



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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# DÁIL ÉIREANN

*Déardaoin, 5 Márta 2015*

*Thursday, 5 March 2015*

Chuaigh an Ceann Comhairle i gceannas ar 9.30 a.m.

*Paidir.  
Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### One-Parent Family Payments

1. **Deputy Willie O'Dea** asked the Tánaiste and Minister for Social Protection her plans to postpone the proposed changes to lone parent payments; and if she will make a statement on the matter. [9402/15]

**Deputy Willie O'Dea:** I have tabled this question to ascertain whether the Minister intends to proceed with the change to the lone parent's allowance conditions which is scheduled to take effect from July.

**Tánaiste and Minister for Social Protection (Deputy Joan Burton):** Last Tuesday I announced in my Second Stage address on the Social Welfare Bill that I was proposing to amend the July arrangements for lone parents to ensure lone parents with a youngest child between the ages of 7 and 16 years who were providing full-time care for another person would be able to retain entitlement, or apply for entitlement, to the one-parent family payment and the half rate carer's allowance. These arrangements are identical to the current provisions where a one-parent family payment recipient is providing full-time care for a child in respect of whom a domiciliary care allowance is in payment. I am proposing no further changes to the July measures.

Notwithstanding the strong welfare supports given to lone parents during the years, the results have been disappointing in poverty alleviation terms, with some lone parents remaining on the payment for up to 18 years or even longer if they have a number of children. We know that it is important to provide lone parents with educational training and employment supports to enable those parenting on their own to reach their full potential. This means that as their

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children get older, we should focus on developing their skills to help them to secure employment or set up a business.

Since the one-parent family payment reforms began, approximately 11,000 people have transitioned to alternative income support payments. In the past two years we have seen an increase in the number of applications for family income supplement from lone parents moving to employment. This is evidence of the positive impact of the reforms. Other customers who transition from the one-parent family payment to a jobseeker's allowance payment gain access to education, training and employment programmes, including the new back to work family dividend which is worth €30 per child per week, to assist them to move into sustainable employment. This involves engaging with one of the Department's case officers who will assist lone parents to produce a personal development plan and work with them to progress it. This is a significant step as it is the first time that this group of customers will have access to an active engagement with the Department's case officers.

**Deputy Willie O'Dea:** The Minister said earlier this week that she had spoken to a number of lone parents about these changes, but I have been in direct and indirect communication with several hundred lone parents and not one of them has spoken in favour of the reforms or changes she is proposing. I have one simple question for the Minister. In this House on 18 April 2012 she promised single parent families that she would not trigger the change to be introduced in July until such time as the country had a Scandinavian-type system of child care. As she knows as well as I do that there is no Scandinavian-style child care system in place in this country, is she intending to renege on her commitment to single parents and, if so, why?

**Deputy Joan Burton:** We have introduced - this is ongoing - together with the Department of Children and Youth Affairs, an after school child care service to assist lone parents taking up employment, generally on a part-time basis. This helps those who are employed, as well as those moving from the one-parent family payment to another. The service is available to children of primary school age and offers parents subsidised after school child care for 52 weeks, at a cost of €15 per week per child. This is in addition to other supports available.

I wish to speak specifically about lone parents who are in a period of change. I know what the Deputy's argument is. He wants to see lone parents staying on social welfare payments for 18 years or more-----

**Deputy Willie O'Dea:** I do not. I asked a specific question. Is the Minister going to break her promise - yes or no?

**Deputy Joan Burton:** I have looked at what has happened in other countries. Once a child reaches seven years of age - normally such a child would be in first class in primary school - we will create a transitional arrangement. The money involved for lone parents, many of whom are full-time, stay at home parents, does not change, but they are given an opportunity to become involved in education and training and, ultimately, find employment.

**Deputy Willie O'Dea:** It is working lone parents whom the Minister is hurting most, the very ones she says she wants to incentivise. Is she telling the House that the child care provisions to which she has referred constitute a Scandinavian-type child care system? If not, she is breaking the promise she made to the House on 18 April 2012.

Last evening the Minister of State at the Department of Social Protection told the House that discussions were ongoing between his Department and the Department of Education and Skills

on lone parents who had accessed or wanted to access the education system and that these discussions might result in some changes to the proposals which had been made. I ask the Minister to confirm that this is the case because there are many very worried people, not just those who want to access the education system but also lone parents already in the system who are worried that the proposed changes will force them to withdraw from the education system.

**Deputy Joan Burton:** First, we are building a child care system. We are expanding and investing in it. The after-school child care service is an important addition. As the Deputy is probably aware, discussions are ongoing to determine if, as happens in many schools, school buildings can be used later in the afternoon as a location for after-school services. Some schools already run such services which are popular with parents. There are other schools, however, which do not permit them. If we can make progress in this area, it would lead to a significant expansion above and beyond the after-school child care service to which I referred. I can confirm that discussions with the Department of Education and Skills and Student Universal Support Ireland on grant applications and qualifications are ongoing.

### **One-Parent Family Payments**

2. **Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection if her attention has been drawn to the fact that one of the consequences of her plans to lower the cut-off age for the one-parent family payment is that lone parents in full-time education will lose the maintenance portion of their Student Universal Support Ireland grant once their youngest child turns seven years old; if she has discussed this with the Department of Education and Skills; if she will suspend the planned lowering of the cut-off age for the payment in July 2015 until this issue is addressed and a system of affordable, accessible child care, something she had promised would be in place in advance of the cuts to the payment is in place. [9400/15]

**Deputy Aengus Ó Snodaigh:** This question relates to the lone parents who will be affected by the changes on 2 July. They will no longer be able to receive the maintenance portion of the SUSI grant. Has the Tánaiste held discussions on the matter and, if so, will she enlighten the Dáil about them?

**Deputy Joan Burton:** As the one-parent family payment reforms have been rolled out, I have introduced some significant changes to assist people, mainly women, through the transition. First, the introduction of the jobseeker's allowance transitional arrangement gives lone parents with young children the flexibility to work part time or engage in full-time education. Second, access to subsidised child care is available through the after-school child care scheme and the community employment child care programme. We would prefer if it were more extensive, but it is significant and developing. As I announced on Tuesday, lone parents can retain entitlement to the one-parent family payment and receive the half-rate carer's allowance until their youngest child reaches 16 years of age. These are significant supports.

Unlike other jobseekers, persons in receipt of the transitional jobseeker's allowance can also avail of full-time education. As such, these customers can receive the maintenance portion of the SUSI grant. There has been this flexibility since the introduction of the jobseeker's allowance transitional arrangements in June 2013. Lone parent payment recipients participating in training or education programmes can move to the back to education allowance scheme when their entitlement to the lone parent payment ceases. However, I realise this can result in a financial loss if these customers are in receipt of a SUSI grant.

The eligibility rules governing the payment of the student maintenance grant are a matter for the Department of Education and Skills, as the Deputy will appreciate. However, I am mindful that the principal aim of the lone parent scheme reforms is to support customers who are in education. For that reason, as I said to Deputy Willie O'Dea, I have asked my officials to meet officials from the Department of Education and Skills to discuss the matter. I expect the discussions to conclude shortly.

**Deputy Aengus Ó Snodaigh:** I am unsure when the Tánaiste asked the officials to meet. It has been acknowledged for several months that this is potentially one of the effects of the Tánaiste's plan to change the one-parent family payments in July. Obviously, the qualification criteria for SUSI were drawn up with the current one-parent family payments in view. Will the Tánaiste confirm that the changes required will be brought forward before the conclusion of the debate on the Social Welfare (Miscellaneous Provisions) Bill, as appropriate? If that is not possible, will she ensure a decision on the matter will be taken as quickly as possible prior to 2 July? Lone parents are making plans for their future and may lose the payment. Whether they are already in college or planning to go, they need to work out whether they will be able to afford to do so.

**Deputy Joan Burton:** As the Deputy is probably aware, in budget 2010 the previous Government amended the eligibility criteria for receipt of the student maintenance grant for individuals in receipt of either the back to education allowance or the vocational training opportunities scheme allowances. As a result of that amendment, individuals who were in receipt of the back to education allowance for all schemes or the VTOS allowances for a post-leaving certificate course, for example, became ineligible for receipt of the student maintenance grant. However, the student service charge, as well as any fee payable to third level colleges, have continued to be met by the Exchequer on their behalf. This change has applied to all new student grant holders from the 2010-11 academic year onwards.

Discussions are under way between my officials and those of the Department of Education and Skills and SUSI. Obviously, the details of student grants and maintenance support payments and so on are a matter for SUSI. We are in discussions with the authority and will come back in due course when we have concluded them. My absolute desire is to see as many lone parents as possible availing of an education. The grant supports, together with the lone parent payments, are important and represent significant financial support for lone parents, in particular, the many lone parents who are really successful when they return to education and attain qualifications.

**Deputy Aengus Ó Snodaigh:** Everyone acknowledges that those who are parenting alone would love to return to work or education, if at all possible. In this case, however, there is urgency. The decision was taken in budget 2013. Why has it taken so long for the officials of the Tánaiste's Department to respond? The Department is the reason these parents are now unable to access a maintenance grant on which they had been able to rely in continuing or starting in education and planning for their future.

**Deputy Joan Burton:** A total of 11,000 people have made a successful transition in recent years. Yesterday we discussed the numbers availing of family income supplement, which provides a major boost for the incomes of those working either 19 hours or on a relatively low rate of payment. We are introducing the back to work family dividend. Furthermore, we have undertaken with the Department of Children and Youth Affairs to introduce the after-school care payment, especially for persons who have been unemployed, including lone parents. We

have, therefore, taken several initiatives. We examine all potential and possible initiatives that could further assist lone parents, in particular. All the statistics show that if people are parenting on their own over an 18 year period, their chances and those of their children of being at risk of poverty are significantly greater than those who are in work. The best way to reduce their chances of being at risk of poverty is for them to find full-time or part-time employment.

### **Poverty Impact Assessment**

**3. Deputy Ruth Coppinger** asked the Tánaiste and Minister for Social Protection if her Department has carried out an analysis of the impact cuts in welfare payments have had on women; and if she will make a statement on the matter. [9550/15]

**Deputy Ruth Coppinger:** Will the Tánaiste and Minister for Social Protection indicate whether her Department has undertaken a gender analysis of the impact of the cuts in social welfare payments that have taken place in recent years? Has there been any study of the impact in particular on women, because it would seem that the axe is falling disproportionately on women, who tend to have responsibility for children?

**Deputy Joan Burton:** The Department of Social Protection recently published a social impact assessment of the main tax and social welfare measures for 2015, based on the ESRI tax-welfare model, SWITCH. The analysis found there is no difference in the risk-of-poverty rate for men and women as a result of the last budget.

The ESRI, on foot of a commission from the Equality Authority, has examined the impact of policy changes on men and women over the period 2009 to 2013. The findings were published last October in a report called the Gender Impact of Tax and Benefit Changes. The report analyses the effects on disposable income due to changes to public sector pay, tax, PRSI and welfare payments.

The average loss for all households over this period was 9.6% of disposable income. Less than a fifth of the reduction in disposable income can be attributed to welfare changes, while three fifths of the reduction in disposable income can be attributed to taxation or PRSI changes and obviously the introduction of the USC. The remainder of the reduction in disposable income was caused by reductions in public sector pay. The report found that retired single people experienced a loss of 4.5% in disposable income over the period. However, social welfare changes over the period resulted in a slight increase in disposable income of 0.1%, with the same impact for men and women.

Single people without children experienced an average loss in disposable income of 9.5%. Welfare changes resulted in a 1.4% loss in disposable income for women, which was slightly lower than the 1.6% loss for men. Female lone parents experienced an overall loss of 9.1% of which welfare changes accounted for 4.4%. Households headed by couples experienced, on average, an 11.9% reduction in disposable income. Separate research conducted on behalf of the Department by Dorothy Watson of the ESRI suggests that in Ireland, income is shared fully across couple households, meaning that any loss of income and hence change in living standards is likely to be equally shared across the household. As the adults in that household would consist significantly of a man and a woman, the effects are shared equally.

**Deputy Ruth Coppinger:** This would be laughable if it was not so serious. I will outline

a list of the cuts the Tánaiste has introduced that would primarily fall on women. The cuts to child benefit mainly hit women. It has been cut by €10 to €130 for the first and second child and by €18 for the third child and subsequent children so a large family will be hit even more. The back-to-school clothing and footwear allowance has been cut. There have been rent allowance cuts and we know it is primarily single women who are facing homelessness. The fuel allowance has been cut from 32 to 27 weeks. Maternity pay has been cut.

Single-parent organisations and all in this House have told the Tánaiste that one-parent family cuts are hitting women. Some 90% of lone parents are women and 34% of births are to single mothers. Therefore a huge impact falls on women from these cuts which the Tánaiste has started and which she is talking about continuing. One-parent families headed by women are twice as likely to be in poverty. How can the Tánaiste possibly argue that these cuts will not further increase the feminisation of poverty, which has accelerated under this Government?

I ask the Tánaiste to keep her remarks to the social welfare cuts about which I asked rather than talking about the impact of the recent budget on couples.

**Deputy Joan Burton:** The Deputy's question asked whether an analysis had been done and I have told her it is available. She can access it in the Oireachtas Library.

**Deputy Ruth Coppinger:** I asked about social welfare cuts.

**Deputy Joan Burton:** The ESRI has carried out an analysis of what has happened. If the Deputy thinks about this she might appreciate what I am saying. One of the most significant cohorts of women who get income support from social welfare are women who are on the State retirement pension, either contributory or non-contributory. Some 34% of all spending on social welfare goes to people who have retired and are on the State retirement contributory or non-contributory pensions, and widow's and widower's pensions.

The actuarial review of the Social Insurance Fund, which was last done in 2012, showed that the fund provides much better value to female rather than to male contributors. The at-risk-of-poverty rate of the very significant group of women who are retirees and on State pension is below 2%. The reduction of their at-risk-of-poverty rate, as with lone parents, because of social welfare transfers is among the highest in the European Union, at 60%.

The social welfare system, whether at pension age for people who have retired or for people of working age such as lone parents, is a huge protector against poverty because of the transfers made from people at work to people who are on social welfare.

**Deputy Ruth Coppinger:** I do not know if the Tánaiste has read the report, Women, Austerity and Inequality, by Ursula Barry and Pauline Conroy, commissioned by the National Women's Council of Ireland and TASC. I do not know what figures the Tánaiste is plucking out of the air but I will outline for her a few conclusions from this report. It concluded that equality was cast aside as a marginal issue in the big picture of crisis, and that lone parents, the low paid and poor were special targets for raising cash to recapitalise the banks. I do not have time to expand on this in the 30 seconds I have left, but the Tánaiste might read the report.

People know what is in their pockets. The Tánaiste broke two promises that the Labour Party made in the last general election campaign. It has imposed child benefit cuts. It promised that it would not introduce the one-parent family cut for seven-year olds unless there was a Scandinavian-style child care. The Tánaiste said that last July, but is going ahead regardless.

She spoke earlier about after-school clubs. They cost money and whatever scheme the Government has set up, the clubs are available in only a very few schools. The idea that women can just leave their seven-year old children to become “latchkey kids”, as it is termed, to bail out the banks is disgraceful. Those children already have only one parent in the home with them and Deputy Tuffy thinks that children can mind themselves from 1.30 p.m. until 6 p.m. The Labour Party has stooped to an incredible low in its attack on women.

**Deputy Joan Burton:** The Deputy clearly has a difficulty in accepting the work that has been done by the ESRI or the actuarial review of the Social Insurance Fund, which shows that women get the best value. The Deputy’s question asked about an analysis regarding social welfare. I am telling her what the reports are showing. She needs to study them. They are not my reports, they are independent reports.

I take issue with the Deputy on this point. In January I was very happy on behalf of the Labour Party and on behalf of Fine Gael in this Government to be able to increase child benefit by €5 a month per child. I do not know if she has taken that into account in her calculations.

**Deputy Ruth Coppinger:** The Tánaiste took away €10 the previous year.

**Deputy Joan Burton:** That is why the budget analysis that the Department commissioned shows that this budget has benefited families with children, including lone parents, because as the Deputy knows, child benefit is a universal payment that is generally paid to the mother. It is paid to people regardless of whether they are in work or out of work. I would have thought the Deputy would have welcomed the improvement in child benefit. As the economy progresses and as people go back to work, we hope to repeat the measure in this year’s budget for next year.

*10 o’clock*

## **Child Poverty**

4. **Deputy Willie O’Dea** asked the Tánaiste and Minister for Social Protection her views that the F grade for the Government in the area of child poverty in the 2015 report card of the Children’s Rights Alliance is a fair assessment; and if she will make a statement on the matter. [9403/15]

**Deputy Willie O’Dea:** I put down the question to ascertain what progress, if any, the Government has made on its stated commitment to reduce child poverty.

**Deputy Joan Burton:** I have read with interest the Children’s Rights Alliance report card for 2015 and its recommendations for Government action to tackle child poverty. In my view, the role of social transfers, which I referred to earlier, is not given enough weight in the report. The at-risk-of-poverty rate for children has fallen for the first time in three years by nearly 1 percentage point, from 18.8% in 2011 to 17.9%. This compares with an at-risk-of-poverty rate for children in 2005, when the economy was doing extraordinarily well, of 23.1%. That improvement is outlined in the SILC report, which is based on data from the preceding year, 2013, and reflects data from the period of the greatest difficulty in the economy.

Budget 2015 increased expenditure on children by €96 million and I increased child benefit

by €5 per month. Other child-specific measures included the new back-to-work family dividend and an additional €2 million on the school meals programme. The Department published the social impact assessment of budget 2015, which found that for the first time since the economic crisis, welfare and income tax policies will result in an increase in average household incomes of 0.7%. It also found that households with children - both earning and non-earning households - generally gain more than those households without children. The Government has agreed a child-specific poverty target which aims to lift 70,000 children out of poverty by 2020, equivalent to a reduction of two thirds on the 2011 rate. Following a national seminar to discuss how the target would be implemented, the Department is now finalising an implementation plan for a whole-of-Government approach to child poverty, with other Departments and following consultation with the Children's Rights Alliance and other children's organisations.

As I said, this Government will deliver a social as well as an economic recovery to ensure that every family, every community and every individual will benefit from the recovery that is now under way. I am very confident that as a society, we will be able to achieve the child poverty target by 2020.

**Deputy Willie O'Dea:** The Minister mentioned the increase in child benefit. That increase was only a partial reversal of the decrease the Minister had already introduced. Is the Minister aware of the UNICEF report, Children of the Recession, published last October? It demonstrates clearly and unambiguously that there are 130,000 more children living in poverty in this country now than there were five years ago and that this is a result of deliberate choices made by Government. It points to governments in other countries which equally had to combat austerity but which made different choices, and the child poverty statistics improved in those countries as a result. Does the Minister agree that all the analysis, all the studies and all the reports point specifically to one thing, namely, the Government's policy on child poverty is an abysmal failure?

**Deputy Joan Burton:** Altogether, the Department of Social Protection will spend almost €3 billion in 2015 in providing income support for families through child benefit, qualified child increases for people on social welfare, family income supplement, the back-to-school clothing and footwear allowance and, as I said, increased resources for the schools meals programme, which is specifically aimed at children. Child income supports and other social transfers are very effective in reducing child poverty. The 2013 CSO survey of income and living conditions - the SILC - showed that social transfers reduced the at-risk-of-poverty rate for children from 45.5% to 17.9%, thereby lifting a quarter of all children out of poverty. This equates to a poverty reduction effect of 60.7% in 2013, and the SILC data is based on much of 2012 as well as 2013. That was an incredibly difficult point in the crash in banking and construction that had happened under the previous Government.

These results show Ireland as being among the best-performing member states of the EU in this regard. Commentators looking at Ireland have repeated this over and over again. I would also point out to the Deputy that these studies do not take into account of additional benefits which households on social welfare may have, such as access to a medical card or access to social housing and, therefore, to a differential rent, which may be more modest than that for people at work who are renting privately.

**Deputy Willie O'Dea:** The UNICEF report is clear. Of the 41 countries surveyed, we come in at No. 37. That puts us behind countries that only recently became democracies and countries whose economies are far less well developed than ours.

The Minister mentioned three things in regard to social transfers, one of which was the partial alleviation in the original reduction in child benefit. Commenting on that, the Children's Rights Alliance stated:

Child Poverty gets an 'F' grade in Report Card 2015, a fall from last year's 'E-' grade. This is due to the fact that although the Government introduced a small monthly increase in the Child Benefit payment ... this gesture does not go far enough to reverse the impact that austerity budgets have already had on children living in poverty.

The Minister mentioned two other transfers. The €22 million family dividend is only a drop in the ocean and will not apply to families who have to continue to rely on social welfare. There is also the increase of €2 million in the child meals programme. That is not going to reverse the trend towards increasing levels of child poverty in this country.

The Minister mentioned studies, reports, whole-of-government approaches and so on. The figures are consistently getting worse. Does the Government have any specific proposals that will arrest this trend?

**Deputy Joan Burton:** What the UNICEF report, the OECD report and all of the other reports show is that the worst cause of poverty among children is when the adults in the household lose their job or their business. Therefore, the best outcome one can get for children is that the adults in the household in which the children reside are in a position to get work, either on a full-time or a part-time basis, depending on their care responsibilities. What we had, particularly during the period of the Celtic tiger, and I do not know why, was a steady and significant number of households - one of the highest levels in the EU - where none of the adults in the house was at work, whether it was a lone-parent family or a two-adult household. All of the statistics show that it is joblessness rather than the social welfare system which results in the biggest transfer of income support from people at work to people out of work. As the OECD has acknowledged time and again, Ireland has the highest rate of jobless households in the European Union. We must focus on helping adults of working age living in households with children into part-time or full-time work or in setting up a business in order that they can enhance their income. Finding employment for parents is the best way to get children out of poverty.

### **Youth Unemployment Measures**

5. **Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection the rationale behind her decision to make mandatory the proposed new First Steps programme for disadvantaged young persons. [9401/15]

**Deputy Aengus Ó Snodaigh:** As presented, the new youth development internship, First Steps, is basically a reincarnation of the JobBridge scheme which is targeted specifically at disadvantaged young people. Why is First Steps a mandatory scheme unlike the much promoted and voluntary JobBridge scheme?

**Minister of State at the Department of Social Protection (Deputy Kevin Humphreys):** Under the Youth Guarantee implementation plan, the Department committed to developing a developmental internship scheme for young disadvantaged jobseekers. These young people would have faced difficulties, even during the boom period, in securing an interview, not to speak of a job. Deputy Ó Snodaigh and I represent similar parts of Dublin and he will be aware

that, throughout the boom, many of the young people in our constituencies did not have access to job opportunities.

The objective of First Steps is to encourage employers to open their doors to such young people and give them an opportunity to learn and develop basic work and social skills while on a placement in a real work scenario. To this end, the Department is canvassing employers to sponsor one or more disadvantaged young persons on an internship of between six and nine months' duration. It is intended that approximately 1,500 young people will benefit from this opportunity.

First Steps differs from JobBridge in that internships will not be advertised by employers. Instead, participants will be identified by the Department and placed with a sponsoring organisation. In addition, the work experience will comprise four days per week on the job compared with five days per week under JobBridge. All participants will receive pre-employment training and will be supported by a dedicated case officer from the Department and a mentor in the sponsoring organisation.

Given the nature of the opportunity to be provided and the commitment that is being asked of employers, it is not unreasonable to ask young persons who have been assessed as being suitable for a placement to take up the placement on offer. The Department, in identifying and assessing potential participants, will take care to ensure they are suited to the placements available and will pay due regard to any reason that may be put forward by young persons as to why the placement is not appropriate in their circumstances.

The Deputy and I both know many young people who were left on the sidelines when the previous recession ended. Many young people in our constituencies became dependent on social welfare immediately after leaving school because they were not afforded opportunities. This scheme is targeted at assisting disadvantaged young persons by giving them work experience and enabling them to progress into employment.

**Deputy Aengus Ó Snodaigh:** I know many young people who have been assisted in various ways over the years by good employers and teachers, whether on the Youthreach programme or in schools, colleges and small companies. My main problem with the First Steps scheme is that it is not voluntary in contrast with JobBridge, a scheme the Government repeatedly assures us is a voluntary scheme and which is also open to young persons aged 18 years and upwards. Young people will be selected for First Steps and while they may have access to supports, should they decide to leave the scheme as a result of a problem, their social welfare payments could be stopped or cut. This is a large stick with which to beat young people who are disadvantaged and struggling with major difficulties that will not disappear simply because they participate in the First Steps scheme.

**Deputy Kevin Humphreys:** The Deputy should examine the results of the successful pilot schemes in Ballymun, from which we are learning. Young persons who participate in the First Steps scheme will have supports, including a case officer to assist and provide support in finding employment. The scheme is a wraparound service targeted at the most disadvantaged young people and those who are most distant from the workforce. Supports, training, case officers and mentoring services will be provided to participants. The scheme is an excellent opportunity for young people to join the workforce, as has been demonstrated by the pilot schemes in Ballymun.

I acknowledge the Deputy's compliment in so far as Youthreach is an excellent service. During my time as chairman of the City of Dublin Vocational Education Committee, I was actively involved in Youthreach and other outreach projects.

**Deputy Aengus Ó Snodaigh:** If the Minister of State believes the argument he has made, the logical step would be to remove from the First Steps scheme the punishment element that will apply to those who, for whatever reason, must leave the programme. This type of stick should not be available in any youth project.

**Deputy Kevin Humphreys:** First Steps enjoys considerable support in the areas in which it has been trialled, especially among the wider families of participants. Those who are unemployed, as I was at one point, have a responsibility to seek employment. If a young person has a legitimate reason for not participating in the First Steps scheme, a case officer will be available to work closely with him or her. People who are unemployed need to engage with opportunities that become available. This new scheme has been introduced to help the most disadvantaged young people, a group with which Deputy Ó Snodaigh is very familiar. I expect to table questions to the Deputy in a different capacity at some point in future requesting that he expand First Steps to assist more young people in finding employment. I note also that his party leader has asked for elements of the JobBridge scheme to be expanded.

## **Other Questions**

### **One-Parent Family Payment Eligibility**

6. **Deputy Thomas P. Broughan** asked the Tánaiste and Minister for Social Protection if she has completed an impact analysis of her intended changes on those in receipt of one-parent family payments, in particular, the 63% of recipients who are already living in poverty; and if she will report on these financial impacts. [9209/15]

**Deputy Thomas P. Broughan:** Last weekend, the Tánaiste stated that Labour Party women would not be bullied. I strongly agree with the sentiment that they should not be bullied and they will not be bullied. Are the changes to the one-parent family payment an example of a Labour Party Minister bullying the 70,000 people, almost all of whom are women, who are in receipt of the payment? The implementation rules in respect of the jobseeker's allowance transitional arrangement, JST, clearly include an element of compulsion.

One of the Tánaiste's predecessors who served both as Tánaiste and Minister for Social Welfare, the late, great Brendan Corish, who is revered by the Minister of State, Deputy Kevin Humphreys, me and many others, was responsible for introducing the first supports for lone parents. Is it not tragic that the leader of the Labour Party is dismantling these same supports?

**Deputy Joan Burton:** As Deputy Broughan is aware, the Labour Party is the party of work. While we want to have a strong social welfare system, we also want people of working age to be able to go to work, be financially independent and enjoy satisfying employment, careers and

lives of financial independence. That is the Labour Party's position.

Before I introduced the reforms, the one-parent family payment was a well-meaning and passive scheme with limited engagement by the State with recipients. Unfortunately for many lone parents, most of whom are women, this has meant long-term social welfare dependency, associated poverty and social exclusion for them and their families.

The scheme was introduced by Frank Cluskey, albeit with Brendan Corish's strong support. As Deputy Broughan will be aware, people could receive the payment for 18 years without once being asked how they were, what they were doing or whether anything could be done to help them. The critical issue is that most people want to get out to work when family life permits.

Social transfers have provided an extremely important buffer in reducing poverty for all welfare recipients, including lone parents. It is estimated that expenditure on the scheme, which has almost 70,000 recipients, will be €607 million in 2015. Lone parents remain at particular risk of poverty, which is not new as they have traditionally experienced higher rates of poverty than other groups. By contrast, the poverty rates for people in work are much lower. That is why I believe the reforms we have been introducing are needed. I want to support lone parents to develop their skills and, ultimately, secure well-paid employment, whether full time or part time.

I have also made significant changes to the arrangements in place for affected customers as they transition. They include the introduction of the jobseeker's allowance transitional arrangement which gives lone parents with young children the flexibility they need to work part time or engage in full-time education and provides access to subsidised child care through the afterschool child care scheme, the community employment child care programme and the extension this week of the one-parent family payment to all lone parents providing full-time care until their youngest child reaches 16 years of age. Some 11,000 people have made the transition in the past three years and we have seen people see a significant improvement in their incomes through part-time work, plus family income supplement. Now we are adding the back to work family dividend of €30 per week per child.

