unfair pensions regime in this country. The Government promised to reform it but is has backed off on those reforms. We saw that happening last year. The Labour Party element of the Government, in particular, promised to introduce serious reform, but the Government has backed off on that. The pension levy was increased as a direct result of the shortfall in the funding that was expected to be raised from pension changes. Many people on very small private pensions have been paying a pension levy of 0.6%. This makes a huge difference to their pension benefits. The shortfall I mentioned, which resulted from the Government's failure to introduce the promised reforms last year, meant that the pension levy had to be hiked up by a further 0.15% for this year and next year. That is further compounding the unfairness of the pensions regime.

The other major pensions problem in this country is the regulatory framework that surrounds pensions. As a result of the Social Welfare and Pensions Act 2009, which made provision for the priorities in pension schemes to be reordered, existing pensioners - those who are in payment - stand to lose between 10% and 20% of their pensions. Rather than addressing this issue by making savings at the top end, where vast pension pots are being subsidised by everybody in this country, we are overseeing a situation in which people on small private pensions are losing substantial portions of those pensions. The Act that was introduced in 2009 by the Fianna Fáil-led Government gives the green light to solvent companies to walk away from their pension commitments. The current Government cannot explain its position by referring to what its predecessor did because the provision in question was copperfastened in December of last year by the Social Welfare and Pensions (No. 2) Act 2013. The Government is telling companies that have very healthy balance sheets, are doing very well and have very strong outlooks for the future that it is happy for them to walk away from their pension commitments and the undertakings they gave to their workers and pensioners.

I regret the Tánaiste is not in the Chamber, but I must pose my next question anyway. On what basis does the Government believe it is acceptable for a solvent company to walk away from its pension commitments, other than being prepared to abandon workers and pensioners who understood they had certain rights? The Government is saying it is okay to forget about them because it will not hold the companies to their commitments. It is an incredible position for the Government to adopt, especially its Labour element.

Earlier, the Minister for Transport, Tourism and Sport, Deputy Donohoe, spoke about feeling the pensioners' pain. That kind of bleeding heart stuff is of no benefit to those who are affected. The Minister and the Tánaiste assert that, somehow, everything is someone else's fault and has nothing to do with them. An attempt is being made by Ministers to hide behind the trustees of the Irish airlines superannuation scheme, IASS, and to claim the latter are at fault. Whatever about this applying in a private company that is far removed from the Government, the Government should set a good example in this case and set down a protective framework for what is a basic element of a worker's rights, namely, the right to a decent pension, especially after having paid into that pension for 35, 40 or more years. This is the situation obtaining with the IASS.

In spite of having owned Aer Lingus until its privatisation and still possessing a 25% shareholding in same and despite the Dublin Airport Authority, DAA, being a semi-State commercial company, the Government has refused to play any role in this debacle, leaving it to the company and the trustees as if the situation had nothing to do with it. The Government has the power to act. It should have told the companies that it was not acceptable for companies that were solvent and doing well to renege on their commitments to their pensioners and employees. The

Government should have stated clearly that a company in State ownership should not behave in that way and undermine workers and pensioners' rights. We need the Government to show leadership, not to hide behind the trustees or companies.

There was a protest outside Aer Lingus's EGM this afternoon, particularly by aggrieved deferred pensioners. Can the House imagine if public sector workers, for example teachers, were told that, from today on, they would lose between 40% and 60% of their pensions? Whatever about the protests on the streets today, they would be far larger if an arbitrary decision was taken to slash pensions without any notice or justification. There would be uproar, but that is effectively what the Government is supporting the companies in doing. Having paid into pension schemes and received written contracts and undertakings when they took early retirement packages, people had a legitimate expectation of having their pension benefits preserved, yet the Government is now saying it is okay for State companies to renege on those undertakings. This is not acceptable by any standard.

It was wholly inadequate of the Tánaiste to tell Deputy Clare Daly to bring the serious issues that she raised last week to the Pensions Authority. Serious allegations had been made. The Tánaiste has had a week to look into, verify and take action on them. It is disappointing that she has done nothing. She has passed the buck and told Deputy Clare Daly to do something if she knows about it. When the Deputy brought the matter to the Tánaiste last week, the latter should have acted on it. This is just more washing of hands.

The first amendment in this group requires a full review to be carried out of the implications for the public purse of current Government policy on private pension schemes. If we are telling companies that it is okay for them to renege on their pension commitments, it will have implications for the State's non-contributory pension. The State seems to be saying that it is okay for private companies to do this and that the State will pick up the tab if people end up claiming non-contributory pensions. We need to review this, as it is not acceptable.

Under the principal amendment in the group, a company would not be allowed to close a pension scheme unless it had met 90% of the funding standard. By right, a scheme should meet 100%, given people's contracts, but 90% is a reasonable standard. No company that is solvent and trading successfully should be allowed to close a scheme without ensuring that its members get 90% of what they were promised.

Another amendment relates to an appeals mechanism. Many decisions have been taken arbitrarily, with the Minister, Deputy Donohoe, signing the order on foot of the expert panel's recommendations. Although he stated that he understood how deeply worried people were, he failed to take any action to address the inequality that was being delivered to people.

What the Government is doing with the IASS means that, while its existing pensioners stand to lose out, its deferred pensioners in particular stand to lose a significant amount of what they understood were their retirement benefits. The Minister of State and anyone with any sense know that it is wrong and unfair to treat people in this way. That the Government, a central player, believes it to be all right to sing dumb when people's rights are clearly being trampled is beyond understanding.

Deputy Peter Mathews: Hear, hear.

Deputy Róisín Shortall: In spite of the sympathetic noises from the ministerial benches and backbenches, if people believe in the rights of the workers involved in the IASS, they should

stand up for them and support this amendment, which would ensure those rights were upheld.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendment No. 19 has already been discussed with amendment No. 18. Will Deputy O'Dea be pressing the amendment?

Deputy Willie O'Dea: Yes.

Deputy Clare Daly: Will we not get a chance to contribute on our amendments again?

An Leas-Cheann Comhairle: No. These amendments are being discussed together.

Deputy Clare Daly: Why would Deputy Shortall have unlimited time when the rest of us would not?

An Leas-Cheann Comhairle: Deputy Shortall moved the first amendment on the list.

Deputy Clare Daly: In a grouping.

Deputy Willie O'Dea: No. She addressed her own amendment specifically.

Deputy Clare Daly: On her own?

An Leas-Cheann Comhairle: We took amendments Nos. 18 to 21, inclusive-----

Deputy Willie O'Dea: Amendment No. 18 was in Deputy Shortall's name.

An Leas-Cheann Comhairle: -----25, 27 and 28 together.

Deputy Clare Daly: Is the Leas-Cheann Comhairle saying that I can come back in further down the list?

Deputy Róisín Shortall: No.

An Leas-Cheann Comhairle: No. The Ceann Comhairle-----

Deputy Clare Daly: Then I will sum up on this grouping.

4 o'clock

An Leas-Cheann Comhairle: The Ceann Comhairle indicated the grouping of amendments before he left. I will read it out again if that will help the Deputy.

Deputy Clare Daly: I know which amendments are included in the grouping. I am unclear as to why, given that I tabled several of these amendments, I am not being given another opportunity to speak to them.

An Leas-Cheann Comhairle: I am operating according to Standing Orders.

Deputy Clare Daly: Do Standing Orders state that no matter how many Deputies are associated with an amendment, only one person can sum up?

An Leas-Cheann Comhairle: One Member may sum up and every other speaker may make an initial contribution and then a second contribution of two minutes. Only the proposer

may make a third contribution in the form of a summing up.

Deputy Clare Daly: My point is that we all are proposers.

An Leas-Cheann Comhairle: Standing Orders are clear on this matter. I call Deputy O'Dea to move amendment No. 19.

Deputy Willie O'Dea: I move amendment No. 19:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Pensions Act 1990

4. The Pensions Act 1990 is amended by inserting a new section 48A as follows:

"48A. A solvent firm shall not be allowed to close a defined benefit pension scheme except where the scheme has reached a minimum 90 per cent funding standard.".".

Amendment put:

The Dáil divided: Tá, 45; Níl, 81.	
Tá	***Níl***
Adams, Gerry.	***Bannon, James.***
Broughan, Thomas P.	***Barry, Tom.***
Calleary, Dara.	***Breen, Pat.***
Collins, Joan.	***Bruton, Richard.***
Collins, Niall.	***Burton, Joan.***
Colreavy, Michael.	***Butler, Ray.***
Cowen, Barry.	***Buttimer, Jerry.***
Daly, Clare.	***Byrne, Catherine.***
Doherty, Pearse.	***Byrne, Eric.***
Donnelly, Stephen S.	***Cannon, Ciarán.***
Ellis, Dessie.	***Carey, Joe.***
Ferris, Martin.	***Coffey, Paudie.***
Fitzmaurice, Michael.	***Collins, Áine.***
Flanagan, Terence.	***Conaghan, Michael.***
Fleming, Sean.	***Conlan, Seán.***
Grealish, Noel.	***Connaughton, Paul J.***
Halligan, John.	***Conway, Ciara.***
Healy-Rae, Michael.	***Coonan, Noel.***
Keaveney, Colm.	***Creed, Michael.***
Mac Lochlainn, Pádraig.	***Daly, Jim.***
McConalogue, Charlie.	***Deasy, John.***
McGrath, Finian.	***Deenihan, Jimmy.***
McGrath, Mattie.	***Deering, Pat.***
McGrath, Michael.	***Doherty, Regina.***
McGuinness, John.	***Donohoe, Paschal.***

McLellan, Sandra.	***Dowds, Robert.***
Martin, Micheál.	***Doyle, Andrew.***
Mathews, Peter.	***Durkan, Bernard J.***
Moynihan, Michael.	***English, Damien.***
Murphy, Catherine.	***Farrell, Alan.***
Ó Caoláin, Caoimhghín.	***Feighan, Frank.***
Ó Cuív, Éamon.	***Fitzpatrick, Peter.***
Ó Fearghaíl, Seán.	***Griffin, Brendan.***
Ó Snodaigh, Aengus.	***Harrington, Noel.***
O'Brien, Jonathan.	***Harris, Simon.***
O'Dea, Willie.	***Hayes, Tom.***
O'Sullivan, Maureen.	***Heydon, Martin.***
Ross, Shane.	***Howlin, Brendan.***
Shortall, Róisín.	***Humphreys, Heather.***
Smith, Brendan.	***Humphreys, Kevin.***
Stanley, Brian.	***Keating, Derek.***
Timmins, Billy.	***Kehoe, Paul.***
Tóibín, Peadar.	***Kelly, Alan.***
Troy, Robert.	***Kenny, Seán.***
Wallace, Mick.	***Kyne, Seán.***
	Lynch, Kathleen.
	Lyons, John.
	McEntee, Helen.
	McFadden, Gabrielle.
	McGinley, Dinny.
	McHugh, Joe.
	Maloney, Eamonn.
	Mitchell, Olivia.
	Mitchell O'Connor, Mary.
	Mulherin, Michelle.
	Murphy, Dara.
	Murphy, Eoghan.
	Neville, Dan.
	Nolan, Derek.
	O'Donnell, Kieran.
	O'Donovan, Patrick.
	O'Dowd, Fergus.
	O'Reilly, Joe.
	O'Sullivan, Jan.
	Perry, John.
	Phelan, Ann.
	Phelan, John Paul.
	Quinn, Ruairí.

	Rabbitte, Pat.
	Reilly, James.
	Ring, Michael.
	Ryan, Brendan.
	Shatter, Alan.
	Spring, Arthur.
	Stagg, Emmet.
	Stanton, David.
	Tuffy, Joanna.
	Twomey, Liam.
	Varadkar, Leo.
	Wall, Jack.
	Walsh, Brian.

Tellers: Tá, Deputies Willie O'Dea and Michael Moynihan; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

Deputy Willie O'Dea: I move amendment No. 20:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Pensions Act 1990

4. The Pensions Act 1990 is amended by inserting a new section 48A as follows:

"**48A**. An appeals mechanism for pension scheme members shall be put in place where trustees have decided upon reduced benefits for members, and such appeals mechanism shall ensure that any category of such pension scheme members have not been unfairly treated in any restructuring arrangement.".".

Amendment put and declared lost.

Deputy Clare Daly: I move amendment No. 21:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Pensions Act 1990

4. The Pensions Act 1990 is amended by inserting a new section 48A as follows:

"**48A**. Trustees shall take into account pensionable service, age and recognition of variations between pension scheme members in respect of contributions of beneficiaries in a company in the allocation of rights.".".

Amendment put:

The Dáil divided: Tá, 47; Níl, 81.	
Tá	***Níl***
Adams, Gerry.	***Bannon, James.***
Broughan, Thomas P.	***Barry, Tom.***
Calleary, Dara.	***Breen, Pat.***
Collins, Joan.	***Bruton, Richard.***
Collins, Niall.	***Burton, Joan.***
Colreavy, Michael.	***Butler, Ray.***
Cowen, Barry.	***Buttimer, Jerry.***
Creighton, Lucinda.	***Byrne, Catherine.***
Daly, Clare.	***Byrne, Eric.***
Doherty, Pearse.	***Cannon, Ciarán.***
Donnelly, Stephen S.	***Carey, Joe.***
Ellis, Dessie.	***Coffey, Paudie.***
Ferris, Martin.	***Collins, Áine.***
Fitzmaurice, Michael.	***Conaghan, Michael.***
Flanagan, Terence.	***Conlan, Seán.***
Fleming, Sean.	***Connaughton, Paul J.***
Grealish, Noel.	***Conway, Ciara.***
Halligan, John.	***Coonan, Noel.***
Healy, Seamus.	***Creed, Michael.***
Healy-Rae, Michael.	***Daly, Jim.***
Keaveney, Colm.	***Deasy, John.***
Mac Lochlainn, Pádraig.	***Deenihan, Jimmy.***
McConalogue, Charlie.	***Deering, Pat.***
McGrath, Finian.	***Doherty, Regina.***
McGrath, Mattie.	***Donohoe, Paschal.***
McGrath, Michael.	***Dowds, Robert.***
McGuinness, John.	***Doyle, Andrew.***
McLellan, Sandra.	***Durkan, Bernard J.***
Martin, Micheál.	***English, Damien.***
Mathews, Peter.	***Farrell, Alan.***
Moynihan, Michael.	***Feighan, Frank.***
Murphy, Catherine.	***Fitzpatrick, Peter.***
Ó Caoláin, Caoimhghín.	***Griffin, Brendan.***
Ó Cuív, Éamon.	***Harrington, Noel.***
Ó Fearghaíl, Seán.	***Harris, Simon.***
Ó Snodaigh, Aengus.	***Hayes, Tom.***
O'Brien, Jonathan.	***Heydon, Martin.***
O'Dea, Willie.	***Howlin, Brendan.***
O'Sullivan, Maureen.	***Humphreys, Heather.***

Ross, Shane.	***Humphreys, Kevin.***
Shortall, Róisín.	***Keating, Derek.***
Smith, Brendan.	***Kehoe, Paul.***
Stanley, Brian.	***Kelly, Alan.***
Timmins, Billy.	***Kenny, Seán.***
Tóibín, Peadar.	***Kyne, Seán.***
Troy, Robert.	***Lynch, Kathleen.***
Wallace, Mick.	***Lyons, John.***
	McEntee, Helen.
	McFadden, Gabrielle.
	McGinley, Dinny.
	McHugh, Joe.
	Maloney, Eamonn.
	Mitchell, Olivia.
	Mitchell O'Connor, Mary.
	Mulherin, Michelle.
	Murphy, Dara.
	Murphy, Eoghan.
	Neville, Dan.
	Nolan, Derek.
	O'Donnell, Kieran.
	O'Donovan, Patrick.
	O'Dowd, Fergus.
	O'Reilly, Joe.
	O'Sullivan, Jan.
	Perry, John.
	Phelan, Ann.
	Phelan, John Paul.
	Quinn, Ruairí.
	Rabbitte, Pat.
	Reilly, James.
	Ring, Michael.
	Ryan, Brendan.
	Shatter, Alan.
	Spring, Arthur.
	Stagg, Emmet.
	Stanton, David.
	Tuffy, Joanna.
	Twomey, Liam.
	Varadkar, Leo.
	Wall, Jack.
	Walsh, Brian.

Tellers: Tá, Deputies Joan Collins and Clare Daly; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

Deputy Joan Burton: I move amendment No. 22:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Pensions Act 1990

4. The Pensions Act 1990 is amended by the insertion of the following section after section 48A (inserted by section 10 of the Social Welfare and Pensions Act 2013):

"Payment of moneys by Minister for Finance in respect of liabilities accruing under certain relevant schemes

48B. (1) The Minister for Finance may, at the request of the Minister, following consultation with the Minister for Public Expenditure and Reform, pay moneys to an approved person for the purpose of the discharge by the approved person of the liabilities of an eligible pension scheme, referred to in paragraph (b) of the definition of eligible pension scheme.

(2) The Minister for Finance may, after consultation with the Minister for Public Expenditure and Reform, authorise a person to be an approved person for the purposes of this section.

(3) The moneys referred to in subsection (1) that are required by the Minister for Finance for the making of a payment under that subsection shall be paid out of the Central Fund or the growing produce thereof.

(4) In this section—

'approved person' means a person authorised under subsection (2);

'eligible pension scheme' means a relevant scheme where the date of the winding up of the scheme is on or after 25 January 2007 and

before 25 December 2013 and in respect of which—

(a) the employer participating in the relevant scheme is, or where more than one employer participates in such scheme, all of the employers participating in the scheme are, at the date of the winding up insolvent for the purposes of the Protection of Employees (Employers' Insolvency) Act 1984, and

(b) the resources of the relevant scheme are not sufficient to discharge in whole or in part, the liabilities of the scheme in respect of—

(i) 50 per cent of the benefits specified in paragraph 1 of the Third Schedule to or in respect of those persons who, at the date of the winding up of the scheme, were within the categories referred to in that paragraph, to the extent that those benefits have not already been discharged, and

(ii) 50 per cent of the benefits specified in paragraphs 2, 3 and 4 of the Third Schedule to or in respect of those members of the scheme who, at the date of the winding up of the scheme, were within the categories referred to in those paragraphs, to the extent that those benefits have not already been discharged.

(5) A reference to 'effective date of the certificate' in the Third Schedule shall, insofar as it relates to an eligible pension scheme, be construed as a reference to the date of the winding up of the eligible pension scheme concerned, with any necessary modifications.".".

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 23 is out of order.

Amendment No. 23 not moved.

An Leas-Cheann Comhairle: Amendments Nos. 24 and 26, in the names of Deputies O'Dea, Collins and Daly, are related and are to be discussed together.

Deputy Willie O'Dea: I move amendment No. 24:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Pensions Act 1990

4. The Pensions Act 1990 is amended in section 50 by inserting the following after subsection (1D) (inserted by the Social Welfare and Pensions (No. 2) Act 2013) as follows:

"(1E) A reduction in the preserved benefits for members with accrued service in excess of 20 years referred to in subsection (1B) shall, subject to subsection (1F), be made as follows:

(a) where the annual amount is €12,000 or less, no reduction shall be made from such annual amount;

(b) where the annual amount is greater than €12,000 and is less than €60,000, the reduction in such annual amount shall not exceed 10 per cent;

(c) where the annual amount is €60,000 or more, the reduction in such annual amount shall not exceed 20 per cent.

(1F) Where—

(a) the reduction referred to in subsection (1E) would result in the annual amount being reduced to less than €12,000, that reduction shall operate to reduce such annual amount to €12,000, and

(b) the annual amount is €60,000 or more and the reduction referred to in subsection (1E) would result in such annual amount being reduced to less than €54,000, that reduction shall operate to reduce such annual amount to €54,000.”.”.

This amendment advocates an alternative distribution system that I previously proposed and put forward by way of a Private Members' Bill. The Minister has introduced her own system, but since I believe it is less favourable than the one I am proposing, I wish to propose mine again. We have already discussed it at some length.

Deputy Joan Collins: I support the amendments.

An Leas-Cheann Comhairle: Does Deputy Daly wish to contribute?

Deputy Clare Daly: I certainly do. I have to make up for the time the Leas-Cheann Comhairle denied me earlier.

An Leas-Cheann Comhairle: Under Standing Orders.

Deputy Clare Daly: Absolutely. I love these Standing Orders; they are great.

This gets to the heart of the issues concerning the sharing of the pain and the impact on pensioners' living standards. The problem is that we, particularly Government Deputies, have put forward the idea that there is a problem with the scheme as if it were somehow preordained or beyond our control. The issues we have raised have not been dealt with and there has been no answer to a question as to why there is a problem with the funding of the scheme. On the one hand, the problems relate to the antics of the company which allows people to leave. Those concerned invested in the pension scheme when they left but new employees got to join a different pension scheme, a defined contribution scheme. If no new staff are coming in and replenishing the funds in the IAS scheme, there is clearly an actuarial problem. The decision in this regard was made when the company was in State ownership. The issues and problems with the trustees have been mentioned. This absolutely must be investigated.

There has been talk about the vote at the EGM in terms of Aer Lingus. However, I do not believe we have focused sufficiently on the DAA side at all. Many of the Aer Lingus staff who voted on the system were not members of the pension scheme at all. They were members of SIPTU but not of the IAS scheme, yet existing pensioners and deferred pensioners were denied a voice in the same process. Despite this, the Government has sought to rely on the expert panel report to justify some of the cuts being made. These amendments are seeking to change the order to protect and minimise the impact of the cuts on the various pensioner groups. They are a necessity if pensioners' living standards are to be protected.

There has not been enough discussion on the DAA side of the equation. The DAA is getting half the amount that Aer Lingus members are getting in terms of an investment to solve the problem with the scheme. However, the DAA also has significant legal problems with the way in which it put forward the idea on the Aer Rianta supplemental superannuation scheme, which it believed it would be able to wind up as part of the proposal. Now, however, it has been told it actually has to freeze it. The point I am trying to make is that there is no acceptance of the expert panel's proposal and the solutions put forward by any of the members' unions in the DAA at the moment. Therefore, there is not an agreement, leaving aside the points on the existing pensioner groups who did not have a voice in the first place.

Let me put this in context. What we are talking about doing is protecting people from draconian cuts and changing the order. Let me deal with an e-mail I was sent by a constituent. The constituent was responding to information I got for him from the Minister for Finance on income tax paid and how that income tax affects various groups. The point he was making is that the tax burden is markedly benign as income rises over €150,000. He referred to a group of people who earn over €11 billion between them, suggesting no income group earning above €100,000, up to multiple millions of euro, pays more than an additional 4.7% in the euro. As income rises, therefore, we have a very regressive tax scheme. The constituent made the point that he worked for Aer Lingus for 40 years and that when the Government was the sole or majority shareholder and employer, the Minister's contribution to the defined benefit underfunding crisis was actually to damage further the fund with a levy that reduces it and pensioners' entitlements accordingly. Obviously, the vote at the EGM that took place today was to try to reduce that even further. Pensioners were excluded from the process and the communication roadshow that took place on the schemes. They were completely and utterly excluded from the expert panel. No moneys have been put in to defray the costs from them. They are the only group, in that €175 million of their pension capital is being taken from them. This represents a six-week cut in their income from the start of next year. Of course, they have no right to bring these issues to the Labour Court or anywhere else. Therefore, they need us here to protect them and to bring in measures that prevent their income and living standards being dropped below a certain level. That is why we tabled these aspects of the amendments. They are critically important if we are not merely to be giving sympathy to, and shedding crocodile tears for, those who are in that boat. It is within our power to deal with this and cushion the blow, and we should do so. Otherwise, it is completely reprehensible. There is a misunderstanding that deferred pensioners are persons who went off, built a career in a different employment and were able to get pension entitlements through that; they are not. This group, and some of the staff involved, gave decades of service to Aer Lingus and are being harder hit as a result, and they need measures put in place.

Deputy Aengus Ó Snodaigh: We had a discussion on priority orders last year when we were discussing double insolvencies and the change to how defined benefit should be viewed. We did not have a long enough debate on it in terms of the Mercer report which outlined at the time the various different strategies around how to create a priority order. The Mercer report, which the Minister had, was made available a week or at most two weeks before we started the discussion into something as detailed as this.

Even though there are different parameters here, the existing guideline of the priority order is what most look to. It is indicative of the way one, in this case, the IASS, should go. That does not make it right. If we had all of the information that we now have via the IASS, just as if we had all of the information on Waterford Wedgwood, perhaps we would have come up with a different priority order or we might at least have argued from this side of the House for a substantially different priority order. I did so. I submitted amendments which technically would have been grouped with these amendments if they had been allowed, but the restrictions on Opposition Deputies, or maybe all Deputies other than Ministers, in tabling amendments which are a charge on the Exchequer or a charge on the people - the two separate ones because of a bizarre constitutional block which was highlighted at the Constitutional Convention by me and others - mean that the amendments I tabled on this section were ruled out of order. This makes it a little more difficult to argue positively, although in all of this discussion I do not think there is anybody, either on this side of the House or on the Government side, who is not trying to be positive in relation to the pension outcome, whether in the case of the IASS or Waterford

Wedgwood which we discussed previously, or the other DB schemes that are being changed to defined contribution schemes. I have sympathy for the amendments before us because each of them is trying to give a different approach than the current approach.

Deputy Joan Burton: I repeat for the benefit of the House that the arrangements in the legislation are designed to get the maximum number pension funds, which for a variety of reasons have come into very serious deficit, over the line.

Earlier I addressed the matters which Deputies Ryan and Clare Daly raised in relation to what happened to this particular pension fund. I listened carefully to everything Deputy Clare Daly stated and a number of points she made about what may or may not have happened to this fund and how it may or may not have been managed. I repeat it is important to bear in mind that the provisions in section 50 of the Act do not differentiate between active and deferred scheme members as these members are participating in a scheme during the phase where members accumulate pension rights. However, the extent to which pension and payment can be restructured is limited. In the Act debated last year, the first €12,000 of pension is protected. As most of those in these schemes and in this one as well who have long service would also have a State contributory pension, as the Deputy was suggesting, we are trying to protect those fully on a combined basis of €24,000. Given the level of entitlement that the lower paid may have to pensions, that is a significant and strong feature of the legislation which I introduced.

Between €12,000 and €60,000, it can be reduced by up to 10%. Up to €60,000 a year, and €60,000 is a significant pension, the reduction above the €12,000 is 10%. For those in excess of that, those over €60,000 a year, which would be quite a significant pension, the reduction increases to 20%. In addition, in many pension funds, because of the nature of the employments, persons would have been in insurable employment and there may be a full entitlement to a contributory pension. Essentially, these changes provide for the sharing of the risk of scheme underfunding across all of the scheme members. The issue of how these changes might be applied is a matter for the scheme trustees who, I stress, are required under trust law to act in the best interests of all scheme beneficiaries just as they are required to administer the scheme in the best interests of the beneficiaries and they are required to administer it properly in the context of trust law.

I addressed some of the comments of Deputies Ryan and Clare Daly in my earlier response. I do not propose to accept these amendments for the reasons I have set out.

The Deputies should bear in mind that what we are trying to do here - there is no disagreement between either side of the House - is to protect as far as possible persons of different categories in defined benefit schemes which, unfortunately, are in difficulty because of what has happened to schemes. The schemes are made up of two parts: the employer and the employees. Obviously, the employees could be persons currently on pension, current workers or persons who once worked in the company but subsequently left. What employees have done subsequent to leaving the company is a matter for them. Whether they were in other employments or other businesses subsequently is beside the point in relation to the trust rules and what the trustees are obliged to do and how they are to operate in the best interests of all the members.

Amendment put and declared lost.

Deputy Joan Collins: I move amendment No. 25:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Pensions Act 1990

3. The Pensions Act 1990 is amended in section 50 by inserting a new subsection after subsection (2) as follows:

(2A) The Pensions Authority shall not direct the trustees of a pension scheme to reduce the benefits of current and former scheme members and/or post-retirement increases in benefits for pensioner members where a sponsoring company or its parent company have the financial capacity to meet the under-funding in the scheme without precipitating wage cuts or redundancies.".".

Amendment put and declared lost.

Deputy Willie O'Dea: I move amendment No. 26:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Pensions Act 1990

4. The Pensions Act 1990 is amended by substituting the following for section 50(3)(a)(i)(II) (inserted by the Social Welfare and Pensions Act 2009) as follows:

"(II) members whose service in relevant employment has ceased and who have not reached normal pensionable age and who have an entitlement to a preserved benefit of less than 20 years or any other benefit under the scheme.".".

Amendment put and declared lost.

Deputy Willie O'Dea: I move amendment No. 27:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Air Navigation and Transport (Amendment) Act 1998

4. The Air Navigation and Transport (Amendment) Act 1998 is amended by inserting a new section 32A as follows:

"**32A.** The IAS Scheme shall not be allowed to close its pension scheme except where the scheme has reached a minimum 90 per cent funding standard.".".

Amendment put and declared lost.

Deputy Willie O'Dea: I move amendment No. 28:

In page 4, between lines 21 and 22, to insert the following:

"Amendment of Air Navigation and Transport (Amendment) Act 1998

4. The Air Navigation and Transport (Amendment) Act 1998 is amended by inserting a new section 32A as follows:

"**32A**. The IAS Scheme shall not be allowed to close its pension scheme except where all pension scheme members are treated in an equitable manner on the winding up of that scheme.".".

Amendment put and declared lost.

Deputy Joan Burton: I move amendment No. 29:

In page 4, to delete lines 22 to 24 and substitute the following:

"Short title, construction and collective citations

5. (1) This Act may be cited as the Social Welfare and Pensions (No. 2) Act 2014.

(2) The Social Welfare Acts and this Act (other than *section 4*) shall be construed together as one Act.

(3) The Pensions Acts 1990 to 2014 and *section 4* shall be construed together as one Act and the collective citation "Pensions Acts 1990 to 2014" shall include that section.".

Amendment put and declared carried.

Amendment No. 30 not moved.

Bill, as amended, received for final consideration.

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

Tánaiste and Minister for Social Protection (Deputy Joan Burton): I thank the Deputies. I understand that the issues we have debated in recent times are very difficult. There has been a very intense negotiation of mediation with the Waterford Crystal workers. I had been attempting to have mediation done on the matter over a protracted period. I was not able to bring forward the amendment which I tabled on Report Stage before then because the mediation had not been completed. I am pleased to say the mediation is now complete. The Bill will go to the Seanad tomorrow. It will be for the former workers in Waterford Crystal to make a decision on the recommendation of the mediator, the chairperson of the Labour Relations Commission. I thank the Deputies for giving the time and space to allow the Report Stage amendment to go forward.

Question put and agreed to.

Health Insurance (Amendment) Bill 2014: Order for Report Stage

Minister for Health (Deputy Leo Varadkar): I move: "That Report Stage be taken now."

Question put and agreed to.

Health Insurance (Amendment) Bill 2014: Report and Final Stages

An Ceann Comhairle: Amendment No. 1 is in the name of Deputy Kelleher.

Deputy Billy Kelleher: I move amendment No. 1:

In page 4, between lines 33 and 34, to insert the following:

"(a) by the insertion of a new subsection after subsection (1):

"(2) Any insured person who has paid a relevant increase over a continuous period of 10 years shall have their age of entry adjusted to 35 years if they continue to remain insured.",".

This has been discussed on Committee Stage. My amendment proposes an acknowledgement that a person would not be penalised for taking out lifetime community rating. The Minister agreed to consider this amendment. He said this could be achieved by regulation but we have concerns about the particular aspect. The Minister said he would give me his response on Report Stage.

Deputy Caoimhghín Ó Caoláin: I concur with Deputy Kelleher and I record my support for the amendment. On Committee Stage I indicated that not only was I happy to acknowledge but I fully understood the common sense of the proposition. I believe that a lifetime penalty for someone joining a private insurance arrangement after the age of 35 is punitive. The amendment seeks after a period of ten years to remove the penalty aspect and to take the calculation as of membership having been taken out by the age of 35. In my view a ten-year penalty is reasonable and fair. A ten-year penalty is more than adequate and appropriate, as the case may be. For someone who is 36, 37 or 38 years of age to have to bear a penalty up to their final days by comparison with somebody who joined at 33 or 34 years of age, does not ring true with me. I believe that timeframing it to a period certainly no greater than ten years, as Deputy Kelleher's amendment suggests, is both fair and reasonable.

Minister for Health (Deputy Leo Varadkar): Section 3 of the Bill amends section 7A of the Act and refers to the premia which may be charged under health insurance contracts in certain circumstances. This section clarifies that the obligation on insurers to impose lifetime community rating loadings on premiums is mandatory and cannot be waived by an insurer.

While Section 7A of the Act sets out the circumstances under which increased premiums may be charged, this section also clearly provides that any requirement to pay increased premiums is subject to regulations under subsection (6). In this context, the Health Insurance Act 1994 (Determination of Relevant Increase under Section 7A And Provision of Information under Section 7B) Regulations 2014, were signed into law on 7 July 2014. These regulations provide for premium loadings to be applied to inpatient indemnity health insurance contracts purchased on and from 1 May 2015 and require registered undertakings to set different premium prices depending on the age at which an individual takes out health insurance.

As premium loadings are provided by way of regulation rather than by primary legislation, it is appropriate that any policy change requiring an amendment should be made to the regulation which governs the operation of the scheme.

The amendment proposed by the Deputy will therefore be considered as part of the review of the scheme provided for in the regulations to be carried out by the Health Insurance Authority after April 2017, when the scheme has been in operation for a period of time. While I agree in principle with what the Deputy proposes, it is not necessary now and will not be necessary for at least ten years and it may never be necessary because I hope that within the next ten years we will have universal health cover. It is not necessary at all that it be put into primary

legislation because it can be done by regulation. For those three reasons I am not accepting the amendment.

Deputy Billy Kelleher: We were possibly going to agree until the Minister mentioned universal health insurance and this sparked my thought process again. I can accept the rationale of some of what the Minister has said but there is a view that what we and the Minister are trying to do is to stimulate the insurance market, incentivise younger people to take out insurance for the purpose of cross-subsidising those who are in greater need of the support of health services.

5 o'clock

Even those ideologically opposed to private health insurance believe that because it exists there must be intergenerational solidarity. While we are trying to incentivise it, this will really discourage people if the loading will be with them for life. The legislation should include a clause that the penalty would wither after a certain period of time. The Minister stated the Health Insurance Authority, HIA, will assess this and make recommendations. The previous Minister for Health rejected many of the recommendations made by the HIA. While it is a statutory body charged with overseeing the private health insurance market, its recommendations can be rejected, as has happened previously. This is not much comfort with regard to ensuring a mandatory obligation for the penalty to wither after a certain period of time.

I do not know whether the regulations governing people who come to the country have been brought to the Minister's attention. They have a window of nine months during which they must register with an insurance company, and if they leave they must inform it. There is a perception that those aged 35 and over will skip in and out of the country to avoid health insurance weighting. This may have been brought to the attention of the Department, but if it has not it should be examined. It is very onerous and will cause huge administrative work. The idea people would leave the country for a certain period of time to avoid this weighting does not stack up. People will leave the country for many reasons, such as economic necessity or because they want to go on holidays or live abroad, but the idea one would leave for the purpose of avoiding the levy is completely unnecessary and will cause many administrative difficulties for the insurance companies which, as the Minister well knows, will create further red tape. Administration means higher premia for ordinary people.

Deputy Caoimhghín Ó Caoláin: In his reply the Minister spoke about no urgency of address, and suggested we have up to ten years at least to address the substantive argument in Deputy Kelleher's amendment. This is not the case. People are not prepared to buy a pig in a poke. I am no advocate for private health insurance, as I have made very clear time after time, and nor am I a supporter of universal health insurance. I am an advocate for universal health care. I have no doubt in my mind that a 36 year old, on the basis of what the Minister said, would decide he or she was being asked to buy a pig in a poke. The penalty will apply. It is not much good saying we will examine it in two years time, in 2017, and at some point in time along the years subsequently. It will be a disincentive, and of this there is no doubt in my mind, for those who are well past their 35th year and even for those close to that age bracket. Clarity is required and certainty is the only assurance. The methodology suggested by Deputy Kelleher is, to my mind, the only one that stands the test. There it is; I recognise the Bill is a requirement and I will support it. I am not an advocate but I understand this is the reality in which we are, and so I support the thrust of what the Minister seeks to achieve. This amendment is worthy of serious consideration and for all the right reasons, which are to be clear to potential new insurance purchasers and not to be a disincentive, as I believe the current arrangement provided in

the Bill most certainly will be.

Deputy Leo Varadkar: What I am trying to achieve here is something which is straightforward, clear, understandable and simple. The more exceptions, subclauses and scenarios one tries to legislate for, the less clear it is. The message will be very clear, which is we are encouraging people to take out a health insurance policy if they do not already have one, and a loading will apply if they do not do so by 1 May next year and are over 35. If too many guillotines, exceptions and subclauses are introduced, we get away from this very clear message.

If this is something we need to tweak or amend over time this can be done, which is why the two year review is built into the legislation, but even at that point it will be done by regulation. It would not be practical to come back to the Oireachtas every time the scheme needed to be amended in some way. I appreciate the sentiment of the Members opposite but I do not agree with their solution.

With regard to people coming from abroad, I do not believe people will leave the country to game the health insurance system or anything of the sort. This is not my view at all. What is the case is anyone coming from abroad after 1 May will have the same grace period to take out private health insurance as anyone who lives in Ireland on or before 1 May.

Amendment put and declared lost.

Bill received for final consideration and passed.

An Ceann Comhairle: The Bill will now be sent to the Seanad.

Merchant Shipping (Registration of Ships) Bill 2013 [Seanad]: Fifth Stage

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

Question put and agreed to.

An Ceann Comhairle: The Bill, which is considered to be a Bill initiated in Dáil Éireann in accordance with Article 20.2.2o of the Constitution, will be sent to the Seanad.

Companies Bill 2012: From the Seanad

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): A Cheann Comhairle, before we begin today's proceedings, I would be obliged if in accordance with Standing Order 140, you would direct the Clerk to make the following minor drafting corrections to the text of the Bill. These are being done in the interests of textual clarity and correction of cross-references and do not affect any substantive amendments. They are as follows.

Section 567 contains a table which sets outs section numbers and subject matter to which that section applies. There is a discrepancy between the subject matter and the section number at page 489, line 21. Section 672 currently has the subject matter "Order for payment or

delivery of property against person examined under *section 660*". The verbal correction will update the section reference to read, "Order for payment or delivery of property against person examined under *section 671*".

Section 902(2)(e) refers to section 945(1)(b). This verbal correction will change it to read 945(1)(a). Section 945(1)(a) provides for the prescribing of designated bodies for the purposes of section 902 and 907. Section 945(1)(b) provides for a body referred to in section 902(2) ceasing to be a designated body. Therefore the correct reference here ought to be section 945(1)(a).

In section 999(4)(b) the reference to "*subsections (2)(a)* and *(3)*" needs to be changed to "*subsections (2)(b)* and *(3)*" to ensure the cross-reference correctly refers to a DAC limited by guarantee.

Section 1085 is amending section 121 for the purposes of applying the provisions of section 121 to plcs, public limited companies. Subsection (7) of section 1085 amends the text of section 121(6). Section 121(6) was amended by the insertion of the word "entity" by an amendment on Report Stage in the Dáil. However, the reference at section 1085 still refers to the original language of section 121(6). Therefore the correction will insert the word "entity" immediately preceding "financial statements".

In the Seanad, subsection (4) was deleted in section 1110(7), which will cause it to contain a blank cross-reference unless it is verbally corrected. Therefore it must be changed to read "subsections (4) and (5)" instead of "(4) to (6)".

Section 1359(4) contains a reference to subsection (1). This is incorrect and this verbal correction will change it to subsection (2).

An Ceann Comhairle: Are there copies of this available? It is very difficult for people.

Deputy Dara Calleary: I have no doubt that the changes are technical. However, this is not emergency legislation and we have just been advised of this now without a script.

An Ceann Comhairle: Can we have it copied and given to the spokespeople, please?

Deputy Dara Calleary: It is only 14 years in the making.

Deputy Richard Bruton: They are all just textual points.

An Ceann Comhairle: I appreciate that, but-----

Deputy Richard Bruton: I agree.

An Ceann Comhairle: We can continue on, but if people have the script in front of them, they know what the Minister is talking about. It is getting a bit lost itself.

Deputy Dara Calleary: Is it possible to proceed with the amendments while we get the script or does this have to be done first?

An Ceann Comhairle: It does not have to be done first. We can proceed with the amendments while the document is being copied and we will revert back.

Deputy Peadar Tóibín: I apologise that I was delayed. There is a raft of new amendments

being-----

Deputy Richard Bruton: No, they are just textual corrections to cross-references in the Bill which had slight inaccuracies.

Deputy Peadar Tóibín: Are these in addition to the 300 amendments we are dealing with?

Deputy Richard Bruton: Yes. They are just verbally correcting incorrect cross-references. Obviously they were picked up in the proofreading.

Deputy Peadar Tóibín: Are they for discussion and decision today?

Deputy Richard Bruton: They are. They are not substantive. They simply provide textual clarity and correct cross-references. There is nothing substantive in them.

An Ceann Comhairle: They make no substantive change to any part of the Bill or anything.

Deputy Peadar Tóibín: I appreciate that and I accept the Minister's good faith on it. However, it is very difficult for us-----

An Ceann Comhairle: We are getting a copy of it.

Deputy Peadar Tóibín: -----even to be able just to do it on the hoof. Usually we would get some time to-----

An Ceann Comhairle: If there was any change in the actual Bill itself, I would suggest that we would allow time for Deputies to discuss that. I am told it is purely textual.

Deputy Richard Bruton: I think the Bills Office has made that clear. They have asked that this be read into the record to ensure that these cross-references are accurately done. There is nothing substantive in them at all.

An Ceann Comhairle: They are cross references really. Perhaps we could proceed with some of the amendments while we are waiting.

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

Seanad amendment No. 1:

Section 2: In page 67, line 34, to delete "and" and substitute the following:

"(f) the Companies (Miscellaneous Provisions) Act 2013; and".

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 2: In page 69, to delete lines 31 to 39 and substitute the following:

"(8) In this Act a reference to a company having a sole director is a reference to its having, for the time being and for whatever reason, a single director (and this applies notwithstanding a stipulation in the constitution that there be 2 directors, or a greater number).".

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 5: In page 71, to delete lines 28 and 29 and substitute the following:

"(8) This section is without prejudice to—

(a) the generality of the Interpretation Act 2005 and, in particular, section 27 of it;

and

(b) the special provision made in certain provisions of this Act for transitional matters as they relate to those provisions.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 4 and 5 are related and may be discussed together.

Seanad amendment No. 4:

Section 7: In page 74, between lines 10 and 11, to insert the following:

"(10) If a document created before the commencement of this section defines the expression "subsidiary" by reference to section 151 of the Act of 1963, then, for the avoidance of doubt, the construction provided in respect of that expression by the document is not affected by this section in the absence of an agreement to the contrary by the parties to the document.".

Deputy Richard Bruton: In both amendments Nos. 4 and 5, the 1963 Act section reference ought to read "section 155" and not "section 151". This is an unfortunate typo. Section 155 is called "Meaning of subsidiary and holding company" which is clearly what the amendment text refers to. I propose that the section reference be verbally corrected.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 8: In page 74, between lines 27 and 28, to insert the following:

"(4) If a document created before the commencement of this section defines the expression "holding company" by reference to section 151 of the Act of 1963, then, for the avoidance of doubt, the construction provided in respect of that expression by the document is not affected by this section in the absence of an agreement to the contrary by the parties to the document.".

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 9: In page 75, between lines 14 and 15, to insert the following:

"(5) References in *Chapter 6* of *Part 2*, however expressed, to this Part and *Parts 2* to *15* having application to a private company limited by shares shall not be read as excluding the application to such a company of provisions of the kind mentioned in

subsection (4).".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 7, 195, 196, 209, 210, 232, 233, 244, 245, 276 and 277 are related and will be discussed together.

Seanad amendment No. 7:

Section 10: In page 75, between lines 17 and 18, to insert the following:

"(2) For the avoidance of doubt, *subsection (1)* does not apply to the construction of—

(a) the expression "holding company", where that expression is used without qualification, in *Parts 2* to *14*; or

(b) any related expression, where used without qualification, in those Parts.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 8, 9, 198, 199, 212, 213, 235, 236, 246, 247, 279 and 280 are related and will be discussed together.

Seanad amendment No. 8:

Section 19: In page 78, between lines 5 and 6, to insert the following:

"(c) that the liability of its members is limited;".

Seanad amendment agreed to.

Seanad amendment No. 9:

Section 19: In page 78, between lines 23 and 24, to insert the following:

"(3) Where, subsequent to its registration, an amendment of the constitution is made affecting the matter of share capital, or another matter, referred to in *subsection (1)*, that subsection shall be read as requiring the constitution to state the matter as it stands in consequence of that amendment.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 10, 155 to 162, inclusive, 270, 285, 286, 288, 289, 291 and 292 are related and will be discussed together.

Seanad amendment No. 10:

Section 27: In page 83, between lines 4 and 5, to insert the following:

"(3) *Subsection (1)* as it relates to the use of the word "limited", or any abbreviation of that word, shall not apply to a society registered under the Industrial and Provident Societies Acts 1893 to 2014.".

An Ceann Comhairle: Is the amendment agreed to?

Deputy Peadar Tóibín: Can the Minister explain the context in which that arose in the Seanad and what it specifically applies to? I remember it being discussed at committee but it is a year since we had Committee Stage.

Deputy Richard Bruton: The purpose of this amendment is to provide an exception from the prohibition that neither a body that is not a company nor an individual shall carry on any trade, profession or business under a name which includes as its last part the word "limited" or the words "company limited by shares for industrial and provident societies".

Deputy Peadar Tóibín: I thank the Minister.

Seanad amendment agreed to.

Seanad amendment No. 11:

Section 27: In page 83, between lines 12 and 13, to insert the following:

"(6) *Subsection (1)* shall not apply to any company—

(a) to which *Part 21* applies, and

(b) which has provisions in its constitution that would entitle it to rank as a private company limited by shares (whether under this Part or *Part 16*) if it had been registered in the State.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 12, 25, 27, 33, 48, 51, 53, 57, 58, 65, 72, 75, 76, 80, 83, 84, 89, 90, 111 to 113, inclusive, 116, 117, 123, 124, 128 to 132, inclusive, 135, 136, 140, 152, 154, 163, 164, 167, 172, 190, 194, 211, 234, 249, 250, 259, 262, 266, 268, 269, 272 and 273 are technical drafting amendments and will be discussed together.

Seanad amendment No. 12:

Section 32: In page 86, line 2, to delete "company" where it firstly occurs and substitute "company,".

Seanad amendment agreed to.

Seanad amendment No. 13:

Section 33: In page 86, line 27 to delete "therein" and substitute the following:

"therein;

(i) any copy of a winding up order in respect of the company;

(j) any copy of an order for the dissolution of the company on a winding up;

(k) any return by the liquidator of the final meeting of the company on a winding up;

(l) any notice of the appointment of a liquidator in a voluntary winding up of the company.".

Seanad amendment agreed to.

Seanad amendment No. 14:

Section 39: In page 89, line 5, to delete "shall" and substitute "may".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 15 and 16 form a composite proposal and will be discussed together.

Seanad amendment No. 15:

Section 41: In page 91, lines 14 and 15, to delete ", by writing under its common seal,".

Seanad amendment agreed to.

Seanad amendment No. 16:

Section 41: In page 91, line 18, to delete "and under his or her seal".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 17 and 18 are related and will be discussed together.

Seanad amendment No. 17:

Section 50: In page 94, line 33, to delete "being an agent who has an office in the State and who is" and substitute "being a company formed and registered under this Act, or an existing company, and which is".

Seanad amendment agreed to.

Seanad amendment No. 18:

Section 50: In page 94, line 38, to delete "of his or her office" and substitute "of the agent's registered office".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 19 to 21, inclusive, are related and will be discussed together.

Seanad amendment No. 19:

Section 56: In page 99, between lines 1 and 2, to insert the following:

"(9) For the avoidance of doubt, the application of *Part 16*, in the circumstances under this section where that Part is stated to apply and notwithstanding that the course of action of delivering a constitution of the kind referred to in *subsection (1)* will not be adopted by such a company, extends to an existing private company falling within *subsection (10)* but—

(a) the application of *Part 16* to such a company does not affect the application

of the provisions of the statute referred to in *subsection (10)* (or any other relevant statute) to the company; and

(b) if, by virtue of the foregoing statute, the company was not required to include the word "limited" or "teoranta" in its name, that exemption is not affected by anything in this section or *Part 16*.

(10) The existing private company referred to in *subsection (9)* is one that has been incorporated under a former enactment relating to companies (within the meaning of *section 5*) pursuant to, or in compliance with a requirement of, any statute.".

Seanad amendment agreed to.

Seanad amendment No. 20:

Section 63: In page 104, between lines 15 and 16, to insert the following:

"(7) If the existing private company had not registered articles and, by reason of *section 58*, the regulations in Table A are, immediately before the making by the company of an application under *subsection (3)*, deemed to be its articles, then each of the references in the preceding subsections of this section to articles shall be disregarded, but in such a case the application under *subsection (3)* shall be accompanied by a statement in the prescribed form that the articles of the company comprise those regulations.".

Seanad amendment agreed to.

Seanad amendment No. 21:

Section 63: In page 104, between lines 28 and 29, to insert the following:

"(9) If, by reason of *section 58*, an existing private company was, immediately before the making by the company of an application under *subsection (3)*, governed (in whole or in part) by the regulations contained in Table A, then for the purposes of this section and in addition to the other cases where their continuance in force for a particular purpose is provided for by this Chapter, those regulations shall, despite the repeal of the Act of 1963, continue in force and upon the issue of the aforementioned certificate of incorporation the articles of the designated activity company shall be deemed to comprise the whole of those regulations or, as the case may be, to include the parts concerned of those regulations, but—

(a) this is save to the extent that those regulations are inconsistent with a mandatory provision;

(b) those regulations may be altered or added to under and in accordance with the conditions under which the designated activity company's articles are permitted by *Part 16* to be altered or added to; and

(c) references in those regulations to any provision of the prior Companies Acts shall be read as references to the corresponding provision of this Act.

(10) Subject to *paragraphs (b)* and *(c)* of that subsection, the regulations referred to in *subsection (9)* shall be interpreted according to the form in which they existed on the date of repeal of the Act of 1963.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 22 and 297 are related and will be discussed together.

Seanad amendment No. 22:

Section 63: In page 104, between lines 33 and 34, to insert the following:

"(10) The procedures under this section may be followed, after consultation by the company with the relevant Minister, by an existing private company that has been incorporated under a former enactment relating to companies (within the meaning of *section 5*) pursuant to, or in compliance with a requirement of, any statute (in *subsection (11)* referred to as the "relevant statute") and may be so followed notwithstanding that statute but—

(a) the provisions otherwise of that statute (and any other relevant statute) shall apply to the designated activity company that the foregoing company re-registers as under this section as they apply to the foregoing company before such reregistration;

and

(b) if the foregoing company is a company to which *section 1440* applies, the provision made by *subsection (1)* requiring the substitution of certain words in its name shall be taken to be omitted from that subsection.

(11) In *subsection (10)* "relevant Minister" means the Minister of the Government concerned in the administration of the relevant statute.".

Seanad amendment agreed to.

Seanad amendment No. 23:

Section 66: In page 108, line 10, to delete "Save to the extent that its constitution provides otherwise, *subsection (6)*" and substitute "*Subsection (6)*".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 24, 28 to 31, inclusive, and 39 are related and will be discussed together.

Seanad amendment No. 24:

Section 83: In page 125, line 9, after "capital" to insert ", other than the share premium account".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 25 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 25:

Section 89: In page 131, line 15, to delete "*section 88*" and substitute "*section 88*,".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 26, 139, 214, 309 and 310 are related and will be discussed together.

Seanad amendment No. 26:

Section 99: In page 137, lines 33 and 34, to delete "or the seal kept by the company by virtue of *section*".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 27 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 27:

Section 102: In page 139, line 33, to delete "*Chapter 4*" and substitute "*4*".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 28 has already been discussed with Seanad amendment No. 24.

Seanad amendment No. 28:

Section 105: In page 142, line 40, to delete "undenominated capital" and substitute "share premium account".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 29 has already been discussed with Seanad amendment No. 24.