**Deputy Thomas P. Broughan:** As the Minister's colleague, Deputy Brendan Ryan, said recently in a debate on this issue, the rules applying to the jobseeker's transition payment are a disincentive to work because if a person works for more than 20 hours, the disregard is only €60. Is that not a disincentive? As the Minister knows, I have been involved for decades in trying to assist people and the heads of one-parent families to get back into the workforce. Does the Minister agree that the system, as devised, is a disincentive and coercive because the rules state clearly there will be a penalty rate of the jobseeker's transition payment and that it can be lost completely if people are not prepared to go through the Minister's activation programme? She said in 2012 that she would bring forward a high quality child care system in order that there would be equality between two-parent and one-parent families. As the organisation SPARK, Single Parents Acting for the Rights of Kids, which represents single parent families, has stated, the Minister compares her proposed child care system with the Swedish child care system, but the only Swedish child care system we have in place is the crèche in IKEA in Ballymun. That is all we have achieved. I put it to the Minister that she is shoring up fundamental discrimination between two-parent and one-parent families. Is that not the case?

**Deputy Joan Burton:** With Deputy Broughan and other Deputies, I have had the privilege of meeting a significant number of community organisations in Dublin North-East at different

times during the years and know that the Deputy is heavily involved in community employment and other initiatives to help people to get back to work. I know he is committed to this work.

The changes being made are significant. When the lone parent schemes were first introduced, it was anticipated that people would be in receipt of the lone parent allowance for 18 to 22 years. I have looked at what happens in other countries and in almost all of them efforts are made to help people to get back to work when a child is about five years of age. This happens in the North, elsewhere in the United Kingdom and most of Scandinavia. In some countries it happens when the child is just one year old. In our case I have considered the 18-year period and suggested an intervention when the child reaches seven years of age when he or she would be in first class. This could happen earlier if a parent wanted to become involved. I want to encourage people to get back to education and training in order that they can attain qualifications, whether it be a FETAC qualification, a college degree or something else, that will help them to find part-time or full-time work, depending on their family circumstances and caring commitments. That is what it is all about. People are very anxious to do this.

**An Ceann Comhairle:** I ask Deputies and the Minister to watch the clock. We are dealing with ordinary questions and Deputies want their questions to be reached.

**Deputy Thomas P. Broughan:** The Minister has put the cart before the horse. I presume that in the spring statement or the budget in October she will announce further developments in child care provision. Surely she is dealing with this issue the wrong way around and should not have brought forward the Social Welfare (Miscellaneous Provisions) Bill yesterday. The back to work dividend is time limited, as it will only last during the so-called recovery period. Does the Minister agree that she is putting these 200,000 struggling one-parent families under unbearable and unnecessary stress and that after the general election the next Government will have to do something fundamental to restore what is being removed?

**Deputy Joan Burton:** The 11,000 people who have in the past three years made the transition have been able to avail of dedicated services from the Department of Social Protection - it is now a national employment service - that help people to access education, training, work experience and employment, including community employment. Last year we increased the number of community employment places by 2,000. We opened new schemes such as Tús to give people one year of experience in working in their communities. The Deputy saw the figures yesterday and the number on the live register is down to 10.1%. While this is still too high, it is a huge improvement on the almost 15% figure when we entered government. The back to work family dividend will mean €30 per week per child in continuing welfare payment support for one year and €15 per week in the second as people move into work to help them with the transition. This is in addition to family income supplement which, as the Deputy knows, is an enormous help to those working part time or on low pay.

### Jobseeker's Allowance

7. **Deputy Mick Wallace** asked the Tánaiste and Minister for Social Protection if she is satisfied that it is appropriate that persons are compelled to take up Gateway positions which could leave them worse off financially; and if she will make a statement on the matter. [9334/15]

**Deputy Mick Wallace:** Under the terms of the Gateway scheme, people who have been on the dole for two years or more are paid an extra €20 per week on top of their jobseeker's allow-

ance for 19.5 hours work with local authorities. However, according to information provided by the Department of Social Protection in 2014, those participating in the scheme who are married or cohabiting with children are liable for PRSI on all income and thus stand to make only €5.50 or less on top of their social welfare payment. Others are even worse off financially as a result of taking up their positions. In the light of the fact that the alternative is that they could lose their welfare payments if they do not take up Gateway positions, does the Tánaiste think this is fair?

**Deputy Kevin Humphreys:** Gateway is a Government initiative in local authorities which aims to provide short-term quality and suitable opportunities to improve the employability and maintain the work readiness of those who have been unemployed for 24 months or more. To date, there have been 1,800 participants in the scheme and funding of the order of €22.4 million is being provided by the Department for the initiative.

I want to make it very clear that if a placement is having a negative financial impact on a participant, it is open to the person concerned to inform the Intreo office and seek to be excused from participation on financial grounds. In such cases the Department will work with the person concerned to identify other activation or educational opportunities which may be more appropriate to his or her circumstances.

Employees holding Gateway positions with an income of over €352 per week are liable for class A PRSI contributions at a rate of 4% on total earnings. These employees are also subject to normal income tax and payroll deductions if their level of earnings brings them into the tax net. As the Deputy is aware, this also applies to employees in the private and public sectors and those engaged in other work placement initiatives such as Tús, community employment schemes and the rural social scheme. Participants in employment schemes who pay class A PRSI contributions can establish entitlement to the full range of short-term benefits, including jobseeker's benefit, illness benefit and maternity benefit, and long-term benefits, including the contributory State pension.

**Deputy Mick Wallace:** I was contacted recently by a man called Colin Boardman, who is caught in a predicament. He has been working on the Gateway scheme since July 2014. Having worked for nine years prior to becoming unemployed and unable to find work despite his best efforts, he is currently one of eight people working 19.5 hours per week picking up pieces of paper on a beach for Fingal County Council. Before starting the Gateway scheme, his social welfare entitlements amounted to €392 a week, as he is living with his partner and two children. Now that he is working on the Gateway scheme, instead of being €20 better off as promised by the Government, his family situation makes him liable to tax and PRSI which amounts to €30, meaning that he is €12 worse off than he was. He has complained, but he has got nowhere with it. These schemes are supposed to be about training people and preparing them for work and for jobs, making them more employable. Is he going to become more employable picking up papers on a beach and losing money in the process rather than being on his welfare payment?

**An Ceann Comhairle:** It is better if the Deputy does not mention people's names.

**Deputy Kevin Humphreys:** I have visited Gateway schemes because I wanted to talk to people who were doing practical work on the ground about how they were experiencing it. The response was very positive. Those involved told me how they were transforming a park in River Valley into a true community facility. It also keeps people very close to the workforce. The 19.5 hour working week allows participants to work part-time without losing benefits, which

is an option that many people, especially within the Tús programme, have taken advantage of, working part-time when they are on the programme and then being able to move into employment. If there is a problem with that, I am happy to take up the individual case the Deputy mentioned, but I will return to what I said earlier. If placement is having a negative financial impact on the participant, it is open to the person to inform his or her Intreo office and seek to be excused from participation on financial grounds. If Deputy Wallace is experiencing something different, I would be happy to take that up.

**Deputy Mick Wallace:** I will pass that on to the gentleman concerned. Ireland has the second highest rate of low pay in the OECD. Schemes like this are making life very difficult for people. While it is not possible to find jobs for everybody, surely it would make more sense if there was merit in the jobs that were on offer. It would also put more money into the economy if these people had more to spend because people on low incomes spend all their money. These people are being asked to work for practically nothing. If one has to get to work and buy lunch, one will have nothing left, even if one is not paying PRSI.

We have heard a great deal about the work figures of late but in Wexford the unemployment figures have gone up for the last two months. Over 16,000 people in Wexford are unemployed. It must be one of the highest rates in the country. I was just looking at the figures from Enterprise Ireland and the IDA. There were only 98 IDA-related full-time jobs in Wexford in the last four years and 242 from Enterprise Ireland. How in God's name is Wexford such a blackspot for employment? The number of people unemployed, 16,000, is closer to 20% than 10% of the Wexford population.

**Deputy Kevin Humphreys:** I am sure Deputy Wallace welcomes the figures this week that show the percentage on the live register dropping for the first time to 10.1%. Hopefully we will see it dropping to single digits in the coming months, something many commentators said would never be achieved. The Deputy mentioned the issue of low pay. The Minister of State at the Department of Jobs, Enterprise and Innovation, Deputy Nash, has established the low pay commission and it will report in early summer. As the recovery started, there was a great deal of part-time employment. If one looks at the revenue returns, one can see that salaries have started to increase, which we all welcome. Less and less of overall employment is part-time work and more is full-time work. The improvements we have seen have been around the main urban bases and the Government must ensure this spreads into counties like Wexford, which, as the Deputy said, has been a blackspot. Every effort must be made to ensure the economic change that has taken place in the country spreads out beyond the urban areas and that counties like Wexford and Waterford can also share in the benefits.

### **National Internship Scheme Administration**

**8. Deputy Aengus Ó Snodaigh** asked the Tánaiste and Minister for Social Protection if she will commission a further, and comprehensive, evaluation of the JobBridge scheme, in view of the changing economic context in which it operates. [9312/15]

**Deputy Aengus Ó Snodaigh:** Will the Minister of State take an honest look at the JobBridge scheme and its wider interaction with the labour market to ensure that further paying jobs are not displaced, given that the original Indecon report dealt with year 1? It is now four years in place. Does the Minister of State consider it appropriate at this stage to have a further evaluation?

**Deputy Kevin Humphreys:** Yes. Given that economic circumstances have improved significantly over the past two years, it is now appropriate to review the performance of the various employment programmes operated by the Department. In this regard, as part of the Pathways to Work programme, the Department will during 2015 undertake an evaluation of a number of programmes, including JobBridge. This evaluation will include an econometric analysis of outcomes for participants compared with outcomes for control groups of similar non-participants. The evaluation approach will make use of data from a longitudinal jobseekers' database developed by the Department over the past three years and is expected to produce insights to inform policy choices, including the potential redesign or cessation of schemes.

By way of an update, over 37,700 jobseekers have voluntarily commenced internships on JobBridge since 2011, there are currently 6,140 interns on the programme and a further 1,129 positions are advertised on the JobBridge website. The last large-scale independent review of JobBridge was completed in 2013 by Indecon. This review was based on a survey of over 2,300 interns and over 1,500 host organisations. It showed a very low level of job displacement, 3%, an overall high level of satisfaction, 66%, and a very positive rate of progression to paid employment, 61%.

**Deputy Aengus Ó Snodaigh:** The Minister of State quoted 3% as the percentage of employers that admitted using JobBridge to replace existing employment. He did not quote the other figure, that a whopping 29% of employers said that in the absence of JobBridge they would have taken on a person in paid employment instead. We are poles apart on JobBridge. I will not persuade him here. However, even if he looks at today's JobBridge website, he will see the job displacement. Five of the positions on the first page of the website are sales reps. They are straight-in, entry-level positions. Nine months of training are not required for sales reps. Another position is as a general operative on a golf course. This does not require nine months of training, but just a week or two. In the past, young people in particular could walk in off the street and get this type of position. I am urgently asking the Minister of State to set a date for that review and to have it completed as quickly as possible so that the displacement by JobBridge of paid jobs can be exposed properly.

**Deputy Kevin Humphreys:** I will not take up too much of the Deputy's time on this matter. Displacement has been at a very low level. In his own report, there were about 450 complaints out of approximately 40,000 people participating in JobBridge. He will not convince me that JobBridge has not done an excellent job in the period we have experienced. It has kept people in touch with the workplace, and has allowed them to keep up their experience, to enhance their CVs and move into jobs. There is a time and place for everything to be reviewed and it is now the time and place to look at JobBridge again. As a result of the change in the economic climate, we are now getting more and more people back into work, which is very welcome and which I am sure the Deputy will also welcome. People are also going back into work on very good salaries. However, I am very anxious that people who have lost touch with the workplace have that opportunity to gain the relevant experience to enhance their CVs and be in a strong position to apply for and get the jobs that are coming back into our economy.

**Deputy Aengus Ó Snodaigh:** The figures in the Indecon report commissioned by the Department are outdated, but even they showed that many of those who progressed on to work were on lower pay than their colleagues after one year. Any new study would bear out this experience. Does the Minister of State accept that interns making complaints during their periods of internship or afterwards endanger their chances of having good CVs? This is one reason for the majority of interns not making complaints.

**Deputy Kevin Humphreys:** We do not just rely on the places. There is a high rate of visits by the Department. According to a recent report conducted by the National Youth Council of Ireland, 80% of participants who joined the scheme gained work experience or new skills, which is a high level. There is time. The economy is changing and the opportunities to return to the workforce are greater than they were a few years ago when the scheme was introduced. We will review it.

### **One-Parent Family Payments**

9. **Deputy Richard Boyd Barrett** asked the Tánaiste and Minister for Social Protection in view of recent reports indicating a significant rise in child poverty and deprivation, particularly in the instance of lone parents, if she will abandon all plans to make changes to the one-parent family payment scheduled for July 2015. [9388/15]

**Deputy Richard Boyd Barrett:** I listened to some of the Tánaiste's responses in terms of the impact of her budgetary measures on lone parents in recent years, but is it not the case that facts do not lie and that the plight of lone parents and their children has worsened in the past two years as a result of those measures? The number at work has fallen and the number suffering deprivation has increased. The number of children, many of whom I suspect are the children of lone parents, suffering deprivation and poverty has increased. Is this not the straightforward result of what the Tánaiste has done? Should she not reconsider what she is planning to do in July lest she make matters worse for many lone parents?

**Deputy Joan Burton:** Almost 70,000 lone parents are supported by the one-parent family payment at an estimated cost of approximately €607 million in 2015. Despite considerable levels of investment, however, lone parents are still significantly more at risk of consistent poverty compared with the population as a whole. The Survey on Income and Living Conditions in 2012 found that children in low work intensity households accounted for 82% of all children in consistent poverty. Figures from EUROSTAT for 2012 found that increasing work intensity in a such a household to even part-time work - 20% to 45% work intensity - would reduce the rate of children at risk of poverty by 65%. For this reason, it is critical that the focus be changed to ensure that lone parents are provided by the State with real prospects for a better future that is not welfare dependent.

Lone parents are now being provided, when their youngest children turn seven years old, with intensive support from my Department. They will be supported to produce personal development plans through one-to-one meetings with departmental case officers. They will have subsequent access to education, training and employment supports, including JobsPlus and the new back-to-work family dividend, under which €30 will be retained per week in addition to social welfare payments in respect of each child during the parent's first year back at work and 50% of that in the second year.

**Deputy Richard Boyd Barrett:** The Tánaiste has already been forced to backtrack on the cut to half-rate carer's allowance affecting the 800 lone parents who are carers because Single Parents Acting for the Rights of Kids, SPARK, exposed what was about to happen. I suggest she do the same in respect of the loss of income that lone parents who work part time will suffer as a result of the abandonment of the one-parent family payment in July.

The Tánaiste talks motherhood and apple pie about people wanting to return to work. Two

years ago, 60% of lone parents were in work. That number has decreased as a result of what the Government has done. In light of what is planned for July, lone parents who work 20 hours per week will lose 25% of their incomes. How does this incentivise people to return to work? It will have the opposite effect and drive them out of work and further into poverty. Will the Tánaiste back away from her plans in this area? She has realised that she had already made one mistake. Will she acknowledge that she has made another, abandon the change planned for July and go back to the drawing board?

**Deputy Joan Burton:** Deputy Boyd Barrett's proposal is to tell people who are lone parents, be it because their relationships ended or they had children on their own, that they should remain on social welfare for 18 years during some of the best years of their lives or even longer if they have more than one child. What tends to happen in that scenario is that someone stops being a long parent in his or her late 40s or early 50s. We just discussed meeting lone parents in community employment schemes and so on in Coolock. It can be difficult for people to return to education and training in order to get well-paid jobs. As I told the Deputy, all of the statistics across Europe, not just in Ireland, show that if a family relies only on social welfare and there is little work in the household, be it a one-parent or two-parent household, even a 20% to 45% participation rate in work reduces the risk of poverty in the household by more than 60%.

**Deputy Richard Boyd Barrett:** Can we get rid of the red herrings? More than most, lone parents know that it is better to be in work if they can find any because it makes them better off. The proof of the pudding is that before the Tánaiste started her cuts in 2012, most lone parents were working. She is now putting pressure on them to leave work because they will lose up to 20% of their incomes. I am not saying this, SPARK and lone parents are saying it. They have already exposed one mistake made by the Tánaiste in respect of carers, who are also workers. She recognised that what she was doing was unfair. Will she please recognise that what she is proposing to do in this context will lead to a loss of income for working lone parents and is likely to drive them out of work and into poverty? Will the Tánaiste reconsider?

**Deputy Joan Burton:** If the Deputy were to examine the situation he would find that if lone parents were in a position to increase their working hours to 19 per week, they would get a significant increase in support via family income supplement, FIS.

**Deputy Richard Boyd Barrett:** And if they work 20 hours or more, they will lose.

**Deputy Joan Burton:** This year, we will spend at least €280 million of taxpayers' money on FIS to support families on low incomes in returning to work for at least 19 hours per week. I am unsure if the Deputy was listening, but the back-to-work family dividend-----

**Deputy Richard Boyd Barrett:** I was.

**Deputy Joan Burton:** If a social welfare recipient has children, he or she is paid just under €30 a week per child. If he or she moves back into part-time or full-time work, he or she will receive a payment of €30 a week per child from the Department. The Deputy can scoff, but that is strong support.

**Deputy Richard Boyd Barrett:** The Department accepted the figures.

**An Ceann Comhairle:** We are well over time.

**Deputy Joan Burton:** We know from people who have transitioned how well they have

done.

*Written Answers follow Adjournment.*

### **Message from Select Committee**

**An Ceann Comhairle:** The Select Sub-Committee on Public Expenditure and Reform has completed its consideration of the Valuation (Amendment) (No. 2) Bill 2012 and has made amendments thereto.

### **Betting (Amendment) Bill 2013: From the Seanad**

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

**Acting Chairman (Deputy Liam Twomey):** Seanad amendments Nos. 1 to 6, inclusive, are related and will be discussed together.

Seanad amendment No. 1:

Section 2: In page 6, line 34, to delete “activities” and substitute “business or activities”.

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 13: In page 18, to delete lines 35 to 39 and substitute the following:

“(6) A bookmaker’s licence (including a bookmaker’s licence to which subsection (9) applies) shall, in respect of any year to which the licence relates, authorise that licensed bookmaker to accept bets by remote means (in addition to authorising the licensed bookmaker concerned to carry on the business of, and act as, a bookmaker), provided that the value of all such bets during the year concerned does not exceed the lower of the following.”.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 13: In page 19, between lines 21 and 22, to insert the following:

“ ‘bookmaking operation’ means the business or activities of a bookmaker;”.

Seanad amendment agreed to.

Seanad amendment No. 4:

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Section 13: In page 19, to delete lines 22 to 26 and substitute the following:

“ ‘licence final day’ means, in relation to a bookmaker’s licence—

(a) the 30th day of November next falling after the year immediately following the year in which this section comes into operation, and

(b) the 30th day of November falling at the end of each period of 24 months following the licence final day immediately preceding the said period;”.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 14: In page 21, to delete lines 18 to 23 and substitute the following:

“ ‘licence final day’ means, in relation to a remote bookmaker’s licence—

(a) the 30th day of June next falling after the year immediately following the year in which this section comes into operation, and

(b) the 30th day of June falling at the end of each period of 24 months following the licence final day immediately preceding the said period;”.

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 14: In page 23, to delete lines 13 to 18 and substitute the following:

“ ‘licence final day’ means, in relation to a remote betting intermediary’s licence—

(a) the 30th day of June next falling after the year immediately following the year in which this section comes into operation, and

(b) the 30th day of June falling at the end of each period of 24 months following the licence final day immediately preceding the said period;”.

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 25: In page 33, to delete lines 17 to 27.

Seanad amendment agreed to.

Seanad amendment No. 8:

Section 29: In page 36, to delete lines 27 and 28 and substitute the following:

“(10) A person who fails to comply with a compliance notice by the specified date shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 2 years or both.”.

Seanad amendment agreed to.

**Acting Chairman (Deputy Liam Twomey):** Seanad amendments Nos. 9 to 13, inclusive, 15 and 16 are related. Amendments Nos. 9 and 15 form a composite proposal, while amendment No. 16 is consequential on amendment No. 15. They will all be discussed together.

Seanad amendment No. 9:

Section 34: In page 39, between lines 29 and 30, to insert the following:

“(2) Section 66 of the Finance Act 2002 is amended—

(a) in subsection (3), by the substitution of “relevant period” for “year” in each place that it occurs, and

(b) the substitution of the following subsection for subsection (4):

“(4) In this section ‘relevant period’ means, in relation to a registration or renewal of registration of a premises in the register, the period from such registration to the registration final day within the meaning of section 12 (amended by *section 35 of the Betting (Amendment) Act 2015*) of the Betting Act 1931 next falling after the date of that registration or renewal of registration.”.”.

Seanad amendment agreed to.

Seanad amendment No. 10:

Section 34: In page 39, after line 39, to insert the following:

“(4) Section 78 of the Finance Act 2002 is amended, in subparagraph (i) of paragraph (b) of subsection (5), by the substitution of “the registration final day within the meaning of section 12 (amended by *section 35 of the Betting (Amendment) Act 2015*) of the Betting Act 1931 next falling” for “the 30th day of November next”.”.

Seanad amendment agreed to.

Seanad amendment No. 11:

Section 35: In page 40, to delete lines 16 to 21 and substitute the following:

“(2) Subject to sections 15 and 17 of this Act and section 78 (amended by section 77 of the Finance Act 2008) of the Finance Act 2002, a premises registered in the register of bookmaking offices shall continue to be so registered until the registration final day next falling after the date on which it was so registered.”.”.

Seanad amendment agreed to.

Seanad amendment No. 12:

Section 35: In page 40, between lines 21 and 22, to insert the following:

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“(c) the substitution of the following subsection for subsection (3):

“(3) Subject to sections 15 and 17 of this Act and section 78 (amended by section 77 of the Finance Act 2008) of the Finance Act 2002, each renewal of the registration of a premises in the register of bookmaking offices shall take effect from the expiration of the registration or the last renewal of the registration, as the case may be, of the premises in that register, and the premises shall continue to be so registered until the registration final day next falling after such renewal.”.”.

Seanad amendment agreed to.

Seanad amendment No. 13:

Section 35: In page 40, to delete lines 24 to 30 and substitute the following:

“ “(5) In this section ‘registration final day’ means, in relation to the registration of a premises in the register of bookmaking offices—

(a) the 30th day of November next falling after the year immediately following the year in which *section 35* of the *Betting (Amendment) Act 2015* comes into operation, and

(b) the 30th day of November falling at the end of each period of 24 months following the registration final day immediately preceding the said period.”.”.

Seanad amendment agreed to.

Seanad amendment No. 14:

Section 38: In page 41, between lines 8 and 9, to insert the following:

**“Repeal of section 32 of Principal Act**

**38.** Section 32 of the Principal Act is repealed.”.

Seanad amendment agreed to.

Seanad amendment No. 15:

Section 39: In page 41, between lines 13 and 14, to insert the following:

**“Amendment of section 54 of Finance (No. 2) Act 2013**

**39.** Section 54 of the Finance (No. 2) Act 2013 is amended, in subsection (2), by—

(a) the deletion of clause (II) of subparagraph (ii) of paragraph (b), and

(b) the deletion of subparagraph (iii) of that paragraph.”.

Seanad amendment agreed to.

Seanad amendment No. 16:

Section 39: In page 41, line 18, to delete “This Act” and substitute “This Act (other than *section 39\**)”.

Seanad amendment agreed to.

Seanad amendments reported.

*Sitting suspended at 10.55 a.m. and resumed at 11 a.m.*

*11 o'clock*

### **Gender Recognition Bill 2014 [Seanad]: Second Stage**

**Minister of State at the Department of Social Protection (Deputy Kevin Humphreys):**  
I move: "That the Bill be now read a Second Time."

I apologise for the confusion earlier. I thought the previous business would take a little longer. I am delighted to have an opportunity to introduce this important legislation in the Dáil. While the number of people directly affected by the Gender Recognition Bill 2014 will be relatively small, this legislation carries a deep significance for those who will, for the first time, have their preferred gender formally recognised by the State for all purposes. This significance extends to their families, friends and communities. The Tánaiste and I are proud to introduce this legislation and thereby progress the civil rights of transgender people. The formal recognition of the identity of transgender people is a mark of the growing maturity of Irish society. It is an important element of the programme for social reform that is being progressed by the Government.

All Deputies will be aware that the lack of legal recognition for transgender people is a long-standing issue. The High Court declared in 2008 in respect of the case brought by Dr. Lydia Foy that the State was in breach of its obligations under the European Convention on Human Rights because it did not have a process to legally recognise the preferred gender of transgender people. It is appropriate that I pay formal tribute to Dr. Foy, whose unstinting efforts over many years played a crucial part in bringing us to this point. The programme for Government included a commitment that transgender people would be provided with legal recognition. The publication in July 2011 of the report of the transgender recognition advice group was a significant milestone. Things have moved very far forward since then, as reflected in the Bill before the House today. Following the publication of the advisory group's report, my Department engaged in significant additional consultation and research. The views of a range of organisations and individuals that have experience and expertise in this evolving and complex area were sought and considered.

Since I was appointed Minister of State at the Department of Social Protection last year, I have been privileged to meet members of the transgender community, as well as a range of organisations and public representatives with a particular interest in this issue, on many occasions. In July 2013, the Government approved the publication of the general scheme of the Bill and its referral for pre-legislative scrutiny to the Joint Committee on Education and Social Protection. Officials from my Department, representative groups and legal and medical experts participated in hearings held by the committee in October 2013. The committee's report was published in January 2014. The report and the contributions made at the committee hearings have made a valuable contribution to the overall understanding of the complex issues that are

being addressed in this legislation. I thank Deputy Ó Snodaigh, who is present in the Chamber, and Senator Zappone, both of whom introduced Private Members' Bills in this regard that were helpful in progressing matters. They have worked very hard in this area. They have met groups similar to those I have met. Following the joint committee's report, the Tánaiste brought the matter back to the Cabinet and the revised general scheme of the Bill was published in June of last year.

The fundamental concept underlying this legislation is relatively simple. The preferred gender of a person who has been issued with a gender recognition certificate by the Department of Social Protection will be formally and legally recognised for all purposes, including dealings with the State, public bodies and civil and commercial society. For many transgender people, their birth certificate is the last remaining personal document that does not show their preferred gender. This legislation allows them to obtain a birth certificate showing their preferred gender. The person whose preferred gender is recognised will be entitled to marry a person of the opposite gender or enter a civil partnership with a person of the same gender. All rights, responsibilities and consequences of actions by the person in their original gender prior to the date of recognition will remain unaffected.

The Bill uses the term "preferred gender", in line with a recommendation made by the Joint Committee on Education and Social Protection. This approach facilitates applications for gender recognition from people with intersex conditions. The application process for a gender recognition certificate will consist of a statutory declaration by the applicant that they intend to live permanently in their preferred gender and a supporting statement by their primary treating medical practitioner that they have transitioned or is transitioning to their preferred gender. The physician must be a person who has a particular expertise in the care pathway for transgender people. This is the case for both endocrinologists and psychiatrists, subject to their particular practice. The process will not require details of care, such as medical history or confirmation of a diagnosis. The person will not have to confirm that they have been living in their preferred gender for a specific period of time prior to their application. This is a much more progressive, less onerous and less invasive approach than that adopted in many other countries in the EU and elsewhere. I hope it will be recognised as such.

As Deputies will be aware, the Bill requires that an applicant for gender recognition is single, pending the outcome of the referendum on same-sex marriage that is due to take place in May of this year. I accept that this is not ideal. The existing constitutional prohibition on same-sex marriage is a blockage in this respect. I am happy to confirm that my colleague, the Minister for Justice and Equality, has agreed that the marriage Bill, which will be enacted if the referendum is passed by the people, will include provisions to amend this legislation to remove the requirement to be single.

The joint committee recommended that the minimum age for gender recognition be reduced from 18 to 16. The Bill provides for applications from 16 and 17 year olds, but with significant safeguards attached which seek to balance the rights of applicants with the need to protect their interests at a vulnerable age. In particular, it will be necessary to secure a family Circuit Court order in any such cases, exempting the applicant from the standard requirement of a minimum age of 18 for gender recognition.

This Bill was introduced in the Seanad in January. I thank Senators for their extensive engagement, which ensured the key features of the legislation were thoroughly debated. Several amendments were passed on Report Stage in the Seanad. I strongly believe it is best practice to

have a review process for new and significant legislation such as this. It was always my intention that there would be a review of the legislation. I was happy to bring forward a Government amendment to make this review statutory. Section 7 of the Bill now provides for a review of the operation of the Act to be carried out not later than two years following the coming into operation of the Act. It is critical that the impact and effectiveness of this important legislation is carefully assessed over time. The phrase “based on a medical evaluation” was removed from several sections of the Bill to make it absolutely clear that there is no requirement in the application process for a medical practitioner to carry out a specific medical evaluation such as a physical examination of an applicant for a gender recognition certificate.

I will now summarise the main provisions of the Bill. Sections 1 to 4 are standard provisions in relation to the Title, the commencement process, the definition of terms, the power to make regulations and the costs of administration. Section 5 sets out how documents under the Act are to be issued. Section 6 provides that records of decisions made by the Minister under the Act will be maintained and that an annual report on the operation of the Act shall be laid before the Oireachtas.

Section 7 provides for a review of the operation of the Bill to be carried out not later than two years following the coming into operation of the legislation and that 12 months after the commencement of the review the Minister will report to the Houses of the Oireachtas. It is important to carry out a review and that the 12 month period for review is set out in the legislation.

Section 8 provides that the Minister for Social Protection shall be the decision-making authority on the issue of gender recognition certificates.

Section 9 sets out the conditions a person is required to meet to be eligible to apply for a gender recognition certificate. An applicant must be at least 18 years of age on the date of application, unless he or she meets the requirements of section 12, and he or she must not be in an existing marriage or civil partnership. In addition, he or she must meet the evidential requirements set out in section 10.

Section 10 addresses the evidence on qualification requirements. It includes proof of identity and either a certificate from the relevant register of births or proof of ordinary residence in Ireland. Also required is a statutory declaration stating the person is not in a marriage or a civil partnership, has a settled and solemn intention of living in the preferred gender for the rest of his or her life, understands the consequences of the application and makes the application of his or her own free will. The application must also be accompanied by a statement from the applicant’s primary treating medical practitioner that confirms that the applicant has transitioned or is transitioning to his or her preferred gender and that he or she is satisfied that the applicant fully understands the consequences of his or her decision to live permanently in the preferred gender.

Section 11 deals with applications from persons who have already had their preferred gender recognised in another jurisdiction. These applicants will have to show to the satisfaction of the Minister that the requirements which led to his or her preferred gender being recognised in the other jurisdiction are at least equivalent to those set out in the Bill.

Section 12 addresses applications for a gender recognition certificate by persons aged 16 and 17 years.

Section 13 provides that the gender recognition certificate shall contain the person’s fore-

name and surname as specified by the applicant in his or her application, his or her date of birth and preferred gender. The Minister shall notify the Registrar General or the Adoption Authority of Ireland, as appropriate, that the certificate has issued and will provide them with a copy of the gender recognition certificate, a copy of the person's birth certificate and his or her name and contact details.

Section 14 provides for the revocation by the Minister of a gender recognition certificate if information or facts come to the Minister's notice that would have led to a refusal of the application. The person concerned will have the right to appeal the decision under the provisions of section 17. Where a gender recognition certificate is revoked under this section, it will always be deemed to have been void and not in effect.

Section 15 provides for the revocation by the Minister of a gender recognition certificate in the event that a person applies to revert to his or her original gender and provides satisfactory evidence to support the application. If the application to revoke is declined, the person concerned will be informed of his or her right to appeal. Where a gender recognition certificate is revoked under this section, the rights and liabilities of the person concerned in his or her preferred gender prior to the date of revocation will not be affected.

Section 16 provides for a situation where a person applies to the Minister seeking to have a clerical error or an error of fact in the content of a gender recognition certificate corrected.

Section 17 provides for appeals in respect of gender recognition certificates.

Section 18 provides for the fundamental principle that, once a gender recognition certificate is issued to a person, his or her gender becomes the preferred gender for all purposes. The effect of legal recognition is not retrospective but shall be only from the date specified on the gender recognition certificate.

Section 19 provides that a change in a person's recognised gender under the Bill will not affect the responsibilities of that person as a parent of a child born prior to the issue of a gender recognition certificate.

Section 20 provides that where a person has had his or her preferred gender recognised, it does not affect the distribution of property under a will or other instrument made before the day on which the Bill comes into force. For wills or other instruments made after that day, the general principle of the Bill will apply, for example, if a will refers to the eldest daughter and a person who was previously a son becomes the eldest daughter following recognition in the preferred gender, that person will inherit as the eldest daughter.

Section 21 relieves trustees or personal representatives of any fiduciary duty to inquire whether a gender recognition certificate has been issued to any person or revoked, even if that fact could affect entitlement to property which he or she is responsible for distributing.

Section 22 makes provision for any situation where the disposition or devolution of property under a will or other instrument is different from what it would be but for the fact that a person is regarded as being of the preferred gender. If, for example, an instrument governs succession by reference to the eldest daughter and there is an older brother whose gender becomes female under the Bill, the person who was previously the eldest daughter may cease to enjoy that position. It allows a person who is adversely affected by the different disposition or devolution of the property to make an application to the High Court.

A number of sexual offences in this jurisdiction are gender specific. Section 23 provides that where criminal liability would arise but for the fact that a person, either the victim or the perpetrator, has been issued with a gender recognition certificate, such liability will continue notwithstanding the gender change. A person whose preferred gender has been recognised may still be physically capable of committing a sexual offence or being the victim of a sexual offence associated with the opposite gender.

Section 24 amends section 2 of the Civil Registration Act 2004 to take account of the provisions of the Gender Recognition Bill 2015.

Sections 25 and 26 provide for the establishment and maintenance by the Registrar General of the register of gender recognition.

Section 27 inserts a new Part 3A into the Civil Registration Act 2004. The new provisions of Part 3A are as follows. Section 30A provides definitions of terms used in the Act.

Section 30B provides that a person to whom the Minister has issued a gender recognition certificate and for whom there is an entry in the register of births or the adopted children register may apply to the Registrar General to be entered on the register of gender recognition. The entry will list the person's name, surname and preferred gender as stated on the gender recognition certificate, together with the other particulars contained in the person's original entry in the register of births or the adopted children register, as appropriate.

Section 30C provides that the Registrar General will keep an index to the register which will not be open to public inspection or search save by the person to whom the gender recognition certificate has been issued or, if that person is deceased, the surviving next of kin.

Section 30D provides that the Registrar General shall also maintain a confidential index that will link the entry in the gender recognition register with the corresponding original entry in the register of births or the adopted children register.

Section 30E provides that where a gender recognition certificate is revoked, the Registrar General will, in turn, cancel the relevant entry in the register of gender recognition. The section also provides that where changes are made to an entry in the register of births or the adopted children register for which there is a corresponding entry in the register of gender recognition, the latter will also be changed accordingly.

Section 28 of the Bill provides that the register of gender recognition is not subject to the provisions of section 61 of the Civil Registration Act. This effectively excludes all persons other than the holder of the gender recognition certificate from being able to draw a birth certificate from the register of gender recognition.

Section 29 amends section 63 of the Civil Registration Act to allow for the amendment of errors in the register of gender recognition.

Section 30 amends the First Schedule to the Civil Registration Act 2004 to set out what will be entered in respect of an entry in the register of gender recognition.

Section 31 provides for amendments to the Irish Nationality and Citizenship Act 1956 which will allow for the establishment and maintenance of a register of gender recognition of foreign births by the Department of Foreign Affairs and Trade.

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Sections 32 to 35, inclusive, provide for amendments to the Adoption Act 2010 with regard to the establishment and maintenance of a register of gender recognition of intercountry adoptions by the Adoption Authority of Ireland.

Section 36 makes it an offence under the Bill knowingly to provide false information in an application for a gender recognition certificate or to fail to surrender a gender recognition certificate which has been revoked by the Minister under section 14 of the Bill.

Section 37 provides that cases relating to applications from 16 or 17 year olds for gender recognition certificates under section 12 or appeals against decisions by the Minister under section 17 may be heard by a judge of the Circuit Court in the area in which the applicant concerned ordinarily resides.

Section 38 provides for an amendment to the Passports Act 2008 which provides that where a person is applying for a passport in his or her preferred gender, the gender recognition certificate will be recognised for this purpose. The Passports Act will continue to provide for the issuing of passports to transgender persons who are unable to apply for gender recognition certificates on the grounds that they are not single.

As already stated, this legislation is long overdue. Getting to this point has been a difficult and challenging undertaking due to the complex and sensitive issues involved. I again thank all those who contributed to the process.

Earlier, I mentioned the two-year review provision that has been inserted into the Bill. This provision states that, not later than 12 months after the commencement of the review, the Minister will make a report to each House of the Oireachtas of the findings made during the review and of the conclusions drawn from those findings. I strongly believe that this Bill represents a very progressive approach towards meeting the obligations of the State to the needs of transgender persons. The Bill has at its core a genuine commitment on the part of the Government to enable transgender persons to be recognised for all purposes in their preferred gender. This recognition is a momentous event in a person's life and it is absolutely essential that it is facilitated in a serious manner that maintains the integrity of the registration process.

The provisions in the Bill contain some very significant advances on previous proposals and, as I said, compare very favourably with the equivalent legislation in many other countries in Europe. This is legislation which has been needed for a long time. Members of the transgender community naturally wish to avail of the opportunity to have their preferred gender formally recognised as soon as possible. I look forward to an informed debate and to hearing the views of Deputies on the measures contained in the Bill.

**Deputy Willie O'Dea:** The Minister of State said that he wants to thank the people who have brought us to this point. I wish to be associated with his comments in that regard, which relate to groups such as Transgender Equality Network Ireland, TENI, and LGBT Noise, individuals such as Michael Farrell, organisations such as Amnesty International, the former Equality Authority and the great heroine of this particular saga, Dr. Lydia Foy who, by her persistence, courage and tenacity, has earned the undying gratitude of the transgender community.

The Minister of State also indicated that we are late in introducing this Bill, which is true. Being late might normally be a matter for condemnation but there is always a silver lining. The big advantage of being late in introducing legislation of this nature is that it affords one the opportunity to assess how other countries have dealt with the problem. One can consider what

the authorities elsewhere proposed, what they proceeded with and the changes they are being obliged to make in the light of experience. Of course, experience is a great teacher. When I eventually emerged from college following many years of study, I discovered that I learned more in six months practising in what was then Price Waterhouse than I had during my entire time in third level education.

We have the benefit of the international experience to which I refer but, unfortunately, we do not seem to have taken it on board. The original proposals from the review group were a bit of a joke, quite frankly. We have come a long way from those proposals, thank goodness. However, we have deliberately placed ourselves behind some of the legislative advances that have been made in light of the experience elsewhere in the world. We have positioned ourselves between the original proposals, which were completely deficient, and what has been done by the authorities in more advanced countries in light of experience gained. The Bill is a form of Irish solution to an Irish problem. We certainly cannot state that it is based on international best practice. The Minister of State need not take my word for this, he can take that of Dr. Michael O'Flaherty, professor of human rights at University College Galway, who has done a great deal of work in this area and who is an acknowledged expert in the field. Writing in *The Irish Times* on 10 February 2015, Dr. O'Flaherty, stated:

The Gender Recognition Bill 2014, currently before the Oireachtas, is a very belated legislative attempt by the State to comply with the findings of the European Court of Human Rights in the case taken by Dr Lydia Foy. It is no more than that; it is certainly not progressive. Instead, it draws on the outdated legislation of some states to establish for Ireland a gender recognition framework that is disrespectful to transgender persons, out of line with international good practice and at odds with the country's international human rights commitments. It will be an avoidable shame if this Bill is adopted without the benefit of significant amendment.

Who are we to argue with these, the views of a man who, as already stated, is an acknowledged expert in the field?

My party will be seeking to amend the Bill on Committee Stage. I have been informed in the past few minutes that Committee Stage will be taken next Wednesday. Given that Second Stage is being taken today, we will be obliged to rush in order to submit our amendments by this evening. This is happening despite a commitment in the programme for Government to the effect that Committee Stage debates relating to all legislation would not take place until a fortnight after Second Stage concluded in order to give people an opportunity to reflect. I have questioned the Taoiseach about this commitment for the past four years and he has made promises in respect of it during that entire period. However, there is still no sign of it being honoured.

I am amazed with regard to the lack of consultation with the intersex community when the Bill was in preparation. Apparently, no consideration whatsoever has been given to providing to non-binary transgender people the same degree of recognition that has been afforded to their counterparts in Australia, India, Nepal, Thailand, the United Kingdom and Germany. In view of the lack of consultation to which I refer, it appears that intersex people have been grouped with transgender people in a Bill exclusively drafted to deal with the latter. A kind of one-size-fits-all approach has been adopted and this is made clear by the terminology used in the Bill, which refers to transgender people but not to intersex people. In my view, the Bill does not properly address the needs of intersex people and nor is it designed to do so.

I acknowledge that the Minister for Social Protection amended the Bill in the Seanad. Previously, one of the requirements relating to applying for a gender recognition certificate involved obtaining a professional medical opinion based on a medical evaluation. I accept that the phrase “based on a medical evaluation” has been removed from the legislation but I must question whether this will make a great deal of difference in practice. The intention behind removing the words in question was to inform the members of the medical profession that they need not conduct formal physical or mental examinations. That is the signal being communicated to those to whom I refer but there is nothing in the legislation which provides that they cannot do that if that is their wish. The legislation refers to the need to produce a certificate to the effect that in the professional medical opinion of an applicant’s primary treating medical practitioner, that is the family doctor who knows you and not just any doctor, said applicant has transitioned or is transitioning to his or her preferred gender. The medical practitioner must also state that, in his or her opinion, the applicant fully understands the consequences of his or her decision.

Doctors obviously differ in their opinions. I think I can say, without insulting the members of the medical profession, that the vast majority of family doctors in this country probably have very little knowledge of transgender issues. What is going to be required of an applicant in order for a medical opinion to be provided will vary from doctor to doctor. Some practitioners may take a very conservative approach and others may insist on carrying out an examination. There is nothing in the legislation to prevent this from happening, despite the deletion of those words during the Seanad debate. Some doctors, thankfully a small minority, were at one time prepared to sign medical certificates for people willy nilly. Patients could tell their doctor they had a bad back and they would get a certificate granting them so many days of leave. If it is envisaged that doctors will behave in that way, why include that medical requirement at all? People’s rights will depend on the individual whim of their family doctor. It was previously proposed that gender recognition would be a matter of self-determination by the individual concerned. We have ignored the opportunity to provide for self-determination. We will try again to introduce such a provision on Committee Stage but the Government appears to have set its face against it. We have ignored the opportunity to provide for that, as other countries are doing, and we are insisting on adopting a paternalistic approach. The Bill provides that the medical practitioner must be satisfied the applicant fully understands the consequences of what he or she is doing. In other words, the medical practitioner is supposed to be protecting the applicant against him or herself. Doctors differ on these matters. In the Seanad, the Tánaiste and Minister for Social Protection was clear that there is no requirement for a definitive confirmation of a diagnosis or any kind of medical examination. That is a matter for the individual doctor, however. That is how the legislation is written.

Countries like Argentina and Denmark have allowed for self-determination. Malta, which is hardly an outstanding example of a democratic liberal democracy, is also proceeding in that direction. What has happened in those countries? Has the sky fallen in? Have their national debts doubled suddenly? Have they been reduced to a wasteland? No, what has happened is that vulnerable young people can now benefit from legislation which will in many cases alleviate their suffering during the period between when they realise they are living in the wrong gender and when they can get their gender officially recognised. Even that much maligned organisation, the HSE, which is hardly a bastion of liberalism, recognises that self-determination is the appropriate approach. I cannot for the life of me understand why the Government chose to ignore what other countries have done and what its own chief adviser in these matters, the HSE, recommends. The requirement for a professional medical examination seems to stigmatise people who are gender transitioning because it implies that such people need a third party

to tell them who they are. Surely the individuals themselves are best placed to decide that.

The Bill makes provision for individuals aged between 16 years and 18 years. Initially the minimum age at which one could transition was 18 years but that has been reduced in certain restricted circumstances to 16 years. While I welcome any advance in this area, the provisions in the Bill put significant obstacles in the way of 16 to 18 year olds. For example, an individual aged between 16 years and 18 years who wants to transition must provide proof of identity, proof of birth, a statutory declaration, a certificate from his or her own medical practitioner, parental consent and an order from the Circuit Court. In addition to all of the other documentation, the order from the Circuit Court will only be made on foot of a certificate from an endocrinologist or psychiatrist. I have a lot of acquaintances in this country but I do not think I am acquainted with any endocrinologist. I must ask the 16 year old members of my extended family how many endocrinologists they socialise with. I do not have to elaborate on what a visit to a psychiatrist might entail. One goes to a psychiatrist to see if one is right in the head and, therefore, knows fully what one is doing when transitioning. This is insulting, condescending and paternalistic, and it should be withdrawn. If the court has to make the decision at the end of the day, why are these hurdles put in an individual's way? In many cases these hurdles will be unsurmountable for those aged between 16 and 18 years.

Those under the age of 16 years are left in limbo. In many cases, people recognise the fact that they belong to a different gender at a very young age. In these cases, individual's experiences between the point where he or she realises he or she is the wrong gender and turning 16 years, or 18 years as will usually be the case, can be very difficult and potentially leave lasting scars. I will not refer to particular cases but the Minister of State, Deputy Kevin Humphreys, knows what I am speaking about. Why should somebody who has already transitioned have to wait until turning 16 years or, more likely, 18 years before the State recognises his or her true identity? It is paternalistic and condescending. It is not as if every six or seven year old in the country is going to rush to a registrar to get a gender transition certificate. Surely that is a matter their parents will take up, and it is certainly not something that would be done lightly. People will not take this step unless they genuinely feel they are in a different gender.

A recent study in the UK revealed that in only 4% of cases individuals did not realise they belonged to a different gender until they turned 18 years. In 76% of cases, they were aware before they left primary school. Countries which have minimum age requirements are already re-examining their laws. There is no minimum age requirement in Argentina but the sky has not fallen in that country. Young intersex or transgender people who come to the realisation at a very young age that they are in the wrong gender are vulnerable and voiceless. If the Government accepts the amendment we will be introducing next Wednesday to allow self-determination at any age, with the consent of the parent if the individual is under the age of 18 years, it would not damage the country or undermine its economy and social structure. It would simply be helping vulnerable young people to have a better life.

The marriage bar has also been brought to the Government's attention. A happily married person who wishes to transition is currently required to divorce. This is bizarre in a country which goes to such great lengths to protect and enhance marriage that it is difficult to get a divorce. I recognise that if the same sex marriage referendum, which we support, is passed, several amendments will need to be made to this Bill. What reassurance can the Minister of State give in this regard? While we cannot contemplate the outcome of the referendum, can the Minister of State give some reassurance today that the matter will be dealt with immediately? That could be done, for example, by putting a sunset clause in the legislation, providing that

forced divorce will no longer be applicable in the event of the referendum being passed or by confirming that the Department of Justice and Equality is already drafting legislation to provide for these things. It would be obscene if the same-sex referendum was passed but transgender people were left indefinitely in limbo. Those of us who have served in government know how legislation is prioritised and the choke points and pressures that exist, particularly in an election year. We are into an election year now and at minimum the transgender community needs reassurance on that.

There are a number of other provisions in the legislation, debate on which would be more suited to Committee Stage. For example, there is a provision that a person should be ordinarily resident in the State in respect of which concerns have been expressed regarding the position of asylum seekers. Section 10 refers to proof of identity, but how will proof of identity be determined? Will it be a matter to be worked out in regulations setting out the detail on how some of these procedures will apply? There is also a reference to people who have already transitioned in another jurisdiction. If they want to transition here, they must satisfy the authorities that the requirements under the law of the country where the transition originally occurred are at least equivalent to our law. We have had that before in relation to extradition where the alleged crime must correspond to some crime here before one can be extradited. That is a rough comparison. It proved a very difficult thing to establish in many cases. There is a whole body of judgments of the High Court and Supreme Court which demonstrate that while it may look so on the surface, this is not a simple matter at all. We will pursue it on Committee Stage to see if what the Government has in mind can be more fully flushed out. Section 11 deals with the exceptional situation where a 16 to 18 year old cannot obtain his or her parents' or guardians' consent. The conditions set out are quite restrictive in this regard, which is, again, something we will have to look at on Committee Stage.

As anyone who comes from the country knows, devolution of property, wills, intestacy, etc., are never simple or straightforward matters. The devolution provisions in the legislation are vague. For example, trustees can sell to a *bona fide* purchaser without notice without having to make any inquiries themselves in advance. That is a recipe for much litigation down the road. I am concerned about the provision in section 22 that a disappointed potential beneficiary who stands to lose his or her entitlement because of a gender transition must apply to the High Court. If there is one profession in the country that does not undervalue itself, it is the legal profession. An estate may often consist of only a suburban house, the entire value of which can be swallowed up in High Court proceedings. Normally, the type of court in which one takes a case depends on the valuation of the property. I am at a loss as to why that cannot apply here, but it is something we will tease out on Committee Stage.

I do not want to be churlish. Obviously, we want the legislation to go through. While I do not propose to oppose the Second Reading of the Bill, we want substantial amendments to be made. I regret that we do not have a bit more time to think out the format of the amendments as the Government has not met its commitment to leave a fortnight between Second and Committee Stages. It is not too late. We can still amend the legislation. We have a unique opportunity to enact inclusive, forward-thinking legislation. Why stick ourselves in the middle and follow the example of those who have already had to change their legislation or will shortly do so? It makes no sense. I hope the Minister of State will indicate when he is replying to the debate that the Government is open to substantial amendment of the Bill.

**Deputy Aengus Ó Snodaigh:** Tá sé i gceist agam mo chuid ama a roinnt leis an Teachta Sandra McLellan. Fáiltím roimh an mBille seo agus fáiltíonn mo pháirtí roimhe freisin in

ainneoin go bhfuil fadhbanna móra leis agus go bhfuil gnéithe ann ar chóir athrú. Luaigh an Teachta Ó Deaghaidh a lán de na háiteanna atá fadhbanna agamsa leo. Luaigh mé iad nuair a bhí mé ag déileáil leis an mBille seo sa chéad dul síos ar Chéim an Choiste nuair a bhí na ceannteidil glactha ag an Rialtas, sula raibh sé curtha le chéile i gceart. Cuireadh os comhair an choiste é le haghaidh bhreithniú réamhreachtach. Rinneadh moltaí ansin. Glacadh le roinnt díobh sin agus tháinig athrú ar an bport a bhí ag an Roinn sa chéad dul síos ach níor ghlacadh le cinn eile agus táimid fós gafa le Bille nach bhfuil chomh forásach mar ba chóir dó a bheith.

Ba chóir go mbeimis chun tosaigh ar domhan maidir leis an gceist seo, seachas a bheith chun deiridh. Measaim go bhfuil céim mhór ar aghaidh á thabhairt anseo agus is céim dearfach í i gcoitinne, ach beimid ach teacht ar ais go dtí na fadhbanna móra atá ann agus muid á phlé ar Chéim an Choiste. Aontaím leis an Teachta Ó Deaghaidh go bhfuil gá le níos mó ama idir críoch na céime seo agus Céim an Choiste ionas gur féidir linn déileáil leis an mBille seo ina ionmlán agus leasuithe cuí a chur chun cinn. Agus mé á rá sin, fáiltím roimh an gcinneadh atá an tAire Stáit tar éis a dhéanamh: go mbeidh an Rialtas ag déileáil le ceist an cholscartha i mBille teaghlaigh amach anseo. Táim ag impí ar an Aire Stáit go bhfoilseofar an Bille sin chomh luath agus is féidir agus go mbeidh críoch cheart curtha leis an bhfadhb mhór atá sa Bhille faoi láthair.

Gabhaim buíochas leo siúd go léir a thóg seasamh ar cheist aithint inscne go dtí seo. Ní féidir ach ár mbuíochas mar shochaí a ghabháil le daoine ar nós Lydia Foy. Gan an chrógacht a bhí aici, measaim go mbeadh an cheist seo fós ceilte orainne sa Teach seo agus ar an sochaí i gcoitinne. Tá daoine eile ann a rinne sárobair ag impí ormsa, agus ar gach Teachta, déileáil leis an gceist seo i gceart, a leithéid de TENI nó Focus: The Identity Trust sa Tuaisceart. Ach is iad na daoine is tábhactaí, agus ní chloisimid a nguthanna i gcónaí, ná na daoine atá ag déileáil leis seo as a stuaim féin, atá ag déileáil leis lá i ndiaidh lae, agus a gclanna. Gabhaim buíochas leosan go léir as ucht an obair agus an chabbhair a thug siad domsa nuair a bhí mé ag cur reachtaíocht le chéile dhá bhliain ó shin agus ó shin i leith. Déanaim comhghairdeas leo chomh maith go raibh sé de chrógacht acu leanúint leis seo agus go raibh siad in ann an obair dhíograiseach sin a chur isteach sa cheist seo. Níl céimeanna sa dlí acu nó a leithéid ag a lán acu. Tá siad ag teacht toisc a scéalta féin. Bíonn sé sin níos tábhactaí uaireanta ná go mbeadh céim sa dlí ag duine mar tuigeann siad go díreach conas mar a luifidh an dlí atá le teacht leo amach anseo.

Tosóidh mé ar an mBéaláanois, toisc go bhfuil daoine ag éisteacht nach bhfuil cluasáin acu. Sinn Féin has consulted widely with transgender individuals who are to be commended. We have come a long way in 22 years since Lydia Foy took the courageous step to demand that the State recognise her identity. I note how both the world and Ireland have changed in many ways and this Bill is welcome legislation. The Minister of State and I might not agree on whether it is the legislation that is required but it is, none the less, a significant step. Sinn Féin will not oppose it and we will tackle the flaws in the legislation - some of which have been stated by other speakers - on Committee Stage. The area is highly technical and it will be difficult to achieve complete agreement but that is what we must aim for. Examples from other countries show how legislation has been moulded to ensure full recognition and that onerous tasks are not demanded of certain citizens just because they are transgender.

The deficiencies in the Bill have been highlighted in the Seanad as well as by myself and others at the pre-legislative stage hearings. Some, but not all, of these deficiencies have been addressed. However, this Bill demonstrates a paternalistic attitude on the part of Departments or the Civil Service or on the part of the Minister of State but I do not believe this is the Minister of State's attitude. I have met the departmental officials and I do not believe that attitude is

intentional on their part but there is sometimes a conservative attitude when dealing with legislation and a fear that an opening of a can of worms might result. We need to be more open to change when considering progressive legislation and we need to learn from other jurisdictions. The people themselves are best placed to know their own gender, not the medical practitioners and not us.

I intend to table a series of amendments on Committee Stage to deal with the issue of the role of medical practitioner being included in the legislation. I find it odd that most of the references were removed but they are still central to the legislation. It is unfair in many ways, arbitrary and possibly unworkable and it denies individuals the right to self-determination. In some cases it places insurmountable obstacles in the way of having an individual's gender recognised.

I agree with the analysis of the legislation as expressed by Transgender Equality Network Ireland, TENI, that it pathologises transgender people. In its view, sections in the Bill require the participation of medical practitioners and this feeds into the belief that being transgender means one has a medical illness. The legislation should be able to explain to society that this is neither the case nor the intention and the easiest way of doing so is to remove from the Bill the need for the participation of medical practitioners. It is hugely problematic for the State to bar a person from legal recognition of his or her status if there has not been the participation of a doctor in that process. We need to show empathy towards transgender people and I suggest that this provision should be debated on Committee Stage and removed. A model which takes a pathological approach is completely outdated. At the pre-legislative committee hearings Deputy O'Dea and I outlined examples from other countries which could be followed.

If the Minister of State insists that the participation of a medical practitioner must be included in the Bill, then it must be at the level of general medical practitioner because a GP will have a long-term and ongoing relationship with individual patients. The country does not have the medical infrastructure to do what is expected in this Bill. For example, I do not know any endocrinologist - I cannot say that as Gaeilge but I will try to do so next week - nor do I know that many psychiatrists but I know a number of GPs, some of whom are here in this House, and I know them to be reasonable people. They know their patients, they understand them when they come from help and they may well have known them from birth. My preference is for the references to be deleted entirely.

I intend to tease out further on Committee Stage a point which has not been much discussed as yet. This is the question of how the Bill addresses inter-sex people and the relative lack of knowledge about this gender in the Bill. I refer to recent international cases which demonstrate that we need to be more informed about that peculiar aspect of life. We also need to be aware of the concerns of the many advocates for transgender and inter-sex people that the terminology used in the Bill does not fully capture their needs and may create difficulties. The terminology suggests that inter-sex people have not been particularly or properly considered and consulted in the drafting of the Bill which will not fully address their needs, despite the Minister of State's assurance that the pathway outlined in the Bill will be open to inter-sex people. However, it is the case that sometimes what might be acknowledged is not clear. There is a need for greater clarity in that aspect.

I ask the Minister of State to clarify how the professional opinion of a psychiatrist or an endocrinologist is specifically relevant to gender recognition of inter-sex people because in my view it is not. Given that inter-sex conditions are not diseases and many require no medical intervention, how can this Bill be said to be dealing with their situation? Leaving aside the

discussion about the role of psychiatrists, it is clear that some inter-sex people may feel that a designation as male or female on the birth certificate would not accurately reflect the facts of their birth as an inter-sex person and they would prefer the non-binary option for registration of gender. This matter needs to be addressed because there are alternatives and suggestions available from other countries as to how it has been addressed.

Debate adjourned.