Seanad amendment No. 29:

Section 105: In page 143, line 1, after "company's" to insert "share premium account or other".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 30 has already been discussed with Seanad amendment No. 24.

Seanad amendment No. 30:

Section 106: In page 144, line 36, after "company" to insert ", other than its share premium account".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 31 has already been discussed with Seanad amendment No. 24.

Seanad amendment No. 31:

Section 108: In page 145, line 36, after "capital" to insert ", other than the share premium account".

Seanad amendment agreed to.

Seanad amendment No. 32:

Section 113: In page 149, between lines 23 and 24, to insert the following:

"(5) This section shall not prevent the subscription, acquisition or holding of shares in its parent public company by a company which is a member of an authorised market operator acting in its capacity as a professional dealer in securities in the normal course of its business.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 33 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 33:

Section 119: In page 153, line 35, to delete "*subsection (1)(a)*" and substitute "*subsection (1)(a)*,".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 34, 216 and 217 are related and will be discussed together.

Seanad amendment No. 34:

Section 121: In page 156, to delete lines 23 to 27.

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 35 is consequential on Seanad amendment No. 36 and both will be discussed together.

Seanad amendment No. 35:

Section 123: In page 157, line 8, after "provision;" to insert "and".

Seanad amendment agreed to.

Seanad amendment No. 36:

Section 123: In page 157, to delete lines 9 to 12.

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 37 and 38 are related and will be discussed together.

Seanad amendment No. 37:

Section 126: In page 159, lines 19 and 20, to delete "arising on a revaluation of all the fixed assets of the company".

Seanad amendment agreed to.

Seanad amendment No. 38:

Section 126: In page 159, to delete lines 24 to 31 and substitute the following:

"dividend and in the same proportions in or towards paying up in full unissued shares of the company of a nominal value equal to the relevant sum capitalised (such shares to be allotted and distributed credited as fully paid up to and amongst such holders and in the proportions as aforementioned).".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 39 has already been discussed with Seanad amendment No. 24.

Seanad amendment No. 39:

Section 126: In page 160, line 22, after "capital" to insert ", other than the share premium account".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 40 and 223 are cognate and will be discussed together.

Seanad amendment No. 40:

Section 129: In page 161, to delete lines 19 and 20 and substitute "secretary has the skills or resources necessary to discharge his or her statutory and other duties.".

Seanad amendment agreed to.

Seanad amendment No. 41:

Section 148: In page 173, to delete line 17 and substitute the following:

"(b) the health of the director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 42 and 43 are consequential on Seanad amendment No. 44 and they will be discussed together.

Seanad amendment No. 42:

Section 149: In page 173, line 30, after "*subsection (4)*" to insert "and *section 150(11)*".

Seanad amendment agreed to.

Seanad amendment No. 43:

Section 149: In page 174, line 13, after "*subsection (6)*" to insert "and *section 150(11)*".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 44 was discussed with Seanad amendment No. 42.

Seanad amendment No. 44:

Section 150: In page 177, between lines 8 and 9, to insert the following:

"(11) The Minister may make regulations providing that any requirement of this Act that the usual residential address of an officer of a company appear on the register referred to in *section 149(1)* or the register kept by the Registrar shall not apply in relation to a particular person who is such an officer if—

(a) in accordance with a procedure provided in the regulations for this purpose, it is determined that the circumstances concerning the personal safety or security of the person warrant the application of the foregoing exemption in respect of him or her; and

(b) such other conditions (if any) as are specified in the regulations for the application of the foregoing exemption are satisfied.

(12) Regulations under *subsection (11)* may contain such incidental, consequential and supplemental provisions as appear to the Minister to be necessary or expedient, including provision—

(a) so as to secure that there is not otherwise disclosed, by virtue of this Act's operation, the usual residential address of a person in respect of whom the exemption referred to in that subsection applies;

and

(b) limiting the regulations' application to a usual residential address that, but for the regulations' operation, would fall to be entered, on a register referred to in that subsection, on or after a date specified in the regulations.".

Seanad amendment agreed to.

Seanad amendment No. 45:

Section 181: In page 196, to delete lines 6 to 9 and substitute the following:

"(3) Where notice of a meeting is given by posting it by ordinary prepaid post to the registered address of a member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments No. 46, 221 and 222 form a composite proposal and will be discussed together.

Seanad amendment No. 46:

Section 183: In page 197, between lines 33 and 34, to insert the following:

"(7) The depositing of the instrument of proxy referred to in *subsection (5)* may, rather than its being effected by sending or delivering the instrument, be effected by communicating the instrument to the company by electronic means, and this subsection likewise applies to the depositing of anything else referred to in *subsection (5)*.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 47, 49, 50, 204, 205, 220, 239 and 256 are cognate and will be discussed together.

Seanad amendment No. 47:

Section 193: In page 203, lines 16 and 17, to delete "Part or in *Parts 1* to *3* or *5* to *14*" and substitute Act".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 48 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 48:

In page 204, line 6, to delete "proceeding" and substitute "proceedings".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 49 has already been discussed with Seanad amendment No. 47.

Seanad amendment No. 49:

Section 194: In page 204, line 28, to delete "Part or *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 50 has already been discussed with Seanad amendment No. 47.

Seanad amendment No. 50:

In page 205, line 8, to delete "Part or *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 51 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 51:

Section 195: In page 206, line 34, to delete "proceeding" and substitute "proceedings".

Seanad amendment agreed to.

Seanad amendment No. 52:

Section 196: In page 207, line 9, after "member" to insert the following:

"(and this applies notwithstanding a stipulation in the constitution that there be 2 members, or a greater number)".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 53 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 53:

Section 211: In page 217, line 36, after "after" to insert "the".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 54 and 55 are related and will be discussed together.

Seanad amendment No. 54:

Section 214: In page 220, line 24, to delete "Save where regulations under *subsection (7)* provide otherwise, any" and substitute "Any".

Seanad amendment agreed to.

Seanad amendment No. 55:

Section 214: In page 220, line 31, after "mentioned" where it secondly occurs to insert the following:

"and may also, by regulations, provide for such exceptions to *subsection (6)* as he or she considers appropriate".

Seanad amendment agreed to.

Seanad amendment No. 56:

Section 218: In page 224, line 8, after "Act" to insert ", or of the company's constitution,".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 57 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 57:

Section 218: In page 224, line 9, to delete "a company" and substitute "the company".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendment No. 58 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 58:

Section 218: In page 224, lines 10 and 11, to delete "of the company".

Seanad amendment agreed to.

An Ceann Comhairle: There will be a change on the team.

Deputy Dara Calleary: I am sure you are thinking "Thank God".

Seanad amendment No. 59:

Section 218: In page 225, to delete line 8 and substitute the following:

"despatch,

but this subsection is without prejudice to *section 181(3)*.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 60 to 64, inclusive, are related and may be discussed together by agreement.

Seanad amendment No. 60:

Section 227: In page 233, line 4, after "duties" to insert "(other than those set out in *section 228(1)(b)* and *(h)*)".

Seanad amendment agreed to.

Seanad amendment No. 61:

Section 227: In page 233, line 7, after "duties" to insert "(other than those set out in *section 228(1)(b)* and *(h)*)".

Seanad amendment agreed to.

Seanad amendment No. 62:

Section 228: In page 233, line 25, to delete "or".

Seanad amendment agreed to.

Seanad amendment No. 63:

Section 228: In page 233, line 26, after "s*ubsection (2)*;" to insert the following:

"or

(iii) the director's agreeing to such has been approved by a resolution of the company in general meeting;".

Seanad amendment agreed to.

Seanad amendment No. 64:

Section 232: In page 236, line 8, to delete "*section 228(1)(d)*" and substitute "*section 228(1)(a)*, *(c)*, *(d)*, *(e)*, *(f)* or *(g)*".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendment No. 65 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 65:

Section 250: In page 248, line 26, after "to" to insert "in".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 66 to 71, inclusive, are related and may be discussed together by agreement.

Seanad amendment No. 66:

Section 263: In page 258, line 6, to delete "*subsection (3)*" and substitute "*subsection (3)* and *(5)*".

Seanad amendment agreed to.

Seanad amendment No. 67:

Section 263: In page 258, line 11, to delete "subject to *subsection (5)*,".

Seanad amendment agreed to.

Seanad amendment No. 68:

Section 263: In page 258, line 31, to delete "extend to the matters referred to in *paragraph (b)* of it" and substitute "arise".

Seanad amendment agreed to.

Seanad amendment No. 69:

Section 263: In page 259, line 6, to delete "*subsection (8)*" and substitute "*subsection (8)* and *(10)*".

Seanad amendment agreed to.

Seanad amendment No. 70:

Section 263: In page 259, line 11, to delete "subject to *subsection (10)*,".

Seanad amendment agreed to.

Seanad amendment No. 71:

Section 263: In page 259, line 28, to delete "extend to the matters referred to in *paragraph (b)* of it" and substitute "arise".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendment No. 72 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 72:

Section 265: In page 260, line 34, to delete "rising" and substitute "rise".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 73 and 74 are related and may be discussed together by agreement.

Seanad amendment No. 73:

Section 271: In page 264, between lines 31 and 32, to insert the following:

> "(a) "basic facts concerning the default" means such of the facts, relating to the one or more acts or omissions that constituted the default, as can reasonably be regarded as indicating, at the relevant time, the general character of those acts or omissions,".

Seanad amendment agreed to.

Seanad amendment No. 74:

Section 271: In page 265, to delete lines 5 to 17 and substitute the following:

> "(2) In relevant proceedings, where it is proved that the defendant was aware of the basic facts concerning the default concerned, it shall be presumed that the defendant permitted the default unless the defendant shows that he or she took all reasonable steps to prevent it or that, by reason of circumstances beyond the defendant's control, was unable to do so.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 75 and 76 have already been discussed with Seanad amendment No. 12.

Seanad amendment No. 75:

Section 275: In page 272, line 8, to delete "EEC" where it secondly occurs and substitute "EC".

Seanad amendment agreed to.

Seanad amendment No. 76:

Section 286: In page 278, line 13, after "both" to insert "of".

Seanad amendment agreed to.

Seanad amendment No. 77:

Section 286: In page 278, to delete lines 27 to 32 and substitute the following:

"(6) Subject to *subsection (7),* the reference in *subsection (5)* to the net assets of the company is a reference to net assets, as defined in *section 275(1)*, of the company and for this purpose the amount of its net assets shall be ascertained by reference to the entity financial statements prepared under *section 290* and laid in accordance with *section 341* in respect of the last preceding financial year in respect of which such entity financial statements were so laid.

(7) Where no entity financial statements of the company have been prepared and laid under the foregoing sections before that time, the reference in *subsection (5)* to the net assets of the company shall be taken to be a reference to the amount of its called-up share capital at the time of the contravention.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 78 and 79 are cognate and may be discussed together by agreement.

Seanad amendment No. 78:

Section 299: In page 288, line 26, to delete "to its not having elected to prepare IFRS group financial statements and".

Seanad amendment agreed to.

Seanad amendment No. 79:

Section 300: In page 290, line 17, to delete "to its not having elected to prepare IFRS group financial statements and".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendment No. 80 has already been discussed with Seanad amendment No. 12.

Seanad amendment No. 80:

Section 307: In page 298, line 36, after "of" to insert "the".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 81 and 82 are cognate and may be discussed together by agreement.

Seanad amendment No. 81:

Section 311: In page 305, line 30, to delete "bank" and substitute "institution".

Seanad amendment agreed to.

Seanad amendment No. 82:

Section 311: In page 306, line 19, to delete "bank" and substitute "institution".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 83 and 84 have already been discussed with Seanad amendment No. 12.

Seanad amendment No. 83:

Section 317: In page 313, line 19, to delete "scheme" and substitute "scheme,".

Seanad amendment agreed to.

Seanad amendment No. 84:

Section 324: In page 317, line 5, to delete "EEC" and substitute "EC".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 85 to 87, inclusive; 92 to 101, inclusive; and 208, 242, 258 and 274 are related and may be discussed together by agreement.

Seanad amendment No. 85:

Section 335: In page 325, to delete lines 31 and 32 and substitute the following:

"(b) the company is availing itself of the exemption on the grounds that *section 358* or *359,* as appropriate, is complied with,".

Seanad amendment agreed to.

Seanad amendment No. 86:

Section 335: In page 326, between lines 8 and 9, to insert the following:

"(5) Whenever a company has availed itself of the audit exemption in respect of a financial year, the company shall, if required by the Director of Corporate Enforcement to do so—

(a) give to the Director such access to and facilities for inspecting and taking copies of the books and documents of the company, and

(b) furnish to the Director such information,

as the Director may reasonably require for the purpose of satisfying himself or herself that the company did, in respect of that financial year, comply with *section 358** or *359*, as appropriate.

(6) If a company fails to comply with a requirement under *subsection (5)*, the company and any officer of it who is in default shall be guilty of a category 4 offence.".

Seanad amendment agreed to.

Seanad amendment No. 87:

Section 335: In page 326, line 10, to delete "*section 358(2)*" and substitute "*section 359(1)*".

Seanad amendment agreed to.

Seanad amendment No. 88:

Section 343: In page 333, line 36, to delete "The court" and substitute the following:

"In respect of an annual return that is to be delivered on or after the commencement of this section, the court".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 89 and 90 have already been discussed with Seanad amendment No. 12.

Seanad amendment No. 89:

Section 343: In page 333, lines 36 and 37, to delete "district court area" and substitute "District Court district".

Seanad amendment agreed to.

Seanad amendment No. 90:

Section 347: In page 336, line 17, to delete "returns" and substitute "return's".

Seanad amendment agreed to.

Seanad amendment No. 91:

Section 355: In page 343, lines 15 and 16, to delete "laid before the members in general meeting or which is otherwise" and substitute "approved by the board of directors or which is".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendment No. 92 has already been discussed with Seanad amendment No. 83

Seanad amendment No. 92:

Section 358: In page 346, to delete lines 6 to 41, and in page 347, to delete lines 1 to 23 and substitute the following:

"**Main conditions for audit exemption — non-group situation**

358. (1) Subject to *subsection (3)* and the other provisions of this Chapter, *section 360* (audit exemption) applies to a company in respect of its statutory financial statements for a particular financial year if the company qualifies as a small company in relation to that financial year.

(2) For the purposes of this section, whether a company qualifies as a small company shall be determined in accordance with *section 350(2)*, *(3)*, *(5)*, *(7)*, *(8)*, *(9)* and *(10)*.

(3) *Section 360* does not apply to a company in respect of its statutory financial statements for a particular financial year during any part of which the com-

pany was a group company (within the meaning of *section 359*) unless the group qualifies, under *section 359*, as a small group in relation to that financial year (and the other relevant provisions of this Chapter are complied with).

(4) In *subsection (3)* "group", in relation to a group company, shall be read in accordance with *section 359(1)(b)*.

(5) Nothing in this section prejudices the operation of *Chapter 16* (special audit exemption for dormant companies).".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 93 to 101, inclusive, have already been discussed with amendment No. 85.

Seanad amendment No. 93:

Section 359: In page 347, to delete lines 24 to 39, and in page 348, to delete lines 1 to 10 and substitute the following:

"Main conditions for audit exemption — group situation

359. (1) In this section —

(a) "group company" means a company that is a holding company or a subsidiary undertaking; and

(b) references to the group, in relation to a group company, are references to that company, together with all its associated undertakings, and for the purposes of this paragraph undertakings are associated if one is the subsidiary undertaking of the other or both are subsidiary undertakings of a third undertaking.

(2) Subject to this Chapter, *section 360* (audit exemption) applies to any group company in respect of its statutory financial statements for a particular financial year if the group qualifies as a small group in relation to that financial year.

(3) The determination of whether a group so qualifies shall be made, as provided for in this section, by reference to whether the financial year in question is the first, or a subsequent, financial year of the holding company that heads the group.

(4) A group qualifies as small in relation to the holding company's first financial year if the qualifying conditions are satisfied in respect of that year.

(5) A group qualifies as small in relation to a subsequent financial year of the holding company —

(a) if the qualifying conditions are satisfied in respect of that year and the preceding financial year;

(b) if the qualifying conditions are satisfied in respect of that year and the group qualified as small in relation to the preceding financial year;

(c) if the qualifying conditions were satisfied in respect of the preceding financial year and the group qualified as small in relation to that year.

(6) The qualifying conditions for a small group are satisfied by a group in relation to a financial year in which it fulfils 2 or more of the following requirements:

(a) the balance sheet total of the holding company and the other members of the group taken as a whole does not exceed €4.4 million,

(b) the amount of the turnover of holding company and the other members of the group taken as a whole does not exceed €8.8 million,

(c) the average number of persons employed by the holding company and the other members of the group taken as whole does not exceed 50.

(7) For the purposes of *subsection (6)(a)*—

(a) "balance sheet total", in relation to the holding company or another member of the group, means the aggregate of the amounts shown as assets in the company's or other member's entity balance sheet;

(b) there shall, in the operation of taking the balance sheet totals as a whole, be eliminated inter-group balances.

(8) For the purposes of *subsection (6)(b)*—

(a) "amount of the turnover", in relation to the holding company or another member of the group, means the amount of the turnover shown in the company's or other member's entity profit and loss account;

(b) there shall, in the operation of taking the amounts of turnover as a whole, be eliminated inter-group sales.

(9) For the purpose of *subsection (6)(c)*, the average number of persons employed by a company or another member of the group shall be determined by applying the method of calculation prescribed by *section 317* for determining the number required by *subsection (1)* of that section to be stated in a note to the financial statements of a company.

(10) In the application of *paragraph (b)* of *subsection (6)* to any period which is a financial year but is not in fact a year, the amount specified in that paragraph shall be proportionally adjusted.

(11) Each occasion of an amendment of the kind referred to in *subsection (12)* being effected shall operate to enable the Minister to amend, by order, *subsection (6)(a)* and *(b)*, by substituting for the total and the amount, respectively, specified in those provisions a greater total and amount (not being a total or an amount that is greater than the total or amount it replaces by 25 per cent).

(12) The amendment referred to in *subsection (11)* is an amendment of the amount and the total specified in *paragraphs (a)* and *(b)*, respectively, of *section 350(5)*, being an amendment made for the purpose of giving effect to a Community act.

(13) Nothing in this section nor in any subsequent provision of this Chapter prejudices the operation of *Chapter 16* (special audit exemption for dormant companies).".

Seanad amendment agreed to.

Seanad amendment No. 94:

Section 360: In page 348, lines 12 to 25, to delete all words from and including "The" in line 12 down to and including line 25 and substitute the following:

"The following provisions (the "audit exemption") have effect where, by virtue of *section 358* or *359*, as appropriate, this section applies in respect of the statutory financial statements of a company or a group for a particular financial year—

(a) without prejudice to *section 384(2)*, *section 333* (obligation to have statutory financial statements audited) shall not apply to the company or group in respect of that financial year, and

(b) unless and until circumstances (if any) arise by reason of which the company or group is not entitled to the audit exemption in respect of that financial year, the provisions specified in *subsection (2)* shall not apply to the company or group in respect of that year.".

Seanad amendment agreed to.

Seanad amendment No. 95:

Section 361: In page 349, to delete lines 17 to 36 and substitute the following:

"Audit exemption not available where notice under *section 334* served

361. (1) Notwithstanding that *section 358** is complied with, a company is not entitled to the audit exemption referred to in that section in a financial year if a notice, with respect to that year, is served, under and in accordance with *section 334(1)* and *(2)*, on the company.

(2) Notwithstanding that *section 359* is complied with—

(a) a holding company and the other members of the group are not entitled to the audit exemption referred to in that section in a financial year if a notice, with respect to that year, is served, under and in accordance with *section 334(1)* and *(2)*, on the holding company (irrespective of whether such a notice is served under and in accordance with those provisions on one or more of the other members of the group),

(b) where no such notice has been served, under and in accordance with those provisions, on the holding company but one has been so served on another member of the group, then that member is not entitled to the audit exemption in the year concerned irrespective of whether its holding company and any other members of the group avail themselves of the audit exemption in that year (but this paragraph is not to be read as diminishing the extent of the audit exemption, so far as it relates to the holding company's group financial statements, that is availed of by the holding company).".

Seanad amendment agreed to.

Seanad amendment No. 96:

Section 362: In page 349, to delete lines 37 to 41, and in page 350, to delete lines 1 to 15 and substitute the following:

"**Audit exemption not available where company or subsidiary undertaking falls within a certain category**

362. (1) Notwithstanding that *section 358* is complied with, a company is not entitled to the audit exemption referred to in that section if the company is a company falling within any provision (in so far as applicable to a private company limited by shares) of *Schedule 5*, other than a company referred to in *paragraph 5* or *16* of that Schedule, or if it is a relevant securitisation company.

(2) Notwithstanding that *section 359* is complied with, a holding company and the other members of the group are not entitled to the audit exemption referred to in that section if—

(a) the holding company is a company falling within any provision (in so far as applicable to a private company limited by shares) of *Schedule 5*, other than a company referred to in *paragraph 5* or *16* of that Schedule, or if it is a relevant securitisation company, or

(b) any of those other members is—

(i) a credit institution,

(ii) an insurance undertaking,

(iii) a company falling within any provision of *Schedule 5*, other than a company referred to in *paragraph 5* or *16* of that Schedule,

(iv) a relevant securitisation company or

(v) a body any of the securities of which are admitted to trading on a regulated market.

(3) In this section "relevant securitisation company" means—

(a) a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997; or

(b) a financial vehicle corporation ("FVC") within the meaning of—

(i) in the period before 1 January 2015, Article 1(1) of Regulation (EC) No. 24/2009 of the European Central Bank of 19 December 2008 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions; or

(ii) subject to *subsection (4)*, in the period on or after 1 January 2015, Article 1(1) of Regulation (EU) No. 1075/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions (recast).

(4) If a Regulation is made by the European Central Bank concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation

transactions that—

(a) contains a different definition of financial vehicle corporation ("FVC") from that referred to in *subparagraph (ii)* of *subsection (3)(b)*, the reference in that provision to that definition shall be read as a reference to the definition contained in the Regulation so made, or

(b) amends the definition so referred to, the reference in that provision to that definition shall be read as a reference to that definition as it stands so amended."

Seanad amendment agreed to.

Seanad amendment No. 97:

Section 363: In page 350, to delete lines 16 to 30 and substitute the following:

"Audit exemption (non-group situation) not available unless annual return filed in time

363. (1) Notwithstanding that *section 358* is complied with, a company is not entitled to the audit exemption referred to in that section in a financial year unless—

(a) there is delivered to the Registrar, in compliance with *section 343*, the company's annual return to which the statutory financial statements or (as appropriate) abridged financial statements for that financial year are annexed, and

(b) if the annual return referred to in *paragraph (a)* is not the company's first annual return, there has been delivered to the Registrar, in compliance with *section 343*, its annual return to which the statutory financial statements or (as appropriate) abridged financial statements for its preceding financial year were annexed.

(2) Where the annual return referred to in *paragraph (a)* or *(b)* of *subsection (1)* is the company's first annual return, that paragraph shall have effect as if the reference to statutory financial statements or abridged financial statements being annexed to that return were omitted.".

Seanad amendment agreed to.

Seanad amendment No. 98:

Section 364: In page 350, to delete lines 31 to 39, and in page 351, to delete lines 1 to 31 and substitute the following:

"Audit exemption (group situation) not available unless annual return filed in time

364. (1) In this section—

(a) a reference to each of the relevant bodies is a reference to each of the holding company and the other members of the group (but this paragraph is subject to *subsection (6)*),

(b) "preceding financial year" means the financial year preceding the financial year referred to in *subsection (2)*.

(2) Notwithstanding that *section 359** is complied with, a holding company and the other members of the group are not entitled to the audit exemption referred to in that section in a financial year unless —

(a) there is delivered to the Registrar, in compliance with *section 343*, the annual return of each of the relevant bodies to which the particular relevant body's statutory financial statements or (as appropriate) abridged financial statements for that financial year are annexed, and

(b) if the annual return referred to in *paragraph (a)* is not the first annual return of each of the relevant bodies, the condition specified in *subsection (3)* or *(4)*, as the case may be, is satisfied.

(3) If the annual return referred to in *paragraph (a)* of *subsection (2)* is not the first annual return of any of the relevant bodies, the condition referred to in *paragraph (b)* of that subsection is that there has been delivered to the Registrar, in compliance with *section 343*, the annual return of each of the relevant bodies to which the particular relevant body's statutory financial statements or (as appropriate) abridged financial statements for the preceding financial year were annexed.

(4) If the annual return referred to in *paragraph (a)* of *subsection (2)* is the first annual return of one or more, but not all, of the relevant bodies, the condition referred to in *paragraph (b)* of that subsection is that there has been delivered to the Registrar, in compliance with *section 343*, the annual return of each of the relevant bodies (excluding any of them the annual return of which is its first annual return) to which the particular relevant body's statutory financial statements or (as appropriate) abridged financial statements for the preceding financial year were annexed.

(5) In the case of —

(a) the annual return thirdly mentioned in *subsection (2)(a)*, if that return is the company's or other member's first annual return, *subsection (2)(a)* shall have effect (in relation to the company or other member) as if the reference to statutory financial statements or abridged financial statements being annexed to that return were omitted,

(b) the annual return to which the condition referred to in *subsection (3)* or *(4)* applies (namely the annual return to which statutory financial statements or abridged financial statements for the preceding financial year are to be annexed) if that annual return is the relevant body's first annual return, *subsection (3)* or *(4)*, as the case may be, shall have effect (in relation to the relevant body) as if the reference to statutory financial statements or abridged financial statements being annexed to that return were omitted.

(6) There shall not be reckoned as another member of the group for the purposes of this section (other than for the purposes of the expression "other members of the group" in *subsection (2)*) a subsidiary undertaking that is not a company registered under this Act or an existing company and the construction provided for by *subsection (1)(a)* (of references to each of the relevant bodies) shall be read accordingly.".

Seanad amendment agreed to.

Seanad amendment No. 99:

Section 365: In page 352, to delete lines 9 to 12 and substitute the following:

"(b) unless and until circumstances, if any, arise in that financial year by reason of which the company is not entitled to that audit exemption in respect of that financial year, the provisions specified in *subsection (4)* shall not apply to the company in respect of that year.".

Seanad amendment agreed to.