*12 o'clock*

### **Topical Issue Matters**

**Acting Chairman (Deputy Liam Twomey):** 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 Andrew Doyle - the provision of a specific class for the development of large-scale studio infrastructure under the Planning and Development Regulations 2001; (2) Deputy Mattie McGrath - expenditure on the Tipperary Hostel Project; (3) Deputy Derek Nolan - the need to provide design and planning funding for a new emergency department at University Hospital Galway; (4) Deputy Anthony Lawlor - the need to develop a comprehensive service to meet demand for autistic spectrum disorder classes for children with autism at post-primary level; (5) Deputy Michael Fitzmaurice - the funding requirement for fabrication operators to meet more compliance; (6) Deputy Brendan Griffin - the need for upgrading the N22 Kerry to Cork Road; (7) Deputy Dessie Ellis - plans to merge the Ballymun Whitehall Area Partnership into the Tolka Area Partnership; (8) Deputy Lucinda Creighton - the future of the school completions programme; (9) Deputy Clare Daly - the need to enable home owners with pyrite to receive their legitimate exemption in regard to the property tax; (10) Deputy Charlie McConalogue - concerns regarding the qualification criteria for financial assistance for postgraduate education under the student grant scheme; (11) Deputy Niall Collins - the establishment of the new Garda authority; (12) Deputy Eamonn Maloney - job losses at the Mondelez plant in Tallaght, Dublin; (13) Deputy Áine Collins - the rolling testing period of 30 years for vintage cars and trucks; (14) Deputy Bernard J. Durkan - the need to address serious concerns regarding ward accommodation at Naas General Hospital, County Kildare; (15) Deputy Seán Ó Fearghail - the proposed takeover of the Dublin Fire Brigade ambulance service by the Health Service Executive; (16) Deputy Richard Boyd Barrett - the late-entry lifetime community rating levy on private health insurance for those aged over 34; (17) Deputy Brendan Smith - the need to implement the plan to abolish roaming mobile telephone charges, (18) Deputy Mick Wallace - promotions and related changes in An Garda Síochána announced last week; and (19) Deputy Paul Murphy - the strike by security staff in South Dublin County Council.

The matters raised by Deputies Andrew Doyle, Michael Fitzmaurice, Derek Nolan and Bernard J. Durkan have been selected for discussion.

## Leaders' Questions

**Deputy Sean Fleming:** There is a long way to go before we have a decision as to whether or not Irish Water will be classified as an independent, commercially viable semi-State company. The *raison d'être* for the establishment of Irish Water was that it would function as a commercial semi-State company along the lines of ESB and, in that way, be taken off the Government's balance sheet. EUROSTAT has not yet made a decision on this issue and the Central Statistics Office has not yet completed its consideration of the matter before forwarding that consideration to EUROSTAT.

It has emerged in recent weeks that €399 million from the motor taxation account is being given as a subvention to Irish Water this year. Moreover, the Department has confirmed this will continue year on year into the medium term. In addition, taxpayers are being asked to pick up the rates bill for Irish Water of €59 million, another direct subvention and possibly a state aid issue. On top of that, the cost of the public private partnership projects involving wastewater treatment plants that have not yet been transferred to Irish Water because of delays in the Department cost taxpayers €47 million last year and will cost them at least the same again this year. All of this amounts to an annual subvention of more than €600 million to Irish Water this and every year. These issues must all be classified.

The timescale to pass the EUROSTAT test was this month after which, on the assumption that Irish Water would pass the test of being an independent, stand-alone, commercial semi-State body, home owners were to begin receiving bills in April. In view of the confirmation I received from the Taoiseach in writing this week that it will be at least June before any such decision is made, will the Government agree to defer the issuing of water charges bills until there is clarity and certainty as to whether Irish Water is adjudged an arm of government or an independent, semi-State company? Assurances from the Tánaiste that she is confident the company will pass the test are of no use. EUROSTAT is the only body that can make that decision and the Government cannot presume to know more than EUROSTAT does before the latter has even examined the files. Until such time as EUROSTAT makes its decision, will the Government ensure people do not receive water bills from an entity whose right to exist is not yet determined?

**The Tánaiste:** As an experienced Member of the Dáil, Deputy Fleming will know that on a whole range of issues, Ireland supplies information via the Central Statistics Office, which is absolutely independent, to EUROSTAT, which is also absolutely assured of its independence under European regulations. Some years ago, when Greece got into some difficulty in regard to budgetary information and so on, the fault was deemed to lie, to a degree, in the absence of an absolutely independent service in that country such as the CSO in Ireland and EUROSTAT on a European level.

Yesterday, as on the first Wednesday of every month, the unemployment figures, including the standard rate of unemployment, are issued. Even though I would see those figures on a weekly basis within Departments, they only become public statistics at such time as they are published, at about 11 a.m. or 11.30 a.m. on the first Wednesday of every month. When we saw yesterday a figure of 10.1% for the live register, that showed the CSO and, ultimately, EUROSTAT operating as they should, with independence. I do not know why Fianna Fáil Members seem to feel nervous about or critical of the independence of these institutions. The latter are crucial to how we function in terms of our statistics and the same applies at European level.

This does not at all change what is happening in regard to Irish Water. We have a situation

where very deficient water and sewerage services were provided by 34 separate local authorities across the country. In the wake of the long debate we have had, almost everybody now agrees that the way this service was organised was not fit for purpose. It led to very significant leakages and households being placed on boil water notices. It led to a failure to provide our largest city, Dublin, and its surrounding areas with an adequate supply of water, as was the case in many other parts of the country.

When the statistics and data in respect of Irish Water are sent to the European Union, it is done via the CSO and EUROSTAT, because they are independent bodies. That is the essence of the exercise. I am not sure whether Deputy Fleming is contesting their independence. The fact that the timelines may be shorter or longer is entirely a matter for those independent bodies, not a matter for the Government. The Deputy should welcome and endorse their independence.

**Deputy Sean Fleming:** Is the Tánaiste seeking to undermine the letter the Taoiseach issued to the Select Sub-committee on the Department of the Taoiseach this week, in which he said the CSO is working to finalise its report “in the next two to three weeks”, after which that assessment will be provided to EUROSTAT? In other words, there is no delay on the part of EUROSTAT; the delay is with the CSO, which is under the remit of the Department of the Taoiseach. That is why I questioned the Taoiseach about it. The information has not yet gone from his Department to EUROSTAT. The Taoiseach went on to say that the CSO has been advised that a final response from EUROSTAT will be likely to take at least two months.

The Tánaiste does not need to tell me about the independence of EUROSTAT. It is an institution I admire and thank God we have it. We need somebody to assess independently what the Government is doing. The Tánaiste dodged the question I asked, so I will repeat it. In view of the fact that no decision has yet been made about the status of Irish Water, will the Government defer the issuing of water charges bills? The Tánaiste did not go there because her party took out an advertisement in newspapers before the last election with a picture of a tap covered by an “X” and promising there would be no water charges. I am trying to assist the Labour Party to implement its pre-election promises not to implement those charges.

**The Tánaiste:** If we are getting into remembering history, we all recall the sad occasion - it turned out very sad for the rest of us, in any case - when Fianna Fáil in government assured us the bank guarantee would be the cheapest little guarantee in the world and we would be in and out of it before we noticed. That has to be mentioned if we are talking historic promises. In regard to Irish Water, there is no difficulty if the CSO has to do more work or, indeed, if it requires additional resources. It is the essence of an independent organisation that, in this instance, it does the work to meet whatever are EUROSTAT’s requirements. This is important in respect of the market corporation test and the Government is quite confident that Irish Water will qualify under that test.

**Deputy Sean Fleming:** Confident.

**Deputy Willie O’Dea:** Why can the Government not simply wait to find out?

**The Tánaiste:** As for the decision, notwithstanding the fact that the funding for the Central Statistics Office comes via the Department of the Taoiseach, it is important that its independence be recognised publicly and acknowledged and I thank the Deputy for doing so. It is up to the CSO to set the parameters within which it carries out this very important work. I have given the example of how it does work for the Department of Social Protection on a monthly basis,

but we do not see its figures until it announces them publicly. That is how it is with the CSO and EUROSTAT. The key is to address the needs of a proper functioning water service which will be at an affordable price, result in people coming off boil water notices and savings in dealing with leakages over time. On the capital and engineering programmes, one can already see savings of €70 million in the work that must be done at the Ringsend plant, for instance, on foot of the work Irish Water has commissioned consequent on taking a utility approach and looking at best practice in improving water and wastewater facilities.

**Deputy Sean Fleming:** The Government will be issuing the bills.

**Deputy Jonathan O'Brien:** On Monday I attended the local joint policing committee, JPC, meeting at City Hall in Cork city, at which the growing problem of drug addiction and drug-related crime was discussed with the chief superintendent. Attendees heard from the chief superintendent that there had been a recent spike in the number of muggings and robberies, which he attributed in part to the growing problem of drug abuse and drug addiction within Cork city. They heard there were 500 heroin addicts in Cork, whereas ten years ago there were 20. It is estimated that each week there are 12 deaths from drug-related causes, with almost 5,500 deaths from drug overdoses and drug-related causes since records began in 2004. Eight in ten of such deaths were of young men, with more than half having mental health issues. Communities and families are being torn apart by drug addiction and the Government's response since taking office has been less than adequate. It has cut funding to drug task forces by 37%. Community support groups are struggling to deal with the issue and the growing demand placed on them with reduced resources. Moreover, figures obtained yesterday indicate that since 2011, 108 gardaí have been pulled from drug squads nationally. There is in place a national drugs strategy, with 63 actions, while 19 Government agencies and Departments have a direct role and responsibility in implementing it, yet for the first time in 21 years the Government is without a Minister or a Minister of State with specific responsibility for drugs. It is time it took this issue seriously, took responsibility in dealing with it and appointed a specific Minister of State with sole responsibility for drugs. Will the Tánaiste commit to so doing?

**The Tánaiste:** The national drugs strategy 2009-16 is cross-cutting in terms of public policy and public service delivery. Significant progress is being made in implementation of the strategy across the key areas of policy, namely, supply reduction, prevention, treatment, rehabilitation and research. As I believe the Deputy is aware, the Department of Social Protection has ring-fenced 1,000 places in community employment schemes to ensure people in rehabilitation on foot of having had difficulties with addiction will have opportunities in education, training and, ultimately, getting involved in work. I must note that there has been no reduction in resources from my Department in that respect. We have kept the ring-fenced numbers and there are opportunities for more people, if they so desire, to avail of them. There has been no cut in resources in 2015. For instance, Deputy Leo Varadkar, as Minister for Health, declared a strong interest, on the health side of policy implementation, in being directly involved in the development and implementation of the drugs strategy. An Garda Síochána has targeted intelligence-led operations that have led, as Members are aware, to significant seizures of illicit drugs. For instance, drugs with a value of €41 million were seized in the first half of 2014, which was much higher than the figure for the same period in 2013. The Department of Children and Youth Affairs has been spending approximately €51 million on an annual basis on schemes involving young people that help in deterrence and avoiding becoming involved in drugs and substance use. As for improvements in the availability of and access to treatment, at the end of September 2014, 97% of clients over 18 years had access to treatment within one

calendar month of assessment.

I agree with the Deputy that it is a terrible difficulty. It is a scourge for the individuals involved and their families who are affected. I have had the opportunity, particularly in the context of the work of my Department, to visit many community employment schemes around the country, as well as to expand the provision of services in Waterford and Wexford. People tell me constantly that they may have started their substance abuse, be it drinking alcohol or, in many cases, the use of cannabis, when they were as young as 13 years. They found themselves unable to cope with the difficulties around addiction. However, people can be helped to get clean and find a different pathway through rehabilitation. I know that many people have recovered and put their difficulties with addiction long behind them. Many of them are now counsellors to others experiencing difficulties. The Government has committed to significant investment to deal with this issue through the strategy.

**Deputy Jonathan O'Brien:** From the Tánaiste's response, I am sure she will agree that it is clear that this is a highly complex issue that does not simply pertain to drug addiction, as many other issues are related to it, including mental health. Some of these issues have been discussed previously in the Chamber. It is for that reason, when one considers we have a national drugs strategy with 63 action points and which covers 19 Government agencies and Departments, it is important to have somebody with sole responsibility for dealing with this issue. That is why I am asking whether the Government will commit to appointing a Minister of State with specific responsibility for it. It is all well and good to state the Minister sitting next to the Tánaiste has decided to take a direct role in dealing with it. I am sure he is extremely busy in his capacity as Minister for Health, with many other pressures on him and issues facing him. Therefore, if the Government is serious - I hope the Tánaiste is serious about dealing with the issue - why is it that for the first time for 21 years, there is no Minister of State with specific responsibility for dealing with the drugs problem? Again, I ask the Tánaiste to commit to appointing one.

**The Tánaiste:** I agree with the Deputy that it is a highly complex issue. From visiting communities, particularly visiting community employment schemes focused on rehabilitation, education, training and employment possibilities for people who have been involved in substance abuse, I am always shocked by the sheer calibre of the people it affects. They come from all walks of life. They are some of the brightest and creative people one could meet but they end up with this problem. It is horrible for them and for their families.

The Deputy referred to having a Minister of State with responsibility for this area. The Minister of State in my Department, Deputy Kevin Humphreys, spends a significant amount of time, as much as I do, visiting the different groups and organisations dealing with this problem. I know from the Minister for Health, Deputy Varadkar, about the Coolmine therapeutic centre, one of the leading centres in the country and situated in the heart of our respective constituency. That centre advocates a drug-free model of therapy. Again, I know the Deputy would be familiar with the different therapeutic approaches.

This year there are extra detox beds with more earmarked health resources for this area. I will concede it is still a severe problem for society. It is terrible for any family which has to experience a family member becoming for a period almost lost to drugs. From speaking about homelessness before Christmas, we know mental health issues, as well as substance abuse issues, can be heavy contributors to that, unfortunately. Again, the Government has devoted significant additional resources in addressing that. I know for instance that the homeless night café in Dublin city has given significant assistance to this area. Organisations such as Merchants

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Quay have done enormous work in helping people on the pathway to recovery and to wellness. At the end of the day, that is what we want for people.

**Deputy Jonathan O'Brien:** Will the Tánaiste give consideration to the appointment of a Minister of State with responsibility for this area?

**The Tánaiste:** As I said, this can be kept under review. The Minister for Health, Deputy Varadkar, as the senior Minister, is taking a dedicated personal interest in it. That is significant and important. I also take a detailed interest as does the Minister of State, Deputy Kevin Humphreys.

**Deputy Ruth Coppinger:** This Sunday, 8 March, is International Women's Day. Is the Tánaiste in any way embarrassed that, after four years of her Government's tenure, not only has she not lifted a finger in key areas of women's rights crying out for vindication, but now her austerity policies are causing immense suffering for women on low and middle incomes, especially for women dependent on social welfare payments for which her ministry is directly responsible?

How does the Tánaiste feel that last summer the United Nations, a conservative body, had to call out the Government for its ongoing maintenance of the eighth amendment of the Constitution? It said the abortion ban and the Government's pathetic Protection of Life During Pregnancy Act was a breach of civil and political rights and that women in Ireland were being effectively treated as vessels.

The United Nations particularly mentioned the disgrace of fatal foetal abnormalities. Last month, however, the Tánaiste trooped into this Chamber, along with other Labour Party Deputies, and voted down a Bill that could have dealt with that. Apparently that hypocrisy is acceptable because last weekend at the Labour Party conference, the Tánaiste suddenly decided to promise a referendum on this issue whenever the Labour Party gets into government at some stage in the future. Given that is not likely to happen in any way, shape or form at any time soon, why does she not salvage something out of this Government for the Labour Party and hold a referendum to repeal the eighth amendment along with the other referenda she is planning in the remaining lifetime of the Government?

Will the Tánaiste deal in particular with the growing problem of the feminisation of poverty which has accelerated under her Government? Women have been traditionally lower paid and on lower incomes. As Minister for Social Protection, the Tánaiste has swung her axe on women in a shocking way. Her cuts to child benefit broke an election pledge, taking hundreds of euro out of the pockets of women and their families. For some inexplicable reason, however, she has singled out the poorest women and lone parents for particular attack. Her cuts to one-parent social welfare payments are nothing short of Thatcherite and have been condemned by Barnardos and countless other groups.

**Deputy Michael Fitzmaurice:** How many questions, a Leas-Cheann Comhairle?

**Deputy Finian McGrath:** The truth hurts. This is not talking down the clock like some do opposite.

**Deputy Aodhán Ó Ríordáin:** Does Deputy Finian McGrath agree with the eighth amendment?

**Deputy Finian McGrath:** I have spoken against it many times.

**Deputy Ruth Coppinger:** The Tánaiste's rent allowance cuts are making hundreds of women homeless each week. Last year, on International Women's Day, she made a speech saying we need more women leaders in all areas of life and that far too few women are in the room when crucial decisions are made. Why, when the Tánaiste is in the room and as the most powerful woman in politics in this country, are these cuts happening to women? She also told women to do one thing every day that scares them. They are doing things every day of which they are terrified thanks to the Tánaiste's cuts, making their lives a misery as a result.

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

**Deputy Ruth Coppinger:** I know where I will be spending International Women's Day. I will be at a rally at the Spire organised by the ROSA group, Reproductive rights, against Oppression, Sexism and Austerity and Real-Productive Health. Where will the Tánaiste be? Two years ago, she spent International Women's Day with Christine Lagarde, the well-heeled head of the IMF, which has plunged millions of people, especially women, into poverty.

**Deputy John Halligan:** She has great time for women.

**Deputy Ruth Coppinger:** Will the Tánaiste agree it is a far cry from the labour movement tradition which started International Women's Day? It was begun by garment workers in 1909 in the US-----

**Deputy Bernard J. Durkan:** As a celebration.

**Deputy Ruth Coppinger:** -----and carried on by German socialists.

Will the Tánaiste celebrate International Women's Day by calling off her economic war on women?

**Deputy Bernard J. Durkan:** Question No. 7 now.

**Deputy Ruth Coppinger:** Will she hold a referendum to repeal the eighth amendment, so badly needed by women?

**Deputy Bernard J. Durkan:** And now the intermission.

**Deputy Noel Coonan:** "No". "No". "No".

**The Tánaiste:** The women who are my heroes are the women who look after their families-----

**Deputy Ruth Coppinger:** Christine Lagarde.

**The Tánaiste:** -----and their parents, who go out to work and make a life for themselves, their partners and their children. There is a saying in Swahili that women hold up half of the sky.

**Deputy Mattie McGrath:** What about the single-parent family payments in yesterday's social welfare Bill?

**The Tánaiste:** I do not know if Deputy Coppinger has ever had an opportunity to be aware that in terms of women's responsibilities in this world, the women who every day look after

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their families, their partners, their children and their elder parents should be all of our heroes. For those of us who are elected to politics as women, it is an enormous privilege to serve. I do hope to see a higher number of women participating in politics. That is part of the development of democratic societies and is to be welcomed, including the Deputy's own presence in this House.

The Deputy had a parliamentary question on the social welfare system earlier this morning. As I told her then, in the studies carried out by the ESRI and published several months ago, women benefit slightly more from our social welfare system.

**Deputy John Halligan:** That is not correct.

**The Tánaiste:** If the Deputy thinks about it, she will realise why. Notwithstanding all the work and contribution that women make, statistically they live longer than men by a couple of years. From the €6.7 billion that will be spent on pensions by the State this year, a slightly greater proportion of that will go to women than to men, particularly for those on a State contributory pension or a non-contributory pension. I am sure the Deputy would endorse that.

The ESRI study, which I went through in detail this morning although the Deputy quibbled a little, comes from a recognised research institution. The study showed that women do slightly better. Many women are in a household with two adults, a man and a woman, and household income is distributed evenly. The ESRI therefore found that there was no measurable difference between women and men.

Regarding Deputy Coppinger's third point on changes to the lone parent payment, my objective is to help people get into work on either a part-time or a full-time basis. The way to do that and to get a well-paying job is to get access to opportunity in terms of education, training and work experience. We have had a tradition of leaving people welfare-dependent for 18 to 22 years, going back to the early 1970s when the first payments for lone parents were introduced.

**Deputy Finian McGrath:** Is this a speech?

**The Tánaiste:** We are changing the rules to allow people to combine getting a social welfare income or family income support or the new back to work family allowance----

**Deputy Bernard J. Durkan:** Deputy McGrath should listen, he might learn something.

**Deputy John Halligan:** The Tánaiste should answer the question. Are working women in poverty, yes or no? CSO statistics say they are.

**The Tánaiste:** ----which will give any lone parent going back to work an extra €30 per week per child. As the studies in respect of this year's budget show, we have also increased child benefit for every child by €5 a month. I am happy to say that as Tánaiste, I have prioritised getting people back to work because when people get some work, part time or full time, their at risk of poverty rate falls by well over 60%. The best way out of poverty is getting a job, an education and opportunities in life and I have never made a secret of the fact that this is at the heart of the Labour Party's policies.

**Deputy John Halligan:** What about fatal foetal abnormalities?

**An Leas-Cheann Comhairle:** Thank you, Tánaiste. Supplementary questions and replies are of one minute's duration.

**Deputy Ruth Coppinger:** The ESRI report the Tánaiste quotes did not refer to social welfare cuts at all.

**The Tánaiste:** Yes it did.

**Deputy Ruth Coppinger:** It was not a study of them and did not actually conclude that there was no impact on women. In fact, it concluded that there was an impact on women who were in a relationship. The study to which I would like to refer the Tánaiste - and I am sure she is not contradicting it as it is well known - is by the National Women's Council. It concluded that equality had been cast aside during the crisis; lone parents, the low paid and the poor were special targets for raising cash to recapitalise the banks; mother-headed households were more likely to be in debt for gas, electricity and rent; and women were more likely to be paying for the crisis. I will not go into it, the Tánaiste knows it well.

I would like the Tánaiste to go back to the two specific issues I raised, of lone parents and the 8th amendment, which she studiously did not mention at all. Regarding lone parents, this is the second promise to women the Tánaiste has broken. On posters before the election, she promised that she would not cut child benefit. She cut it - she took €10 and gave back €5. She promised last July that she would not proceed with these cuts to lone parents unless Scandinavian style child care was in place. There is no Scandinavian style child care. I am sure a lot of women would like to go out to work, be it part-time or full-time, but for lone parents it is even more difficult. The Tánaiste is turning seven year olds into latchkey kids. How are parents meant to be able to find somewhere from 1.30 p.m., when seven year olds get off school, until 6 o'clock? They would want to be earning a whopping income like the Tánaiste's to do that.

**Deputy Colm Keaveney:** Whip hand.

**Deputy Finian McGrath:** Hear, hear.

**Deputy Ruth Coppinger:** I am on a worker's wage and the Deputy is not. Regarding the eight amendment, can the Tánaiste please respond to me? In the past, people would have expected that the Labour Party, at least on social issues if nothing else, would garner something from a coalition of popular government.

**Deputy Bernard J. Durkan:** Speech

**Deputy Ruth Coppinger:** Why will the Tánaiste not hold a referendum this year and not at some stage in the future? We all know the Labour Party will not be in the next Government so it is a useless promise. Do it now and give women the rights they deserve.

**Deputy Aodhán Ó Ríordáin:** The only way to remove the eighth amendment is to vote on it. That is the only way.

**Deputy Emmet Stagg:** Deputy Coppinger will not be in the next Government anyway, that is for sure.

**Deputy Joe Higgins:** The Labour Party used to say it would not be in a right-wing Government either.

**Deputy Brendan Howlin:** Deputy Higgins does not believe in government.

**Deputy Aodhán Ó Ríordáin:** Deputy Higgins should pay his bin tax.

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**An Leas-Cheann Comhairle:** Order please, I have called the Tánaiste.

**The Tánaiste:** The Labour Party conference this weekend was very successful and worthwhile. It is a pity Deputy Coppinger was not there but maybe she was outside. In terms of our platform for the next election, the delegates agreed that we would be seeking to repeal the eighth amendment to the Constitution.

**Deputy John Halligan:** Why does the Tánaiste not do it now?

**The Tánaiste:** I can only go on the legal advice that we get, which is that constitutional change is required to deal with the very distressing issue of fatal foetal abnormality. When we go to the people we will ask them to endorse a proposal that the Labour Party seek a referendum on the eighth amendment.

**Deputy Ruth Coppinger:** Do it now.

**The Tánaiste:** Deputy Coppinger asked me earlier where I would be on International Women's Day. I will be in Maynooth university with organisations like Trócaire, celebrating the achievements of women in developing countries in building economic independence and small, medium and large businesses for themselves and their families.

**Deputy Aodhán Ó Ríordáin:** Deputy Coppinger can protest that. She should take the iPhone out of her boot now.

**The Tánaiste:** Deputy Coppinger's colleagues might be interested to know that I also hope to celebrate with An Cosán, a marvellous organisation based in Tallaght providing education for the community. Last year when I met Madame Lagarde, the head of the IMF - Deputy Coppinger may object to this - I brought women with me who are involved in business in areas like carers, associations, education----

**Deputy Finian McGrath:** The Tánaiste cut their grant

**Deputy Brian Stanley:** She cut the carer's allowance and the respite grant.

**The Tánaiste:** ---and some of the leading women doctors working in this country. Going back to my comment about the women who are my heroes, the person who probably spoke best was the woman who, along with several others, had spent their lives working as carers, caring for individuals from their families and communities---

**Deputy Ruth Coppinger:** The Tánaiste is after cutting grants to carers.

**The Tánaiste:** Christine Lagarde spent a lot of time with women telling their stories of what it is like to be a woman in modern Ireland. It is important that women share their stories so I hope this International Women's Day that women in Ireland will get the same opportunities. Certainly at the events I am going to I hope to be able to celebrate with women who are successful and committed to this country, their children and families.

## Order of Business

**The Tánaiste:** It is proposed to take No. a18, motion re Standing Order 107J; No. 18, Revised Estimates for Public Services 2015 - Votes 1 to 40, inclusive, back from committee; and No. 3, Gender Recognition Bill 2014 [Seanad] - Second Stage (resumed).

It is proposed, notwithstanding anything in Standing Orders, that No. a18 shall be decided without debate; that, in the case of No. 18, Votes 1 to 40, inclusive, shall be moved together and decided by one question which shall be put from the Chair and that the proceedings thereon shall, if not previously concluded, be brought to a conclusion after 25 minutes and that the following arrangements shall apply: the speeches of a Minister or a Minister of State and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called upon in that order shall not exceed five minutes in each case; such Members may share their time; the speech of a Minister or a Minister of State who shall be called upon to make a speech in reply shall not exceed five minutes; and any division demanded thereon shall be taken forthwith.

Friday's fortnightly business shall be No. 74, Thirty-Fourth Amendment to the Constitution (Neutrality) Bill 2013; and No. 19, report on penal reform.

**An Leas-Cheann Comhairle:** There are two proposals to be put to the House. Is the proposal for dealing with No. a 18, motion re Standing Order 107J, without debate, agreed to? Agreed.

Is the proposal for dealing with No. 18, Revised Estimates for Public Services 2015 - Votes 1 to 40, inclusive, agreed to?

**Deputy Sean Fleming:** The Tánaiste is guillotining the debate on the Revised Estimates, for which she wants to allow 25 minutes. I thought the Government had learned a few lessons and would not use the Dáil as a rubber-stamp or force items through which it was afraid to debate. Using the jackboot the Tánaiste wants to guillotine the debate. The Dáil should not be used as a rubber-stamp by the Government. As Opposition spokesperson on public expenditure and reform, I asked for a three-hour debate. The debate should be detailed and about the choices made by the Government and its priorities, and lack thereof, in deciding where taxpayers' money should be spent this year.

**Deputy Brendan Howlin:** This is a speech.

**An Leas-Cheann Comhairle:** It should be a brief contribution. I do not want anymore interruptions.

**Deputy Sean Fleming:** It will be very brief and concise. The figure with which we are dealing is €53 billion of taxpayers' money, of which €38 billion is net expenditure, down 2.7% from last year. The Minister for Public Expenditure and Reform will say the Revised Estimates were discussed at the committees, but the overall choices made and the priorities as between Departments were not discussed by any committee. Each line Department discussed its Estimates, but there was no debate in the Chamber or elsewhere about the Government's priorities in the areas of health, social protection, agriculture and job creation. Last December the Tánaiste forced through Supplementary Estimates without debate and without information being provided at the time. I thought she had learned something, but, as leader of the Labour Party, she clearly has not because the Estimate for her Department was only discussed yesterday afternoon, less than 24 hours ago. At that committee meeting she gave a commitment to provide information

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on the savings accruing to the Department in transferring recipients, mainly women, from the one-parent family payment to the jobseeker's payment. She has not yet provided that information.

**An Leas-Cheann Comhairle:** We cannot have a debate on the matter now. There is too much detail involved.

**Deputy Sean Fleming:** I am almost finished.

**An Leas-Cheann Comhairle:** There are others-----

**Deputy Sean Fleming:** There will be the use of the guillotine in one minute but I will not have my contribution guillotined. The Tánaiste yesterday gave a commitment to provide information for our spokesperson and the committee on the cost of restoring the respite care grant to its previous level, but she has not yet done so. She is forcing the issue to a vote today without the information requested at the committee meeting having been provided. At the weekend the Minister for Public Expenditure and Reform spoke about having a general discussion and including the Opposition, but within 48 hours of making that statement he will guillotine the debate on the Revised Estimates which involve Government expenditure of €53 billion. I oppose the proposal.

**The Tánaiste:** I suppose it is a little like Rip Van Winkle. Did the Deputy miss all of the debates at the time the budget was announced?

**Deputy Brendan Howlin:** He was away that day.

**The Tánaiste:** Perhaps he was very busy elsewhere. However, there were very extensive debates.

**Deputy Sean Fleming:** This information was published since the budget was announced.

**An Leas-Cheann Comhairle:** The Tánaiste has the floor.

*(Interruptions).*

**The Tánaiste:** The Deputy should calm down and relax. Dáil reform was championed in the previous Dáil by the Deputy's then party leader and former Taoiseach, former Deputy Brian Cowen. We decided to engage in detailed discussions at the committees on all of the Estimates. As the then finance spokesperson, I listened to endless discussions on how we should debate and examine outcomes. Yesterday, last week, the week before and perhaps even the week before that, almost every Minister spent approximately two to three hours at committee meetings which the Deputy's party, when in government, stated would lead to Dáil reform. Perhaps we got something wrong because at the time the rest of us actually agreed that the process would allow an in-depth analysis of the Estimates. We did what the Deputy's party asked us to do. Most Members, including many on the Opposition benches, appreciate the opportunity to engage in in-depth debate, as I did for a couple of hours yesterday on social welfare spending of €19 billion, during which a couple of hundred questions must have been asked. Where I did not have the full answer sought, I said I would be in touch in writing with Deputy Willie O'Dea. I left the debate in the middle of the afternoon to take part in some other work being done in the Dáil. I came here at 9.30 a.m. and have not yet sat down to write to Deputy Willie O'Dea but I will do so, as I do in normal course, in reply to one or two queries that he raised.

*Dáil Éireann*

I do not know why Deputy Sean Fleming is so agitated about this issue because this is what he wanted. There has been detailed debate on all of the Revised Estimates. Fianna Fáil Members took part in all of the debates, including Deputy Willie O'Dea at the committee meeting I attended. If Deputy Sean Fleming wants to vote against the Revised Estimates, that is fine. However, when the motions were put to the committees to refer them back the Dáil, nobody complained. I will take into account what the Deputy has raised and if we can be of assistance in dealing with his queries, I will certainly undertake to see to it that that happens.

Question put: "That the proposals for dealing with No. 18 be agreed to." The Dáil divided: Tá, 71; Níl, 24. Tá Níl Barry, Tom.

<i>The Dáil divided: Tá, 71; Níl, 24.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Boyd Barrett, Richard.</i>
<i>Burton, Joan.</i>	<i>Broughan, Thomas P.</i>
<i>Buttimer, Jerry.</i>	<i>Calleary, Dara.</i>
<i>Byrne, Catherine.</i>	<i>Collins, Joan.</i>
<i>Cannon, Ciarán.</i>	<i>Collins, Niall.</i>
<i>Carey, Joe.</i>	<i>Coppinger, Ruth.</i>
<i>Colreavy, Michael.</i>	<i>Creighton, Lucinda.</i>
<i>Conaghan, Michael.</i>	<i>Fitzmaurice, Michael.</i>
<i>Conlan, Seán.</i>	<i>Flanagan, Terence.</i>
<i>Coonan, Noel.</i>	<i>Fleming, Sean.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Halligan, John.</i>
<i>Costello, Joe.</i>	<i>Healy, Seamus.</i>
<i>Creed, Michael.</i>	<i>Kelleher, Billy.</i>
<i>Crowe, Seán.</i>	<i>Kirk, Seamus.</i>
<i>Daly, Clare.</i>	<i>McGrath, Finian.</i>
<i>Deasy, John.</i>	<i>McGrath, Mattie.</i>
<i>Deenihan, Jimmy.</i>	<i>Mathews, Peter.</i>
<i>Doherty, Regina.</i>	<i>Murphy, Paul.</i>
<i>Dowds, Robert.</i>	<i>Ó Cuív, Éamon.</i>
<i>Durkan, Bernard J.</i>	<i>Ó Fearghail, Seán.</i>
<i>Ellis, Dessie.</i>	<i>Pringle, Thomas.</i>
<i>English, Damien.</i>	<i>Ross, Shane.</i>
<i>Feighan, Frank.</i>	<i>Smith, Brendan.</i>
<i>Ferris, Anne.</i>	<i>Troy, Robert.</i>
<i>Fitzgerald, Frances.</i>	
<i>Fitzpatrick, Peter.</i>	
<i>Flanagan, Charles.</i>	
<i>Gilmore, Eamon.</i>	
<i>Harrington, Noel.</i>	
<i>Hayes, Tom.</i>	
<i>Heydon, Martin.</i>	
<i>Howlin, Brendan.</i>	

<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Keaveney, Colm.</i>	
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>Mac Lochlainn, Pádraig.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McLellan, Sandra.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mulherin, Michelle.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Snodaigh, Aengus.</i>	
<i>O'Brien, Jonathan.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanley, Brian.</i>	
<i>Stanton, David.</i>	
<i>Tóibín, Peadar.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	
<i>Wallace, Mick.</i>	
<i>Walsh, Brian.</i>	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Sean Fleming and Seán Ó Fearghaíl.

Question declared carried.

*1 o'clock*

**Protection of Life During Pregnancy (Amendment) (Fatal Foetal Abnormalities) Bill  
2015: First Stage**

**Deputy Michael McNamara:** I move:

That leave be granted to introduce a Bill entitled an Act to define human life protected during pregnancy and to permit termination of pregnancy in situations where a foetus has a fatal abnormality such that it has no prospect of life after birth.

*(Interruptions).*

**An Leas-Cheann Comhairle:** I ask Members to step outside the Chamber if they wish to have conversations. Could we have order, please, for Deputy McNamara?

**Deputy Michael McNamara:** I thank the Leas-Cheann Comhairle for the opportunity to seek leave to introduce this Bill. It is important to point out that it is difficult, if not impossible, to reconcile the views expressed by members of the Government on Second Stage of the Protection of Life in Pregnancy (Amendment) (Fatal Foetal Abnormalities) Bill 2013, which was introduced by Deputy Clare Daly, with the arguments that were made on behalf of the Government to the European Court of Human Rights in *D. v. Ireland*. Not only did the Government argue in that case that it might be possible to terminate a pregnancy where there was no realistic prospect of the foetus being born alive, but it went further and argued that it might even have been possible under the Constitution to terminate pregnancies in cases of diagnoses of Trisomy 18, where the medical evidence is that the median survival age is approximately six days. I should point out that this Bill is more restrictive than Deputy Clare Daly's Bill and than what the Government argued in Strasbourg might be constitutional.

When responding to Deputy Clare Daly's Bill a month ago, the Minister for Health stated:

I cannot support this legislative proposal because the Bill is unconstitutional. A referendum would be required to amend the Constitution to ensure legislation, such as outlined by Deputy Daly, could be introduced. The Dáil cannot pass legislation it knows to be unconstitutional. The view of the Attorney General is that this legislation is unconstitutional.

I would not introduce this Bill if I did not believe it to be constitutional. I have set out my reasoning for this in the explanatory memorandum accompanying the Bill. The Bill is more restrictive in its definitions than Deputy Clare Daly's one and allows for the termination of a pregnancy where there is a diagnosis by two obstetricians of a fatal foetal abnormality, which is defined as a medical condition or medical conditions suffered by a foetus resulting in that foetus having no prospect of being born alive or a medical condition listed in Schedule A, which is a schedule of medical conditions that result in a foetus not having the capacity for life as a human person after birth. Anencephaly is listed.

Two other important issues that arose during the previous debate need to be addressed, including the use of Article 15.4 to gag debate in the House. That article reads: "The Oireachtas shall not enact any law which is in any respect repugnant to this Constitution or any provision thereof." The discussion of a Bill on Second Stage is not the enactment of legislation. We are all clear on this point. Many a Bill has been initiated in the House over which there have been constitutional discussions that resulted in amendments during the course of Committee Stage. It is important to bear this point in mind, as the claim that there might be constitutional issues surrounding Bills is an increasing phenomenon in the lifetime of this Government.

**Deputies:** Hear, hear.

**Deputy Michael McNamara:** These claims grow legs, the Bills become unconstitutional and suddenly they are killed off for reasons of political expediency in the name of unconstitutionality. That is a danger that we need-----

**Deputy Billy Kelleher:** They are gagging Parliament over there.

**An Leas-Cheann Comhairle:** Deputy McNamara has the floor.

**Deputy Michael McNamara:** I am concerned about this matter.

The second issue is the failure to publish the Attorney General's advice upon which members of the Government relied to buttress their views. This was done because of Article 28.4.3o, an amendment that was introduced by the people at the behest of a Fianna Fáil Government to ensure that discussions at Cabinet were confidential. There is a difference between discussions at Cabinet and memoranda prepared in advance of those. If the Government is going to rely on the advice of the Attorney General to kill off a Bill, the very least that should be done is to publish that advice to enable people to introduce legislation in future. It is particularly ironic that the advice, which could not be shown to backbenchers, subsequently appeared in Sunday newspapers in extracts. As a backbencher who supports this Government, which is sometimes confused with being in government, it is interesting to learn of deals after the event. I accept that a political deal was done in this regard, but I was not aware of it at the time. If it was done in my name, it was not done with my knowledge.

The price of this decision will be paid by couples and pregnant women in Ireland who receive diagnoses of fatal foetal abnormalities. What are they expected to do if we do not legislate? As argued in Strasbourg, they are expected to initiate an action in the High Court as soon as a diagnosis is confirmed and, if unsuccessful, pursue it to the Supreme Court to obtain a declaration that Article 40.3.3o of the Constitution allows a termination in their cases. Yet again, we will see a pregnant woman in distress surrounded by lawyers in courts rather than medics in an environment of medical care. There is an onus on this House to legislate where possible. As the Tánaiste outlined, legislating on a broader range of issues than fatal foetal abnormality, for example, rape, incest and the health as opposed to the life of a pregnant mother, as a basis for termination would require a referendum. However, it is conceivable, particularly given the Government's argument in Strasbourg, that it would be constitutional to legislate for fatal foetal abnormalities. There is an onus on the House to do exactly that.

**An Leas-Cheann Comhairle:** Is the Bill opposed?

**Deputy Joe Carey:** No.

**Deputy Billy Kelleher:** The Government opposed a Bill three weeks ago.

**Deputy John Halligan:** What is wrong with the Government?

**Deputy Joe Carey:** It takes-----

**Deputy John Halligan:** The Government does not know what it is doing. It is all over the place. It is unbelievable.

Question put and agreed to.

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

**Deputy Michael McNamara:** I move: "That the Bill be taken in Private Members' time."

In deference to the work of the health committee, which will consider the issue of fatal foetal abnormalities in the near future, the Bill should only be taken after it has carried out its hearings, which I am assured will be done in advance of this summer.

**Deputy Clare Daly:** The Deputy is not even trying.

Question put and agreed to.

### **Migrant Earned Regularisation Bill 2015: First Stage**

**Deputy Niall Collins:** I move:

That leave be granted to introduce a Bill entitled an Act to provide for the establishment of a scheme to enable certain foreign nationals whose presence within the State is other than in accordance with a permission granted by or on behalf of the Minister to apply for and earn permission to remain within the State; to manage the implementation of such scheme, and to provide for matters connected therewith.

Members will be aware of the position of the undocumented Irish in the US and many Members of both Houses have made careers out of campaigning on behalf of them. That is all very well and it is an activity that all of us support but, equally, a significant community of people in this country are categorised as undocumented. It is a reality to which we, as legislators and as a society, must face up.

People become undocumented in Ireland for many reasons but they can be categorised as visa overstayers. They are undocumented and unaccounted for by the State. They enter the State on student or holiday visas or work permits and they overstay their permission to remain here. It is estimated that there are 30,000 undocumented migrants, including children. By virtue of the children's referendum, these children do not have any status in this country and they will face many challenges when they seek to leave the schooling system. It is estimated that 90% of the 30,000 undocumented are working and one third of them pay tax and PRSI and contribute to the Exchequer but, unfortunately, the remaining two thirds work in the shadow or grey economy. That puts them in a vulnerable position. Many of them are paid less than the

minimum wage and this also has the effect of suppressing official wage rates. Research has shown that the majority of these people work in the restaurant and catering industry, cleaning and maintenance sectors and as domestic workers. The vast majority are Filipino, Chinese, Mauritian, Brazilian and Pakistani.

The proposed scheme will not result in an amnesty. The legislation provides for a six month window during which people will be allowed to apply for entry to the scheme. Once people present with an application and can demonstrate that they have been in the State for more than 24 months, they can be accepted under the scheme. When they are accepted, they will be given permission to reside and work in the State for one year. That permission will be renewable annually for a four year period and over the five years of the scheme, applicants will have to earn a number of credits under different categories, including language proficiency, contribution to the State and payment of their obligations in tax, PRSI and USC. Once they have demonstrated that they have reached a credit threshold, they will be granted a long-term permission to stay. It is significant that once they are regularised, they will be allowed to function more normally within the economy. Hopefully, the vast majority of them will move from the shadow economy into the official economy and contribute properly, which will have a significant upside for the economy.

There are also strong humanitarian grounds for regularising them. According to testimony from undocumented migrants, they find themselves trapped. They can leave the State but if they do, they will be unable to return. They work here to support and educate their families in their native countries and they miss significant family events such as funerals and marriages and milestones in their children's lives.

It makes strong economic sense to introduce a scheme such as this. It is estimated it would yield the Exchequer almost €18 million per annum. There would also be a significant upside to bringing most of these people out of the shadow economy into the official economy. It would also prevent mass deportations, particularly since many of these people have put down roots here.

The options the Government has regarding this cohort of people is to do nothing, which is what it is doing; enter into a programme of mass deportations, which would not be socially acceptable and would be financially prohibitive or impractical; or to deal with the issue by regularising those who are working and have put down significant roots in every community throughout the country. This is the right thing to do and I hope the Government will give the Bill a fair hearing on Second Stage with a view to its progression.

**An Leas-Cheann Comhairle:** Is the Bill opposed?

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** No.

Question put and agreed to.

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

**Deputy Niall Collins:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

*Dáil Éireann*  
**Standing Orders: Motion**

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I move:

That, pursuant to Standing Order 99(1)(a), the Committee on Procedure and Privileges recommends that the Standing Orders of Dáil Éireann relative to Public Business are hereby amended by the adoption of the following as an additional Standing Order:

**Discharge from Committee**

‘107J. (1) Where a member of a Committee which is conducting a Part 2 inquiry contravenes a direction given to him or her by the Chairman to cease particular questioning, the Committee may agree to report to the Dáil, recommending that the member in question be discharged from the Committee.

(2) Where a Committee which is conducting a Part 2 inquiry considers that one of its members has contravened a requirement of the Inquiries Act applicable to the Part 2 inquiry, and, in the opinion of the Committee, the contravention is a serious contravention, the Committee may agree to report to the Dáil—

(a) specifying the relevant section of the Inquiries Act containing the requirement which has been contravened, and the evidence relating to the contravention;

and

(b) recommending that the member in question be discharged from the Committee.

(3) In performing its functions under paragraph (2), the Committee shall at all times have due regard to the Constitutional principles of basic fairness of procedures and the requirements of natural and Constitutional justice.

(4) As soon as is practicable after its adoption of a report under paragraph (1) or paragraph (2), the Committee shall lay the report before the Dáil, and the Chairman shall table a motion, as soon as is practicable, proposing that the Dáil takes note of the recommendation in the report and discharges the member in question from the Committee.

(5) The Dáil shall consider a motion under paragraph (4) as soon as is practicable.

(6) The provisions of Standing Order 107G shall not apply to a report under this Standing Order.

(7) References in this Standing Order to “the Inquiries Act” are references to the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013.’

Question put and agreed to.

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## **Estimates for Public Services 2015**

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I move the following Revised Estimates:

### **Vote 1 — President's Establishment (Revised Estimate).**

That a sum not exceeding €3,444,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Secretary General to the President, for certain other expenses of the President's Establishment and for certain grants.

### **Vote 2 — Department of the Taoiseach (Revised Estimate).**

That a sum not exceeding €27,022,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Department of the Taoiseach, including certain services administered by the Department and for payment of grants.

### **Vote 3 — Office of the Attorney General (Revised Estimate).**

That a sum not exceeding €15,030,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Attorney General, including a grant.

### **Vote 4 — Central Statistics Office (Revised Estimate).**

That a sum not exceeding €52,836,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Central Statistics Office.

### **Vote 5 — Office of the Director of Public Prosecutions (Revised Estimate).**

That a sum not exceeding €37,834,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Director of Public Prosecutions.

### **Vote 6 — Office of the Chief State Solicitor (Revised Estimate).**

That a sum not exceeding €26,966,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Chief State Solicitor.

### **Vote 7 — Office of the Minister for Finance (Revised Estimate).**

That a sum not exceeding €30,617,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Finance, including the Paymaster-General's Office, for certain services administered by the Office of the Minister and for payment of certain grants.

### **Vote 8 — Office of the Comptroller and Auditor General (Revised Estimate).**

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That a sum not exceeding €6,682,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Comptroller and Auditor General.

**Vote 9 — Office of the Revenue Commissioners (Revised Estimate).**

That a sum not exceeding €329,481,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Revenue Commissioners, including certain other services administered by that Office.

**Vote 10 — Office of the Appeal Commissioners (Revised Estimate).**

That a sum not exceeding €775,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Appeal Commissioners.

**Vote 11 — Public Expenditure and Reform (Revised Estimate).**

That a sum not exceeding €40,610,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Public Expenditure and Reform, for certain services administered by the Office of the Minister and for payment of certain grants.

**Vote 12 — Superannuation and Retired Allowances (Revised Estimate).**

That a sum not exceeding €370,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for pensions, superannuation, occupational injuries, and additional and other allowances and gratuities under the Superannuation Acts 1834 to 2004 and sundry other statutes; extra-statutory pensions, allowances and gratuities awarded by the Minister for Public Expenditure and Reform, fees to medical referees and occasional fees to doctors; compensation and other payments in respect of personal injuries; fees to Pensions Board; miscellaneous payments, etc.

**Vote 13 — Office of Public Works (Revised Estimate).**

That a sum not exceeding €369,848,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of Public Works; for services administered by that Office including the National Procurement Service, for payment of certain grants and for the recoupment of certain expenditure.

**Vote 14 — State Laboratory (Revised Estimate).**

That a sum not exceeding €8,049,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the State Laboratory.

**Vote 15 — Secret Service (Revised Estimate).**

That a sum not exceeding €1,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for Secret Service.

**Vote 16 — Valuation Office (Revised Estimate).**

That a sum not exceeding €9,145,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Valuation Office and certain minor services.

**Vote 17 — Public Appointments Service (Revised Estimate).**

That a sum not exceeding €8,204,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Public Appointments Service.

**Vote 18 — Shared Services (Revised Estimate).**

That a sum not exceeding €39,033,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of Shared Services and that a sum not exceeding €998,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

**Vote 19 — Office of the Ombudsman (Revised Estimate).**

That a sum not exceeding €8,738,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Ombudsman, the Office of the Commission for Public Service Appointments, the Standards in Public Office Commission, the Office of the Information Commissioner and the Office of the Commissioner for Environmental Information.

**Vote 20 — Garda Síochána (Revised Estimate).**

That a sum not exceeding €1,348,273,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Garda Síochána, including pensions, etc.; for the payment of certain witnesses' expenses, and for payment of certain grants.

**Vote 21 — Prisons (Revised Estimate).**

That a sum not exceeding €310,243,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Prison Service, and other expenses in connection with prisons, including places of detention; for probation services; and for payment of certain grants.

**Vote 22 — Courts Service (Revised Estimate).**

That a sum not exceeding €60,150,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for such of the salaries and expenses of the Courts Service and of the Supreme Court, the Court of Appeal, the High Court, the Special Criminal Court, the Circuit Court and the District Court and of certain other minor services as are not charged to the Central Fund.

**Vote 23 — Property Registration Authority (Revised Estimate).**

That a sum not exceeding €30,311,000 be granted to defray the charge which will come

in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Property Registration Authority.

**Vote 24 — Justice and Equality (Revised Estimate).**

That a sum not exceeding €311,126,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Justice and Equality, Probation Service staff and of certain other services including payments under cash limited schemes administered by that Office, and payment of certain grants.

**Vote 25 — Irish Human Rights and Equality Commission (Revised Estimate).**

That a sum not exceeding €6,190,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Irish Human Rights and Equality Commission and for payment of certain grants.

**Vote 26 — Education and Skills (Revised Estimate).**

That a sum not exceeding €8,012,125,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Education and Skills, for certain services administered by that Office, and for the payments of certain grants.

**Vote 27 — International Co-operation (Revised Estimate).**

That a sum not exceeding €475,473,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for certain Official Development Assistance, including certain grants and for contributions to certain International Organisations involved in Development Assistance and for salaries and expenses in connection therewith.

**Vote 28 — Foreign Affairs and Trade (Revised Estimate).**

That a sum not exceeding €164,958,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Foreign Affairs and Trade, and for certain services administered by that Office, including grants and contributions to International Organisations.

**Vote 29 — Communications, Energy and Natural Resources (Revised Estimate).**

That a sum not exceeding €173,133,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Communications, Energy and Natural Resources, including certain services administered by that Office, and for payment of certain grants, and for the payment of certain grants under cash-limited schemes, and that a sum not exceeding €4,600,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

**Vote 30 — Agriculture, Food and the Marine (Revised Estimate).**

That a sum not exceeding €772,579,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Agriculture, Food and the Marine, including certain services administered by that Office, and of the Irish Land Commission and for payment of certain grants, subsidies and sundry grants and for the payment of certain grants under cash-limited schemes and the remediation of Haulbowline Island, and that a sum not exceeding €18,000,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

**Vote 31 — Transport, Tourism and Sport (Revised Estimate).**

That a sum not exceeding €1,215,932,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Transport, Tourism and Sport, including certain services administered by that Office, for payment of certain grants and certain other services, and that a sum not exceeding €29,105,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

**Vote 32 — Jobs, Enterprise and Innovation (Revised Estimate).**

That a sum not exceeding €740,412,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Jobs, Enterprise and Innovation, including certain services administered by that Office, for the payment of certain subsidies and grants and for the payment of certain grants under cash-limited schemes, and that a sum not exceeding €20,000,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

**Vote 33 — Arts, Heritage and the Gaeltacht (Revised Estimate).**

That a sum not exceeding €272,829,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Arts, Heritage and the Gaeltacht, including certain services administered by that Office, and for payment of certain subsidies and grants, and that a sum not exceeding €6,216,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

**Vote 34 — Environment, Community and Local Government (Revised Estimate).**

That a sum not exceeding €1,281,399,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for the Environment, Community and Local Government, including grants to Local Authorities, grants and other expenses in connection with housing, water services, miscellaneous schemes, subsidies and grants.

**Vote 35 — Army Pensions (Revised Estimate).**

That a sum not exceeding €215,590,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for retired pay, pensions, compensation, allowances and gratuities payable under sundry statutes to or in respect of members of the Defence Forces and certain other Military Organisations, etc., and for sundry contributions and expenses in connection therewith; for certain extra-statutory children's allowances and other payments and for sundry grants.

**Vote 36 — Defence (Revised Estimate).**

That a sum not exceeding €639,404,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Defence, including certain services administered by that Office; for the pay and expenses of the Defence Forces; and for payment of certain grants.

**Vote 37 — Social Protection (Revised Estimate).**

That a sum not exceeding €11,068,263,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Social Protection, for certain services administered by that Office, for payments to the Social Insurance Fund and for certain grants.

**Vote 38 — Health (Revised Estimate).**

That a sum not exceeding €12,221,200,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Health and certain other services administered by that Office, including grants to the Health Service Executive and miscellaneous grants.

**Vote 39 — Office of Government Procurement (Revised Estimate).**

That a sum not exceeding €18,974,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of Government Procurement, and that a sum not exceeding €125,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

**Vote 40 — Children and Youth Affairs (Revised Estimate).**

That a sum not exceeding €1,000,011,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Children and Youth Affairs, for certain services administered by that Office and for the payment of grants including certain grants under cash-limited schemes.

I am pleased to have this opportunity to present the Revised Estimates for Public Services 2015, which have been considered in great deal by the relevant select committee over the past number of weeks. In line with the revised budgetary timetable introduced as part of the two

pack, the Revised Estimates were published on 18 December 2014 and this has allowed for much earlier consideration of them by Members than has been the practice during my time in the House. The revised Book of Estimates for 2015 sets out gross voted expenditure amounting to €53.2 billion. In addition, the book sets out the performance targets and outputs for all Departments for the coming year which will allow for greater oversight and accountability to ensure public resources are having the desired impact. This is an innovation to ensure we are not simply considering the money allocated but also what we expect the outcome of those allocations to be.

I will outline the economic and fiscal background against which the Revised Estimates were drafted. The recovery in the economy has firmly taken hold and we expect that the momentum generated last year will continue this year. While the Central Statistics Office will publish the quarterly national accounts for the fourth quarter of 2014 over the coming weeks, in the period to the end of September 2014 our economy grew by 5% in real terms compared to the same period in 2013. This means that Ireland became Europe's fastest growing economy last year and our latest economic forecasts suggest that we will continue to grow strongly in 2015.

As economic recovery continues to broaden, the labour market has made substantial progress in regaining the devastating employment losses following the economy's collapse in 2008. Unemployment, having peaked at more than 15% in 2012, has been reduced to just over 10% as of February 2015. There is every expectation that if it has not reached single digits already, it will do so early this year. The number of people signing on the live register, having peaking at more than 470,000 in 2011, fell by a further 40,000 last year to stand at 360,000. As a clear sign that the Government's prioritisation of job creation is paying dividends, an additional 30,000 jobs were created in 2014, an increase of 1.5% over the previous year. Overall, employment has increased every year since 2012 with the result that almost 115,000 new jobs have been created in the economy since then. However, while we recognise that the Government has made significant progress in returning the unemployed to work, joblessness in Ireland remains too high and our efforts will focus on lowering it further over the short and medium term.

The improved economic outlook has had a favourable impact on the Government's fiscal position. Tax revenues increased by €3.5 billion in year-on-year terms and came in €1.2 billion above the target set for last year. The increases seen in income tax, which increased by €1.4 billion from 2013 levels, and VAT, which increased by over €800 million, were particularly encouraging. This afforded the Government a degree of fiscal space to accommodate increased demand and bring forward a number of vital infrastructure and capital investment projects, while meeting the demanding fiscal targets it had set in budget 2014.

After successive years of expenditure reductions and tax increases, budget 2015 represents the first time that the Government has been able to ease the burden of fiscal adjustment since the crisis began. The Government has approved modest increases in aggregate expenditure and reduced taxes for the first time in seven years. The fiscal target we have set for this year is a general Government deficit of 2.7% which, when achieved, will ensure Ireland's exit from the excessive deficit procedure. Fiscal policy from 2016 onwards will operate within the strictures set out under the preventive arm of the Stability and Growth Pact.

I can confirm that the expenditure allocations set out for 2015 represent a significant milestone for fiscal policy in Ireland, as we have moved away from a period of successive annual expenditure reductions. Our broader economic policies are clearly working as the labour market continues its recovery and more and more people are finding work. We will redouble our

efforts in this area to ensure the objective of providing jobs for all our citizens is achieved. While we can be satisfied that progress has been made, real challenges remain. I refer not least to Ireland's continued need to reduce the deficit and the public sector debt. This means we cannot lose our focus on the need to continue to develop and implement sustainable and well-formulated fiscal policies over the coming years.

**Deputy Sean Fleming:** I am pleased to have a brief opportunity to speak on the 2015 public service Estimates, which the Minister published a few days before Christmas. This is the first debate in the Dáil on this Book of Estimates. No proper debate on these issues has taken place anywhere. I object to the contemptuous manner in which the Government reacted to the request for a full three-hour debate on the Government's Book of Estimates for this year. We spent hours discussing the Finance Bill in this Chamber on Second, Report and Final Stages. For some reason, the Minister for Public Expenditure and Reform did not want a debate on his half of last October's budget day announcement. There were very detailed discussions at many of the individual committees about matters relating to their respective line Departments. These were debates in silos. There was no overall discussion on the shape of the Estimates. That has not happened. The Minister might not like to have a debate on the overall shape of the Estimates, which reflect the choices made by the Government as one half of what was announced on budget day last October.

The Minister, Deputy Howlin, is right when he says that there were debates. The Tánaiste indicated this as well. I remind them that no Dáil committee approved the Estimates for any of the line Departments. The Standing Orders of the House do not allow a Dáil committee to vote on the Estimates. Such a committee can say it has considered the Estimates, but it cannot pass a view on whether it agrees or disagrees with them. People outside this House might have the impression that there was a detailed discussion. As a result of a Government diktat, Standing Orders prevent every committee from voting on the Estimates. No vote has taken place on this Book of Estimates, which relates to expenditure of €53 billion, anywhere in the Oireachtas. I accept that we will have a vote today. If people are happy with the choices the Government is making in running the country, if they are happy that vulnerable people are having to suffer more than necessary, they should support these Estimates. I know Fine Gael will do it happily. The Labour Party will probably be equally happy to do it. I put it to other Opposition Deputies that if they do not oppose these Estimates, they are saying they acquiesce to every cut this Government is making this year. I ask them to stand up.