Seanad amendment No. 100:

Section 365: In page 352, to delete lines 22 to 27 and substitute the following:

"(5) *Section 363* shall apply for the purposes of this section as it applies for the purpose of *section 358* with the substitution in *subsection (1)*—

(a) for the reference to *section 358* being complied with of a reference to the condition specified in *subsection (2)* of this section being satisfied, and

(b) for the reference to the audit exemption referred to in *section 358* of a reference to the dormant company audit exemption.".

Seanad amendment agreed to.

Seanad amendment No. 101:

Section 384: In page 366, to delete lines 3 to 10 and substitute the following:

"(2) Whenever by reason of circumstances arising the company is not entitled to the audit exemption in respect of the financial year concerned, it shall be the duty of the directors of the company to appoint statutory auditors of the company as soon as may be after those circumstances arise.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 102 to 104, inclusive, are related and will be discussed together.

Seanad amendment No. 102:

Section 408: In page 380, to delete line 14 and substitute the following:

"(c) shares, bonds or debt instruments,".

Seanad amendment agreed to.

Seanad amendment No. 103:

Section 408: In page 380, line 17, to delete "the foregoing paragraphs" and substitute "*paragraphs (b)* to *(c)*".

Seanad amendment agreed to.

Seanad amendment No. 104:

Section 408: In page 380, between lines 19 and 20, to insert the following:

"(2) Any exclusion provided in *subsection (1)* to what is defined in that subsection as constituting a "charge" may be varied by order made by the Minister if the Minister considers that it is necessary or expedient to do so in consequence of any Community act adopted after the commencement of this section relating to financial collateral arrangements.".

Seanad amendment agreed to.

Seanad amendment No. 105:

Section 409: In page 381, line 27, to delete "is created in the State but".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 106 to 108, inclusive, are related and will be discussed together.

Seanad amendment No. 106:

Section 412: In page 382, to delete lines 19 to 41 and in page 383, to delete lines 1 to 21 and substitute the following:

"Priority of charges

412. (1) For the purposes of this section—

(a) "relevant rule of law" means a rule of law that governs the priority of charges created by a company, and for the avoidance of doubt, any enactment governing the priority of such charges is not encompassed by that expression,

(b) the reference in *subsection (2)* to any priority that one charge, by virtue of a person's not having notice of a matter, enjoys over another charge or charges shall be deemed to include a reference to any priority that an advance made on foot of a charge, by virtue of a person's not having notice of a matter, enjoys over a subsequent charge or charges.

(2) On and from the commencement of this section, any relevant rule of law shall stand modified in the manner specified in *subsection (3)*, but not so as to displace any priority, whether before or after that commencement, that one charge, by virtue of a person's not having notice of a matter, enjoys over another charge or charges.

(3) That modification is that, for the part of the rule that operates by reference to the time of creation of the 2 or more charges concerned, there shall be substituted a part that operates by reference to—

(a) the dates of receipt by the Registrar of the prescribed particulars of the 2 or more charges concerned, or

(b) if the date of receipt by the Registrar of the prescribed particulars of the 2 or more charges is the same, the respective times, on the date concerned, of receipt by

the Registrar of those particulars.

(4) References in *subsection (3)* to the date, or time, of receipt of the prescribed particulars are references to—

(a) if the procedure under *subsection (3)* of *section 409* is complied with in relation to a particular charge, the date, or time, of receipt by the Registrar of the prescribed particulars, in the prescribed form, of the charge, or

(b) if the procedure under *subsection (4)* of *section 409* is complied with in relation to a particular charge, the date, or time, of receipt by the Registrar of the notice, in the prescribed form and containing the prescribed particulars, in relation to the charge under *paragraph (a)* of that *subsection (4)*.

(5) *Subsections (2)* and *(3)* shall not affect any agreement between persons in whose favour charges have been created in relation to the priority that those charges shall, as between them, have.

(6) Subject to *subsection (7)*, in relation to particulars of a charge received by the Registrar pursuant to *section 409(3)* or *(4)*, the following provisions apply so far as those particulars consist of particulars of a negative pledge, any events that crystallise a floating charge or any restrictions on the use of any charged asset (and particulars of any such matter are referred to subsequently in this subsection as "extraneous material"):

(a) the Registrar shall not enter in the register under *section 414* particulars of the extraneous material pursuant to that section;

(b) the fact that the Registrar has received the particulars of the extraneous material shall have no legal effect;

but nothing in the foregoing affects the validity of the receipt by the Registrar of the other particulars of the charge.

(7) *Subsection (6)* does not apply to particulars of a negative pledge included in particulars of a floating charge granted by a company to the Central Bank for the purposes of either providing or securing collateral.

(8) In this section "negative pledge" means any agreement entered into by the company concerned and any other person or persons that—

(a) provides that the company shall not, or shall not otherwise than in specified circumstances—

(i) borrow moneys or otherwise obtain credit from any person other than that person or those persons,

(ii) create or permit to subsist any charge, lien or other encumbrance or any pledge over the whole or any part of the property of the company, or

(iii) alienate or otherwise dispose of in any manner any of the property of the company,

or

(b) contains a prohibition, either generally or in specified circumstances, on the doing by the company of one or more things referred to in one, or more than one, provision of *paragraph (a)*.".

Seanad amendment agreed to.

Seanad amendment No. 107:

Section 419: In page 387, line 9, after "commencement" to insert the following:

", and the foregoing reference to the time allowed under those provisions includes the time allowed under those provisions as extended by an order (if such has been made) under section 106 of the Act of 1963".

Seanad amendment agreed to.

Seanad amendment No. 108:

Section 420: In page 387, to delete lines 10 to 31 and substitute the following:

"Transitional provisions in relation to priorities of charges

420. (1) In this section "charge to which the special transitional case applies" means a charge referred to in the case set out in *section 419(2)*.

(2) Subject to *subsection (3)*, the modification by *section 412** of any rule of law there referred to (in this section referred to as the "*section 412** rule modification") shall not apply in relation to the issue of the priority of any charge (within the meaning of Part IV of the Act of 1963), created before the commencement of this Part, as against a charge falling within this Part created on or after that commencement.

(3) The *section 412** rule modification shall apply in relation to the issue of the priority of a charge to which the special transitional case applies (as against a charge falling within this Part created on or after commencement of that Part) if the first-mentioned charge has not been registered under Part IV of the Act of 1963 before that commencement.

(4) For the purposes of the application of the *section 412** rule modification to the issue of priority falling within *subsection (3)*, references in *section 412** to the date, or time, of receipt of the prescribed particulars shall, in relation to a charge to which the special transitional case applies, be read as references to the date, or time, of delivery to, or receipt by, the Registrar (under and in compliance with Part IV of the Act of 1963, as continued by *section 419*) of the matters that are required by that Part to be so delivered or received for the purposes of registering the charge thereunder.

(5) Non-compliance with the requirement in the second sentence of section 102(1) of the Act of 1963 shall be disregarded for the purposes of *subsection (4)*.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 109 and 110 are related and will

be discussed together.

Seanad amendment No. 109:

Section 438: In page 398, line 36, after "*(4)*" to insert "or this subsection".

Seanad amendment agreed to.

Seanad amendment No. 110:

Section 438: In page 398, line 38, to delete "that" and substitute "this".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 111 to 113, inclusive, have already been discussed with Seanad amendment No. 12.

Seanad amendment No. 111:

Section 449: In page 406, line 21, after "representing" to insert "at least".

Seanad amendment agreed to.

Seanad amendment No. 112:

Section 451: In page 408, line 3, to delete "seems" and substitute "sees".

Seanad amendment agreed to.

Seanad amendment No. 113:

Section 455: In page 411, line 2, after "out" to insert "in".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 114 and 121 are cognate and will be discussed together.

Seanad amendment No. 114:

Section 471: In page 426, line 3, to delete "Subject to *subsection (6)*, *subsection (1)*" and substitute "*Subsection (1)*".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendment No. 115 and 122 are related and will be discussed together.

Seanad amendment No. 115:

Section 471: In page 426, to delete lines 13 and 14.

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 116 and 117 have already been discussed with Seanad amendment No. 12.

Seanad amendment No. 116:

Section 476: In page 428, line 35, to delete "is" and substitute "are".

Seanad amendment agreed to.

Seanad amendment No. 117:

Section 480: In page 430, line 21, after "of" where it thirdly occurs to insert "the".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 118 to 120, inclusive; 125 to 127, inclusive; and 226 to 231, inclusive, form a composite proposal and will be discussed together.

Seanad amendment No. 118:

Section 480: In page 431, between lines 34 and 35, to insert the following:

"(4) The following provisions have effect for the purposes of *subsection (3)*—

(a) "instrument" in that subsection includes—

(i) a lease, conveyance, transfer, charge or any other instrument relating to real property (including chattels real); and

(ii) an instrument relating to personalty;

(b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;

(c) *paragraph (g)* of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.".

Seanad amendment agreed to.

Seanad amendment No. 119:

Section 480: In page 431, line 35, to delete "The" and substitute "Without prejudice to *subsections (5)* and *(6)*, the".

Seanad amendment agreed to.

Seanad amendment No. 120:

Section 480: In page 431, between lines 38 and 39, to insert the following:

"(5) There shall be entered by the keeper of any register in the State—

(a) upon production of a certified copy of the order under *subsection (2)*; and

(b) without the necessity of there being produced any other document (and, accord-

ingly, any provision requiring such production shall, if it would otherwise apply, not apply),

the name of the successor company in place of any transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

(6) Without prejudice to the generality of *subsection (5)**, the Property Registration Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (5)(a)** but without the necessity of there being produced that which is referred to in *subsection (5)(b)**, enter the name of the successor company in place of any transferor company in respect of such deed.

(7) Without prejudice to the application of *subsection (5)** to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:

(a) the register of members of a company referred to in *section 169*;

(b) the register of holders of debentures of a public limited company kept pursuant to *section 1121*;

(c) the register kept by a public limited company for the purposes of *sections 1050* to *1055*;

(d) the register of charges kept by the Registrar pursuant to *section 414*;

(e) the Land Registry;

(f) any register of shipping kept under the Mercantile Marine Act 1955.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendment No. 121 has already been discussed with Seanad amendment No. 114.

Seanad amendment No. 121:

Section 495: In page 443, line 10, to delete "Subject to *subsection (6)*, *subsection (1)*" and substitute "*Subsection (1)*".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendment No. 122 has already been discussed with Seanad amendment No. 115.

Seanad amendment No. 122:

Section 495: In page 443, to delete lines 16 and 17.

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 123 and 124 have already been discussed with Seanad amendment No. 12.

Seanad amendment No. 123:

Section 499: In page 445, line 18, to delete "is" and substitute "are".

Seanad amendment agreed to.

Seanad amendment No. 124:

Section 499: In page 445, line 22, to delete "*subsection (2)*" and substitute "*subsection (1)*".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 125 to 127, inclusive, have already been discussed with Seanad amendment No. 118.

Seanad amendment No. 125:

Section 503: In page 449, between lines 2 and 3, to insert the following:

"(5) The following provisions have effect for the purposes of *subsection (4)*—

(a) "instrument" in that subsection includes—

(i) a lease, conveyance, transfer or charge or any other instrument relating to real property (including chattels real); and

(ii) an instrument relating to personalty;

(b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;

(c) *paragraph (g)* of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.".

Seanad amendment agreed to.

Seanad amendment No. 126:

Section 503: In page 449, line 3, to delete "Such" and substitute "Without prejudice to *subsections (6)* and *(7)*, such".

Seanad amendment agreed to.

Seanad amendment No. 127:

Section 503: In page 449, between lines 6 and 7, to insert the following:

"(6) There shall be entered by the keeper of any register in the State—

(a) upon production of a certified copy of the order under *subsection (2)*; and

(b) without the necessity of there being produced any other document (and, accordingly, any provision requiring such production shall, if it would otherwise apply, not apply),

the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

(7) Without prejudice to the generality of *subsection (6*), the Property Registration Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (6)(a)* but without the necessity of there being produced that which is referred to in *subsection (6)(b)*, enter the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of such deed.

(8) Without prejudice to the application of *subsection (6)* to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:

(a) the register of members of a company referred to in *section 169*;

(b) the register of holders of debentures of a public limited company kept pursuant to *section 1121*;

(c) the register kept by a public limited company for the purposes of *sections 1050* to *1055*;

(d) the register of charges kept by the Registrar pursuant to *section 414*;

(e) the Land Registry;

(f) any register of shipping kept under the Mercantile Marine Act 1955.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 128 to 132, inclusive, have already been discussed with Seanad amendment No. 12.

Seanad amendment No. 128:

Section 509: In page 452, to delete line 20 and substitute the following:

"(c) the circumstances set out in *section 570(a)*, *(b)* or *(c)* are applicable to the company.".

Seanad amendment agreed to.

Seanad amendment No. 129:

Section 526: In page 465, line 30, after "him" to insert "or her".

Seanad amendment agreed to.

Seanad amendment No. 130:

Section 569: In page 490, line 14, after "to" to insert "in".

Seanad amendment agreed to.

Seanad amendment No. 131:

Section 570: In page 490, line 21, to delete "Part" and substitute "Act".

Seanad amendment agreed to.

Seanad amendment No. 132:

Section 580: In page 493, line 32, to delete "the" where it firstly occurs.

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 133 and 134 are related and will be discussed together.

Seanad amendment No. 133:

Section 580: In page 494, to delete lines 27 to 32 and substitute the following:

"(6) The provisions of this section shall be read and shall operate so that a members' voluntary winding up under this section may be carried on at a time falling before compliance with the requirement of *subsection (5)* that a copy of the declaration there referred to be delivered to the Registrar; however – should a failure to comply with that requirement occur – that failure then invalidates the carrying on of that activity, but this is without prejudice to the power of validation conferred on the court by *subsection (7)*.

(7) On application to it by any interested party, the court may, in any case where there has been a failure to comply with *subsection (5)*, declare that the carrying on of the members' voluntary winding up shall be valid for all purposes if the court is satisfied that it would be just and equitable to do so.".

Seanad amendment agreed to.

Seanad amendment No. 134:

Section 586: In page 497, after line 37, to insert the following:

"(4) Where a company has passed a resolution for it to be wound up as a creditors' voluntary winding up, it shall, within 14 days after the date of the passing of the resolution, give notice of the resolution by advertisement in *Iris Oifigiúil*.

(5) If default is made in complying with *subsection (4)*, the company concerned and any officer of it who is in default shall be guilty of a category 3 offence.

(6) For the purposes of *subsection (5)*, the liquidator of the company shall be deemed to be an officer of the company.".

Seanad amendment agreed to.

Seanad amendment No. 135:

Section 587: In page 498, line 37, after "be" to insert "the".

Seanad amendment agreed to.

Seanad amendment No. 136:

Section 595: In page 504, line 4, after "is" to insert "in".

Seanad amendment agreed to.

Seanad amendment No. 137:

Section 623: In page 528, to delete lines 3 to 39 and substitute the following:

"Unclaimed dividends and balances to be paid into a particular account

623. (1) Where a company has been wound up, and is about to be dissolved, the liquidator shall, in such manner as may be prescribed, lodge to such account as is prescribed by the Minister the whole unclaimed dividends admissible to proof and unapplied or undistributable balances.

(2) An application to the court by a person claiming to be entitled to any dividend or payment out of a lodgment made in pursuance of *subsection (1)*, and any payment out of such lodgment in satisfaction of such claim, shall be made in the prescribed manner.

(3) At the expiration of 7 years after the date of any lodgment made in pursuance of *subsection (1)*, the amount of the lodgment remaining unclaimed shall be paid into the Exchequer, but where the court is satisfied that any person claiming is entitled to any dividend or payment out of the moneys paid into the Exchequer, it may order that that dividend or payment be made and the Minister for Finance shall issue such sum as may be necessary to provide for that payment.

(4) Where moneys invested or deposited at interest by a liquidator form part of the amount required to be lodged, pursuant to *subsection (1)*, to the account referred to in that subsection, the liquidator shall realise the investment or withdraw the deposit and shall pay the proceeds into that account.".

Seanad amendment agreed to.

Seanad amendment No. 138:

Section 633: In page 537, to delete lines 9 to 18 and substitute the following:

"(I) having been—

(A) employed in relevant work by a person who at the relevant time fell (or, if this section had been in operation at that time, who would have fallen) within *paragraph 1*, *2* or *3*; or

(B) engaged on his or her own account in relevant work;

or

(II) having practised in an EEA state (not being the State) as a liquidator;

(ii) the person is, in the opinion of the Supervisory Authority, after consultation with the Director, a fit and proper person to act as a liquidator; and

(iii) the person does not fall within *paragraph 1*, *2*, *3* or *4*.".

Seanad amendment agreed to.

Seanad amendment No. 139:

Section 644: In page 544, line 35, to delete "seal" and substitute "(which seal".

Seanad amendment agreed to.

Seanad amendment No. 140:

Section 687: In page 569, line 22, after "as" to insert "the".

Seanad amendment agreed to.

Seanad amendment No. 141:

Section 737: In page 592, line 31, to delete "The" and substitute "Subject to *subsection (3),* the".

Seanad amendment agreed to.

Seanad amendment No. 142:

Section 737: In page 592, to delete lines 34 to 36.

Seanad amendment agreed to.

Seanad amendment No. 143:

Section 737: In page 593, between lines 4 and 5, to insert the following:

"(3) If the ground, or one of the grounds, on which the company had been struck off the register is that referred to in *section 726(b)*, *subsection (2)* shall have effect as if the following paragraph were inserted after *paragraph (a)* of that subsection:

"(aa) the Registrar has received written confirmation from the Revenue Commissioners that they have no objection to the company being restored to the register under this section;".".

Seanad amendment agreed to.

Seanad amendment No. 144:

Section 739: In page 594, line 3, to delete "Minister for Finance" and substitute "Minister for Public Expenditure and Reform".

Seanad amendment agreed to.

Seanad amendment No. 145:

Section 739: In page 594, line 9, to delete "Minister of Finance" and substitute "Minister for Public Expenditure and Reform".

Seanad amendment agreed to.

Seanad amendment No. 146:

Section 747: In page 598, lines 18 to 20, to delete all words from and including "at" in line 18 down to and including "*350*" in line 20 and substitute the following:

"in respect of the latest financial year of the company that has ended prior to the date of the making of the application under this section, fell to be treated as a small or medium company by virtue of *section 350*".

Seanad amendment agreed to.

Seanad amendment No. 147:

Section 747: In page 598, between lines 24 and 25, to insert the following:

"(7) For the purpose of *paragraph (b)* of *subsection (6)*, if the latest financial year of the company concerned ended within 3 months prior to the date of the making of the application concerned, the reference in that paragraph to the latest financial year of the company shall be read as a reference to the financial year of the company that preceded its latest financial year (but that reference shall only be so read if that preceding financial year ended no more than 15 months prior to the date of the making of the application concerned).".

Seanad amendment agreed to.

Seanad amendment No. 148:

Section 748: In page 600, to delete lines 6 to 8 and substitute the following:

"(b) in the case of a company that, in respect of the latest financial year of the company that has ended prior to the date of the making of the application under this section, fell to be treated as a small or medium company by virtue of *section 350*, the Circuit Court,".

Seanad amendment agreed to.

Seanad amendment No. 149:

Section 748: In page 600, between lines 12 and 13, to insert the following:

"(6) For the purpose of *paragraph (b)* of *subsection (5)*, if the latest financial year of the company concerned ended within 3 months prior to the date of the making of the application concerned, the reference in that paragraph to the latest financial year of the company shall be read as a reference to the financial year of the company that preceded its latest financial year (but that reference shall only be so read if that preceding financial year ended no more than 15 months prior to the date of the making of the application concerned).".

Seanad amendment agreed to.

Seanad amendment No. 150:

Section 750: In page 601, to delete lines 7 to 9 and substitute the following:

"*subsection (1)*, if in respect of the latest financial year of the body corporate there referred to that has ended prior to the date of the making of the application for the approval, that body fell to be treated (or, if it were a company, would have fallen to be treated) as a small or medium company by virtue of *section 350*, and *subsection (7)* of *section 747* applies for the purposes of this subsection as it applies for purposes of *subsection (6)(b)* of that section.".

Seanad amendment agreed to.

Seanad amendment No. 151:

Section 759: In page 604, lines 35 and 36, to delete "and on payment of the prescribed fee".

Seanad amendment agreed to.

Seanad amendment No. 152:

Section 786: In page 618, line 33, to delete "*subsection (3)*" and substitute "*subsection (3)*,".

Seanad amendment agreed to.

Seanad amendment No. 153:

Section 791: In page 627, between lines 28 and 29, to insert the following:

"(e) for the purpose of the performance by a commission established under the Commissions of Investigation Act 2004 of any of its functions;".

Seanad amendment agreed to.

Seanad amendment No. 154:

Section 815: In page 643, line 20, to delete "*subsection (2)*" and substitute "*subsection (1)*".

Seanad amendment agreed to.

Seanad amendment No. 155:

Section 838: In page 656, line 13, to delete "1977" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 156:

Section 838: In page 656, line 15, to delete "1978" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 157:

Section 849: In page 663, line 16, to delete "1977" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 158:

Section 849: In page 663, line 18, to delete "1978" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 159:

Section 851: In page 666, line 20, to delete "1977" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 160:

Section 851: In page 666, line 22, to delete "1978" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 161:

Section 855: In page 671, line 5, to delete "1977" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 162:

Section 855: In page 671, line 6, to delete "1978" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 163:

Section 865: In page 674, line 27, to delete "*section 343(10)*" and substitute "*section 343(11)*".

Seanad amendment agreed to.

Seanad amendment No. 164:

Section 866: In page 675, line 13, to delete "*section 343(10)*" and substitute "*section 343(11)*".

Seanad amendment agreed to.

Seanad amendment No. 165:

Section 873: In page 678, lines 19 and 20, to delete "an offence under this Act that is subject to summary prosecution" and substitute "a category 3 or 4 offence".

Seanad amendment agreed to.

Seanad amendment No. 166:

Section 874: In page 679, line 27, after "Act" to insert "(being a default that constitutes a category 3 or 4 offence)".

Seanad amendment agreed to.

Seanad amendment No. 167:

Section 876: In page 681, line 26, to delete "offence" where it firstly occurs.

Seanad amendment agreed to.

Seanad amendment No. 168:

Section 891: In page 692, lines 10 and 11, to delete "and disclosed within 21 days after the date of receipt of the complete documentation regarding those changes" and substitute the following:

"and that such entering is done (normal circumstances prevailing) within 21 days after the date of receipt of the complete documentation regarding those changes".

Seanad amendment agreed to.

Seanad amendment No. 169:

Section 891: In page 692, to delete lines 12 to 15 and substitute the following:

"(6) The Registrar shall make available, as soon as practicable, through the system of interconnection of registers, information on—

(a) the opening and termination of winding up or insolvency proceedings of a company on the register;

(b) the opening and termination of a receivership applicable to a company on the register; and

(c) the striking-off of a company from the register.".

Seanad amendment agreed to.

Seanad amendment No. 170:

Section 891: In page 692, between lines 15 and 16, to insert the following:

"(7) The Registrar shall ensure that the following particulars relating to a company on the register are available, free of charge, through the system of interconnection of registers—

(a) its name and legal form;

(b) the address of its registered office, including the fact that it is registered in the State; and

(c) its registration number on the register.".

Seanad amendment agreed to.

Seanad amendment No. 171:

Section 891: In page 692, between lines 15 and 16, to insert the following:

"(8) The Registrar shall ensure that information is made available explaining the provisions of this Act according to which a third party can rely on the information and particulars referred to in *subsection (4)*.".

Seanad amendment agreed to.

Seanad amendment No. 172:

Section 897: In page 694, line 15, to delete "an such" and substitute "such an".

Seanad amendment agreed to.

Seanad amendment No. 173:

Section 905: In page 699, to delete lines 34 to 38.

Seanad amendment agreed to.

Seanad amendment No. 174:

Section 915: In page 705, line 28, to delete "*sections 933* and *937*" and substitute "*section 933*".

Seanad amendment agreed to.

Seanad amendment No. 175:

Section 917: In page 706, line 27, after "shares" to insert "or designated activity company".

Seanad amendment agreed to.

Seanad amendment No. 176:

Section 917: In page 707, line 1, after "shares" to insert "or designated activity company".

Seanad amendment agreed to.

Seanad amendment No. 177:

Section 917: In page 707, between lines 14 and 15, to insert the following:

"(3) For the purpose of determining whether a holding undertaking and all its subsidiary undertakings meet the criteria in *paragraph (b)*, in the operation of taking, as appropriate -

(a) the amounts of their turnover as a whole, or

(b) their balance sheet totals as a whole, there shall be eliminated inter-group sales or inter-group balances, as the case may be.".

Seanad amendment agreed to.

Seanad amendment No. 178:

Section 919: In page 709, line 18, after "*section 917*," to insert "and".

Seanad amendment agreed to.

Seanad amendment No. 179:

Section 919: In page 709, to delete lines 20 and 21 and substitute "*934(7)*.".

Seanad amendment agreed to.

Seanad amendment No. 180:

Section 937: In page 722, to delete lines 23 to 38, to delete pages 723 and 724 and in page 725, to delete lines 1 to 10.

Seanad amendment agreed to.

Seanad amendment No. 181:

Section 938: In page 725, to delete lines 11 to 40 and in page 726, to delete lines 1 and 2.

Seanad amendment agreed to.

Seanad amendment No. 182:

Section 939: In page 726, line 5, to delete "*938*" and substitute "*936*".

Seanad amendment agreed to.

Seanad amendment No. 183:

Section 942: In page 727, to delete lines 12 to 36 and in page 728, to delete lines 1 to 28 and substitute the

following:

"Confidentiality of information

942. (1) A person shall not disclose information that—

(a) comes into the possession of the Supervisory Authority by virtue of the performance by it of any of its functions under this Act; and

(b) has not otherwise come to the notice of members of the public.

(2) *Subsection (1)* shall not apply to—

(a) person specified in *subsection (3)* or a director of the Authority in the performance by the Authority, or him or her, of any of its or his or her functions under this Act

or any other enactment, being a communication the making of which was, in the Authority's or his or her opinion, appropriate for the performance of the function concerned; or

(b) the disclosure of information in a report of the Supervisory Authority or for the purpose of any legal proceedings, investigation, enquiry or review under this Act or any other enactment or pursuant to an order of a court of competent jurisdiction for the purposes of any proceedings in that court; or

(c) a disclosure made where such disclosure is required by, or in accordance with, law; or

(d) a disclosure of information which, in the opinion of the Supervisory Authority, a member of its staff, any person specified in *subsection (3)* or a director of the Authority, may relate to the commission of an offence; or

(e) a disclosure to a person prescribed by regulations made by the Supervisory Authority as a person to whom a disclosure, or a specified class of disclosure, may lawfully be made.