The Government announced an adjustment of €1 billion on budget day. Some €600 million of that was accounted for by tax cuts that will basically benefit people on the top tax rate. The other €400 million is accounted for by expenditure adjustments. This is the fourth time the Government has introduced a regressive budget to hit people at the lowest end of the income spectrum, who rely on public services more than people at the top end. All four budgets have been characterised by decisions to look after people on higher incomes, with the most severe cuts affecting people who require services from the State. The Government's actions in taking this approach, which involve the use of limited and scarce resources to introduce tax cuts rather than to improve services, are creating a divided society.

We believe the Government, in the first instance, should have used the €1 billion that was available for 2015 to improve the services provided to and the quality of life enjoyed by citizens. The tax cuts could have waited until next year and the following year. They should not have been introduced in the first instance at the expense of people on hospital trolleys. Many people are waiting for unacceptable periods. They cannot get hospital appointments. They

cannot get off hospital trolleys. This Government decided it was far better to give high earners a tax cut than to deal with the accident and emergency crisis in hospitals. The Government decided to prioritise giving money to people on the top tax rate, rather than assisting children in crowded classrooms, people waiting for medical cards and people who really need the support of suicide agencies. The Government's approach is to hope the trickle-down economic benefit of its tax break will lead to the people I have mentioned getting a few crumbs off the table in a few years' time if they are still alive and around.

Many press announcements have been made about the homeless situation. There are plans to build houses for 2020. Everything these days is a plan for five years' time, but nothing serious is happening in the short term. Essentially, I am opposed to the choices this Government has made. It should have allocated more money to increased expenditure and less money to tax cuts in the recent budget. The Government's priorities and choices are unfair on those who most rely on services. The Labour Party has fallen into the Fine Gael trap of looking after the people on the top tax rate the most. I will conclude by referring to the three-year health expenditure ceiling that has been announced. It is an indictment of the Government that it is providing for an increase of just 0.5% in health expenditure over the next three years. I reject the philosophy behind this Book of Estimates.

**Deputy Richard Boyd Barrett:** In a similar vein, I wish to oppose these Estimates and the overall philosophy that lies behind them. I agree with Fianna Fáil that it is suspicious and problematic that we are not having a proper discussion on these Estimates, which are being rushed through in a very short amount of time. We spent a great deal of time talking about tax changes when we debated the budget, but it seems that the Government does not want to discuss spending. This is pretty symptomatic of the Government's neoliberal approach, which might be expected of Fine Gael but is extraordinarily disappointing from the Labour Party. I remind the House that the neoliberal philosophy, having led us to a disastrous pass by generating an unprecedented economic crisis, was singularly unable to steer Europe out of that crisis by moving away from the neoliberal model of low taxes and privatisation towards a model that recognises the need to invest and spend in order to generate the sustainable employment, public services and infrastructure that can form the basis of a decent, civilised and fair society.

I could use the short amount of time available to me to talk about many specific aspects of these Estimates, such as the need to increase health spending radically way beyond the marginal bare increase that has been much trumpeted but is hardly significant at a time when the health service is crumbling. Rather than going into that, I will focus on the extraordinary trumpeting by the Government of what is supposed to be the biggest ever package for social housing. Some of us have been trying to drill beneath the fanfare and the announcements in order to debate the substance of this issue. I found something in the Estimates that completely belies the Government's claim that it has embarked on a major new social housing programme. I refer to Table 7, which shows that the proportion of GNP to be spent on housing is the same this year as last year and the three years before that, 0.2%. There is no change. The macro economic figure is borne out at local level when someone goes to the local authority, in my case Dún Laoghaire-Rathdown, and tries to find out how many council houses will be built this year in the aftermath of the much trumpeted announcement. The council does not have a clue. The number at the moment is 19, which is replicated across the country. Some 19 extra council houses will be built when 1,200 people have joined the list in Dún Laoghaire-Rathdown in the past year and we are now at 5,200 people on the list. People are waiting for 15 years and the much trumpeted new housing strategy involves 19 houses. It is a joke. Where is the money? Where is the much

trumpeted housing programme? It is a fantasy. The fact that it is fantasy is reflected in the figures because there is no increase in the proportion of public spending on housing.

I have not got my head around the full extent of the jiggery-pokery of replacing central funding for the local government fund with the local property tax, which will be used to fund the housing programme. In fact, there is no extra money going in as a result of the local property tax. Money that used to come from central taxation is being replaced with the local property tax but the overall amount available to build social housing is pretty much the same as it was last year, and the two years before that. This translates into virtually no actual council housing, just a lot of nonsense.

A large proportion of the money is still earmarked to go into the pockets of private landlords in the hugely wasteful leasing arrangements, rental allowance arrangements and the new housing assistance programme, HAP. I will oppose this because it is part of a failed philosophy and an attempt to hoodwink people about what the Government is doing.

**Deputy Brendan Howlin:** I thank the two Deputies who contributed to the debate and I will try to deal with the issues raised. Having raised the issue with the Tánaiste earlier, Deputy Sean Fleming makes much of this being the first debate on the Estimates. However, on the day of the budget, 14 October 2014, we published the comprehensive expenditure report, which laid out the expenditure allocation to every Department. We had an extensive debate on it with anyone who wished to contribute to the budget debate and many did so. The Revised Estimates were published subsequently and involve technical adjustments to it. Allocation choices were, by and large, determined and announced by me on budget day and debated extensively in the days following the announcement of the budget.

Subsequent to that, detailed Estimates were discussed line by line in committees. I agree strongly with the Tánaiste that it is a much better way of doing it. Having a general debate, with every Member talking about different things and the Minister trying to respond to 1,000 issues in a debate in the full Chamber, is not an effective way of doing the business. We changed the whole budgetary situation. We do it earlier than the time when Estimates were discussed well into the year, with most of the money spent. This was certainly true throughout the reign of Fianna Fáil. Most of the money was spent before people got around to voting on it and that is why we fundamentally changed the way we do budgeting. We do it earlier, according to the new European semester, and we do the Estimates earlier. The Estimates are sent to the committee and we have outcomes as part of the budgetary process so that Members can look into what they are getting for their money rather than simply seeing whether the money is spent.

Two points were made by Deputies Sean Fleming and Richard Boyd Barrett. With regard to health, we were able to provide additionality to health for the first time this year in the base Estimate because we had a growing economy with greater income for the State. When I introduced a large Supplementary Estimate, which caused Deputy Sean Fleming some agitation last year, I explained that we had the capacity to meet real demand. We did not have that capacity when we went into government because of the catastrophic state of the finances that the Government inherited from Deputy Sean Fleming's party. When we had the capacity last year, we reallocated money to those core issues. It is instructive how we spend the money on health services. Since 2011, administrative staff have fallen by 2%, core staff, like consultants, have increased by 7% and non-consultant hospital doctors have increased by 4%. We have tried our best to reprioritise, even where resources are constrained.

With regard to homelessness and housing, we regard social housing as a critical issue, which is why it was the most important focus of my budget speech in October. We allocated €2.2 billion into the housing area and we can go through it in some detail. I am sure the Minister for the Environment, Community and Local Government would be happy to do so.

**Deputy Richard Boyd Barrett:** We would love to do so but we never get the chance.

**Deputy Brendan Howlin:** I do not know whether Deputy Richard Boyd Barrett attended the meeting of the Select Sub-Committee on the Environment, Community and Local Government where members forensically examined the intentions of the Minister. We have allocated €1.3 billion in Exchequer funding over the coming three years. In addition, private financing will be sourced for a PPP package of €300 million and a further €400 million from the resources of the sale of State assets. We specifically created a new general purpose vehicle to provide housing. Local authorities, including the one in the constituency of Deputy Richard Boyd Barrett, are involved in discussions about how it should be rolled out.

I strongly refute the notion that we have not made the right choices. We have addressed social need as we saw it and protected social welfare as best we could, during a catastrophic time for our finances. It is difficult to take lessons about expenditure reductions from the party opposite, which caused the crisis that ruined our country. Thankfully, we have put things back together again.

Votes put:

<i>The Dáil divided: Tá, 58; Nil, 40.</i>	
<i>Tá</i>	<i>Nil</i>
<i>Barry, Tom.</i>	<i>Broughan, Thomas P.</i>
<i>Burton, Joan.</i>	<i>Calleary, Dara.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Joan.</i>
<i>Byrne, Catherine.</i>	<i>Collins, Niall.</i>
<i>Cannon, Ciarán.</i>	<i>Colreavy, Michael.</i>
<i>Carey, Joe.</i>	<i>Coppinger, Ruth.</i>
<i>Conaghan, Michael.</i>	<i>Creighton, Lucinda.</i>
<i>Conlan, Seán.</i>	<i>Crowe, Seán.</i>
<i>Connaughton, Paul J.</i>	<i>Daly, Clare.</i>
<i>Coonan, Noel.</i>	<i>Doherty, Pearse.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Ellis, Dessie.</i>
<i>Creed, Michael.</i>	<i>Fitzmaurice, Michael.</i>
<i>Doherty, Regina.</i>	<i>Flanagan, Terence.</i>
<i>Dowds, Robert.</i>	<i>Fleming, Sean.</i>
<i>Durkan, Bernard J.</i>	<i>Fleming, Tom.</i>
<i>English, Damien.</i>	<i>Halligan, John.</i>
<i>Farrell, Alan.</i>	<i>Healy, Seamus.</i>
<i>Feighan, Frank.</i>	<i>Higgins, Joe.</i>
<i>Ferris, Anne.</i>	<i>Keaveney, Colm.</i>
<i>Fitzgerald, Frances.</i>	<i>Kelleher, Billy.</i>
<i>Fitzpatrick, Peter.</i>	<i>Kirk, Seamus.</i>

Dáil Éireann

<i>Flanagan, Charles.</i>	<i>Kitt, Michael P.</i>
<i>Gilmore, Eamon.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Harrington, Noel.</i>	<i>McConalogue, Charlie.</i>
<i>Heydon, Martin.</i>	<i>McGrath, Finian.</i>
<i>Howlin, Brendan.</i>	<i>McGrath, Mattie.</i>
<i>Humphreys, Heather.</i>	<i>McLellan, Sandra.</i>
<i>Humphreys, Kevin.</i>	<i>Murphy, Paul.</i>
<i>Keating, Derek.</i>	<i>Mathews, Peter.</i>
<i>Kelly, Alan.</i>	<i>Ó Cuív, Éamon.</i>
<i>Kenny, Seán.</i>	<i>Ó Fearghail, Seán.</i>
<i>Kyne, Seán.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Lawlor, Anthony.</i>	<i>O'Brien, Jonathan.</i>
<i>Lynch, Ciarán.</i>	<i>Pringle, Thomas.</i>
<i>Lynch, Kathleen.</i>	<i>Ross, Shane.</i>
<i>Lyons, John.</i>	<i>Smith, Brendan.</i>
<i>McEntee, Helen.</i>	<i>Stanley, Brian.</i>
<i>McFadden, Gabrielle.</i>	<i>Tóibín, Peadar.</i>
<i>McGinley, Dinny.</i>	<i>Troy, Robert.</i>
<i>McNamara, Michael.</i>	<i>Wallace, Mick.</i>
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Stanton, David.</i>	
<i>Twomey, Liam.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	

Tellers: Tá, Deputies Joe Carey and John Lyons; Níl, Deputies Seán Ó Fearghaíl and Sean Fleming.

Votes declared carried.

### **Gender Recognition Bill 2014 [Seanad]: Second Stage (Resumed)**

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

**Deputy Aengus Ó Snodaigh:** When we adjourned the debate, I was making the point that the issues arising for inter-sex people were not adequately addressed in the Bill as it stood. I hope we will be able to introduce amendments on Committee Stage to improve the legislation in this regard. Discussions about psychiatrists aside, it is clear that some inter-sex people believe the designation of “male” or “female” on their birth certificates does not accurately reflect the facts of their lives and they would, therefore, prefer to use a non-binary system in registering gender. No adequate reason has been presented for the absence of a non-binary identity system. The only explanation that comes to mind is that the Tánaiste and Minister for Social Protection, Deputy Joan Burton, was unable to come up with a suitable formula and, therefore, decided to set the issue to one side. I would prefer to deal with the issue now because we have had sufficient time to come up with mechanisms to address it based on international examples. When this issue was raised in the Seanad, the Minister argued that recognition of non-binary, inter-sex and transgender identities was not within the scope of the Bill and that it would require additional changes. When an issue is brought to Ministers’ attention in one House, it is to allow them to use the space between the time a Bill is taken in the Seanad and the Dáil to come up with amended legislation. The issue comes within the scope of the Bill because the Department of Social Protection is also responsible for civil registration. Sometimes extending the scope of a Bill is merely a matter of changing the Long Title. Any issue relating to gender recognition falls within the intention and scope of the Bill and should be captured, if possible.

What consultation, if any, was entered into by the Minister; the Minister of State, Deputy Kevin Humphreys, or their officials with the inter-sex community? It is not a very big community, but in Britain there is a larger one which is represented by a range of groups. These groups would have been able to give advice on the challenges faced in Britain, North America and elsewhere. International groups include Intersex UK, the Intersex Society of North America and Intersex Awareness New Zealand. These groups should have been asked about the issues they faced because the small size of this State and island means that not every issue encountered in larger populations necessarily arises in Ireland. That is not to say, however, they will not arise in the future. Part of our job as legislators is to capture future issues and to legislate for them in advance. If we do not address these issues in the Bill, we will have missed an opportunity to be a leader in protecting human rights in this area.

A person who seeks a legal document to assert his or her identity should not be required to go to a medical practitioner to justify his or her life and health. Gender recognition models across the European Union are moving away from medical practitioners and a requirement for certification. The pathology model is being rejected by an increasing number of EU countries. Last September Denmark introduced new gender recognition laws which were welcomed by Amnesty International as progressive and courageous. They do not require medical evidence to be provided as part of the gender recognition process. It is simply a matter of completing an

administrative process.

Deputy Willie O’Dea referred to the gender recognition legislation introduced in Malta, which provides that applicants are not required to offer proof of surgical procedures or medical issues as part of the gender recognition process. I introduced the Gender Recognition Bill 2013 based on the Argentine model, which incorporates the Yogyakarta principles adopted in 2006 by a group of human rights experts, including Mrs. Mary Robinson and the former chief commissioner of the Human Rights Commission in the North, Professor Michael O’Flaherty. They are internationally recognised human rights standards and guidelines that should be applied to any law on gender identity.

*2 o’clock*

They stipulate clearly that the State should fully respect and legally recognise each person’s self-defined gender identity. Once one involves medical practitioners, it is defined by somebody else. The former Council of Europe Commissioner for Human Rights, Thomas Hammarberg, had much to say on this issue. He said an individual’s opinion must be prioritised. It is wrong that we are disregarding these human rights experts on this matter in the legislation. Last August the Equality Authority recommended that applicants should not be required to produce medical evidence to access legal recognition of their gender. Even the HSE, which is hardly a bastion of progressive views and which is, in many ways, one of the most conservative State institutions, has stated it endorses gender recognition proposals that would place the responsibility for self-declaration on the applicant rather than place the requirement on the medical profession. Many of its doctors will have to provide the gender certifications. There is a weight of expert opinion that suggests the Minister of State is wrong in his approach, even though he has moved somewhat on the issue.

There is a broader point to be made, although I acknowledge that perhaps it cannot be dealt with in the legislation. I refer to barriers to accessing medical care for trans people. It is something that will have to be dealt with. There is simply not the required level of services for trans people in the State or on the island as a whole. Many have been forced to make long journeys not only within the State but also sometimes outside it. It is not within the capacity of the Minister of State, Deputy Kevin Humphreys, to eradicate these problems. While we may never fully eradicate them as this is a small island, that is not to say we should not provide for an all-Ireland approach similar to the one we have adopted for children and their health. There was a recent announcement of an all-Ireland approach to children with heart trouble, which shows what can be done. If there is expertise to be found in the North or the South, it should be shared across the island. If we have to bring experts from abroad on occasion, it should be on the basis that they are available to all citizens on the island. A further point that needs to be made is that the Equality Authority has indicated that it has seen no other scenario where a person must provide evidence from a medical practitioner in order to access a legal right. It is bizarre and adds weight to what I have been arguing. Where a person is of the correct age and the relevant statutory officer is satisfied he or she has the capacity to make a decision, it is usually a relatively simple matter to access a right such as the right to get married or sign a contract. In these cases a person’s standing is accepted, whereas gender recognition procedures seem to be different.

I take serious issue with the fact that there is no pathway to legal gender recognition for children under 16 years. Young people use their birth certificates regularly, including when enrolling in schools, and there are times when they should be able to receive proper legal rec-

ognition. Leaving them outside the process means that they are at risk of having their trans status outed. We have seen what has occurred in terms of bullying in schools for various reasons. Many transgender people have suffered isolation and bullying and many have died of suicide as a result. Many have had traumatic childhoods and adulthoods owing to society's approach to the issue. According to the advice from the Ombudsman for Children on this issue, a failure to provide in law for young transgender people to have their preferred gender recognised renders it more difficult to advance awareness of the serious challenges facing them in schools and other settings.

Even where a 16 or 17 year old wishes to receive legal recognition of a preferred gender, the barriers are still very dangerous and will force many to wait until they are 18. Generally, parental consent is required, which leaves 16 and 17 year olds in the bizarre situation where they can consent to medical treatment but cannot have their gender recognised. There is a contradiction and I seek clarity from the Minister of State as to what happens when two legal parents or guardians of a 16 year old seeking gender recognition disagree on the issue of consent. What happens in that case? The Equality Authority also asked that question when the heads of the Bill were published, but it states no satisfactory answer has been given. Whether it is today when wrapping up the debate or on Committee Stage next week, it is a matter on which an answer is required.

As the Minister insists on not allowing 16 year olds to decide for themselves, the provisions dealing with consent and the narrow grounds on which the courts may dispense with parental consent must also be addressed. Once one starts to stray into this area, there are complications and exceptions. Part of our job is to ensure we look at potential exceptions and the difficulties they will pose and change the law to ensure they are addressed. In the Seanad my party colleagues tabled a motion seeking to allow the courts to dispense with parental consent where it is refused. We are open to correction on this matter, but it seems that the threshold for dispensing with parental consent is such that it would require a child to be at risk, for his or her welfare to be in danger or the parents to be uncontactable. As far as I can see, it does not account for the scenario where there is no risk to the child but that the parent or guardian simply will not consent to a child entering the gender recognition process.

I have other issues with the Bill, to which I have not managed to get. I will wrap up by saying that, in general, I welcome it. It is a huge step forward and it is good that it is happening. I hope that in the coming weeks we will use the time positively to ensure we will have the best possible outcome in terms of legislation for the future. In particular, I thank Lydia Foy for her courage and all those who have struggled with the approach of the State to date to transgender issues. I hope this is a new dawn for them.

**An Ceann Comhairle:** I call Deputy Joan Collins who is sharing time with Deputies Clare Daly, Mick Wallace, Richard Boyd Barrett and Thomas Pringle.

**Deputy Joan Collins:** It is very welcome that we have reached this Stage of the Bill. I welcome the members of the trans community in the Visitors Gallery listening intently to what is being said. While the legislation is welcome, there are still many issues that have not been addressed. They have been raised by a number of other Deputies and it is important to deal with them. I would prefer to see the Minister of State, rather than Opposition Members, bringing forward the suggested amendments on Committee Stage as they would then be meaningful. I hope Members on the Government's backbenches will encourage this. After nearly 20 years of struggle and obstruction and delay on the part of the State, including the legal battle in

the European Court of Human Rights, we have reached a very significant moment. However, certain provisions in the Bill will drastically undermine the progress which would otherwise be achieved. I attended the committee meetings in 2013 attended by members of the transgender community. They made strong points that this legislation should be based on human rights principles rather than on medical evidence. This is a serious weakness in the legislation which needs to be addressed.

The committee meetings did not hear the voices and views of inter-sex people nor of those under 18 years and I regard it as a failure that the committee did not reach those people and hear their views. Chief among concerns are the requirement for an unnecessary and invasive medical statement; the requirement that a married transgender person be forced to divorce; the omission of young people under 16; the onerous requirements for 17 to 18 year-olds; and the total exclusion of non-binary people. The Bill has been drafted without proper consideration of the needs of inter-sex people. The original draft included such a provision but it was removed and it needs to be reinstated.

The Government has been urged repeatedly by transgender people to follow the self-determination models of best practice already in place in Denmark, Argentina and soon to be in force in Malta. That our legislation is based on UK legislation of ten years ago instead of on more progressive and human rights based legislation in Malta, is discouraging. There remains an opportunity for the Government to change the legislation.

It appears that no consideration was given to the examples of Australia, India, Nepal, Thailand, the UK and Germany, to provide some degree or recognition of non-binary transgender people. No satisfactory explanation has been provided by the Government as to the reason this was not done. The Government does not appear to have undertaken any consultation with inter-sex people who have been grouped with transgender people. The terminology in the Bill which has been drafted to deal with transgender people does not include inter-sex people. It is unlikely that the Bill will address the needs of inter-sex people.

I ask the Government to amend the provisions on medical criteria to allow for self-declaration as articulated by Dr. Philip Crowley, the HSE national director who stated that the HSE considers this process to be simpler, fairer, pragmatic and may be easier to legislate for as it takes account of both transgender and inter-sex people with differing background contexts. The omission of young people under 16 years is a disappointment. It is difficult enough for young women and young men to deal with puberty and associated issues but these young people must also deal with being a transgender person and with the impact on their school lives and their future lives. This has led to some disastrous situation. Those young people who are 17 and 18 must attend an endocrinologist and a psychologist but there are only four or five endocrinologists in the country and these are based in Loughlinstown. The waiting times for an appointment can be at least two years by which time the young person would be 18. These provisions are unnecessary restrictions.

I refer to the importance of self-declaration which should be included in the legislation. General practitioners should be considered as the medical practitioner if the Minister of State is not prepared to table an amendment on self-declaration. Both the IMO and the representatives of general practitioners wrote to the Minister yesterday to lobby for the use of GPs rather than medical specialists.

Basic human rights should be dealt with and I ask the Minister of State to clarify if this will

be included in the legislation. I ask the Government to table amendments to the Bill. I thank the Seanad for being robust in its efforts to force the issue. The review will be very important and I ask the Minister of State to say how he intends to make it a meaningful review which reflects the views of the transgender community.

**Deputy Clare Daly:** I warmly welcome the fact that the legislation is giving legal recognition to transgender and inter-sex people for the very first time. The House is discussing the issue and putting the spotlight on an important part of Irish life that never gets the recognition it deserves, that generally remains hidden and not spoken about. However, while recognising this fact it would be great if we could wholeheartedly and enthusiastically welcome this Bill, without having to put a “but” in that sentence, if, just for once, the Government could introduce legislation that the Opposition did not have to say that it was not best practice and that the opposition was lagging behind what is best practice. We are adopting a measure that has passed its sell-by date in other jurisdictions. The Government can say it is not the case that the glass is half-empty, that now we have a glass that is half-full. However, we want the whole glass. Why should Irish citizens always have to settle for less? It is not good enough. I appeal to the Government to look at the changes being proposed and recommended by Transgender Equality Network Ireland, TENI. We can have a review in a year’s time or in two years’ time but I ask why we do not listen to the voices now. We are doing it the wrong way around.

Other Members have highlighted a number of issues. The first issue is the confusion of the health issue with the legal issue. It is like what happened in the surrogacy debate and the Children and Family Relationships Bill. Medical procedures exist, they are regulated separately and they are utterly irrelevant for the purposes of this Bill. This question before us is one of legal identity and there is no place whatsoever for the issue of a medical evaluation.

I refer to the requirement that a person would submit a statutory declaration with a certificate from a medical practitioner, defined as a psychiatrist or an endocrinologist, to say that the medical practitioner is satisfied that the person fully understands what he is she is saying. I refer to the point made by Deputy Joan Collins that there are only four people in the country who meet that criterion. We have met people who have said that their children are waiting for four years in some instances. Apart from the question of impracticality, it is insulting and patronising to suggest that people themselves do not know what they want. This approach has been bypassed in other jurisdictions and replaced by the human rights approach. Other speakers referred to Argentina and Malta, which is the only country, other than Ireland, with a restrictive position on abortion. However, even Malta is ahead of us on this issue. The Yogyakarta principles state that countries should respect and legally recognise each person’s self-defined gender identity. None of us need someone else to tell us who we are because we know our own identity. It is a question of a person having the right to exercise his or her self-determination. I hope this point is taken on board but if not, at least I ask the Minister of State, for God’s sake, to extend the definition of a medical practitioner to include general practitioner. This would mean that a person would not have to attend a specialist in Dublin and be on a waiting list for years.

Members have made the points about civil partnership. It is a breach of the European Convention on Human Rights to force a person to divorce. The main issue I wish to deal with is the question of young people. Where is our responsibility to protect and defend the rights of all children equally? It is not there. This Bill means that transgender people will exist in Ireland - which I commend - but only if they are over the age of 16. Under the age of 16 those children will be invisible. I am the parent of a teenager and I know how shockingly hard it is for young people in today’s society, but how much more difficult it must be for a transgender

young person. It does not bear thinking about. The briefing meeting yesterday heard moving testimony from a parent. He made a very good comparison which was that years ago, people in wheelchairs were held in institutions and nobody saw them but society moved on and statutory requirements and wheelchair accessibility became a normal part of society.

The transgender community is, in some ways, kept silent and out of the public domain. We have an opportunity to address that issue by adopting best practice. The Government is stating the Bill deals with inter-sex persons but nothing in it addresses that issue. This is another shortfall that needs to be addressed.

The parent to whom I referred spoke yesterday about how difficult things were for his family but how wonderful his son was. In fact, his son has had to be a parent to his parents such is the lack of support. This father said:

What is in front of us now is for Irish transgender people, in particular Irish transgender children, to inform this legislation. Their voices and their best interests must speak to this legislation. It must free them to live meaningful lives to their full potential and not restrict them or ignore them, as this version well.

I hope the Government hears his voice.

**Deputy Mick Wallace:** This Bill is both long overdue and welcome, but it requires to have several vital amendments taken on board before it is fit for purpose. The Tánaiste and Minister for Social Protection, Deputy Joan Burton, claims the Bill compares very favourably with equivalent legislation in many other countries in Europe. The problem, however, is that the majority of these countries have very poor legislation in this area, with two exceptions. In June last year the Danish Parliament passed a Bill allowing transgender people to obtain official documents reflecting their gender identity without needing to be diagnosed with a mental disorder or undergo surgeries resulting in irreversible sterilisation. Malta and Argentina have similar legislation in place.

Procedures to obtain legal gender recognition violate fundamental rights in Finland, France, Norway, Belgium and Germany, while we in Ireland, until this long overdue legislation comes into effect, had no procedure. Just as the Government failed to introduce international best practice in the legislation it recently enacted concerning the Garda Síochána Ombudsman Commission, which was a huge disappointment, it is refusing to take the opportunity to do what is best in this instance. Instead, we are willingly joining the ranks of those states which are content to violate international human rights law by interfering with the privacy and self-determination of their citizens.

The provision in section 9 that introduces an age restriction of 18 years for those who can make an application for a certificate infringes the rights of transgender people. The Ombudsman for Children has criticised this condition, highlighting that it will fail to improve the position of transgender children and adolescents, many of whom are already experiencing isolation and discrimination. The ombudsman recommends that parents be allowed to apply for a gender recognition certificate on behalf of children aged under 16 years, while those aged over 16 should be allowed to apply in their own right. Article 12 of the UN Convention on the Rights of the Child which Ireland has ratified provides that: "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age

and maturity of the child". If section 9 is not amended to allow a more progressive approach, Ireland will continue to be in violation of human rights law.

For some bizarre reason, the legislation insists applicants cannot be married or in a civil partnership. The logic behind this condition is difficult to fathom. Presumably, someone in a mixed-sex marriage would, post-registration, technically be in violation of our draconian and possibly soon to be extinct ban on same-sex marriage. This condition cannot stand.

The Bill also insists applicants must have a settled and solemn intention of living in the preferred gender for the rest of their lives. In a striking reversal of the proposed spirit of the legislation, this provision will legally tie people to their newly chosen identity. Ironically, this creates a situation for the newly registered where their right to self-determination, as outlined in Article 1 of the International Covenant on Civil and Political Rights, which we ratified in December 1989, is just as violated as it was before the Bill was proposed. This beggars belief.

Another flawed provision from a human rights perspective is the requirement that the applicant acquire a statement from a medical practitioner confirming that he or she has transitioned or is transitioning to his or her preferred gender and that the medical practitioner is satisfied the applicant fully understands the consequences of the decision to live permanently in his or her preferred gender. This is in the same vein as the one change per life provision. Furthermore, it implies that the State considers the people concerned to be suffering from some type of psychological abnormality and that gender is a matter solely determined by the biological.

If the Bill is to properly respect the rights of Irish citizens to self-determination, it must follow best practice and embrace the Danish position, which ensures transgender people can obtain legal recognition of their gender through a quick, accessible and transparent procedure in accordance with their own sense of their gender identity. The Bill is a welcome step forward, but it is not up to the task of allowing transgender people to lead lives free from interference. It fails utterly to address the rights of young people, shows a certain level of disrespect in its medicalisation of transgender people and, through the lock-in conditions, undermines the central professed spirit of the legislation. We can surely do better than this.

**Deputy Richard Boyd Barrett:** Faced with this legislation, I feel like saying, "Welcome to the 21st century, but not quite; welcome to culture and civilisation, but not quite." In so far as discussing the Bill and the possibility it will be passed moves things forward, it is a tribute to the very long struggle of transgender people. Alongside the Children and Family Relationships Bill 2015, the upcoming referendum on marriage equality and recent changes in the law relating to the rights of gay and lesbian people generally, we are seeing in this country the results of a long international struggle that dates back at least to Oscar Wilde, through the very dark times of pink triangles and the persecution of gay, lesbian and transgender people by the Nazis and on to the Stonewall riots and the birth of the gay liberation movement. Following this struggle against oppression, ignorance and discrimination, we finally have reached a point where equality, liberation and self-determination are at least within striking distance. All of this is to be welcomed and a tribute to the people who fought and struggled through all of these decades. I take the opportunity to pay tribute to Transgender Equality Network Ireland, TENI, for its excellent work on these issues and the fantastic briefing it gave to Members.

We have come a long way, but it is a pity we cannot go the whole way. While the State has been forced, finally, towards civilisation, it retains the conservative impulses of which it seems unable to let go. These impulses are evident in the shortcomings of the Bill. To me and other

speakers and the transgender community, the issues are to do with self-determination, liberation, freedom and the right of people to their own identity, whatever identity they choose. It has absolutely nothing to do with medical issues. In fact, the irony of requiring certification by a psychiatrist is that one should not need a psychiatrist's validation in order to decide one's gender identity, but one might well need a psychiatrist if that identity is denied. That is not a glib statement but is the truth because the failure to acknowledge the rights of transgender people, gay and lesbian people, intersex people and non-binary people is precisely the thing that can make them sick and which can lead them to suffer and to be the victims of discrimination and unfairness. What they need to avoid all that or to begin the journey out of all that unfairness and injustice simply is the right to determine their own lives and their own identities. Any society that claims to support freedom, self-determination and equality should offer nothing less. As Deputy Wallace asked, why should one only be allowed to make a decision about one's gender identity once in one's life? I do not see why one should not be allowed to make the decision at any point and as many times as one wishes. It simply is not a medical issue but is about self-determination. It is unfortunate that the Government has chosen the model of dealing with this issue as it has in this legislation.

The requirement to be single and therefore to be forced into a divorce if one seeks a gender recognition certificate is really scandalous. While the Minister of State has indicated he sort of wants to do something about that, he should simply grasp the nettle and do it now by accepting the amendments proposed by Transgender Equality Network Ireland, TENI, to take away that requirement. I was talking to someone in the canteen beforehand and that person is married but if this Bill is passed, would be required to divorce to get a gender recognition certificate with all the disruption that would involve for the family, children and so on. This is simply unacceptable and should be removed from the legislation on Committee Stage.

Finally, on the issue of age, young people and so on, while this legislation is important for all transgender people, intersex people and non-binary people, those who most need Members' protection and support and who most need the vindication of their rights are of course the young people. They are the ones who suffer most because of the lack of those rights and are most vulnerable because of their youth when these rights are not fully vindicated by the law. Consequently, in failing to extend rights to them, the Government is doing a great disservice to children and is perpetuating a situation which often is dangerous and discriminatory for those children. I welcome this legislation and am glad to be debating it. While I am glad to be here, it must go further and there is no need to wait to get the optimum in this regard because it can be achieved on Committee Stage. I hope the Government will be open to those amendments to make this legislation what it should be.

**Deputy Thomas Pringle:** In common with other speakers, I welcome this Bill, which finally will deal to an extent with what has been an ongoing problem for many years for many transgender people to have the State recognise their existence and their rights within this society. It is hard to get past the feeling that the State has been dragged kicking and screaming to this point of bringing forward this legislation. It has taken a long battle through the courts, lasting 17 years or thereabouts, to get to this point and it was only to stave off a Supreme Court judgment that the State published this legislation and promised to bring it forward. While that in itself is bad enough, two things always have annoyed me about the work done and the legislation brought forward in this House. The first is the State always seems to do the bare minimum. It does just enough enable the Government to state it has dealt with an issue. While there may be one or two exceptions in respect of the smoking ban or something like that, the State never

appears to seek or set out to be progressive or to be a setter of standards. It seems to do just the bare minimum to get the State over a hurdle, stave off a court case, satisfy the European Council or something like that. The other thing that annoys me is how we always mimic British law as well. We do not look beyond England for any guidance or pointers as to where we should be heading or what we should be doing. Moreover, we appear to mimic British law ten or 15 years after its implementation, at a time when they probably are at the stage of seeking to review it and change it again. We go back and pick up where they were 15 or 20 years before us. While this is extremely frustrating for Members in the House, it must be extremely frustrating for the people who must live under this regime and who face constant battles and fights to have their rights recognised and to be given the ability within the State to live as the people they choose to be and the people that they are. We do untold damage to so many citizens by restricting them so much and making them fight so hard to achieve what should be there as of right in a State that should be there to provide for them.

In respect of the Bill itself, the point that shocked me about it was the idea that if one is a transgender person, it is some sort of a medical complaint or that a person would be obliged to get a diagnosis from a psychiatrist or an endocrinologist stating there is something wrong with that person that makes him or her a transgender person. Again, this comes back to doing the bare minimum and doing what are the bare essentials to get the Government over the mark in dealing with an issue. I received an e-mail during the week from someone I did not know. It was some header anyway from America or somewhere like that. The person in question cited American examples about how we must protect against young people having a fad and deciding they are transgender but then, on coming of age, suddenly realising they are not transgender at all and so on, as well as about how it can be cured and everything. It is just bizarre and this requirement to get a diagnosis and to get evidence from a psychiatrist and an endocrinologist is very similar to that attitude. It suggests young people are impressionable and so on but young people are not stupid either. No young people would set themselves up, by declaring they were transgender, for the life they would leave themselves trying to live unless they felt it was something they were obliged to do to be complete as people themselves. The idea that this is a medical problem and that a medical diagnosis is required is simply completely wrong. It comes back to the issue that has been outlined by other speakers on self-determination. People should be able to self-declare their gender. Moreover, if Members are to look abroad to find other examples, why not look to a former colony of England that is somewhat similar to Ireland, namely, Malta, where gender is deemed irrelevant when it comes to the rights of the child and children can declare themselves? That is what we should be doing and is where we should be looking for direction.

During the campaign on the children's referendum, the then Minister for Children and Youth Affairs, Deputy Fitzgerald, pointed out that this referendum would put the rights of children centre stage within the legislative programme and the best interests of the child always would be recognised and so on. At the time, all Members went along with this in passing that legislation and in progressing that referendum, because they felt there was potential for a change to take place. However, one can discern from this legislation that such a change has not taken place and it is not feeding through into the legislative basis of the State. I note that in the Bill, the only instance in which the best interests of the child are used is in the case where a judge can deem an application for a gender change not to be in the best interests of the child. In itself, that is telling as to the outworkings of children's rights and how the children's referendum should be viewed within the State in the future.

My final point is the Government has committed to a review of this legislation within two years of its enactment and passage. This has been welcomed by people to whom I have been talking from the transgender community, as well as by parents of trans people. However, the problem with it is there is no commitment to carry out or complete research on the impact of the Bill and what it is doing. If there is to be meaningful consultation and a meaningful review within the two-year period, this must be included. Deputy Joan Collins will table amendments on Committee Stage and the Minister of State should take the opportunity to make this legislation into the Bill it potentially could be, that is, a Bill that asserts, looks after and protects the rights of the people, as the State is supposed to do, rather than doing the bare minimum.

**An Ceann Comhairle:** I call Deputy Brian Walsh who is sharing time with Deputies Helen McEntee and Patrick O'Donovan. Is that agreed? Agreed.

**Deputy Brian Walsh:** I welcome the Gender Recognition Bill 2014. While it only affects a small minority of the population, it is significant legislation and a step in the right direction for those who will avail of its provisions. The pace of society to embrace attitudinal and social change has traditionally been slow. In that context, this Bill can be commended as being quite progressive and inclusive in the way it addresses the issue of gender recognition, an issue that has always been there but has only become a campaigning issue in the past decade. Unfortunately, this issue will challenge some people of a particularly conservative disposition who will see it as unnatural. There is nothing more unnatural than denying another human being the right to be happy being who they are. The Bill will directly affect a relatively small number of people but it is significant for the attitudinal change that it reflects, as well as the legislative change that it heralds. As Members opposite have pointed out, this legislation is far from perfect and ideal. However, I believe it is a step in the right direction.

In my time as a public representative, I have had the opportunity only once to provide assistance to a transgender person who attended my constituency clinic. This interaction provided me with an insight into the struggles and challenges they face. I was genuinely touched by the story she told me. With tears in her eyes, she recounted how her former wife and, sadly, her children had shunned her since she had embraced her transgender identity. I hope that lady is watching what is happening this week in the Oireachtas and takes some comfort and hope that the Government is legislating on this issue. Her case showed the cost of becoming the person one is can be isolation, not just from one's community but from one's family as well.

Yesterday, along with other parliamentarians, I met a very fine man, a father, who was advocating on behalf of his transgender son. It was very refreshing to see a father embrace his son's identity and support him. He is a role model for all fathers and his son can be immensely proud of him in ensuring the passage of this legislation.

The legislation is welcome but it is not ideal and there is room for improvement. Several provisions are less than ideal such as the requirement, arising from the Constitution, for the applicant for gender recognition to be single. I accept this must remain the case pending the outcome of the forthcoming referendum on marriage equality. Will the Minister provide a commitment that change in this regard will be among the first actions of the Government following what we hope will be the successful endorsement of the constitutional amendment?

There is also some dissatisfaction with restrictions placed on applicants who are between 16 and 18 years old. The nature or extent of those restrictions, however, appears to be excessively burdensome to the point the legislation may border on unworkable for persons under 18 years

of age. In these cases, for example, an application to the Circuit Family Court for an exemption must be supported by two medical reports, one from the child's primary treating physician and the other from an independent endocrinologist or psychiatrist. The need for such rigorous medical evidence is questionable in principle. What is being sought here is an administrative change, after all, not a surgical one.

On a practical level, this provision may also be unworkable as a result of our well-documented difficulties with waiting times to see medical specialists. In many cases, if a person applies for an appointment to see a consultant endocrinologist when they are 16, particularly given that waiting lists are prioritised according to the clinical urgency of the case, they may well be over 18 before they get to see the doctor. The Irish College of General Practitioners has written to the Minister seeking the inclusion of general practitioners in the definition of "primary treating medical practitioner", an inclusion the Minister should consider.

There is merit in the proposals to extend this to children younger than 16 in the case of intersex individuals where there is adequate medical evidence to support it. So many of the prejudices and challenges faced by transgender people take root and manifest themselves in a particularly cruel form at school-going age. It is only right children in such a position should be afforded the same right and protection at this stage as they would in later life. It is at that early stage that prejudice and attitudinal hang-ups need to be tackled. For that reason alone, this section should be revisited.

In broad terms, I welcome this Bill as an extremely progressive step in the cause of gender recognition. I compliment the Minister of State, Deputy Kevin Humphreys, on progressing this legislation, as well as acknowledging the fine work of Senators Katherine Zappone and Jillian van Turnhout and Deputy Aengus Ó Snodaigh on it. Some work remains to be done on some of the specifics. On its enactment, however, this legislation will give hope to a number of people who have been left marginalised and isolated for too long in our society.

**Deputy Helen McEntee:** This legislation is a very positive step that will allow a person to be recognised by the State in what they feel is their true gender. I spoke to a member of TENI, the Transgender Equality Network Ireland, during the week. He described it as the State providing practical and symbolic support for the people involved, a point with which I wholeheartedly agree. Ireland is the only country in the European Union that does not provide the possibility of legal gender recognition of transgender and intersex people.

I thank the Minister for bringing forward this legislation. This is the second Bill brought before the Dáil in a week that shows as a nation, as a society and as a people that we are growing. While it is taking longer than it should, we are beginning to be more understanding of other people's needs and respect others for who they are and how they live their lives.

TENI has stated, "Legislation must reflect the lived realities of our community and enshrine the privacy, dignity and human rights of all". Last week, the Children and Family Relationships Bill clearly showed us life is not so black and white. While a child should be brought up by the birth parents, where possible and when practical, that is not always the case and families come in many different forms. One can look at people in the same manner. No two people are the same. Everybody brings their own personal touch to the world. Life would be very boring if we were all the same. As legislators, we must ensure that while people are different, every person is treated with the same respect and every person is allowed to live their own life.

This is about allowing a person to be recognised by the State in what they feel is their true gender. I hope that in the State recognising this, then society will follow. I am sorry it has taken so long for this legislation to come before the Dáil. I am also sorry it has taken a High Court ruling to move this issue to the forefront. Unfortunately, sometimes when a small minority of people in society are affected by an issue, their voices may not be heard. I acknowledge the battle that has been faced by Dr. Lydia Foy and by other members of the transgender community to get to this point today.

I have gone through the legislation. While for the most part I agree with it, some questions need to be asked and other areas need to be further debated and consideration given to them. Section 9 deals with the requirements of an application for a gender recognition certificate. It states the application must be accompanied by a statement from the applicant's primary treating medical practitioner. To me that would mean his or her GP. However, it is defined earlier in section 2 as "a person's primary treating endocrinologist or psychiatrist". The word "psychiatrist" insinuates or implies that a person is not mentally well and places an unnecessary stigma around the whole process. I would think that if a person wishes to do so, their GP should be able to carry out the same duty. The GP is the person who knows them. Most people have grown up with the same GP from when they were a child and so the GP is more likely to be able to decide on something like that. Also there are very few medical practitioners with expertise in this field so unless we are going to bring in some form of mandatory training or education for current practitioners, we should allow those who know the person best to make that decision.

Another area I want to discuss is the age criteria. As has been discussed already, in order for a person to apply for a certificate they must be 18 years of age. If they are between the ages of 16 and 18 the young adult's parents or guardians must agree and must secure a court order. I would disagree with having to secure a court order. If a young adult has parents that do not agree with this, the parents may sometimes put barriers in the way, leaving the person in a very difficult position. While I understand it is a difficult area to deal with because we are talking about children, there is a fear that all transgender people choose to medically transition, and that if a child were allowed to medically transition and then changed their mind or decided they had made a decision too young, there would be very little going back. We are not talking about medical transition, or about children having surgery. We are talking about legal recognition on paper, something which the Bill provides under section 14, whereby a person can apply to have the certificate revoked. We are also talking about fear of the unknown. If a young boy of 12 or 13 transitions and wants to go to a girls' school, will the principal and teachers allow it? Will the children and their parents accept it? This is all about education and educating people.

I cannot begin to imagine what it must be like for a young person, and there are very few people listening to this debate who can imagine how confusing, frightening and upsetting it might be, especially when there is very little acknowledgement out there that this happens. We need to take the children's views into account on this issue and we need to learn from children and young people who have gone through this. We are not talking about opening floodgates here. Two years ago we had a debate on the Protection of Life During Pregnancy Bill and a number of people said that if the legislation was passed the floodgates would open and there would be women all over the country claiming they were suicidal in order to have a termination. That did not happen. We are talking about a small group of people. We are not talking about people who are going through a fad, as Deputy Pringle put it, but people who need our help. There are young children who are suicidal, who are self-harming and who have mental health problems because they cannot deal with what they are going through and because the proper

supports are not there. There is only so much that organisations like TENI and Transparency can do to help. Like most Deputies here today, I would ask that when this debate moves on to the next Stage, the issue of age be looked at again.

Finally the stipulation that a person must be single in order to apply for the certificate is something that we should leave open. This May, a referendum on same-sex marriage will be put to the people of Ireland and if it is successful, which I hope it is, then same-sex couples should be allowed to marry. It has been suggested that Committee Stage be held off until after the referendum and that is something we should look at.

I welcome this Bill and welcome the fact that there will be a review of the Act in two years. However, just because a review has been promised, it does not mean we cannot still go a little further now with this legislation, and I think we should.

**Deputy Patrick O'Donovan:** I do not want to repeat what the previous two speakers have said. The three of us are probably going to make the same points. Yesterday I met a law lecturer from a law school in Dublin who has carved out a niche in this area by undertaking a PhD. I also met the same parent that Deputy Walsh and I presume Deputy McEntee met. I did not have an appreciation of this issue until I spoke to that man yesterday.

As a new parent myself, I know it is a life-changing experience to have a baby and for a new life to come into a family. That father relayed to me his experience of the transition his child has made and the impact it had on the family. The relief the family experienced when the element of negativity was all of a sudden replaced by positivity was something of which I had no appreciation until yesterday. As Deputy McEntee has said, I do not think most people have an appreciation of it. That is why this legislation is important although it covers a very small number of people. We are coming up to the centenary of the 1916 Rising, where the aspiration was to cherish all children of the nation equally. The definition and protection of the child has been put very much to the fore in the lifetime of this Government, with the creation of the Department of Children and Youth Affairs and with stricter controls on how the State responds to and protects children from abuses of all kinds. The State has matured in its relationship to dealing with children.

I would agree with Deputy McEntee that Committee Stage of this legislation should be stalled until after the referendum. If successful, the outcome of the referendum may require further amendment to this legislation. When I met the group yesterday, its members brought that suggestion to me themselves. As regards the role of the GP, I know from my own family's experience that nobody will know a child medically better than the GP. The GPs should have a role in this alongside the existing ones. They are the people who have interacted with the children and looked after their medical needs from the time they came into the world. I do not see why they are not included.

As regards the age element, I know the group has met with the Minister of State and the Tánaiste. The families at the centre of this are concerned for their children and young adults, and are worried that if Committee Stage is rushed, there might not be an opportunity for them to further flesh out the changes they feel could make the Bill more reflective of what they want for their children. On that basis, I do not think there would be any need for the House to divide on this and I hope it does not happen.

This Bill is a once in a lifetime opportunity for the families we met yesterday. That man's

absolute love for and adoration of his child has not changed one bit and has probably been enhanced. He may have seen what he could have lost, with the element of self-harm and the dark place this young person found themselves in up until the time they could confront who it was they were. I ask that the Minister take my points and those of my two colleagues on board.

**An Ceann Comhairle:** Deputy Seán Crowe is sharing time with Deputies Ellis, Ó Caoláin and McLellan.

**Deputy Seán Crowe:** Go raibh maith agat. In May of last year I spoke on the broad precursor of this proposed Gender Recognition Bill. At the time I raised a number of concerns which Sinn Féin shares with transgender individuals and their representative advocacy group, TENI. I recognise and acknowledge that some small changes have been made to the Bill. I have heard many positive remarks from right across the political spectrum. However, a wide range of respected human rights bodies has been telling the Government that there are unacceptable and unnecessary provisions placed in this Bill. For the life of me I do not understand why the Minister for Social Protection has failed to take on board many of these legitimate concerns.

*3 o'clock*

Most of us would agree there is a clear need for a legal framework for trans people to have their gender reflected accurately. It was for this reason that Sinn Féin produced its Bill on this in 2013 which, if enacted, would have given trans people a pathway to legal recognition without having to jump through unnecessary hoops, such as wasting psychiatrists' and endocrinologists' time by having to get official say so from a medical expert about what their gender is when they could just as easily articulate precisely what it is themselves.

I would like to think that our legislation would not have been downright cruel and forced happily married couples to divorce so that one person might have his or her gender accurately recognised. Our legislation was rights-based and we are pleading, even at this later stage, with the Government to recognise the gaping and unnecessary flaws in this Bill. We will end up reluctantly supporting it because people need an avenue for recognition but members of the Labour Party, in particular, need to recognise that this is far from the win on a social issue it is presenting it as. Telling trans people to divorce or they cannot have their gender recognised is insulting in itself but it is a further insult to say that to them and then portray it as giving them some kind of legislative gift. I take no pleasure in saying it is just plain wrong.

I have met a wide range of groups and individuals on this issue and it saddens me that their legitimate views have not been listened to or reflected in this Bill. It does not have to be like this. Originally, there seemed to be the suggestion from the Government that the single requirement, or forced divorce requirement, was necessary because it did not want to inadvertently introduce same-sex marriage. It seems somehow redundant to do this when same-sex marriages from other jurisdictions are legally recognised here and when we are very close to the referendum on this important matter. Trans people who are married or who have families are entitled to the same protection under the law as everyone else and for a State that supposedly holds the institution of marriage in such high regard, it is a bizarre and cruel approach to effectively force divorce on people who may not want it. It violates people's basic rights to equality, and that is before one even gets to the nuts and bolts of this, taking into account that people will have to separate from their families for five years before divorcing. The idea that this State or any state would compel people to do that is appalling, to say the least. Belgium, Georgia, the Netherlands, Portugal, Romania and Spain have all done away with compulsory

divorce for gender recognition and those countries have not experienced societal melt down. Let us be inclusive about this and do the same.

There is no constitutional bar to this, so there is no logical reason to institute the State-sanctioned break-up of families so that people can access documentation to accurately reflect who they are. I would go so far as to say that I have my doubts that a law compelling trans persons to be single to avail of legal gender recognition is actually unconstitutional. The Minister and her Department know full well that it is unlikely this provision would be upheld in the European Court of Human Rights. While we uphold the decisions of that court in other cases concerning divorce and gender recognition, they have essentially concerned states where access to divorce was much simpler and far less paternalistic than in this jurisdiction.

It remains the case that this law, in a weird perversion of justice, would force a happy loving couple to perjure themselves in order to access a divorce, incur huge legal fees and wait five years to get a piece of paper that states their correct gender. That is quite simply a kick in the teeth for trans people. Surely it is perfectly reasonable to ask what the motivations of the Minister for Social Protection are here. I would like her to spell it out for us.

**Deputy Dessie Ellis:** I welcome this Bill which will be good for many people who have suffered due to the State and society failing, or refusing, to respect their gender. That said, it has a number of deficiencies which I will outline and which Sinn Féin colleagues have also addressed but which bear repeating, to some degree.

My colleague, Deputy Ó Snodaigh, published a Bill on gender recognition during this Dáil term. It was a much more progressive Bill than the one before us and without many of the problematic sections. This Bill has moved from being a great and utterly reasonable step in the right direction.

This Bill gives with the left hand and takes with the right. It sets out to respect the gender of individuals and their unique position in identifying their gender but then with other parts, it leans back into the old and damaging ways of pathologising people who have been misassigned a gender with which they do not identify.

It also nannies people by setting boundaries for them as to how they can get their correct gender recognised. No psychiatrist or endocrinologist can tell one what gender one is - that is something each individual knows - and while labels and disrespectful policies may hurt people who have been misassigned, it will never change that. This is the position of TENI and it is my position also. It should be the case that the process of having one's correct gender recognised is as simple as applying for it.

Life, when one has been born into a situation where one's gender has been misassigned, is not easy. Some find it more difficult than others and generally that is to do with the respect they get for their correct gender identification as they grow up.

There are trans people who did not meet great resistance from parents and so were able to transition earlier than others and so faced fewer difficulties but, even so, they had to deal with an issue which many of us never will. For many of us, our gender as perceived by other people is the one that we identify with and that is a big privilege when one considers the resistance, the hatred and the disrespect trans people often face. To have the State recognise that trans people know their individual gender better than anyone and to respect that will be a small step to showing society that being trans is okay. Trans people deserve respect and behaviour to the contrary

is not acceptable in our society.

Ireland has a serious problem with transphobia. We have a very small trans community so for many people, it might not be so apparent but that does change the fact that trans people in Ireland are regularly victims of transphobic abuse. That can be online comments, street abuse or harassment or even physical and sexual assault. Everyone deserves to live free from abuse and danger such as that and to do so confident that society would stand in solidarity with him or her should he or she be victimised.

This Bill denies the right to identify one's gender to 16 and 17 year old people, putting in place barriers which mean they would have to go through a parent. This is utterly unfair and would leave many in this age group unable to have their gender recognised for a further two years, which is not right. The Bill denies that right completely to anyone under 16 years.

The Government must think that gender is something people take lightly but it certainly is not. It is important, in particular, to the people who are denied their correct gender identification. One's gender misidentification is a big issue to decide on but it is one which is individual. If a person under 16 years was to decide that they have been misidentified as female when they are male, what harm is it to anyone for them to transition and have the State recognise that so they can live in peace and privacy? If Deputies could try to imagine what it would be like to have their gender denied to them for most of their youth, I think they will understand that this is the wrong way to approach things.

One's body and one's gender are not mutually exclusive. For some, there is a very great link but for others there is not and that should be recognised. Under no circumstances should it require that trans people need to undergo any medical treatment to prove to anyone their gender. This State has a very bad record of thinking it can tell people what they are or how they feel. That should never be forgotten. Finally, I thank TENI and the trans and intersex community of Ireland for their work in having their rights recognised. This is not the end but it is certainly a positive step and full credit for it lies with that community.

**Deputy Sandra McLellan:** I welcome the opportunity being provided for debate with this Bill being introduced to this House. However, it must be said that we in Sinn Féin feel it is seriously lacking in the protection of young people's rights. Ireland is currently the only state in the EU with no provision for legal gender recognition.

My main issue with the Bill, as children's affairs spokesperson for my party, is the process of recognition for young people aged 16 and 17, and the exclusion of under-16s from the Bill. The advice from the Ombudsman for Children on the issue is that a failure to provide in law for transgender young people to have their preferred gender recognised renders it more difficult to advance awareness of the serious challenges facing them in schools and in other settings. This is unfair to these young people and puts them at an unnecessary disadvantage in life progression. Where 16 and 17 year olds wish to obtain legal recognition of their preferred gender, the barriers they face are onerous. The Bill introduces a mechanism whereby young people aged 16 and 17 can obtain a gender recognition certificate. It is widely felt by transgender organisations that the process as outlined to obtain the certificate is too arduous and unfair on young people.

The gender recognition Bill requires a number of important amendments to fulfil the requirements of international human rights law and tackle the serious issue of discrimination against transgender people. It falls seriously short of providing adequate protection to trans

young people, especially within the education system, and makes no attempt to protect and vindicate their right to freedom of expression. As stated by the transgender advocacy group BeLonG To, on a very practical level this impacts on uniform choice, access to appropriate toilets, the name which appears on the school roll and the right to join sports teams targeted at those of a certain gender. It also has been noted that there is serious failure in the Bill to provide security for trans young people transitioning within education and that this will inevitably have a negative impact on the affected young people's mental health. This causes me huge concern. This State has a duty of care to all young people and a responsibility to provide for their protection and well-being. There is also great concern that the Bill will lead to different policies and procedures in schools across the State. This will only make it more complicated and difficult for trans young people to transition to their preferred gender and progress through their educational and personal development.

Another aspect that we in Sinn Féin find seriously concerning and unacceptable is the criterion that one must be single in order to apply for recognition. We are completely against any requirement that a person must be single in order to have their gender recognised, and further that they would be required to seek a divorce in order to have paperwork that accurately reflects their gender. The requirement that a person must divorce their spouse first is outlandish, outdated and quite possibly unconstitutional.

We are also of the view that all reasonable steps should be taken to ensure the dignity and privacy of applicants for legal gender recognition be preserved and that confidentiality is preserved in all cases. For this reason we tabled an amendment in the Seanad, which we will table again in this House. As Colm O'Gorman from Amnesty International has commented, the Bill must "ensure that transgender people can obtain legal recognition of their gender through a quick, accessible and transparent procedure in accordance with their own sense of their gender identity". It is the Government's responsibility to reach out and to listen to the transgender community so that their concerns and views are heard and incorporated into its development. The gender recognition Bill, if it is to achieve what it intends to, must be inclusive, and must be relevant to the needs of the people it seeks to address.

**Deputy Derek Keating:** I welcome the opportunity to speak on this very important piece of legislation. When I became a Deputy four years ago, I had certain aspirations, plans and ideals. Perhaps this is not an issue I would have considered at the outset, but in the past four years, I have come to realise that often legislation that affects a small number of people affects society at large, and what is good for a small number of people is good for us as a nation. This issue affects a small minority of people. It is of vital importance that we ensure this House deals with the matter with sensitivity for those persons who find themselves in a situation where gender is identified as a problem at birth or emerges as a result of a realisation that their bodies do not reflect the gender identification that is at the core of their being. It is rare that this House has the opportunity to provide a solution to people who are in these situations. Too often these minorities have been scapegoated, cast out and characterised as abnormal. Gender is at the core of our being, yet there has been a growing understanding of the complexities of gender and gender identity.

This Bill does not deal holistically with gender identity. Nobody suddenly comes to realise his or her gender identity is a problem at the age of 18. While the Bill does provide for some recognition of 16 and 17 year olds, there is nothing for young people under the age of 16. This is certainly a new frontier for many of us but we need to approach it with reason and compassion. Young trans people exist and I have heard of how difficult it is for them and their families.