(3) The persons mentioned in *subsection (2)(a)* and *(d)* are any agent of the Supervisory Authority or professional or other adviser to it.

(4) A person who contravenes *subsection (1)* shall be guilty of a category 2 offence.".

Deputy Dara Calleary: What is the change in this amendment from what was agreed on Committee Stage in the Dáil in regard to the restriction on the disclosure of information?

Deputy Richard Bruton: The purpose of this amendment is to make provision for the supervisory authority in regard to the confidentiality of information it obtains in the exercise of its functions. It also identifies information obtained, pursuant to this Bill, that may be disclosed to State bodies and statutory authorities, such as the Minister for Finance, the Garda Síochána, etc. A breach of confidentiality of information committed by a person associated with the supervisory authority, such as staff, advisers, etc., is deemed to be a category two offence.

Deputy Dara Calleary: Since this Bill was first devised, how does that fit with the whistleblower legislation and the Protected Disclosures Act?

Deputy Richard Bruton: The purpose of this amendment is to introduce greater clarity in regard to the confidentiality of information. As the Bill stands, the operation of the section is problematic as it could lead to the restriction of the release of all information regardless of whether such information is confidential or not.

Seanad amendment agreed to.

Seanad amendment No. 184:

Section 943: In page 729, to delete lines 13 and 14.

Seanad amendment agreed to.

Seanad amendment No. 185:

Section 943: In page 729, line 16, to delete "or *(5)*".

Seanad amendment agreed to.

Seanad amendment No. 186:

Section 944: In page 730, lines 10 to 13, to delete all words from and including "body;" in line 10, down to and including "*section 938(5)(a)*)." in line 13 and substitute "body.".

Seanad amendment agreed to.

Seanad amendment No. 187:

Section 945: In page 731, to delete lines 11 to 14.

Seanad amendment agreed to.

Seanad amendment No. 188:

Section 945: In page 731, to delete lines 15 and 16.

Seanad amendment agreed to.

Seanad amendment No. 189:

Section 945: In page 731, line 17, to delete "all or any of *sections 225*, *917* and *937*" and substitute "*sections 225* and *917* (or either of those sections)".

Seanad amendment agreed to.

Seanad amendment No. 190:

Section 945: In page 731, line 19, to delete "1997)" and substitute "1997".

Seanad amendment agreed to.

Seanad amendment No. 191:

Section 945: In page 731, line 24, after "provisions" to insert "or that provision".

Seanad amendment agreed to.

Deputy Dara Calleary: On a point of order, I do not disagree with any of the amendments, although I do not know if I can speak for Deputy Tóibín. I understand that under Standing Orders, the Minister is entitled to propose a motion that all the amendments are taken together. I am thinking of the Leas-Cheann Comhairle's voice. I cannot speak for Deputy Tóibín but the amendments are primarily technical and they have been well discussed in the Seanad and on Committee Stage. I might be wrong about Standing Orders and I bow to greater knowledge.

An Leas-Cheann Comhairle: The note states the amendments must be moved by the Chair.

Seanad amendment No. 192:

Section 945: In page 731, line 40, to delete ", *(g)*".

Seanad amendment agreed to.

Seanad amendment No. 193:

Section 946: In page 732, line 11, to delete "*(g)*,".

Seanad amendment agreed to.

Seanad amendment No. 194:

Section 948: In page 733, line 5, to delete "*947(3)*" and substitute "*947(2)*".

Seanad amendment agreed to.

Seanad amendment No. 195:

Section 966: In page 741, line 22, to delete "*section 10*" and substitute "*section 10(1)*".

Seanad amendment agreed to.

Seanad amendment No. 196:

Section 966: In page 741, line 23, to delete "Unless" and substitute the following:

"(1) Unless".

Seanad amendment agreed to.

Seanad amendment No. 197:

Section 966: In page 742, to delete lines 19 to 22.

Seanad amendment agreed to.

Seanad amendment No. 198:

Section 969: In page 744, between lines 14 and 15, to insert the following:

"(d) that the liability of its members is limited,*"*.

Seanad amendment agreed to.

Seanad amendment No. 199:

Section 969: In page 745, between lines 4 and 5, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or another matter, referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.*"*.

Seanad amendment agreed to.

Seanad amendment No. 200:

Section 974: In page 748, to delete lines 32 to 35.

Seanad amendment agreed to.

Seanad amendment No. 201:

Section 985: In page 756, line 38, after "sections 212," to insert "453,".

Seanad amendment agreed to.

Seanad amendment No. 202:

Section 988: In page 757, between lines 12 and 13, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to a DAC.*"*.

Seanad amendment agreed to.

Seanad amendment No. 203:

Section 991: In page 757, to delete lines 25 to 27 and substitute the following:

"**DAC, with 2 or more members, may not dispense with holding of a.g.m.**

991. *Section 175(3)* and *(4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to a DAC if it has more than one member.".

Seanad amendment agreed to.

Seanad amendment No. 204:

Section 992: In page 757, line 30, to delete "Part or in Parts 1 to 3 or 5 to 14" and substitute "Act".

Seanad amendment agreed to.

Seanad amendment No. 205:

Section 993: In page 758, line 1, to delete "Part or in Parts 1 to 3 or 5 to 14" and substitute "Act".

Seanad amendment agreed to.

Seanad amendment No. 206:

Section 996: In page 758, between lines 15 and 16, to insert the following:

*"***Modification of definition of "IAS Regulation" in the case of DACs**

996. *Section 1117* (modification of definition of "IAS Regulation") shall apply in the case of a DAC as it applies in the case of PLC.*"*.

Seanad amendment agreed to.

Seanad amendment No. 207:

Section 996: In page 758, between lines 22 and 23, to insert the following:

"(2) *Section 350(11)(b)* shall apply to a DAC as if the words "(in so far as applicable to a private company limited by shares)" were omitted.*"*.

Seanad amendment agreed to.

Seanad amendment No. 208:

Section 996: In page 758, lines 25 and 26, to delete "as referred to *section 358(1)* or *(2)*" and substitute "as referred to in *section 358* or *359*".

Seanad amendment agreed to.

Seanad amendment No. 209:

Section 1004: In page 763, line 28, to delete "*section 10*" and substitute "*section 10(1)*".

Seanad amendment agreed to.

Seanad amendment No. 210:

Section 1004: In page 763, line 29, to delete "Unless" and substitute the following:

"(1)Unless".

Seanad amendment agreed to.

Seanad amendment No. 211:

Section 1004: In page 765, to delete line 24 and substitute the following:

Mergers and divisions of companies	***Chapters 3 and 4 of Part 9 "***

Seanad amendment agreed to.

Seanad amendment No. 212:

Section 1008: In page 766, to delete line 25 and substitute the following:

"(c) it objects,

(d) that the liability of its members is limited, and*"*.

Seanad amendment agreed to.

Seanad amendment No. 213:

Section 1008: In page 767, between lines 3 and 4, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or another matter, referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment*."*.

Seanad amendment agreed to.

Seanad amendment No. 214:

Section 1019: In page 773, between lines 15 and 16, to insert the following:

"(3) Where a company has such an official seal as is mentioned in *subsection (1)*, then *section 99(1)* shall apply to the company as if after "common seal of the company" there were inserted "or the seal kept by the company by virtue of *section 1019*".*"*.

Seanad amendment agreed to.

Seanad amendment No. 215:

Section 1036: In page 791, line 19, after "person" where it secondly occurs to insert the following:

", but, in a case falling within subparagraph (ii), compliance with this paragraph may be waived in writing by such members and the relevant person".

Seanad amendment agreed to.

Seanad amendment No. 216:

Section 1085: In page 824, line 11, to delete "*(7)*" and substitute "*(8)"*.

Seanad amendment agreed to.

Seanad amendment No. 217:

Section 1085: In page 825, between lines 7 and 8, to insert the following:

" (8) The reference in the definition of "properly prepared" in section 121(7) to financial statements includes a reference to interim or initial financial statements referred to in subsection (5) or (6) and, for the purpose of that definition as it relates to either such type of statement, section 290 and section 291 or 292 as appropriate, and, where applicable, Schedule 3 shall be deemed to have effect in relation to interim and initial financial statements with such modifications as are necessary by reason of the fact that the financial statements are prepared otherwise than in respect of a financial year.".

Seanad amendment agreed to.

Seanad amendment No. 218:

Section 1090: In page 827, between lines 19 and 20, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to a PLC.*"*.

Seanad amendment agreed to.

Seanad amendment No. 219:

Section 1091:In page 827, to delete lines 20 to 22 and substitute the following:

"**PLC, with 2 or more members, may not dispense with holding of a.g.m.**

1091. *Section 175(3)* and *(4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to a PLC if it has more than one member.".

Seanad amendment agreed to.

Seanad amendment No. 220:

Section 1095: In page 828, line 33, to delete "Part or in Parts 1 to 3 or 5 to 14" and substitute "Act".

Seanad amendment agreed to.

Seanad amendment No. 221:

Section 1110: In page 835, to delete lines 31 to 33.

Seanad amendment agreed to.

Seanad amendment No. 222:

Section 1110: In page 835, line 34, to delete "A member" and substitute "Without prejudice to the member's general entitlements in that regard under *section 183(7)*, a member".

Seanad amendment agreed to.

Seanad amendment No. 223:

Section 1114: In page 837, to delete lines 25 and 26 and substitute the following:

"secretary has the skills or resources necessary to discharge his or her statutory and other duties and".

Seanad amendment agreed to.

Seanad amendment No. 224:

Section 1115: In page 838, between lines 4 and 5, to insert the following:

"**Voting by director in respect of certain matters: prohibition and exceptions thereto**

1115. Save to the extent that the PLC's constitution provides otherwise, a director of a PLC shall not vote in respect of any contract or arrangement in which the director is interested, and if the director does so vote, the director's vote shall not be counted, nor shall he or she be counted in the quorum present at the meeting, but neither of those prohibitions shall apply to:

(a) any arrangement for giving any director any security or indemnity in respect of money lent by the director to or obligations undertaken by the director for the benefit of the PLC; or

(b) any arrangement for the giving by the PLC of any security to a third party in respect of a debt or obligation of the PLC for which the director himself or herself has assumed responsibility in whole or in part under a guarantee or indemnity or by the deposit of security; or

(c) any contract by the director to subscribe for or underwrite shares or debentures of the PLC; or

(d) any contract or arrangement with any other company in which the director is interested only as an officer of such other company or as a holder of shares or other securities in such other company,

and the operation of those prohibitions may at any time be suspended or limited to any extent and either generally or in respect of any particular contract, arrangement or transaction by the PLC in general meeting.".

Seanad amendment agreed to.

Seanad amendment No. 225:

Section 1117: In page 838, between lines 16 and 17, to insert the following:

*"***Modification of definition of "IAS Regulation" in the case of PLCs**

1117. The definition of "IAS Regulation" in *section 274(1)* shall apply in the case of PLC as if "and a reference to Article 4 of that Regulation is, where the financial statements concerned are entity financial statements or the company concerned is not a traded company (within the meaning of *section 1368*), a reference to Article 5 of that Regulation" were substituted for "and a reference to Article 4 of that Regulation is, in the case of a private company limited by shares, a reference to Article 5 of that Regulation". *"*.

Seanad amendment agreed to.

Seanad amendment No. 226:

Section 1144: In page 860, between lines 13 and 14, to insert the following:

"(4) The following provisions have effect for the purposes of *subsection (3)*—

(a)"instrument" in that subsection includes—

(i) a lease, conveyance, transfer or charge or any other instrument relating to real property (including chattels real); and

(ii) instrument relating to personalty;

(b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;

(c)*paragraph (g)* of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.".

Seanad amendment agreed to.

Seanad amendment No. 227:

Section 1144: In page 860, line 14, to delete "The" and substitute "Without prejudice to *subsections (5)* and *(6)* the".

Seanad amendment agreed to.

Seanad amendment No. 228:

Section 1144: In page 860, between lines 17 and 18, to insert the following:

"(5) There shall be entered by the keeper of any register in the State —

(a) upon production of a certified copy of the order under *subsection (2)*; and

(b) without the necessity of there being produced any other document (and, accordingly, any provision requiring such production shall, if it would otherwise apply, not apply),

the name of the successor company in place of any transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

(6) Without prejudice to the generality of *subsection (5)**, the Property Registration Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (5)(a)** but without the necessity of there being produced that which is referred to in *subsection (5)(b)**, enter the name of the successor company in place of any transferor company in respect of such deed.

(7) Without prejudice to the application of *subsection (5)* to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:

(a) the register of members of a company referred to in *section 169*;

(b) the register of holders of debentures of a public limited company kept pursuant to *section 1121*;

(c) the register kept by a public limited company for the purposes of *sections 1050* to *1055*;

(d) the register of charges kept by the Registrar pursuant to *section 414*;

(e) the Land Registry;

(f) any register of shipping kept under the Mercantile Marine Act 1955.".

Seanad amendment agreed to.

Seanad amendment No. 229:

Section 1166: In page 879, between lines 21 and 22, to insert the following:

"(5) The following provisions have effect for the purposes of subsection (4)—

(a)"instrument" in that subsection includes—

(i) a lease, conveyance, transfer or charge or any other instrument relating to real

property (including chattels real); and

(ii) an instrument relating to personalty;

(b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;

(c) paragraph (g) of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.".

Seanad amendment agreed to.

Seanad amendment No. 230:

Section 1166: In page 879, line 22, to delete "Such" and substitute "Without prejudice to *subsections (6)* and *(7)*, such".

Seanad amendment agreed to.

Seanad amendment No. 231:

Section 1166: In page 879, between lines 25 and 26, to insert the following:

"(6) There shall be entered by the keeper of any register in the State—

(a) upon production of a certified copy of the order under *subsection (2)*; and

(b) without the necessity of there being produced any other document (and, accordingly, any provision requiring such production shall, if it would otherwise apply, not apply),

the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

(7) Without prejudice to the generality of *subsection (6)*, the Property Registration Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (6)(a)* but without the necessity of there being produced that which is referred to in subsection (6)(b), enter the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of such deed.

(8) Without prejudice to the application of *subsection (6)* to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:

(a) the register of members of a company referred to in *section 169*;

(b) the register of holders of debentures of a public limited company kept pursuant

to *section 1121*;

(c) the register kept by a public limited company for the purposes of *sections 1050* to *1055*;

(d) the register of charges kept by the Registrar pursuant to *section 414*;

(e) the Land Registry;

(f) any register of shipping kept under the Mercantile Marine Act 1955.".

Seanad amendment agreed to.

Seanad amendment No. 232:

Section 1173: In page 882, line 18, to delete "*section 10*" and substitute "*section 10(1)*".

Seanad amendment agreed to.

Seanad amendment No. 233:

Section 1173: In page 882, line 19, to delete "Unless" and substitute the following:

"(1) Unless".

Seanad amendment agreed to.

Seanad amendment No. 234:

Section 1174: In page 884, line 14, after "*Part 9*," to insert "or".

Seanad amendment agreed to.

Seanad amendment No. 235:

Section 1176: In page 884, between lines 29 and 30, to insert the following:

"(d) that the liability of its members is limited, and".

Seanad amendment agreed to.

Seanad amendment No. 236:

Section 1176: In page 885, between lines 13 and 14, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting a matter referred to in subsection (2), that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Seanad amendment agreed to.

Seanad amendment No. 237:

Section 1194: In page 896, between lines 4 and 5, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to a CLG.".

Seanad amendment agreed to.

Seanad amendment No. 238:

Section 1202: In page 898, to delete lines 25 to 27 and substitute the following:

"CLG, with 2 or more members, may not dispense with holding of a.g.m.

1202. *Section 175(3)* and *(4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to a CLG if it has more than one member.".

Seanad amendment agreed to.

Seanad amendment No. 239:

Section 1208: In page 899, line 30, to delete "Part or in *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Seanad amendment agreed to.

Seanad amendment No. 240:

Section 1213: In page 900, between lines 28 and 29, to insert the following:

"Modification of definition of "IAS Regulation" in the case of CLGs

1213. *Section 1117* (modification of definition of "IAS Regulation") shall apply in the case of a CLG as it applies in the case of PLC.".

Seanad amendment agreed to.

Seanad amendment No. 241:

Section 1217: In page 901, between lines 27 and 28, to insert the following:

"(2) *Section 350(11)(b)* shall apply to a CLG as if the words "(in so far as applicable to a private company limited by shares)" were omitted.".

Seanad amendment agreed to.

Seanad amendment No. 242:

Section 1217: In page 901, lines 30 and 31, to delete "as referred to *section 358(1)* or *(2)*" and substitute "as referred to in *section 358* or *359*".

Seanad amendment agreed to.

Seanad amendment No. 243:

Section 1227: In page 906, line 19, after "to" to insert "that section and".

Seanad amendment agreed to.

Seanad amendment No. 244:

Section 1229: In page 906, line 31, to delete "*section 10*" and substitute "*section 10(1)*".

Seanad amendment agreed to.

Seanad amendment No. 245:

Section 1229: In page 906, line 32, to delete "Unless" and substitute the following:

"(1) Unless".

Seanad amendment agreed to.

Seanad amendment No. 246:

Section 1232: In page 911, after line 34, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or another matter, referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Seanad amendment agreed to.

Seanad amendment No. 247:

Section 1233: In page 912, between lines 20 and 21, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting a matter referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Seanad amendment agreed to.

Seanad amendment No. 248:

Section 1236: In page 915, between lines 5 and 6, to insert the following:

"(5) If special circumstances exist which render it, in the opinion of the Minister, expedient that such an exemption should be granted, the Minister may, subject to such conditions as he or she may think fit to impose and specifies in the exemption, grant, in writing, an exemption from the obligation imposed by *subsection (1)*.".

Seanad amendment agreed to.

Seanad amendment No. 249:

Section 1236: In page 915, line 6, after "is" to insert "also".

Seanad amendment agreed to.

Seanad amendment No. 250:

Section 1242: In page 918, line 13, to delete "Section 1020" and substitute "Section 1019".

Seanad amendment agreed to.

Seanad amendment No. 251:

Section 1245: In page 919, line 18, after "by" to insert "(subject to *section 1236(5)*)".

Seanad amendment agreed to.

Seanad amendment No. 252:

Section 1246: In page 920, line 16, after "shall" to insert ", subject to *section 1236(5)*".

Seanad amendment agreed to.

Seanad amendment No. 253:

Section 1252: In page 922, between lines 1 and 2, to insert the following:

"Application of section 94 to ULCs and PUCs

1252. *Section 94* shall apply to an ULC and a PUC as if the following subsection were substituted for subsection (2):

"(2) The instrument of transfer of any share shall be executed by or on behalf of the transferor and the transferee.".".

Seanad amendment agreed to.

Seanad amendment No. 254:

Section 1255: In page 922, between lines 16 and 17, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to an unlimited company.".

Seanad amendment agreed to.

Seanad amendment No. 255:

Section 1260: In page 924, to delete lines 3 to 5 and substitute the following:

"Unlimited company, with 2 or more members, may not dispense with holding of a.g.m.

1260. *Section 175(3)* and *(4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to an unlimited company if it has more than one member.".

Seanad amendment agreed to.

Seanad amendment No. 256:

Section 1261: In page 924, line 8, to delete "Part or in *Parts 1* to *3* or *5* to *14*" and sub-

stitute "Act".

Seanad amendment agreed to.

Seanad amendment No. 257:

Section 1265: In page 924, between lines 27 and 28, to insert the following:

"Modification of definition of "IAS Regulation" in the case of PUCs and PULCs

1265. *Section 1117* (modification of definition of "IAS Regulation") shall apply in the case of a PUC and a PULC as it applies in the case of PLC.".

Seanad amendment agreed to.

Seanad amendment No. 258:

Section 1269: In page 925, lines 16 and 17, to delete "as referred to in *section 358(1)* or *(2)*" and substitute "as referred to in *section 358* or *359*".

Seanad amendment agreed to.

Seanad amendment No. 259:

Section 1284: In page 933, line 20, after "after" to insert "the".

Seanad amendment agreed to.

Seanad amendment No. 260:

Section 1297: In page 944, to delete line 36.

Seanad amendment agreed to.

Seanad amendment No. 261:

Section 1297: In page 945, between lines 1 and 2, to insert the following:

" "2009 Directive" means Directive 2009/101/EC of 16 September 2009;".

Seanad amendment agreed to.

Seanad amendment No. 262:

Section 1298: In page 947, line 9, to delete "and" and substitute "or".

Seanad amendment agreed to.

Seanad amendment No. 263:

Section 1299: In page 949, line 30, to delete "Article 2(1)(h), (j) and (k) of the 1968 Directive" and substitute "Article 2(h), (j) and (k) of the 2009 Directive".

Seanad amendment agreed to.

Seanad amendment No. 264:

Section 1299: In page 950, lines 16 and 17, to delete "has been struck off" and substitute "has been wound up, dissolved or otherwise removed from".

Seanad amendment agreed to.

Seanad amendment No. 265:

Section 1299: In page 950, lines 17 to 22, to delete all words from and including "without" in line 17 down to and including "office" in line 22 and substitute the following:

"as soon as practicable, enter in the register, in respect of each branch recorded in the register, the fact that the company has been so removed from the first-mentioned register save that this subsection shall not apply in any case in which the company has been so removed as a result of any change in the legal form of the company, a merger or division, or a cross border transfer of its registered office".

Seanad amendment agreed to.

Seanad amendment No. 266:

Section 1304: In page 954, line 28, to delete "the registration of company" and substitute "registration of the company".

Seanad amendment agreed to.

Seanad amendment No. 267:

Section 1305: In page 954, after line 38, to insert the following:

"Notice of delivery to be published in CRO Gazette

1305. The Registrar shall publish in the CRO Gazette, within 21 days after the date of such delivery, notice of the delivery to the Registrar under this Chapter of any document.".

Seanad amendment agreed to.

Seanad amendment No. 268:

Section 1308: In page 957, line 29, to delete "constitution" where it firstly occurs and substitute "constituting".

Seanad amendment agreed to.

Seanad amendment No. 269:

Section 1311: In page 958, line 32, after "of" to insert "this".

Seanad amendment agreed to.

Seanad amendment No. 270:

Section 1311: In page 959, between lines 6 and 7, to insert the following:

"(4) Notwithstanding anything in *paragraph (a)* of that subsection, *subsection (1)*

applies to, amongst other bodies corporate, a society registered under the Industrial and Provident Societies Acts 1893 to 2014.".

Seanad amendment agreed to.

Seanad amendment No. 271:

Section 1344: In page 977, line 23, to delete "€2,500,000" and substitute "€5,000,000".

Seanad amendment agreed to.

Seanad amendment No. 272:

Section 1366: In page 991, line 34, to delete "not to do," and substitute "not to do".

Seanad amendment agreed to.

Seanad amendment No. 273:

Section 1369: In page 994, line 6, to delete "director's report" and substitute "directors' report".

Seanad amendment agreed to.

Seanad amendment No. 274:

Section 1372: In page 996, lines 8 and 9, to delete "as referred to *section 358(1)* or *(2)*" and substitute "as referred to in *section 358* or *359*".

Seanad amendment agreed to.

Seanad amendment No. 275:

Section 1374: In page 996, between lines 25 and 26, to insert the following:

"DAC or CLG that is a traded company may not file abridged financial statements

1374. *Sections 350 to 356* shall not apply to a designated activity company or a company limited by guarantee that is a traded company.".

Seanad amendment agreed to.

Seanad amendment No. 276:

Section 1382: In page 1001, line 36, to delete "section 10" and substitute "section 10(1)".

Seanad amendment agreed to.

Seanad amendment No. 277:

Section 1382: In page 1001, line 37, to delete "Unless" and substitute the following:

"(1) Unless".

Seanad amendment agreed to.

Seanad amendment No. 278:

Section 1382: In page 1002, between lines 30 and 31, to insert the following:

“

Directors' compliance statement and related statement	***Section 225***	***“.***

Seanad amendment agreed to.

Seanad amendment No. 279:

Section 1387: In page 1005, between lines 27 and 28, to insert the following:

“(d) that the liability of its members is limited; and”.

Seanad amendment agreed to.

Seanad amendment No. 280:

Section 1387: In page 1006, between lines 10 and 11, to insert the following:

“(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or another matter, referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.”.

Seanad amendment agreed to.

Seanad amendment No. 281:

Section 1390: In page 1008, to delete lines 32 to 38.

Seanad amendment agreed to.

Seanad amendment No. 282:

Section 1390: In page 1008, line 39, to delete “*subsection (1)*, *(8)* or *(9)*” and substitute “*subsection (1)* or *(8)*”.

Seanad amendment agreed to.

Seanad amendment No. 283:

Section 1395: In page 1010, to delete lines 34 to 37 and in page 1011, to delete lines 1 to 39 and substitute the following:

“Statutory financial statements

1395. (1) To the extent that the use of any alternative body of accounting standards does not contravene any provision of *Part 6* (as that Part applies to investment companies)—

(a) a true and fair view of the assets and liabilities, financial position and

profit or loss of an investment company may be given by the use by the investment company of those standards in the preparation of its Companies Act entity financial statements, and

(b) a true and fair view of the assets and liabilities, financial position and profit or loss of an investment company and its subsidiary undertakings as a whole may be given by the use by the investment company of those standards in the preparation of its Companies Act group financial statements.

(2) In this section—

"alternative body of accounting standards" means standards that accounts of companies or undertakings must comply with that are laid down by such body or bodies having authority to lay down standards of that kind in—

(a) United States of America;

(b) Canada;

(c) Japan; or

(d) any other prescribed state or territory;

as may be prescribed;

"relevant financial statements" means Companies Act entity financial statements or Companies Act group financial statements.

(3) Before making regulations for the purposes of *subsection (2)*, the Minister—

(a) shall consult with the Central Bank and the Supervisory Authority, and

(b) may consult with any other persons whom the Minister considers should be consulted.

(4) Regulations made under section 3(3) of the Act of 1990 prescribing, for the purposes of the definition of "alternative body of accounting standards" in section 260A(4) of the Act of 1990, bodies having authority to lay down standards of the kind referred to in that definition, and which regulations are in force immediately before the commencement of this section, shall continue in force as if they were regulations made under *section 12* for the purposes of *subsection (2)* and may be amended or revoked accordingly.".

Seanad amendment agreed to.

Seanad amendment No. 284:

Section 1410: In page 1023, line 6, to delete "to pay its debts as" and substitute the following:

", at the time of the application, to pay its debts (being the debts identified for the purposes of *subsection (2)(b)*) as".

Seanad amendment agreed to.

Seanad amendment No. 285:

Section 1428: In page 1029, line 7, to delete "1977" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 286:

Section 1428: In page 1029, line 9, to delete "1978" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 287:

Section 1433: In page 1030, between lines 24 and 25, to insert the following:

"Audit by Comptroller and Auditor General of companies not trading for gain

1433. (1) This section shall apply to a company which is not trading for the acquisition of gain by its members.

(2) The expression "statutory auditor" and the expression "audit of the statutory financial statements" shall, for the purposes of this Act, be deemed to include, respectively, the Comptroller and Auditor General and audit of the statutory financial statements by the Comptroller and Auditor General in any case in which he or she is appointed, under any enactment, auditor of a company to which this section applies.

(3) *Chapters 18*, *20* and *21* of *Part 6* shall not apply to the Comptroller and Auditor General in a case falling within *subsection (2)* nor to the audit of statutory financial statements by him or her in such a case.".

Seanad amendment agreed to.

Seanad amendment No. 288:

Section 1435: In page 1031, line 15, to delete "1978" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 289:

Section 1435: In page 1031, line 16, to delete "1977" and substitute "2014".

Seanad amendment agreed to.

Seanad amendment No. 290:

Section 1435: In page 1031, line 21, after "body" to insert "of accountants".

Seanad amendment agreed to.

Seanad amendment No. 291:

Section 1435: In page 1031, between lines 21 and 22, to insert the following:

"(3) In addition to the requirement of *subsection (2)*, none of the following persons shall

be qualified for appointment as a public auditor of a society registered under the Industrial and Provident Societies Acts 1893 to 2014—

(a) an officer or servant of the society,

(b) a person who has been an officer or servant of the society within a period in respect of which accounts would fall to be audited by the person if he or she were appointed auditor of the society,

(c) a parent, spouse, civil partner, brother, sister or child of an officer of the society,

(d) a person who is a partner of or in the employment of an officer of the society,

(e) a person who is disqualified under this subsection for appointment as a public auditor of any other society that is a subsidiary or holding company of the society or a subsidiary of the society's holding company,

(f) a person who is disqualified under Regulation 71 of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 for appointment as statutory auditor of a company that is a subsidiary or holding company of the society,

(g) a body corporate.

(4) In addition to the requirement of *subsection (2)*, none of the following persons shall be qualified for appointment as a public auditor of a friendly society—

(a) an officer or servant of the friendly society,

(b) a person who has been an officer or servant of the friendly society within a period in respect of which accounts would fall to be audited by the person if he or she were appointed auditor of the friendly society,

(c) a parent, spouse, civil partner, brother, sister or child of an officer of the friendly society,

(d) a person who is a partner of or in the employment of an officer of the friendly society,

(e) a body corporate.

(5) A person shall not act as a public auditor at a time when he is or she is disqualified under *subsection (3)* or *(4)* as the case may be, for appointment to that office.

(6) If, during the person's term of office as public auditor, a person becomes disqualified under this section for appointment to that office, the person shall thereupon vacate his or her office and give notice in writing to the society or friendly society, as the case may be, that he or she has vacated his or her office by reason of such disqualification.".

Seanad amendment agreed to.

Seanad amendment No. 292:

Section 1435: In page 1031, to delete line 26 and substitute the following:

"(4) A person who contravenes *subsection (2)*, *(5)* or *(6)* shall be guilty of a category 2 offence.

(5) This section shall not apply to the Comptroller and Auditor General.

(6) References in this section to an officer or servant do not include references to a public auditor.".

Seanad amendment agreed to.

Seanad amendment No. 293:

Section 1436: In page 1031, between lines 26 and 27, to insert the following:

"Certain captive insurers and re-insurers: exemption from requirement to have audit committee

1436. Regulation 91(9) of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010) is amended by inserting after sub-paragraph (d) the following:

"(da) a captive insurance undertaking or captive re-insurance undertaking (in each case within the meaning of Article 13 of Directive 2009/138/EC) which satisfies the following conditions—

(i) it is not owned by a credit institution within the meaning of Article 1(1) of Directive 2000/12/EC or by a group of such institutions, and

(ii) it has not issued transferable securities admitted to trading on a regulated market within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC, or".".

Seanad amendment agreed to.

Seanad amendment No. 294:

Section 1436: In page 1031, between lines 26 and 27, to insert the following:

"Assurance company holding shares in its holding company

1437. In the case of—

(a) a designated activity company,

(b) a public limited company, or

(c) an unlimited company,

that is an assurance company within the meaning of section 62 of the Insurance Act 1989, neither *section 113* nor *section 114*, other than *subsection (2)(b)(i)*, shall apply to shares subscribed for, purchased or held by it in its holding company pursuant to that *section 62*.".

Seanad amendment agreed to.

Seanad amendment No. 295:

Section 1436: In page 1031, between lines 26 and 27, to insert the following:

"Realised profits of assurance companies

1438. (1) In the case of—

(a) a designated activity company,

(b) a public limited company, or

(c) a company limited by guarantee,

carrying on life assurance business, or industrial assurance business or both, any amount properly transferred to the profit and loss account of the company from a surplus in the fund or funds maintained by it in respect of that business and any deficit in that fund or those funds shall be respectively treated for the purposes of Chapter 7 of Part 3 as a realised profit and a realised loss, and, subject to the foregoing, any profit or loss arising on the fund or funds maintained by it in respect of that business shall be left out of account for those purposes.

(2) In *subsection (1)*—

(a) the reference to a surplus in any fund or funds of a company is a reference to an excess of the assets representing that fund or those funds over the liabilities of the company attributable to its life assurance or industrial assurance business, as shown by an actuarial investigation, and

(b) the reference to a deficit in any such fund or funds is a reference to the excess of those liabilities over those assets, as so shown.

(3) In this section—

"actuarial investigation" means an investigation to which section 5 of the Assurance Companies Act 1909 applies or provision in respect of which is made by regulations under section 3 of the European Communities Act 1972;

"life assurance business" and "industrial assurance business" have the same meaning they have as in section 3 of the Insurance Act 1936.".

Seanad amendment agreed to.

Seanad amendment No. 296:

Section 1436: In page 1031, between lines 26 and 27, to insert the following:

"Amendment of section 30 of Multi-Unit Developments Act 2011

1439. Section 30 of the Multi-Unit Developments Act 2011 is amended, in subsection (1), by inserting "or, as the case may be, the Companies Registration Office Gazette" after "*Iris Oifigiúil*".".

Seanad amendment agreed to.

..Seanad amendment No. 297:

Section 1436: In page 1031, between lines 26 and 27, to insert the following:

"Provision as to names of companies formed pursuant to statute

1440. (1) This section applies to a company that—

(a) had been incorporated under a former enactment relating to companies (within the meaning of *section 5*) pursuant to, or in compliance with a requirement of, any statute; and

(b) by virtue of that statute was not required to include the word "limited" or "teoranta" in its name (or, as the case may be, the words "public limited company" or "cuideachta phoiblí theoranta" in its name).

(2) A company to which this section applies, notwithstanding its continuance in existence by a particular Part of this Act, shall not be subject to the requirement in that Part that its name end with a particular set of words.

(3) A company to which this section applies, notwithstanding its re-registration pursuant to *Chapter 6* of *Part 2* as a designated activity company, shall not be subject to the requirement in *Part 16* that its name end with a particular set of words.".

Seanad amendment agreed to.

Seanad amendment No. 298:

New Section: In page 1031, after line 30, to insert the following:

"Provision in respect of certain discretion afforded by Commission Decision 2011/30/EU

1437. (1) In this section—

"2010 Audits Regulations" means the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010);

"third-country audit entity" has the same meaning as in Regulation 3 of the 2010 Audits Regulations;

"third-country auditor" has the same meaning as in Regulation 3 of the 2010 Audits Regulations.

(2) The Minister may by regulations provide that Chapter 3 of Part 8 of the 2010 Audits Regulations shall apply to third-country auditors and third-country audit entities that carry out audits of the annual or group accounts of a company falling within Regulation 113(2) of the 2010 Audits Regulations and incorporated in a country listed in Annex II to Commission Decision 2011/30/EU of 19 January 2011 (as amended by Commission Decision 2013/288/EU of 13 June 2013), including that Annex as it stands—

(a) amended from time to time, or

(b) replaced by another Annex (or an equivalent provision listing third countries for the purpose of the discretion of the kind afforded to Member States by

Article 2(4) of Commission Decision 2011/30/EU of 19 January 2011).".

Seanad amendment agreed to.

Seanad amendment No. 299:

Schedule 2: In page 1033, to delete lines 30 and 31 and substitute the following:

"P1033:L30 No. 46 of 2013

Companies (Miscellaneous Provisions) Act 2013 Sections 2 to 8 ".

Seanad amendment agreed to.

Seanad amendment No. 300:

Schedule 4: In page 1072, line 17, to delete "Subject to *paragraph 6*, *subparagraph (1)*" and substitute "*Subparagraph (1)*".

Seanad amendment agreed to.

Seanad amendment No. 301:

Schedule 4: In page 1072, line 18, to delete "paragraph" and substitute "subparagraph".

Seanad amendment agreed to.

Seanad amendment No. 302:

Schedule 4: In page 1076, line 19, after "holding" to insert "undertaking".

Seanad amendment agreed to.

Seanad amendment No. 303:

Schedule 5: In page 1078, to delete lines 20 and 21 and substitute the following:

"of the European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 (S.I. No. 475 of 2009).".

Seanad amendment agreed to.

Seanad amendment No. 304:

Schedule 5: In page 1078, to delete lines 37 to 39 and substitute the following:

"14. A company that has close links (within the meaning of the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014) with an authorised investment firm referred to in paragraph 1 or a company referred to in paragraph 5.".

Deputy Richard Bruton: The text on amendment No. 304 contains a small editing error. The "paragraph 1" and "paragraph 5" in its last line ought to be in italics to clarify that the paragraphs refer to schedule 5 and not to something in the statutory instrument.

Seanad amendment agreed to.

Seanad amendment No. 305:

Schedule 6: In page 1080, line 35, to delete "section 1395(6)" and substitute "section 1395(4)".

Seanad amendment agreed to.

Seanad amendment No. 306:

Schedule 6: In page 1085, line 3, after "Minister" to insert "may".

Seanad amendment agreed to.

Seanad amendment No. 307:

Schedule 6: In page 1085, line 4, after "to" to insert "the Minister to".

Seanad amendment agreed to.

Seanad amendment No. 308:

Schedule 6: In page 1085, between lines 17 and 18, to insert the following:

"*Application of paragraph 12 to companies whose dissolution is declared void*

13. Paragraph 12 shall, with any necessary modifications, apply to a company the dissolution of which is declared under section 708 to have been void as it applies to a company restored to the register under an enactment referred to in that paragraph (but subject to any order the court may make under section 708 in making such a declaration).".

Seanad amendment agreed to.

Seanad amendment No. 309:

Schedule 14: In page 1100, to delete line 19.

Seanad amendment agreed to.

Seanad amendment No. 310:

Schedule 14: In page 1102, between lines 13 and 14, to insert the following:

"

Seanad amendment agreed to.

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): This is a very large Bill. A lot of work has gone into it since long before I took office. I suspect it will endure long after many of us are dead and buried. There is no doubt a huge amount of work has gone into it from the company law review group, its chairman Tom Courtney, many of its members, people within the Department and voluntary groups who have contributed to putting it together. The intention is to make an Act that will be easier for businesses to use and that will maintain the highest standards of probity in respect of company legislation, make it easier for people to understand their obligations and provide effective remedy where they do not respect those obli-

gations. I sincerely thank the Deputies for their endurance and support for this Bill.

Deputy Dara Calleary: I endorse everything the Minister has said. There will probably be some comment on the fact that we moved through the amendments so quickly but that is due to the fact that we were given good access to the officials and to the expertise of the company law review group during the pre-legislative stage in committee. I thank all the members of the company law review group who have served since its inception. I thank all the Minister's predecessors going back to the former Tánaiste, Mary Harney, who initiated this legislation and the officials in the Department who have always been very helpful and willing to answer queries on it.

We should not leave such a gap in reviewing company legislation in future. Business and the manner of doing business is changing quickly, whether for the better is for another discussion. We cannot allow our company law to catch up with it. We need to be ahead of it. We raised during the course of the debate the protection of the term "accountant".

6 o'clock

The Minister gave a commitment to review the matter and to do some consultation around it. Perhaps the Leas-Cheann Comhairle will allow him to update the House on the current position in that regard. This is a very important issue. The term "accountant" is open to abuse. The accountancy profession is essential to the implementation of this Bill. As long as there is a lacuna around the protection of this term, we will not get the full value from this Bill. Gabhaim buíochas le gach duine sa Roinn a bhí páirteach sa Bhille seo. We did this before. I hope we do not see this Bill or any more amendments to it for some time.

Deputy Peadar Tóibín: Aontaím go huile is go hiomlán leis an méid a bhí le rá ag an mbeirt urlabhraithe faoin ábhar seo. Ba mhaith liom buíochas a ghabháil le gach éinne sa Roinn Post, Fiontar agus Nuálaíochta mar gheall ar an obair iontach atá déanta acu. Mar is eol do gach duine, is Bille iontach mór agus deacair atá idir lámha againn anseo. Ba mhaith liom buíochas a ghabháil freisin leis an Company Law Review Group. Tá an-chuid oibre déanta acu le blianta anuas. Tá súil agam go gcabhróidh an reachtaíocht seo le gach éinne a ghlacann páirt i gcúrsaí gnó na tíre seo. Tá a fhios agam go bhfuil go leor rudaí sa Bhille seo, agus go mbeadh sé deacair dá bhrí sin aon rud a dhéanamh leis. Nuair a bhíonn ar lucht an Fhreasúra an oiread seo leasuithe a phlé, bíonn sé deacair orainn gach rud - proper surveillance, srl. - a dhéanamh i gceart. Tá a fhios agam go raibh sé deacair orainn déileáil leis na leasuithe nuair a tháinig cúpla Bille eile os ár gcomhair le trí nó ceithre mhí anuas. Tá súil agam go mbeidh an Roinn in ann iad a dhéanamh níos éascaí, más féidir, as seo amach.

An Leas-Cheann Comhairle: Would the Minister like to read the rest of the speaking note about textual amendments into the record?

Deputy Richard Bruton: I read it all at the beginning.

An Leas-Cheann Comhairle: Very good.

Deputy Dara Calleary: I do not think the Minister got to finish it because we interrupted him.

Deputy Richard Bruton: I did. I read it all.

Deputy Dara Calleary: I thought he did not get to finish it.

An Leas-Cheann Comhairle: It is all on the record.

Deputy Richard Bruton: Yes. I read it in its entirety.

An Leas-Cheann Comhairle: That is fine.

Deputy Dara Calleary: We do not want it to take another 14 years.

An Leas-Cheann Comhairle: Obviously, what is on the record is on the record. We have to get agreement on it. Is there agreement on what the Minister read out? Agreed.

Deputy Richard Bruton: The review that was mentioned will be undertaken early next year. Most of the resources were being used on this legislation. That will be done. The issue of the use of the term "accountant" will be considered. I appreciate what Deputy Tóibín said about the difficulties associated with this Bill. The advantage of having the Company Law Review Group, which is a balanced group across all sectors and interests, is that it allows the short-circuiting of the consideration by giving us a good balanced opinion and taking account of all views on the changes we are making. I do not think anyone in the political world could be familiar with all the detail involved here. It has been made easier by the work of those groups.

Seanad amendments reported.

An Leas-Cheann Comhairle: A message will be sent to Seanad Éireann acquainting it accordingly.

Sitting suspended at 6.05 p.m. and resumed at 7.30 p.m.

Estimates for Public Services 2014: Messages from Select Sub-Committees

Acting Chairman (Deputy Frank Feighan): The Select Sub-Committee on Children and Youth Affairs has completed its consideration of the following Supplementary Estimate for Public Services for the year ending 31 December 2014 - Vote 40.

The Select Sub-Committee on Education and Skills has completed its consideration of the following Supplementary Estimate for Public Services for the year ending 31 December 2014 - Vote 26.

Palestine: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Gerry Adams on Tuesday, 9 December 2014:

That Dáil Éireann---

notes that:

— in 2011, the Irish Government upgraded the status, titles, and functional privileges of the Palestinian Mission to Ireland to close to that of an embassy;

— in November 2012, Ireland voted in favour of the United Nations General Assembly motion granting "non-member observer state" status to Palestine;

— the long-standing commitment Irish Governments have given to the development of a viable, sovereign Palestinian state, and their support for the achievement of a sovereign state of Palestine existing in peace with its neighbours including the State of Israel;

— as of 8 December 2014, 135 countries have formally recognised the state of Palestine, including eight EU member states - the Czech Republic, Hungary, Poland, Bulgaria, Romania, Malta, Cyprus and Sweden;

— Seanad Éireann, on 22 October 2014, unanimously accepted a motion calling on the Government "to formally recognise the state of Palestine and do everything it can at the international level to help secure a viable two-state solution to the Israeli-Palestinian conflict"; and

— on 30 October 2014, Sweden became the first EU member state to formally recognise the state of Palestine while a member state of the EU;

recognises that:

— finding a just and lasting peace between Israelis and Palestinians, and between Arabs and Israelis in a broader context, is a key element of Irish foreign policy;

— the right of Palestinians to self-determination and to have their own state as well as the right of the State of Israel to exist within secure borders are unquestionable; and

— continued Israeli settlement construction and extension activities in the West Bank, including in East Jerusalem, as well as the continued expropriation of Palestinian land and demolition of Palestinian property by Israel is illegal and severely threatens the establishment of a viable Palestinian state based on the 1967 borders;

concludes that:

— the international law criteria for recognition of a Palestinian state have been fulfilled; and

— the achievement of a fully independent sovereign state of Palestine is an essential element to the resolution of the Israel-Palestine conflict; and calls on the Government to:

— officially recognise the state of Palestine, on the basis of the 1967 borders with East Jerusalem as the capital, as established in UN resolutions, as a further positive contribution to securing a negotiated two-state solution to the Israeli-Palestinian conflict;

— do all it can to assist in the development of the democratic and state institutions of the Palestinian state; and

— do everything it can, at the international level, to help secure an inclusive and viable peace process, and two-state solution, in order to bring about the positive conditions to end the Israeli-Palestinian conflict.

Deputy Mick Wallace: I will start by quoting the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, who this summer stated while Israel was bombing the living day-

lights out of Gaza:

> The horror has not been confined to the Palestinian side only. Millions of Israelis have been forced to seek shelter on a daily basis from the indiscriminate firing of rockets into Israel. Some 55 Israelis, of whom the vast majority have been IDF personnel, and one Thai national have died.

As it turns out, only three Israelis were killed in Israel by the "toy rockets" that Hamas was firing in the other direction. Some 2,100 people were killed in Gaza, 500 of whom were children. We had little to say about it.

On a different occasion during the summer, the Minister stated:

> The blockade of Gaza must be ended. So too must the indiscriminate firing of rockets into Israel by Hamas and other militants, including Islamic Jihad and also the building of tunnels for the purpose of attacking Israelis. Hamas must renounce violence as a means of achieving its political objectives.

This is the fourth largest army in the world attacking the poorest nation on the planet.

The Minister, in his defence a couple of weeks ago when we argued for recognition of the Palestinian state, stated that it needed to be remembered that recognition of any state would not bring peace to the region. He was right, but he did not add that the reason Israel could carry out genocide to the extent that it does in Gaza was because the US let it do so and supported it without qualm.

People might forget but, in 1948, the Jews expelled, massacred, destroyed and raped in Palestine. As a result of that campaign, 500 Palestinian villages and 11 urban neighbourhoods were destroyed. Some 700,000 Palestinians were expelled and several thousand were massacred. It is called "genocide". Things have not changed much since. The US has unreservedly supported genocide in Gaza. Since we allow the US military to use Shannon as a military base to do whatever it feels like in the Middle East, to carry arms to the Middle East and to carry reinforcements to the Israelis, we are complicit.

The latest revelations concerning the CIA torture dossier - although the US Senate has only revealed 500 pages of a 6,000-page document, fair play to it for doing so - will hopefully bring our Government to the point of examining our role in what has transpired in the Middle East during the past 15 years. We need an inquiry into who authorised Shannon to be used as a US military base. It is nothing short of a disgrace. We have been so silent, it is frightening. That the new Minister was silent this summer and spent more time giving out about Hamas than he did about what the Israelis were doing to Palestinians in Gaza beggars belief.

I just met a man on the street who told me that he had heard people claiming there were only 30,000 people at today's protest. He added that he would like to see them try to get all of those protesters into Croke Park, which can hold 80,000, because they would not be able to. Some 250,000 attend the St. Patrick's Day parade. He told me that he had attended most of those parades but that today's protest was bigger.

The Government is on its last legs. The sooner it realises it, the better. The people have seen enough of it.

Deputy Clare Daly: There is a tragic irony in the fact that as we discuss this motion, we

have also been privy to the news that a Palestinian Cabinet Minister died today while involved in a protest against illegal Israeli settlements. It is a little sickening when we think about how glad we are in some ways to be able to welcome the recognition in our Parliament of a Palestinian state. We have to jolt ourselves back, as it is just a tiny step in the overall battle. Of course we welcome it but the fact that the Government is not opposing the motion in some ways shows how toothless the motion is. It is important but it is not enough. If we are serious about what is going on in the occupied territories, countries like Ireland have to be seen to be doing much more.

In the 1980s, Ireland was the first country in the EU to declare that the Palestinian people had the right to self-determination and to the establishment of an independent state in Palestine. It is a little late in the day to support this motion but I am glad that we do. Let us have a real discussion on what we need to do to force the Israelis into some form of decency. The reality is that we need a serious and sustained campaign of pressure and economic sanctions.

It is rich that the Government is not opposing this motion but is silent on the fact that our Defence Forces have engaged in military contracts with Elbit Systems Limited, which has been involved in illegal activities and breaches of international law. It is rich that we allow companies like Cement Roadstone Holdings and others to trade in the settlements. If we mean what we say by the gesture that is this motion we must do more and stand in solidarity with the Palestinian people and the decent Israelis who do not want to be a part of the genocide. We need to take further action.

Deputy Stephen S. Donnelly: I am pleased to speak in support of the motion, which will see Dáil Éireann officially recognise the state of Palestine. I am glad to see this recognition based on the 1967 border, as called for in numerous UN resolutions and by activists like the late Edward Said and the people of Palestine. A two-state solution has long been the goal of the Palestinian people. It was recognised as the most effective way forward since Palestine was a British territory but it is yet to be achieved.

Progress towards that end continues to be stymied, in part by acts of aggression. When we met the Palestinian ambassador recently, he told us that the greatest single barrier to progress is the continued encroachment of the illegal settlements. There has been conflict between Palestinians and Israelis for many decades, with untold thousands having lost their homes, their futures and their lives. The most recent conflict saw an estimated 2,200 people dead. More than 2,100 of them were Palestinians, of whom some 500 were children. The entire region has been repeatedly plunged into conflict and repeatedly destabilised.

I hope this motion will go some way towards maintaining international pressure for the 1967 border to be recognised, for the settlements programme to be discontinued, and for efforts towards lasting peace and reconciliation to begin in earnest between the peoples of Israel and Palestine. It is an historic motion which marks the Irish people's commitment, on Human Rights Day 2014, to the rights of all people. Ireland will be the 136th nation to recognise the state of Palestine and the ninth member of the European Union to do so. We the Irish nation and we the Irish Parliament are calling today for a long-term peace by way of recognition of the state of Palestine. We hope it will be one more small step towards a lasting peace and a future where all people in the region can live with dignity, without fear and with their human rights respected.

Deputy Paul Murphy: I welcome the prospect of Ireland joining a range of other countries

in recognising a Palestinian state. However, notwithstanding that recognition, the oppression of Palestinians will continue. Tomorrow people there will mourn the death of the Palestinian Minister, Ziad Abu Ein, whose death epitomises what Palestinian people face on a daily basis. The Minister was participating in a peaceful protest against an illegal settlement when the Israeli defence forces fired tear gas at the protestors. Mr. Abu Ein was choked by an Israeli soldier. His death is horrific and yet another illustration of the barbaric nature of the Israeli regime.

It is a regime that daily persecutes its Palestinian minority. It is a regime which is currently proposing a law to eliminate any national rights of Arabs within the state of Israel. It is a regime that has repeatedly speeded up the building of settlements to prevent the emergence of any viable Palestinian state. It is a regime that enforces the occupation of the West Bank through the types of checkpoints at which Mr. Abu Ein met his death today. It is a regime that routinely slaughters the people it holds in the open-air prison camp that is Gaza, an area in which residents live in conditions of extreme poverty and extreme difficulty. It is a regime committed to the oppression, discrimination and persecution of the Palestinian people and opposed to any viable Palestinian state. It is a regime that cannot be reasoned with or brought to justice through international pressure.

This regime must and can be overthrown by the Palestinian people through the development of a new intifada along the lines of the first intifada, involving mass protests at checkpoints, mass strikes and mass movement from below. It must include an appeal to Jewish workers, the Jewish poor and people across the wider region, some of whom, unfortunately, as in the case of the Egyptian regime, are currently acting as the second jailers of the people of Gaza.

Deputy Michelle Mulherin: I welcome the opportunity to contribute to this debate. In order to be a true arbiter, a person must have the trust of both parties to a dispute and be fair in considering both parties' views. When the arbiter is correctly focused on the bigger picture, he or she never loses sight of the objective of bringing the two parties to a point of agreement and does not entertain partisan interests. The arbiter must remain neutral. It is not fair, for example, to shackle one party while the other is free to attack.

In seeking recognition of a Palestinian state, Palestinians must accept the right of Israel to exist in peace and with security. However, the Hamas leadership which governs Gaza refuses to recognise Israel as a nation or her right to exist. Instead, it is committed to the destruction of Israel and opposes all steps taken to resolve the conflict by agreement. That is the thorn in the side when it comes to peace in the Middle East. While it is right that the Palestinians should have recognition of their own homeland, it is not necessarily the right time to give such recognition. For now, there is still work to be done in urging both sides to denounce violence and work together to achieve peace.

As a neutral state, Ireland should not give one-sided support to one faction in this conflict. Such an approach undermines trust in our ability to be peacemakers. Unfortunately, this motion does more to promote the Sinn Féin cause than it does to advance the resolution of the Israeli-Palestinian conflict. My preference would have been for a more nuanced response from the Government by way of a counter-motion.

Deputy Derek Nolan: I am proud to speak on this motion and to have signed my name in support of it. In 1947, the General Assembly of the United Nations called for a two-state solution in the region then known as the Palestinian Mandate, one Jewish and one Arab, with an international regime for the city of Jerusalem. In 1948 we saw the creation of Israel and

the outbreak of violence, followed by the establishment of the Green Line the following year. In 1967, following the Six-Day War, the occupation by Israel of the lands that are now known as the West Bank and Gaza took place. That occupation has lasted for almost 50 years, far in excess of any military justification for its observance in the first place.

The Oslo Accords of 1993 opened up the prospect of a two-state solution. As part of that process, there was an explicit recognition by the Palestinian side of the right to existence of Israel. In the past 20 years, however, the principles of international law upon which the Israeli occupation is supposed to be governed were routinely and systematically disregarded. In the occupied Palestinian territories today, half a million Israeli settlers are living in more than 250 settlements, all of them in contravention of the fourth Geneva Convention and all of them declared illegal by the International Court of Justice. The advisory opinion of that respected and independent court declared illegal the Israeli wall, which annexes 16% of the West Bank, not only because of the land grab itself but also because of its impact on the civilian population. That barrier separates people from their farmlands, sunders communities and has a major commercial and agricultural impact. The report of the UN Human Rights Council's fact-finding mission on the implications of the Israeli settlements for the social, economic and cultural rights of Palestinians outlines in horrific detail the plight of a people living in a two-tier society where their rights are inferior to those of the other group with whom they share the region.

When we discuss Israel and Palestine, our focus always should be on the international human rights and humanitarian law that ought to apply to the situation. The existence of one state should never be subservient to or at the whim of another state. That is an important principle which should be acknowledged. Palestinians have a right to reside in their homeland, as was indicated by the General Assembly of the United Nations in 1947. Ireland voted in favour at the General Assembly some years ago of giving Palestine state status. The motion before the House is not just symbolic; it is a powerful statement that this State acknowledges not only Israel's right to exist but also the right to existence of a Palestinian people within a Palestinian state.

Deputy Joanna Tuffy: The motion before us is not ideal. At its heart it recognises that negotiations will be needed to achieve the two-state solution it promotes. Having said that, there is much in the text of the motion that is fair and reflective of a middle ground. I am aware that Deputy Adams met with the leader of the Israeli Labor Party, Isaac Herzog, during his visit to Israel and Palestine last week. Mr. Herzog had as a central plank of his campaign last year to be elected leader that he would put the achievement of peace at the top of his party's agenda. I was very disappointed, however, by his stance on the Israeli violence in Gaza and the appalling deaths of civilians there. Nevertheless, I welcome Mr. Adams's willingness to meet with people from both sides, including Mr. Herzog. I understand the Deputy has also met with diplomats from the Israeli Embassy on this island. Deputy Adams has much experience to share with those on both sides. I was Chair of the Joint Committee on the Implementation of the Good Friday Agreement when it was addressed by Senator George Mitchell, who spoke briefly about the Israeli-Palestinian conflict. He stressed that each conflict is unique and requires its own local solution. However, Senator Mitchell also referred to how the Northern Ireland peace process is held up as a shining example throughout the world, including in the Middle East, and stated that on one visit to Stormont he met 12 Palestinian activists who were there to learn from MLAs and political leaders about the peace process experience in the North.

The conflict under discussion is complex in nature. It has a long history and there has been much suffering on both sides. The EU has played a role in this regard, both in terms of the Holocaust and its approach to the refugees from the latter. Ireland has a very poor record on this

matter. That is why I believe that the EU should act collectively and try to help both sides to move towards furthering the peace process. I very much agree with the approach of the Government, which was outlined last night, to engage in a reflective response following the passing of this motion. I agree that there must be an EU consensus. The European Union needs to draw both peoples closer to it. The EU must work with them to build capacity - the Minister of State, Deputy Ó Ríordáin, outlined some of the projects with which Ireland is involved in the area of Palestinian education - and act as an honest broker in the peace process.

I am very much opposed to campaigns to boycott Israel. Perhaps it is time for Sinn Féin to adopt the kind of nuanced approach outlined in the motion, reject calls for boycotts of Israel and work with both sides. Within these Houses and operating under the auspices of the Inter-Parliamentary Union, there are parliamentary friendship groups. These groups have relationships with many parliaments across the globe, including those in Israel and Palestine. I am a member of one such group in this Parliament and I have received huge flak for that as if the group in question is some kind of cabal of friends of Israel and involves a worldwide conspiracy. That is not true. The Inter-Parliamentary Union recommends that we have such groups in our Parliament and that we become involved in friendships with parliaments in countries in which there is conflict. We should build on the work being done in this regard. I would welcome any Sinn Féin involvement with the work in question.

Deputy Olivia Mitchell: I am very happy to support the motion because I am fully in favour of the sentiments behind it. For many years, Ireland has supported the creation of a sovereign Palestinian state not just because this would provide freedom and security to Palestinians, but also because we believe it is the best hope of such freedom and security for Israel and the entire Middle East. It is sometimes perplexing that Israel does not seem to recognise this fact. We appreciate that Israel is just a small enclave - the Israeli people very much believe this to be the case - in an Arab-dominated region. We also understand that the Israeli people feel beleaguered, particularly in view of their long history as victims of persecution. However, it is that history which should demonstrate to Israelis how a subjugated population whose members are denied their sovereignty, personal freedom, lands, homes and dignity will become increasingly radicalised and will for ever be a viper in the nest. This surely must be a greater threat to Israel than any two-state solution or any other solution or negotiated settlement at which it might be possible to arrive.

The long-held position of Israel, which was again communicated to us by that country's ambassador to Ireland who encouraged us to vote against the motion, is that any recognition of a Palestinian right to self-determination should be postponed until Palestinian leaders recognise the equal right to self-determination of the Jewish people. I would offer three responses in this regard, namely, unlike Palestinians, the Jewish people already enjoy the right to self-determination; the continuing and accelerating erosion of Palestinian land appears to be an attempt to ensure that self-determination for the Palestinian people will never be achieved; and the Palestinian leadership has, on many occasions, reiterated its commitment to and desire for a two-state solution based on the 1967 border and 22% of the area of historic Palestine. A two-state solution would be a *de facto* recognition that both states would be entitled to self-determination. Refusing to come to the table to negotiate because the equal right to self-determination of the Israelis has not been recognised is a dubious justification.

All of that has been known for many years. The situation in the region has, if anything, disimproved. There has been increasing radicalisation of Palestinian youths, ever greater harassment and unrest and encroachment on and occupation of the land that might have been used to

form a second state. I agree with the very definite shift in Ireland's policy on this matter. This shift was articulated by the Minister for Foreign Affairs and Trade some weeks ago when he came before the Joint Committee on Foreign Affairs and Trade and indicated that the basis of Ireland's new policy is - in conjunction with the EU, if possible - to consider how the prospect of Palestinian recognition can help leverage meaningful discussions with Israel. If the prospect of recognition does not achieve progress in terms of bringing Israel to the negotiating table, if human rights abuses and the settlement programme continue and if UN resolutions continue to be ignored, then we should move towards actual recognition. The use of economic sanctions and every other peaceful means at our disposal must be considered in this regard.

None of what I am saying is aimed at exonerating violence perpetrated by the Palestinian population. The truth is, however, that Palestinian people have been oppressed for so long and are now so without hope that the region is increasingly in danger of becoming fertile ground for total destabilisation. If this proves to be the case, there should be no doubt that the destabilisation will not be confined to the Middle East. I support the motion.

Deputy Robert Dowds: I support the motion. The political situation to which it relates is perhaps the most distressing and tragic in the entire world. There are other conflicts in which more people are being killed but, in fundamental terms, the Israeli-Palestinian conflict is more distressing than any of these. On one hand we have the Israeli-Jewish people who probably have a longer history of being discriminated against and appallingly treated than any other group. This has been their lot down through the ages. I once heard a member of the Jewish community list the intolerable difficulties the Jewish people have been obliged to endure since the time of Abraham. I have no doubt as to the truth of what I heard, particularly when I contemplate the horrors visited upon Jews during the Second World War. That was just the last in a long series of outrages perpetrated against them. The Jews were a people without a homeland. They then found a homeland in Israel but when they did so, they deprived the Palestinian people of theirs. This was a catastrophe for the Palestinians in the same way as what happened in the Second World War was a catastrophe for the Jewish people.

The problem which arises relates to how to resolve this terrible dispute. I absolutely abhor the violence being perpetrated by those on both sides in the conflict and I wish for a peaceful solution to be found. Not a day goes by without some further problem arising in the region. Today, for example, a Palestinian Cabinet Minister, Mr. Ziad Abu Ain, was killed when attending a protest relating to land confiscations, a matter which lies at the very heart of the problem. I take this opportunity to offer my condolences to the family of Ziad Abu Ain. The problem to which I refer is being exacerbated by the Israelis' creeping annexation of Palestinian territory and their increasingly discriminatory approach to Palestinians. We are all aware of the problems behaviour of this nature caused in our own country.

I am extremely frustrated by the situation which is the subject of this motion. For the long-term good of both the Palestinians and the Israelis, the EU must impose economic sanctions on the State of Israel. Such sanctions should not be lifted until such time as the authorities in Israel engage in meaningful dialogue with the Palestinians.

Deputy Alan Shatter: This State should not only do what it can at international level to help secure an inclusive and viable peace process, but it should also encourage the resumption of direct talks between the Israelis and the Palestinians because, ultimately, this is the only mechanism that can truly resolve the Israeli-Palestinian conflict and bring about a two-state solution.

8 o'clock

This requires that we bring to the Israeli-Palestinian conflict all that we have learned from the Irish peace process whilst recognising its greater complexity and different dynamic, the difficulties of the region and the competing interests, rivalry and antagonism not only of neighbouring states but also within the Muslim world generally. The fabric of the conflict is multi-layered and, too frequently, discussion of it both within and outside this House is selective and simplistic and either ignores or deliberately avoids addressing issues of complexity which present a barrier to conflict resolution.

It is regrettable that the Government refrained from tabling amendments to the motion to better reflect the more sophisticated and nuanced approach being taken to it in the context of conflict resolution as represented by the speeches delivered by our three Ministers of State yesterday evening, particularly that of the Minister of State, Deputy Dara Murphy. I presume this was done to avoid controversy. However, the avoidance of controversy, of itself, is not a credible policy approach to an issue of such sensitivity and importance. In international relations, words matter. The wording of the motion will be examined carefully by the Israeli and Palestinian sides. How we express ourselves is important also in preserving the integrity of the neutral engagement of our Defence Forces in UN missions in the Middle East.

If we in this State are to play a real role in assisting to secure a viable and inclusive peace process, we must understand the difficulties on both sides and not simply embrace the rhetoric of one. It is widely known and understood that the only viable solution to the Israeli-Palestinian conflict may involve some shared sovereignty of East Jerusalem and continued access by all monotheistic religions to their relevant holy sites. The motion, as proposed, presents East Jerusalem as the sole preserve of Palestinians, something with which no Israeli Government could agree. The motion also calls on the Irish Government simply to recognise the state of Palestine on the basis of the 1967 borders, with East Jerusalem as its capital, describing this as "a further positive contribution to securing a negotiated two-state solution". Anyone who understands the conflict and its complexities will realise a commitment to East Jerusalem as the capital of a Palestinian state alone excludes Ireland, from the Israeli perspective, as a possible contributor to securing a viable peace process. The motion is also unhelpful in portraying what it describes as "Israeli settlement construction" activities as the main obstacle to the establishment of a Palestinian state. This ignores the many more fundamental obstacles, including the continuing divisions between Hamas and Fatah epitomised by the collapse of the unity government.

What are the obstacles that are ignored in this motion? They include the fact that Hamas as a terrorist movement is still committed to the extermination of the Israeli state, as is Hezbollah, and that it acts as a proxy for Iran; that rockets fired from Gaza, which have resulted in three successive wars since Hamas took control of Gaza, have substantially undermined support within Israeli political parties and the public for any resolution that could render Israel vulnerable to missiles being fired from the West Bank; that President Abbas and Fatah are essentially insisting that a Palestinian state be *Judenfrei*; that, despite the time that has elapsed since the Oslo Accords and all the assistance that has been furnished to Palestinians, they have still failed to develop the essential democratic and state institutions required for a viable Palestinian state that respects the rule of law and protects fundamental human rights; that it is necessary to rebuild trust between politicians on all sides and for Palestinians to address and resolve their internal divisions and end self-created obstacles to a successful peace process; and the reality that any Palestinian leader who achieves a resolution with Israel that involves any compromised resolution will be a target for assassination, tragically, by some of his own people.

If this State is to make a real contribution to the resolution of the conflict, we must regard both sides in the conflict as our friends, emphasise that friendship, and not hesitate to discuss with each the realities of the other's concerns while avoiding propagandist rhetoric connected with the conflict. As we learnt in Northern Ireland, a resolution can be brought about only if each side recognises the need for compromise. Compromise can occur only where political leaders prepare their population for pragmatic and practical compromises that bring to an end conflict and distrust. It can also only occur where neither side incites, encourages or engages in acts that generate hatred of the other. There is a continuing pretence at international level that if the Israeli Government, together with President Abbas and the Palestinian Authority, could agree a resolution, the conflict would be over. Tragically, this is a fantasy and will remain a fantasy until the Palestinians resolve their internal divisions and until there is a single democratically elected government governing the West Bank and Gaza. It will also remain a fantasy until such time as Israelis are assured that, subsequent to a final agreement, Hamas could not end up in power not only in Gaza but also in the West Bank and the entire Israeli state and all of its citizens - Jews, Muslims, Christians and others - would not be vulnerable to Hamas missiles.

It is extraordinary that, as movers of the motion in this House, not a single member of Sinn Féin addressed the divisions between Fatah and Hamas, the obstacles that Hamas presents to a viable peace process and the extraordinary unacknowledged reality that, since 2006, President Abbas, whom I have met many times, as well as other Palestinian leaders, whom I have met on occasion, has been unable to enter Gaza for fear of his life. The focus should be on reigniting the peace process and the reopening of talks which involve direct engagement between Israel and Palestinians. It is regrettable that motions now coming before various parliaments in Europe have little to contribute to the achievement of that objective. I believe they are a distraction from the real internal issues and dilemmas that must be addressed by both Palestinian and Israeli political leaders if any real progress is to be made.

Deputy Joe Costello: I welcome the Palestinian and Moroccan ambassadors to the House. I congratulate Sinn Féin on tabling this motion calling for an end to the Israeli occupation of Palestine and recognising the state of Palestine. It is particularly interesting that a similar motion has already been passed in the Seanad unanimously. It would be quite unprecedented if in this House the motion were passed unanimously. That would create a precedent indicating the entire Oireachtas is in favour of a particular policy approach.

It is important to note that international recognition of the state of Palestine can copperfasten the two-state solution because it automatically implies international recognition of the State of Israel. That is quite important to certain countries throughout the world. The Israeli–Palestinian conflict is destructive, as we all know, and liable to erupt at any time. It destabilises the entire region but its resolution has the potential to bring stability, once and for all, to the Middle East.

The invasion of Gaza, the occupation of the West Bank, the encroachment on East Jerusalem and the establishment of illegal Israeli settlements are serious attacks on the integrity and viability of a Palestinian state. Therefore, it is imperative that the illegal Israeli occupation of Palestinian territories be ended immediately.

The freedom of the Palestinian people is being crushed by the occupation. Palestinians are denied basic rights and freedoms, such as the freedom of movement. Checkpoints restrict access to work in schools and the separation wall has annexed vast tracts of the West Bank, disconnecting families and preventing Palestinians from conducting their daily lives. This is par-

ticularly evident in East Jerusalem where the permit system adds further obstacles to mobility.

Another kind of freedom denied is freedom to live without harassment as Israeli settlers engage in violence against Palestinian people and their properties with impunity, and as Israeli police fail to investigate and charge the perpetrators. Another freedom denied is that of Palestinians to develop their homes on their lands, as a two-tier planning system allows Israeli settlements to develop and expand while Palestinian homes and essential infrastructure are being demolished daily. Other freedoms denied are the freedom to live peacefully as Bedouins in the Jordan Valley are evacuated from their homes at short notice for days on end; the freedom to walk and drive on the same streets as Israelis, which, incredibly, is not possible; the freedom of governors, mayors and the business community to develop the economic sustainability of their towns and villages since taxes are withheld and economic projects are denied permission, as in Jenin, Hebron and Bethlehem; and freedom of access to natural resources such as water as Israeli settlement consumption *per capita* far exceeds that of Palestinians.

These actions seem to be a part of a strategic plan by the Israelis to force Palestinians off their lands and remove their residency rights, particularly in the Jerusalem area. This policy, along with the Separation Wall, has resulted in the agreed boundary based on the 1967 borders being pushed back even further, effectively annexing large tracts of Palestinian lands, as referred to in the Oslo Accords in 1993.

When the countries of the world give their stamp of approval to the new state of Palestine, the moral authority of such broad agreement must not be disregarded. Already 135 countries have formally recognised the state of Palestine, and this motion is an important step towards Ireland's formal recognition of the state of Palestine also. The peace process should now begin in earnest. The EU has a major role to play. It can and should guarantee the security and integrity of the new state of Palestine. Already, the United States guarantees the security of the state of Israel. On these two pillars, a new peace process for a two-state solution can be built to put an end, once and for all, to the destructive Israeli—Palestinian conflict.

Deputy Pat Breen: I welcome the opportunity to speak on this important motion this evening.

I, as Chairman, and other members of the Joint Committee on Foreign Affairs and Trade have taken a keen interest in issues relating to the Middle East, in particular, the situation in Palestine and Israel, over the past three and a half years. For example, in September last, the committee met both ambassadors for four hours in public session and today we revisited the issue. It has been an important part of the committee's programme over the past three and a half years.

Ireland first asserted in 1980 that the solution to the conflict in the Middle East lay in the establishment of a Palestinian state. In accordance with that, Ireland voted in favour of Palestinian admission to UNESCO, and as a non-member observer state at the UN. Of course, the next logical step is for the recognition, by agreement of both sides, of a Palestinian state. Also, in 2011, Ireland upgraded the title of Palestinian General Delegation to Ireland to "Palestinian Mission", and the title head of mission from delegate general to "ambassador, head of mission". These may be small steps but they are important. They are a significant symbol of the recognition of Palestine.

As Chairman of the Joint Oireachtas Committee on Foreign Affairs and Trade, I have long recognised the importance of the need to continue dialogue at a political level. That has been

said by most speakers here tonight. It is only through the process of dialogue that we will achieve a lasting solution, based on fairness and equality and on a two-state solution. Only today, the committee met the Ecumenical Accompaniment Programme in Palestine and Israel, EAPPI, an NGO that works in the region monitoring and protecting human rights. All such organisations should be supported in order to move forward a peaceful solution.

In recent years, matters were clearly not helped by the effects of the Fatah-Hamas split. I would urge Hamas to recognise the state of Israel. That is imperative, if we are to move forward with talks. The agreement reached in June this year between the two sides, Hamas and Fatah, paved the way for long overdue presidential and legislative elections, following which a government will be forged in the usual way. I welcome this development as an important step forward in reaching an overall negotiated settlement.

I agree with the broad international consensus that the only way forward for both the Palestinians and Israel is the negotiation of a viable two-state solution, with the establishment of an independent Palestinian state in the West Bank and Gaza on the basis of the 1967 boundaries. The rejection of this proposal by sizeable parts of successive Israeli Administrations has led to the continuous expansion of Israeli settlements. This, in turn, has led to heightened tension and increased violence, which has resulted in a lasting settlement appearing to be further away than ever. It seems that the current Israeli Government, albeit that elections have been called for next March, cannot allow itself to make the concessions that are necessary for a lasting two-state solution. In order to make one step forward, any decrease in violence would be welcomed.

How many minutes have I, four or five?

Acting Chairman (Deputy Frank Feighan): Four minutes. Deputy Breen has run over.

Deputy Pat Breen: I thought I had five minutes.

Acting Chairman (Deputy Frank Feighan): The Deputy has run out of time.

Deputy Pat Breen: Before I finish, a lot of attention has been given to the decision by Sweden to officially recognise the state of Palestine. Also, in October, the Seanad agreed on this as well. While Dáil Éireann may support the motion here tonight, this will be a Government decision in the end. The Government has stated it will support the decision when the time is right. For this reason, I believe we should support this motion.

Deputy Pádraig Mac Lochlainn: I wish to share time with Deputies Ó Snodaigh, McLellan and McDonald.

I welcome that the Government is supporting this motion. Of course, in this House we recognise more than most the importance of recognition. The first gathering of the Dáil took place on 21 January 1919, just around the corner from here in the Mansion House, and the Teachta Dála who gathered there declared to the world the freedom of the Irish people and put their programme for Government to the Irish people and to the world. They asked for recognition of our State. Tragically, recognition was hard to find and we were bound into a war over the next number of years and the tragic consequences of all of that. We in Ireland are aware of the importance of recognition by other countries of one's right to statehood and to freedom and dignity. I am delighted that this motion will be passed, it appears, unanimously, here tonight in this House.

I recently had the chance to visit the Occupied Territories and Palestine. I was in Ramallah and I travelled from there, through the infamous Kalandia checkpoint, through what is called the Devil's Elbow - that long winding road that Palestinians must take to journey to Hebron, Bethlehem and other locations. Rather than the direct route, the Palestinians must take this long circuitous route. Along the way, I saw at first hand both Israel's wall of division - its Apartheid wall built around Jerusalem - and the settlements.

On the journey that day, I passed through areas A, B, and C. I visited Hebron and I saw how the Al-Ibrahimi mosque, the scene of the Hebron massacre 20 years ago, is now annexed for the use of Jewish worshippers in a section of it. I saw how their sacred mosque, the fourth most sacred place for those of the Muslim faith in the world, is surrounded by military installations. I saw at first hand the occupation of that city to protect just 400 Israeli settlers, and, of course, the settlers who are all around the city. I saw the infrastructure that Israel has constructed - the settler-only roads where, as we speak, they are destroying the two-state solution. Those roads that connect the settlements illegally under international law to the city of Jerusalem are settler-only roads - it is Apartheid.

I travelled on to Bethlehem, a city with considerable potential in terms of tourism and wealth creation for the Palestinians who live there. The Israelis advise tourists not to stay there stating they will bus tourists in to visit the Church of the Nativity where Christ was born and will bus them out again. The Palestinians who live there do not enjoy the benefits of the place where Christ was born for their community, and they want to. They embrace and celebrate it, but they are not able to enjoy the benefits.

Then I spent a full day in Jerusalem. I was horrified at what I saw at first hand. There is a situation where the Israelis have annexed east Jerusalem for a long number years. During that period they have built illegal settlements throughout the city and as one drives past those settlements, everything is spick and span. There is a tram connecting these illegal settlements to the rest of Jerusalem and Apartheid is again in place because one sees, on going into the Palestinian communities within Jerusalem, that those communities are not maintained. One can see litter. One can see the roads are not maintained. Even traffic lights do not work. That is the Israeli policy and practice because we, in the international community, have sat on our hands and expected the Oslo Accord to be implemented on its own.

In Jerusalem, I met Palestinian families who are being evicted from their homes and whose homes are to be demolished. In one case, I met a 96 year old woman who had just been beaten by settlers. Within that city, settlers terrorise the Palestinians, who are driven to despair. I then met a family where a lad was 14 or 15 years old. He had been arrested 16 times. He was nine years old when he was first arrested by Israeli forces. They are trying to drive the Palestinians within this area out of their homes. It is very difficult for a Palestinian to build a home in Jerusalem today.

All around me, be it in Ramallah, throughout the West Bank and even when we visited Jerusalem that day, at a whim the Israelis closed down the Kalandia checkpoint which meant that a Palestinian could not gain entry into Jerusalem. Merely for some derisory security reason on that given day, they closed down the whole place. We were fortunate because we held foreign passports. We could go a circuitous route and come into Jerusalem another way with our foreign passports, but it was not for the Palestinian people to go to and enjoy their city. Palestinians in east Jerusalem are not even citizens; they are residents. They are given residency by the Israelis who are occupying east Jerusalem in defiance of international law. It is shocking to see

it at first hand.

I was profoundly saddened on my way home. The two-state solution is dying as we speak. The Palestinian people no longer control 22% of historic Palestine, which they were so generously willing to accept; they control approximately 5%. If one takes the areas that are described as A, B and C and take away the Jordan Valley and east Jerusalem, all that is left is 5%, which does not amount to a state. The international community has allowed that to happen.

I have not even mentioned Gaza, which has again been destroyed by an onslaught. The Israelis have blockaded Gaza. There is no airport in the state of Palestine. One cannot fly there. That is why it is so vital that more and more countries across the world take the initiative, take an independent stance and, accordingly, recognise the state of Palestine.

I listened to the Government's argument. The motion commends the Government on some of the initiatives it has taken. I appreciate that it is important to build international alliances and to work in partnership to resolve issues, but the fact is that the international community has absolutely failed the Palestinian people. I cannot describe the level of despair I witnessed. I was in the West Bank. I did not get into Gaza. I did not see where the real and utter devastation is evident. I refer to the looks on the faces of people in the West Bank, east Jerusalem and everywhere else that we met them. Those beautiful people with their beautiful culture and sheer potential to build a nation and take their place among the nations of the Earth have been so failed by the international community.

We have worked to reach consensus with other European states but there is no consensus. Even when a report condemned the illegal settlements in the West Bank the trade partnerships still continued and we still purchase goods from the illegal settlements. We still give them the green light and allow the Israelis to have nuclear weapons and to deny that they have them. We still allow them not to sign up to the non-proliferation treaty yet we demand from Iran the highest possible standards where they might even be able to use nuclear energy for their own economy. At the same time Israel has all the weapons that we never demand to see or on which we expect accountability.

I passionately believe that the best interests of the Israeli people, who have a right to security, their own state and to peace, is in a two-state solution. If the Israelis give the Palestinian people their dignity and negotiate a proper state, not 5% but the 22% the Palestinian people are willing to accept, that is the surest way to achieve peace. I will be at the front line tabling motions in the House to defend the Israeli people if they come under attack having done the right thing. The purpose of the motion is to say that we as a sovereign, independent State wish to take our own position on the matter. We have the opportunity to do that tonight. I cannot describe how happy I am that we will do it, but the next step is for the Government to recognise the Palestinian state. I hope to see that happen soon.

Deputy Aengus Ó Snodaigh: Today is a great day for Ireland but it is also a great day for Palestine because the motion will not be opposed. While some people have been spinning to say the motion is not binding, I do not see how a Government could not support the motion and its effects into the future. It is a challenge for us as Opposition Members but it is also a challenge for the Government in particular to live up to what is contained in the motion.

On 21 January 1919 An Chéad Dáil met down the road in the Mansion House. Three main things happened on the day. There was a declaration of freedom, of independence. The

document was read out in Irish first, French second and English third. That was followed by a democratic programme which, again, was announced in the three languages. The final document, which is often forgotten about, is the message to the free nations of the world. The Irish State, as founded on that morning, called on all free nations in the world to recognise it. Three emissaries were appointed by the Dáil to attend the peace conference in Versailles to argue the case for Irish independence and for the new Irish nation state to be recognised. Those emissaries were Eamon de Valera, Arthur Griffith and George Plunkett.

What we are doing today is living up to a commitment that we sought of other nations on behalf of the Palestinian people who have asked for help for many years. They have asked us as a small nation - they have asked every other nation also - to recognise their state and to give them the same status we enjoy. Not having such status means they do not have a full seat at the UN. I hope that through our actions today they will be a lot closer to their goal. Not only that, but that they can give full effect to their independence. I hope that when their independence is under attack by Israel, as it has been for many decades, or when the Israelis bombard Gaza, as happened earlier this year, that we as a nation will stand up and declare a boycott of Israel, its goods, services and representatives. I hope we will demand that sanctions will be taken against Israel.

I also hope that the EU, a club of which we are a member, will not play games with Israel and that the old consensus is over, whereby one was told not to raise the issue in case the Germans, Czechs or others might get upset. The view that we had to take a consensus approach is gone once and for all. We should have been the nation within Europe that set the example for the rest of the European nations. It is a pity we were not. The Swedes and others have got there ahead of us. However, now we can set an example by reaching out to those states who have already recognised the Palestinian state in order to set the agenda in Europe and to recognise what has happened to the Palestinian people in the past while Europe and Ireland in the main sat back and did nothing.

It is a great day for organisations such as the Ireland Palestine Solidarity Campaign, IPSC, SADAKA - the Ireland Palestine Alliance, Gaza Action Ireland, Trócaire, the Irish Friends of Palestine and the likes of the Ecumenical Accompaniment Programme in Palestine and Israel, EAPPI, and friends of mine who were in Gaza, Jenny and Derek Graham, who have been fighting for Palestine to be put centre stage and for us as a small nation to recognise what they have gone through for years.

I would love to have much more time to regale the House with what I saw when I visited Gaza, Palestine and the West Bank but I will conclude by saying that I am one of the last people who got a stamp from Gaza free port. One cannot go into Gaza from the sea or from the air. That is a denial of the rights of the Palestinian nation. I hold that passport dear to me because it has a stamp in and out. I was one of the last people who broke the siege and managed to get in. The siege is illegal and must be lifted straight away. Part of the process is to recognise their nationhood and the state of Palestine.

Deputy Sandra McLellan: It is a welcome decision by the Government not to oppose or amend this motion. By creating unity on this issue in the Oireachtas, we will be sending a strong message of solidarity to the Palestinian people and an international message that Ireland will stand up for the right of self-determination. It is vital that the Government takes heed of this motion and the motion recently passed in the Seanad. The Government must now follow through on the substantive steps needed and ensure that it lives up to the commitments outlined

and agreed to.

I wish to use this opportunity to highlight some of the current issues relating to Palestinian children being held in detention by Israel. According to a report by the Euro-Mid Observer for Human Rights which was released this summer, from the beginning of 2010 to mid-2014, Israeli forces arrested nearly 3,000 Palestinian children, the majority aged between 12 and 15 years. That number continues to increase due in particular to continued Israeli crackdowns in the occupied East Jerusalem and the West Bank.

The report states that 75% of the detained children are subjected to physical torture and 25% faced military trials. The arbitrary arrests are in violation of the UN Convention on the Rights of the Child which Israel ratified in 1991. It is one clear example of how Israel continues to violate international and human rights law with its occupation of Palestine.

The arrests of children are largely carried out in the middle of the night without clear justification or an actual security need. Arrests are often carried out on youths protesting against Israeli armed forces who are protecting Jewish settlement areas that have been illegally appropriated from Palestinian families. The vast majority of arrests are for throwing stones which is considered an offence under section 212 of military order 1651. Children as young as 12 are taken into custody without warning. It is a practice that is completely contrary to the protection of children's rights and, indeed, human rights. It results in thousands of children under the age of 16 being taken into custody. This is unjustifiable. Although the maximum sentence for children of 12 to 13 years is six months, the penalty rises dramatically from the age of 14, when a child can face a maximum penalty of between ten and 20 years, depending on circumstances.

Another 22-page report conducted by UNICEF in March last year found that the ill-treatment of Palestinian minors held in Israeli military detention centres is widespread, systematic and institutionalised. It stated that most children confessed at the end of the interrogation, signing forms in Hebrew which they hardly understand. It also found that children had been held in solitary confinement for between two days and one month, before being taken to court or even following sentencing. During court hearings children were in leg chains and shackles and in most cases the principal evidence against the child is the child's own confession, in most cases extracted under duress during the interrogation.

A study conducted by Defence for Children International in the occupied Palestinian territories, showed that Palestinian children in Israeli prisons are being subjected to torture, sleep deprivation and being blindfolded. In contrast to their Israeli counterparts, Palestinian children do not have a right to be accompanied by their parents during questioning. According to Defence for Children International, in 96% of cases, children were interrogated alone and seldom informed of their rights, especially their rights against self-incrimination.

The Euro-Mid Observer for Human Rights also stated that at least 1,406 Palestinian children have been killed since 2000, including 263 children under the age of eight and 450 children under the age of 15. This was before the military onslaught on Gaza, which killed over 2,100 people. According to UN figures this included 519 children, 323 boys and 190 girls, 70% under the age of 12. This is the true face of Israel's occupation. We in Sinn Féin hope this motion improves the chances of a two-state solution and that Palestinian children can grow up in a safe and free Palestinian state.

Deputy Mary Lou McDonald: I wish to acknowledge the presence of the Palestinian am-

bassador. Cuirim fáilte romhat. I welcome the Government decision to support this motion. Yesterday the Opposition had occasion to catalogue the Government's faults and failings but the non-partisan position that has been adopted on this issue provides an instance of contrast. In this case, the Government appears to have listened at last to the will of the Irish people and furthermore, it seems prepared to do the right thing. That deserves acknowledgment as does the support of Independent Deputies and those of Fianna Fáil. If we can show unity on this issue, that represents real leadership. Even though some may say the motion is not binding in itself, the level of consensus, nevertheless, represents an historic move that sends a strong message of solidarity to the beleaguered Palestinian people in their time of great need.

Ireland remains in the minority of UN member states that does not yet recognise the state of Palestine. This motion would have Ireland join the global majority of 135 other countries which have already extended this recognition, including the eight EU member states which have done so. For Ireland to sit on the sidelines waiting for an EU common position to emerge is to shame ourselves as a nation. As a people we have our own experience of colonialism and foreign military occupation. Ireland, therefore, has a particular responsibility for human rights leadership on this issue. Let that start in earnest tonight.

I want to emphasise that the PLO and Palestinian National Assembly's 1988 declaration of the independence of the state of Palestine, based on the pre-1967 borders, was a statement of compromise by the Palestinian leadership, representing a claim to only 22% of the historical territory of Palestine. This most emphatically does not threaten the existence of the state of Israel; neither does it negate the Israeli people's right of self-determination. Rather, it intentionally creates the conditions for a viable two-state solution and peaceful coexistence based on equality. Like other Members, I have received correspondence from the Israeli Embassy urging me not to support this motion, to which I have proudly signed my name. But the Israeli Embassy has got it utterly wrong on the question of self-determination when it states in its letter that, "recognition of the Palestinian right to self-determination should be postponed." To be clear, one people cannot veto the self-determination rights of another people - temporarily or otherwise. It does not work that way. The right to self-determination is one of those small handful of norms in international law considered *jus cogens*, which means it is a peremptory norm, protected by the UN charter but also as a matter of customary international law. In other words, this fundamental human right cannot be conferred or deferred. Interference with the lawful exercise of this right is prohibited and enforcement of the right itself is lawful. In fact, it is the settled law of the UN charter, given expression in UN General Assembly Resolution 2625 on Friendly Relations Among States, that forcible deprivation of the right to self-determination of a people, including by way of foreign occupation or apartheid, activates the right of that people to obtain assistance from the international community in their resistance to same. As significant as our motion is, it is simply an expression of a fulfilment of our international obligations. It claims that "Ireland as a neutral country, would be intervening in a foreign conflict" by recognising Palestine. On the contrary, such recognition constitutes a peaceful fulfilment of our international obligation either to assist or certainly not to obstruct the Palestinian exercise of the right to self-determination, in a manner fully consistent with international human rights law, international humanitarian law and the UN Charter provisions on the use of force. Will the Minister bring these facts to the attention of the Israeli embassy and foreign ministry when he next has contact with them?

I also had correspondence from 900 prominent Israeli citizens who wholeheartedly endorse this motion and the recognition of Palestinian statehood. These 900 citizens, including former

Israeli ministers, diplomats and Nobel peace laureates, have stepped forward at great risk and deserve commendation. So do those other progressive Jews in Israel and the world over, from the Women in Black to Jews Against the Occupation to the military conscientious objectors or *sarvanim*, including Yesh Gvul and others, whose humanity and commitment to equality and human rights has sustained them in their defiance of the illegal occupation of Palestine and the racist ideology that seeks to appropriate for itself the claim to represent all Jewish people. This is not true, and no one should be fooled into believing this, but nor should we ever be drawn into anti-Semitic commentary. Let me be clear, opposition to Zionist ideology and the racist Zionist state is one thing, but there is no room for anti-Semitism in the campaign for Palestine. I acknowledge that the Jewish campaigners to whom I referred have a crucial contribution to make towards ending the occupation of the Palestinian territories and the ongoing illegal expansion of settlements contrary to international law.

I recognise and commend the Irish citizen at the head of the UN Human Rights Council's fact-finding mission on the 2014 Israeli bombardment of Gaza. Professor William Schabas, a naturalised citizen of Jewish descent who lost family in the Holocaust, is also a world-renowned scholar and former director of the Irish Centre for Human Rights at NUI Galway. He has come under sustained attack by Zionist campaigners for taking on this role ever since his appointment earlier this year. Like the organised vilification of Professor Richard Falk and Judge Richard Goldstone before him, this has included subjection to a despicable smear campaign intended to impugn his academic integrity and his character as a jurist. I state for the record that we are proud that an Irish citizen of his calibre has been selected to make this important contribution to holding to account those responsible for human rights violations and war crimes in this terrible phase of conflict. We trust that his findings and recommendations will even-handedly expose and criticise perpetrators in the conflict, without fear or favour. Professor Schabas deserves the support of the House.

Over the summer months in the course of the horrific bombardment of Gaza and the human suffering it tolled, many gruesome images of the suffering of the people of Gaza were seen by people in this country and beyond. A particular picture summed up the tragedy of the situation for me. This was of a young Palestinian girl, who I guess was no more than four or five, holding her doll and covering its eyes so it would not have to see the horror of what was around the child. In passing this motion we assert not in abstract terms but in real human terms the rights of this Palestinian girl and every other Palestinian citizen to their freedom, state, dignity and human rights.

Minister for Foreign Affairs and Trade (Deputy Charles Flanagan): I apologise to Deputy McDonald and the House because my phone malfunctioned during the course of the debate. I also regret not being here at the start of the debate yesterday and earlier this evening. I was away on international business and have only just returned.

I will begin by responding to events this morning. I deplore in the strongest possible terms the death earlier today of Palestinian leader Ziad Abu Ain following clashes in the West Bank. I have already personally conveyed my condolences to Palestinian ambassador head of mission, who is present here this evening, my deep concern and that of the Irish people. I will make it clear to the Israeli Government through the Irish ambassador to Israel, Eamonn McKee, who will contact the government at the highest level tomorrow. We know from our own experience that we must not base decisions on the latest incident. This is a point we constantly urge on Israelis and Palestinians. This tragedy does not bear directly on our consideration of the specific issue of recognition, but it underlines powerfully the importance and priority we attach to

ending the occupation of Palestinian land.

I only have time to comment briefly on the motion and the debate thus far. I will have to leave some of the wider issues raised on occupation for another occasion, but we will have this opportunity. I took a very careful note of the motion presented by the Deputies opposite, and recommended to the Government that we should neither oppose nor seek to amend it. The motion recognises our common goal of achieving a Palestinian state, which is something on which we can all agree and was outlined in the address of the Minister of State, Deputy Dara Murphy, yesterday. We have always supported a viable two-state solution and we will continue to support this in any manner and by every means.

Our priority goal is to work to begin or resume a process of real negotiations between the parties. Despite previous failures, and consequent deep frustration, our own experience tells us this is the only way the conflict can be resolved and a fully functioning Palestinian state on all of its territory established. We pursue this goal primarily though our engagement in the EU and the UN and also through our bilateral contacts. As Deputies know, I attended recently the Norway and Egypt-hosted Gaza reconstruction conference, and I am exploring dates to visit to Israel and Palestine early in the New Year, when I intend to speak to all sides.

Since taking office I have been active and vocal at EU level in particular, emphasising the need to combat actively destructive Israeli policies on the ground, especially with regard to settlements, which close off the prospects for peace. Ireland also directly supports NGOs working on these critical justice and human rights issues, and something to which I attach special importance is helping those Israelis and Palestinians who are themselves working to make a difference.

The Minister of State, Deputy Ó Ríordáin, set out how Ireland is also engaged in substantial humanitarian relief work and in capacity building in the Palestinian institutions. We are trying to meet the serious needs of the present and to build the future Palestinian state. The possible recognition of Palestine may be one element of this multi-stranded approach. It has been suggested that recognition now might help jump-start a stalemated process. This was the judgment made by Sweden and is the spirit of this motion.

As we have stated, achieving and recognising a Palestinian state has always been the objective of the Irish Government. Everything we do on the Middle East is directed towards this aim. While successive Governments have always seen recognition coming as part of an agreed peace, I have made it clear that I have absolutely no difficulty in principle with the idea of early recognition if I believe it can contribute to achieving a settlement of the conflict. The current stalemate is not acceptable to me, and I am open to any action that can move things forward positively. As Deputies know, at the last Foreign Affairs Council, prompted by Sweden's action and with my own support, the EU began a process of reflection among Ministers as to the implications and possibilities of recognition, and I believe this is an important, responsible and reasonable approach to take. I will ensure the House is kept fully informed. I thank everybody who contributed to this important debate. I will advance matters further at Government level following an in-depth political and policy analysis with a view to ensuring that our actions will make a positive contribution to the objectives clearly expressed in the motion.

Acting Chairman (Deputy Liam Twomey): The next speaker is Deputy Tóibín, who is sharing time with Deputies Ó Caoláin and Adams.

Deputy Peadar Tóibín: Ba mhaith liom cinneadh Lucht Oibre and Fine Gael gan rún Shinn Féin a shéanadh a moladh. Tá súil agam go dtiocfaidh aitheantas oifigiúil ar an Stáit Palaistíneach go sciobtha. Tá súil agam freisin go mbeidh an Rialtas níos sásta éisteacht le smaointe an freasúra as seo amach. Both Houses of the Oireachtas are united in this demand and the Government will not oppose it. There is now a real opportunity to build on Ireland's strong record of solidarity with the people of Palestine and after tonight we can much more ambitious for our role in their future.

Last night, the Minister of State stated that it has been the position in Europe, supported by the current and previous governments, that the recognition of the state of Palestine should be dependent on a comprehensive peace agreement, as a Palestinian state cannot exist without the ending of the Israeli occupation. This is a crucial point, and it sets out a fundamental flaw in the EU's position on the right of the people of Palestine to have their state recognised.

Israel will not end its occupation in the absence of sufficient international pressure to do so. As the Minister of State acknowledged last night, Israel's construction of illegal settlements is relentless. The people of Gaza are on their knees. Israel's aggression in Jerusalem and beyond has escalated. More recently, extreme Israeli nationalism has come to the fore in expressing itself in the most depressing manner as citizens openly dehumanise their Palestinian neighbours.

The Government needs to have more confidence in Ireland's ability to lead in Europe. It is deeply troubling that Ministers believe that by speaking up in Europe on matters of such importance we will marginalise or weaken our position in the EU. Last night, the Minister of State told us that we can only push the envelope if we are inside it. That analysis is nonsense, as nobody is pushing the envelope in an EU-wide context.

The international community has failed the Palestinian people for decades and the Government's failure to respond appropriately to Israel's latest barbaric assault on Gaza, a densely populated small tract of land blockaded from the rest of the world, has only helped to destabilise the region further. Waiting for someone else to lead is no longer an option. Ireland has a moral obligation to speak out. By leading on issues of human rights and against what is an apartheid regime we can tread where others must follow. Recognition of Palestine is the critical first step in ensuring that the state of Palestine is not only formally established but that it will be functioning in the future. People need to see and feel the change to believe in it.

How on earth can we the international community expect people living in an apartheid state for generations believe us when we say we will recognise their right to a state of their own, but only when Israel says so? This is not a coherent strategy on the part of the European Union. It is another failure of EU politics, a failure that we should no longer accept. It is now time to lead by example. We cannot stand idly by on these issues. We cannot outsource our moral responsibility to a paralysed EU. We cannot surrender what is left of our democratic independence. To do so would be to squander the goodwill and influence that has been built up by dozens of Irish generations. Independence is only real when it is exercised.

The Government must be confident in Ireland's commitment to human rights, to democracy and to peace. We cannot be afraid to stand up against oppression, against the violent military blockade of Gaza and against the apartheid regime that exists across Israel. Recognition of the Palestinian state is a strong signal of solidarity, of a peaceful future and a commitment to human rights. Tá súil agam anois go mbeidh gníomhaíochtaí ag teacht ón Rialtas mar gheall ar an gceist tábhachtach seo agus nach mbeimid ag fanacht go deo sa Teach seo le haghaidh

aitheantas an stáit Pailaistíneach.

Deputy Caoimhghín Ó Caoláin: A cheann chomhairle, fáiltím roimh an deis caint ar an ábhar iontach tábhachtach seo. Tá an-áthas orm go bhfuil an Rialtas tar eis glacadh leis an rún.

I welcome the Government's support for the motion. I also welcome last night's contribution by the Minister of State with responsibility for European Affairs, Deputy Dara Murphy, when he said: "It has been the objective of this Government since it took office to work to bring about the achievement... of a fully sovereign state of Palestine." However, such a supportive attitude towards Palestine was not apparent this summer when Ireland froze in the international spotlight. I and countless other Irish people were ashamed to hear that the Government decided to abstain on a UN Human Rights Council vote condemning war crimes during Israel's assault on Gaza during the summer months.

I recognise that there are two sides to this conflict so what are they? On one side is an immensely stronger occupier and coloniser that has meted out what amounts to collective punishment on the people of Palestine. On the other side are the oppressed and colonised, struggling for their freedom, human rights and dignity. Sadly, this motion aside, the Government has clearly divested itself of any remnant of independent thought by entering into what appears to be a slavish pact that does nothing to challenge Israel. The Irish people have a long history of supporting the Palestinian struggle to survive and have formed deep bonds with their people. We must again be to the fore. Thousands of Irish people protested over the onslaught against the population of Gaza all over this island during the months of July and August this year and they demanded action. The motion calls on the Government to join the international movement to universally recognise the state of Palestine and to improve the chance of a real and lasting peace.

Recent months have seen a change at an EU level. We have seen Sweden recognise Palestine, the first EU member state to do so as a member. The Government has tried previously to convince us that it is more prudent to push issues surrounding Palestine through the EU route. However, as we have seen time and again, this dilutes the message and panders to the Israeli Government, which has often acted as if it is above the laws that apply to every other state. We should work with our EU partners on international issues, but we should never fear or negate our responsibility to act as an independent State with our own independent foreign policy that has human rights at its core.

We also have the great wrong of the continued building of illegal settlements in the West Bank and East Jerusalem with more than 500,000 illegal Israeli settlers in the occupied Palestinian territories. This must stop. The walls must also be broken down, metaphorically and physically. That a wall, much higher than even the Berlin Wall, remains in the West Bank should serve as a stark reminder that, even though Palestine might not be covered on the main news bulletins at the moment, segregation and discrimination continue unfettered.

I am sure that Ireland recognising the Palestinian state will help to move peace talks forward. I note that the Seanad motion on 22 October was unanimously accepted. It called "on the Government to formally recognise the State of Palestine and do everything it can at the international level to help secure a viable two-state solution to the Israeli-Palestinian conflict". This House must follow suit and add Ireland to the list of countries that are progressive and supportive of those who are currently being discriminated against and denied their fundamental human rights, yet keep their eyes firmly on peace.

In my role as health spokesperson, I must look to the urgent work that is needed to help rehabilitate the health system in Gaza following the summer onslaught. The conflict saw the damage or destruction of over half of the hospitals and health centres that existed. Of course, these were poorly equipped to begin with due to the unjust blockade imposed on Gaza. Far from ensuring that Gaza no longer poses a threat to Israel, this blockade condemns countless innocents to abject poverty and highly curtailed rights, and is likely to fuel a backlash. The blockade must be lifted. It is a great shame that we must again call for such basic rights to be respected.

9 o'clock

The conflict also saw 11,000 people injured, which put great pressure on their ailing services which often are unable to provide essential medicines such as painkillers or even latex gloves. Even basics such as water and fuel were in short supply.

That the president of my party, Deputy Gerry Adams, was unable to enter Gaza last week shows how Israel thinks it alone is allowed to dictate the present and future of the Palestinian people. This motion is in many ways a first step, a step to ensuring that the Palestinian people get to decide their own future.

I thank all those who have contacted me regarding this motion, and many have done so. I wholeheartedly support it and ask the Government to ensure it is acted upon with urgency.

Deputy Gerry Adams: Tá go leor dul chun cinn bainte amach do mhuintir na Pailistíne anseo sa Dáil le dhá lá anuas. Tá a fhios agam go raibh an tAire Gnóthaí Eachtracha agus Trádála, an Teachta Ó Flannagáin, thar sáile agus táim sásta go bhfuil sé anseo anocht. Táim buíoch do na Teachtaí a ghlac páirt agus go háirithe don Aire Stáit ag an Roinn Gnóthaí Eachtracha agus Trádála, an Teachta Dara Ó Murchú, mar bhí sé anseo linn i rith na díospóireachta. Tá an díospóireacht seo an-tábhachtach mar seasann muintir na hÉireann go láidir le muintir na Palaistíne.

I welcome the Palestinian ambassador, Ahmad Abdelrazek, and the Moroccan ambassador here this evening. As we come to the end of this debate, I particularly welcome the decision of the Government not to oppose the motion. When we finish this debate, both Houses of the Oireachtas - I recognise an Seanadóir Averil De Paor a rinne páirt maith sa Seanad leis an obair seo - will support the right of the Palestinian people to self-determination, recognise a Palestinian state, and endorse the right of the Palestinian people to independence and sovereignty. This is a substantive and positive development which means that we are standing with progressive opinion, including in Israel, which wants a lasting peace arrangement and supports the recognition of a Palestinian state.

In the debate, Ministers and Deputies spoke frequently of standing up for the rights of the oppressed, but always in the context of EU policy. My colleagues and I have consistently argued, however, that this State needs to have its own foreign policy positions based on human rights and international law. This should always be the case. In the course of this debate, others have said that this motion is a symbolic act. Fair enough, but let the Government move beyond symbolism, as the Minister, Deputy Charles Flanagan, has promised. The passing of this motion, in conjunction with similar motions in parliaments across the European Union, is an important act of solidarity with the people of Palestine. It is also an important act of solidarity with the people of Israel.

The dangers and tensions were underlined today with the sad news of the death, during a protest on the occupied West Bank, of Ziad Abu Ein, a cabinet minister in the Palestinian government. Ba mhaith liom mo chomhbhrón a thabhairt do chlann Abu Ein. I dedicate this Dáil motion to the deceased minister and his family. I also extend our sympathies and solidarity to Ambassador Abdelrazek and ask him to pass these on to President Abbas and the Palestinian Authority. Abu Ein died during a non-violent demonstration to mark international human rights day. He and others were planting olive trees, symbols of peace, on land owned by a Palestinian but which, because of a nearby illegal Israeli settlement, is mostly off limits to Palestinians.

I and others explained during the debate the extent of the control the Israeli Government exerts through its policies and military, as well as suppressing the daily lives of Palestinians. The separation wall, the sterile roads that Palestinians are banned from, the systematic ill-treatment of Palestinians and the denial of peaceful protest are all symptomatic of an Israeli apartheid system that brings shame to that state. It also brings shame to the international community which has failed to defend international law and has failed the people of Palestine and Israel.

This is exactly the right time for this motion. It is also the right time for the Irish Government to stand with Palestinian and Israeli citizens who are taking risks every day for peace. Now is the time for the Government to take up a leadership role in encouraging greater action by the international community to uphold international law. It is the right time to build on this debate and motion. I call on the Government to act with all speed to upgrade the Palestinian mission to an embassy, as well as pushing for greater action by our colleagues in the international community. I commend the Oireachtas for agreeing to this historic recognition of the rights of the people of Palestine. Long live the people of Palestine. Beirigí bua, a Phalaistínigh.

Question put and agreed to.

The Dáil adjourned at 9.05 p.m. until 9.30 a.m. on Thursday, 11 December 2014.