*Dáil Éireann*

The road to knowing oneself can be a long one. I have had conversations with trans advocates, and I welcome to the Visitors Gallery some members of groups I have met. I have learned that gender identity is not something that a person decides overnight. Individuals struggle with this for a long time before they are able to admit it to themselves in the first place, let alone express it out loud. It is often a long and difficult process but there are young people who know this at an early age.

This week, I have heard stories of the struggles people have had and the persecution they have felt at times. I have accumulated some of those stories and I will put some of them on record because I do not have the time to go into them in great detail today. I have heard of young people who self-harm, who threaten suicide and who are undergoing psychiatric help. These young people who are struggling need to have their identity legally recognised. In the meantime, people face significant difficulties. I have referred to bullying and discrimination, for example, before. This is inhumane.

Let us be clear. We are talking about legal recognition. We are not talking about medical interventions or surgeries for children. This is about creating legislation that affirms a person's gender identity. The Government's movement to include 16 and 17 year olds in this Bill is very welcome as it is an important step towards the visibility of these young people. However, the process is incredibly onerous and restrictive as it requires parental consent, two letters from medical practitioners and a court order. This will act as a barrier for many young trans people to obtaining legal recognition. This is due to the fact that there are very few medical practitioners with expertise in this area and TENI has documented long waiting lists to access these services. The likely result is that the process will be so time consuming that young people will be 18 years of age before they fulfil the requirements. This was evidenced by the statement of a young trans man who noted, "I was 17 when I got my first letter from a psychiatrist. I'm 21 now and I'm still waiting for my second letter for treatment." In the absence of the Government agreeing to self-determination, I ask that general practitioners, GPs, be included in the definition of "primary treating medical practitioner." I also received a letter from the Irish College of General Practitioners making this request.

Amnesty International has observed:

Absolute denial of legal gender recognition to individuals under a given age is not consistent with existing international standards regarding the rights of children. Legal gender recognition should be accessible to children on the basis of their best interest and taking into account their evolving capacities.

Under Article 42A of the Constitution, the State "recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights." In matters of guardianship, adoption, custody and access to children, the best interests of the child shall be the paramount consideration and "in respect of any child who is capable of forming his or her own views, the views of the child shall be ascertained and given due weight having regard to the age and maturity of the child." Legal recognition would benefit young trans people by protecting their rights and supporting their well being. It would enhance their experiences at school and ensure that the Administration provided protection. There are instances where this has not been the case. Furthermore, legal recognition would acknowledge and validate their identity.

I ask the Minister of State, whom I welcome to the Chamber, that we have the opportunity

to live up to the ideals that the sovereign people of Ireland recently expressed in the children's referendum. During the debate on this legislation, which I hope will be adopted, the House can do much to help in this important matter.

**Deputy Anthony Lawlor:** I welcome this legislation. For a Government such as ours, it is enlightening that we are introducing legislation that we would not have considered or discussed 20 years ago. Like my colleague, Deputy Keating, my first encounter with transgender people to discuss these issues was a couple of days ago. I was moved by that discussion. I spoke with a father who believed that we were not going far enough with this legislation. The justice committee is discussing matters of protection and how to make things right for children. Here we have an opportunity to take on board that discussion.

Young adults recognise their genders at an earlier age than the one for which we are legislating. They know that there is a perception that they must go through a process to have their genders recognised. They are being traumatised and, as Deputy Keating mentioned, bullied in certain circumstances. Some are self-harming. I plead with the Minister of State to revisit the matter of the age at which people can determine their own genders.

We must accelerate the process. Part of it could comprise self-confirmation or involve GPs who have been dealing with the people in question for a number of years. We might not get another opportunity to enact reforming legislation like this for many years. I hope that we consider my point on people recognising their genders at a younger age than we are legislating for and that we empower parents to allow their young folk to decide their genders at an earlier age.

People generally recognise that this is an important social topic. I plead with the Minister of State to consider the justice committee's discussion on children's rights and the protection of the child and to have it form part of this debate. People should be given the right to decide their genders.

**Deputy Finian McGrath:** Hear, hear.

**Deputy John Lyons:** I entered the Chamber approximately an hour ago. I usually arrive a little early so that I can get involved in what other people, hopefully with a bit of passion and experience, are saying. It can inform what I have prepared in advance.

We debated this matter last March. A number of Members were present, for example, Deputy Crowe. Possibly for the first time, we held a significant discussion and mentioned the word "transgender" in a full debate with the current Tánaiste and Minister for Social Protection, Deputy Burton. Very few Members were present. They were the ones who had been carrying the light on this issue for a long time. I am delighted that so many people have come around to the issue, but I am disappointed that it has been only in recent days.

I am a Labour Party Deputy. I have listened to both sides of the House. One bashed us. I will get away from the politics in a second, but I must say what I am going to say. With no disrespect to my colleagues in Fine Gael, some told the Minister of State that he could have done better because, in recent days, their hearts and minds had been won over. My heart and mind and those of the Labour Party have been won over on this issue for a long, long time. I have news for every Deputy - one in five people voted for the Labour Party. Our political strength to make something happen depends on the cards we have been dealt. Advocacy groups like the Transgender Equality Network Ireland, TENI, and so on are upstairs in the Visitors Gallery. Maybe if political pressure had been put on everyone earlier to win over hearts and minds, as

Deputies on all sides have so eloquently stated, we would not be discussing how this legislation could be better. It would be better. I had to say that. I have sat here for an hour and am more annoyed by some of the political debate than by the points in the legislation that need to be improved. That is disappointing.

Like those sitting in the Visitors Gallery and Dr. Lydia Foy, who has been fighting a battle for 21 years to have herself recognised for the person she is, I know what it is like to be in a minority group. By God is it difficult. Persuading people who have no idea what it is like or the reality one lives is also difficult. Ironically, that reality is pretty much the same for others who, for some reason, seem to deny us those rights. Deputy Crowe will remember because he was present on the day in March when we debated this matter.

**Deputy Seán Crowe:** May.

**Deputy John Lyons:** Perhaps the Deputy is right. I referred to Ms Elizabeth O'Farrell, the lady who exited the GPO with the heroes of the 1916 Rising and gave the surrender flag to the British. As we all know, she has been airbrushed out of the picture depicting the moment of surrender. In most of the photographs that we see, there is a man in her place. I know, TENI knows and transgender people know what it is like to live in the shadows of society and not be recognised as the people we are. It is tough. Most Deputies are straight and face no issues over their genders or sexualities. They never need to debate in this House and put their hearts on their sleeves to achieve a better society. They may debate from their hearts upwards and have passion and enthusiasm for what they say, but they are unlike the people upstairs and do not know what it is like at first hand. I do not know what it is like either, but I know what it is like to feel that I must constantly do more than every other politician and expose myself because I believe in a better society.

Perhaps in generations to come, there will be no issue with the words, "transgender", "gay" and "lesbian" because we will recognise people fully for who they are, which is individual citizens, with equality for one and all, with no difference or segregation and with everybody having access to participate fully in society because that is what society is about. That is why I am in politics and that is why I will try to stay in politics because I want to keep on fighting. However, I will be delighted to see the day when the politicians who come after me and those who come after the tremendous people who have been fighting for transgender rights can reach the point where transgender people can eventually lay their hats down and live their lives as one just like us. That is all that people want. I did not come to the House to say that but I was getting frustrated. I mean no disrespect to my colleagues on all sides of the House but I am calling this for what it is, having listened to an hour of contributions.

We have to face up to where we are at. I would like this legislation to be better but the people who would most like it to be better are those who will suffer because the legislation is not as progressive as they would like but I see the glass half full and that is the way I look at life. I cannot help but acknowledge this is landmark legislation. For this first time those who have been airbrushed out of society because they are transgender will be brought into society and recognised. Imagine living one's entire life without being recognised by society in the laws it provides for its citizens. Yet these people get up and go to work, pay taxes and vote but they are not recognised by society. As much as it will disappoint some people to hear me say this, we must recognise that the legislation is a significant landmark in itself. For whatever reason between a political push and legal proceedings over 21 years, we have arrived at a stage whereby, thank God, a sector of our society which has been forgotten is recognised. Because

of them being forgotten, airbrushed out of society and being left in the shadows, they have been stigmatised and mistreated. It will take more than legislation to address this but the Bill will allow the provision of services to people who are transgender to develop in order that one day their gender issue will be a non-issue.

Previous speakers mentioned the single criterion. I listened to the Minister of State's opening contribution in my office but these Members obviously are not aware that the Government is tabling an amendment to ensure the same-sex marriage Bill will include provision to amend this legislation. For everybody affected by the need for a "Yes" vote in the referendum, we need everyone to ensure it is secured. I urge the transgender community to get as many people out as possible because we can and will get a "Yes" vote. That will eliminate the single criterion issue.

I refer to the medical criteria issue. I am a gay person and back in 1974 the medical world thought I was somebody who needed to see a psychiatrist. I had something else prepared to say until this morning but I genuinely think it would not be right for me to have to see a psychiatrist and for him or her assess whether my sexuality is what it is. It is not right that we should put anybody in that position because the individual knows best. We need to find a road map to get to that space. We can come to the House and criticise the lack of such a road map or we can find the solution to provide it. The two year statutory review will be the gateway to get there. I spoke to the Minister of State earlier and he is anxious to keep in contact with TENI and various other transgender groups on a regular basis and to use the review period as an active road map to develop the legislation. I would like this to be different but, being realistic, that possibly will be the solution.

On the GP issue, people having to expose themselves constantly takes away their dignity. The GP is the person with whom they might feel most comfortable and we do not need to put them in an unnecessarily undignifying position. We do that currently and that is not acceptable. We must find a way to get to a point whereby the certification can be issued through GPs, if not now, then as soon as possible. I would not like as a gay person to have to go through that process and I believe transgender people will relate to what I have said.

I refer to the issue of young people aged under 18 who are in schools, training centres and universities. It is not acceptable that just because a birth certificate states a person is called X, that he or she must be called by that name when he or she finds his or her gender and is living in that space. It is unacceptable to undermine a citizen like this. Schools should not need a circular about this. A school that values every person in the school community and his or her dignity should do that without having to be told by the Minister for Education and Skills. However, she is anxious to ensure the strongest enforcement and messaging delivered to ensure this does not happen to people.

We are where we are and I would like it to be better but let us recognise that for the first time transgender people will be given a legitimate legal space in society. I wish this had happened a long time ago but I am committed to doing what I have done for the past number years and not just recently, which is to work with the people affected by this issue and to keep on championing it. Members in other parties will do the same because that is how change is delivered. It does not happen by hearing from somebody two days before a Bill is taken and coming into the House to say what must be done. Any sensible politician will know that it is through the long game of political engagement and constantly achieving a critical mass that political change is created, not by listening to people affected by an issue two days before a Bill is taken in the House. It is a long game. I wish all those Members had become involved in this much sooner

and perhaps we would not be talking about these changes now.

**Deputy Maureen O’Sullivan:** I wish to share time with Deputies Finian McGrath and Paul Murphy.

Like many Members, I have met people who are transgender, their parents and support groups. I am conscious of the difficult journey that transgender and intersex people have and, therefore, I am sure every Member will hope that the legislation makes the journey less difficult. While the Bill is progressive, it contains some drawbacks and deficiencies with regard to rights and recognition for adults, the stressful procedure for 16 and 17 year olds and the lack of any provision for those aged under 16. While there are reasons for progressing the Bill quickly given it has been so long in coming, we have to get it right for transgender and intersex people. This is a children’s rights issue and it is part of what we want in our society, schools and communities, which is inclusiveness, mutual respect and, especially, respect for difference.

I refer to an INTO initiative, Different Families, Same Love. It is a programme for different classes which aims to create a school climate of respect and acceptance of the diverse families in our society. We know how central families are to forming a child’s identity and, therefore, it is important to recognise that we are not talking only about the traditional family. The programme begins with the following wonderful quotation from poet, Adrienne Rich: “...when someone with the authority of a teacher, say, describes the world and you are not in it, there is a moment of psychic disequilibrium, as if you looked in to a mirror and saw nothing”. I have just come from the Abbey Theatre where Larkin Community College performed a play of its own called “Girl With No Name”. While it was about homelessness, what they said struck me as relevant to this debate.

This is what happens and still happens, unfortunately, for many who are LGBT. A great deal of progress has been made but it must continue in the right direction because we are all aware of the negative effect of bullying. Research shows the greater the support and the feeling of inclusion and equality for LGBT people, the less they are likely to be affected by stress. The Bill must play a part in this. The first positive associated with the Bill is it will recognise the gender identity of transgender and intersex people but it must go further to honour the right of everyone to be recognised by his or her gender of choice.

It should go further by honouring the right of everyone to have his or her gender of choice recognised. That is a principle in international human rights law. We all have an entitlement to live as who we are, and be respected as the person we choose to be.

Under the Yogyakarta principles, “gender identity” is defined as “each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth”. This Bill has certain drawbacks in that regard, and that is why amendments are being called for. One drawback relates to children under the age of 16, who are being denied the legal right to their gender identity even if they have parental support for that identity. I suggest this will lead to further stress, distress and marginalisation. There is a scarcity of information on the debate about gender identity. I have seen a piece of qualitative research which found that some 94% of transgender adults identified their gender before the age of 18, some 48% of them identified their gender before the age of five and some 44% of them identified their gender between the ages of five and 14. Just 2% of them identified their gender between the ages of 13 and 18 and another 2% of them did so after the age of 18. There was no response from 4% of those identified.

This Bill will put in place strict requirements for 16 and 17 year olds who might want to go through this process. I think it will encourage them to wait until they are 18 before doing so. They will be left in a kind of no man's land in the meantime. Those between the ages of 16 and 18 will have to get a court order, the authorisation of two doctors and parental consent, all of which could take a long time. I am aware from my experience of those between the ages of 16 and 18, and of younger teenagers, that they know their own minds, are very articulate and are very conscious of their identities. The Ombudsman for Children's opinion is that a 16 or 17 year old should be able to decide on his or her identity and that those under that age should be able to do so with parental permission.

I suggest that people in the public service, the education system, medical circles, the Garda Síochána and youth services need an element of training to assist them to be aware of the needs of transgender and intersex people. I think transgender and intersex people should be able to change their birth certificates without having to face onerous procedures. There are transgender people who have the identity of a male and the body of a female, but do not want surgery. The implications of the medical criteria for them and others are particularly disturbing. I refer, for example, to the requirement for multiple separate medical opinions. This measure seems to be predicated on the idea that all transgender or intersex people require some degree of surgery in order to fulfil their status. We know that is not true. The medical practitioner who will be required to discuss the medical evaluation under this Bill is narrowly defined as "an endocrinologist [of whom we have very few] or psychiatrist".

The criticism of this measure is that it links medical treatment with legal recognition. The Bill does not differentiate between the medical transition, which some but not all may want, and the legal transition whereby the person could and should have his or her true civil status recognised. Transgender Equality Network Ireland has argued that medical interventions and legal rights need to be uncoupled if the human rights of transgender and intersex people are to be respected. There seems to be an unwillingness to accept and respect the decision-making capacity of transgender people. It seems that self-determination and self-declaration are being undermined. I wonder whether those who drew up this Bill examined the legislation in countries like Australia and New Zealand, where they have a third option on birth certificates. Countries like Malta, Denmark and Argentina seem to be very progressive on the whole area of self-identification. It should be a question of modelling the Bill on more progressive legislation.

I think everybody in this House supports this legislation. I certainly support it because it is far superior to what was in place before now, which was really nothing. However, there are people who feel that this Bill, welcome and all as it is, is based on some outdated practices and could consequently lead to more marginalisation and discrimination. Ironically, this is coming at a time when the Government, through the marriage equality proposal and the Children and Family Relationships Bill 2014, is being more liberal and inclusive. Equal rights have to be at the core of the legislation. I will conclude by quoting from Senator van Turnhout's speech on this Bill in the other House. She stated:

I am thinking of the six year old child who has clearly articulated his preferred gender and which has been fully embraced by his parents, friends, extended family and community. Is this young child, a boy, really going to be forced to go through a girls' school wearing a girl's uniform and using the wrong name and pronouns to gain access to the education available in his locality?

That is what will happen unless we get all the aspects of this Bill right.

**Deputy Finian McGrath:** I thank the Chair for giving me this opportunity to speak on the Gender Recognition Bill 2014. I warmly welcome the debate. Despite some flaws in the legislation, I support it strongly as an historic step towards a more equal and inclusive society. I believe this is a major civil rights issue because I want to live in a country that respects and celebrates diversity. When we knocked on the doors during the last general election campaign, many people demanded change and reform. I welcome this legislation as part of the change and reform agenda. I urge all Deputies to support it.

I had the honour this week of meeting Simon and Broden, who are parents and activists on this legislation. I would like to quote from a letter I received from Simon following our meeting and which really sums up the whole issue. The letter states:

This is indeed an opportunity for you and your colleagues to do just that - make members of the trans community's lives a whole lot easier by passing a law that validates them and gives them rights. This is not just about a piece of paper. It is about human rights - the right of a small minority of citizens to be themselves [I emphasise the words "be themselves"] not because a medic says so, not because Lydia Foy won a historic case in the European court, but because every person, and every child especially, has the right to be respected, valued and protected by their State.

I think that sums up what is going on in this legislation today. It is also a message to all of us that we need to act soon in relation to children and their rights.

I was interested to hear the comments of Deputy Lyons in reaction to some of our colleagues. He seemed to be beating up on people who are supporting the legislation because they did not come to the table sooner. I remind him that equality does not belong to any particular party. Equality is about the citizens of this State. Equality and respect for difference are important parts of any inclusive democratic society. It is important to recognise that in this legislation and in this debate. Ireland is the only country in the EU that does not provide for the possibility of legal gender recognition of transgender and intersex people. The term "transgender" refers to a person whose gender identity or gender expression differs from the sex assigned to that person at birth. The term "intersex" refers to a variety of conditions in which a person is born with reproductive or sexual anatomy that does not fit the typical definitions of female or male. These are the definitions.

Legal gender recognition provides a process for an individual to change the gender marker on their birth certificate and be legally recognised by the State in their true gender. As foundational identity documents, birth certificates are often requested for official purposes, such as accessing social welfare entitlements, obtaining personal public service numbers, getting jobs and getting married. In certain cases, a person may be recognised as one gender on certain documents and as another gender on his or her birth certificate. This puts the individual at risk of being outed when he or she applies for a job, a new passport or entry to education. It can also lead to a denial of services and restrict an individual's ability to travel domestically and internationally. Forced outing may result in harassment, discrimination and even violence. That is the world of many transgender people. The lack of State recognition of transgender and intersex identities is a major contributing factor to the marginalisation of these communities and is an urgent health and human rights issue. That is where I am coming from. We have to ensure it is a human rights and equality issue as well.

I emphasise that I am strongly supporting this Bill because it is inclusive and progressive. When Opposition Deputies are supporting Government legislation, it is proper for us to point out any flaws we see in it. This Bill retains the blanket exclusion that prevents children under the age of 16 from obtaining legal recognition. This represents a failure on the part of the State to acknowledge the existence of transgender and intersex young people and the extremely high levels of prejudice they may encounter because of their gender. For children, large aspects of education, sports and activities are gendered. Therefore, it is important that trans and intersex young people are able to participate fully in school life and activities. We must lead on this issue and deal with it. I refer particularly to schools, youth clubs and all youth groups. It is important to identify this because education will play an important part, as was seen in other equality issues over the past number of years.

I strongly support the HSE model for self-determination. This was strongly proposed by Dr. Philip Crowley, the HSE national director of quality and patient safety when he spoke at the Oireachtas Joint Committee on Health and Children. He states, “The HSE endorses a gender recognition process which places the responsibility for self-declaration on the applicant rather than on the details of a medical certificate or diagnosis”. I strongly support that position and it is important to say so in the debate.

I welcome the Bill because it is of historic importance. It is about children and people but, above all, about creating a more caring and inclusive society in Ireland in 2015.

**Deputy Paul Murphy:** I pay tribute to the campaigning work of transgender people and, in particular, Transgender Equality Network Ireland, TENI. Without that, we would not have the Bill before us. The campaign is responsible for having the Bill and also for the fact that the criticisms raised about the inadequacy of the Bill have been widely reflected in the debate on Committee Stage in the Seanad and today in the Dáil. It is a tribute that the group has not accepted the Bill as grateful people happy to have something but, instead, have pointed out the real weakness and have struggled to make it a stronger Bill. It is a real illustration of what the abolitionist, Frederick Douglass, said that power concedes nothing without a demand. It never has and never will. It takes oppressed groups of people struggling and fighting in difficult circumstances to force any progressive change. These are not granted to people but won through struggle from below. It is only by a continuation of that level of struggle that we will finally reach a stage where trans people are not discriminated against.

The basic elements of the Bill, legal recognition of people’s gender identity, is a step forward and a step out of the dark ages where Ireland is the only country in the EU that does not allow legal recognition of transgender people. It is the beginning of an end of a nightmare where people’s gender is not legally recognised. We can imagine the situation that creates for people. Those of us who have attended briefings and discussions with people in the past number of months have heard multiple stories about people going to school wearing the wrong school uniform, which is not the school uniform of someone’s gender and not being able to use the correct toilets of someone’s gender and having teachers who see people in a gender that is not their gender. All the way through life, this creates difficulties for people. It is no wonder we hear statistics on the prevalence of mental health issues. In some studies 78% of respondents had thought about ending their lives and 44% said they had self-harmed. This information has been made available from the TENI study Speaking from the Margins: Trans Mental Health and Wellbeing in Ireland. That is not an individual problem or failing of those who experienced mental health problems but a problem of society that does not recognise their gender. This is reflected in many ways, whether in families that tragically do not accept their children for who

they are, social exclusion from peers, and discrimination.

Like many of these issues, legal recognition will not change that overnight but it can be an important factor in changing attitudes. That is the most important aspect. There are serious problems with the Bill and the Government should not hide behind saying it is big progress, there is a need to have the Bill enacted now and that if we want to have more progressive legislation we would need more consultation. It is cowardly of the Government to do so, given that these issues have been raised repeatedly since the debate started in the Dáil, in the committee and in the Seanad. The Government should accept there are failings in the Bill and accept key amendments to change it that would make a real difference for people.

The first key issue has been addressed by others, which is the effective requirement for a forced divorce. This forces people to get divorced before they can get legal recognition of their gender identity. It ignores the actual reality that trans families exist and discriminates against their marriage, the trans people, their spouses and their children. I do not accept the argument that it will be resolved with the passing of the same-sex marriage referendum and that we should wait. At the very least, we should have a sunset clause to ensure that, when the referendum is hopefully passed, the requirement automatically disappears.

The second key issue is discrimination against trans young people, first, by saying there is no possibility for those under 16 years of age to have their gender legally recognised. This is despite the fact that studies suggest the vast majority of trans people had identified their gender before the age of 18 years. It is some 94% according to a study from 2013 and many have done so much below the age of 18 years. Second, the barriers put in place for those aged 16 and 17 years, of parental or guardian consent and a high level of medical assessment, means that it will not happen. We can say it is legally possible to have a 16 or 17-year-old to have gender legally recognised but that will not happen. People will be 18 years of age before it happens so it is not of much use. We should be clear that we are not talking about medical transition but the simple legal recognition of people's gender. At the very least, 16 and 17-year-olds, and I would argue younger people, should be able to self-determine and self-declare their gender.

The third key problem with the general approach of the Bill is the medical approach, seeing this as a medical issue and requiring medical assessment and intervention. The requirement of a certificate of a medical practitioner, an endocrinologist or a psychiatrist is entirely wrong and unnecessary. It says that it is up to medical professionals to decide whether people are able to correctly determine their gender identity. That is not the case, it is up to people themselves to determine it. That is the whole point about a progressive approach on this issue. At the very least, the Government should take on board the letter from the Irish College of General Practitioners, which urges the addition of GPs to the definition of primary treating medical practitioners. At the least, this would make it more accessible to trans people but, in reality and in line with best practice, there should be a simple administrative process where people make a statutory declaration as to their gender identity.

The final point I will raise is the absence of consideration of those who do not identify with either binary gender, male or female. This is the case in Australia and Germany in certain circumstances and there should be the possibility of identifying as ex-gender and not forcing people who do not identify with either to choose between male and female.

I hope the Government takes on board some of the key amendments but mainly I hope that, regardless of what happens, if the Bill is passed it is seen as a partial victory for those fighting

for it and that they continue to fight and to press until we have full equality and an end to discrimination.

**Deputy Derek Nolan:** I propose to share time with Deputies Seán Kenny, Anne Ferris and Seán Kyne. I am happy to speak on the Bill, which is important. Anyone speaking out must give enormous credit to Dr. Lydia Foy, who through decades of perseverance, legal challenges and of holding the State to account, often in legal confrontation with it, must be commended on the Bill and on it being debated in this positive manner. Reading many of the attempts, via the High Court and elsewhere, used by Dr. Foy - it culminated in the declaration that our law did not comply with the European Court of Human Rights judgment - illustrates the struggle to get this to where it is today. I commend the Minister on engaging in such a proactive way with the stakeholders in the Bill.

There are disagreements about some of the technicalities and principles being debated.

*4 o'clock*

That the Bill, which is very progressive when compared to some of the legislative frameworks already in place in other European states, is before the House is an extremely positive development. That we are debating it is a sign that we no longer live in the dark ages. I welcome the fact that the matter with which the Bill deals is receiving the attention and appreciation it deserves.

A number of commentators in the human rights sphere have criticised the legislation as being in some way less than it should be. I am not sure I agree with all of the analysis that has taken place but I am sure that the Second Stage debate provides people with the appropriate opportunity to air any grievances they may harbour. Some individuals have suggested that as person should not be obliged to profess his or her gender and then exclusively assign himself or herself to it for the foreseeable future or forever and that it should be possible to switch back. It must be recognised that an individual's gender identity can change over a period. While no one would state that the decision to opt to transition to one's preferred gender should be taken lightly, it should be possible for a person to take this route if his or her circumstances change.

As previous speakers indicated, there is a contention regarding the age at which a person may apply for gender recognition. We are all aware that some children can, at a very early age, realise that the gender listed on their birth certificates is not that with which they identify. I hope we will be able to tease these matters out further on Committee Stage. If there is certainty on this matter in the mind of a child, then we possibly should be able to consider his or her circumstances further. If one considers the law as it relates to medical procedures and the ability of a minor to give consent, one will find that this has developed in the context of a number of cases. The jurisprudence in this regard very much focuses on the age of 16 as being the point at which a person can give informed consent in respect of the carrying out of a medical procedure. I thank the Tánaiste for succeeding in reducing the age in this Bill from 18 to 16. However, perhaps we should consider including a clause which would allow consideration to be given to certain cases in exceptional circumstances.

The Bill means a great deal to those with whom it deals. I hope the referendum in May will be passed - there is support for a "Yes" vote among almost all Members of the House - and that we will be thereby in a position to deal with the issue of the compulsory dissolution of marriages in relevant instances. It must be recognised that the Constitution - as it stands and in

terms of the way it currently defines marriage - does not allow for such dissolutions. Germany was able to legislate in respect of this matter but I do not believe we are in a position to do so here as a result of our constitutional and legal framework. The people will be required to make a decision in May. In such circumstances, those of us who intend to campaign for a “Yes” vote must use reason and highlight the issue to which I refer in order to further our arguments and ensure that the referendum is passed.

I welcome the Bill, which is an important step forward. There is a possibility for further progress to be made in respect of the subject matter of the Bill on Committee Stage. I hope all of those involved will engage in a constructive debate at that point.

**Deputy Seán Kenny:** This legislation demonstrates how far Ireland has come in terms of social progress in recent years. While the Bill is welcome, it must also be stated that Ireland is currently the only country in the European Union which has not already made provision for legal gender recognition. In reality, therefore, we are merely catching up. The delay in introducing gender recognition legislation has left transgender and intersex persons without formal legal status and has significantly impacted upon their ability to access services such. The publication of this Bill marks progress in that regard. The Bill will give formal legal recognition to the preferred gender of transgender persons by means of the issuing of gender recognition certificates by the Department of Social Protection. This will mean that a person’s preferred gender will be fully recognised by the State for all purposes, including the right to marry or enter a civil partnership in his or her preferred gender and the right to a new birth certificate. The term “preferred gender” is, in line with a recommendation made by the Joint Oireachtas Committee on Social Protection and Education during the pre-legislative scrutiny process, contained in the Bill. This will facilitate applications for gender recognition from people with intersex conditions.

The Bill is a progressive measure and I would like it to be enacted as soon as possible in order that members of the transgender community will be able to avail of the opportunity to have their preferred gender formally recognised. Once it becomes law, a person to whom a gender recognition certificate is issued will be officially legally recognised by the State as being of the preferred gender from that day forward. He or she will be recognised in the preferred gender for all purposes, including with regard to his or her dealings with the State, public bodies and civil and commercial society. He or she will be entitled to marry a person of the opposite gender or enter a civil partnership with a person of the same gender. He or she will also be entitled, where relevant, to a new birth certificate that shows the preferred gender and new names, if names are also changed.

The application process for gender recognition will be administered by the Department of Social Protection. Applicants will either have to have their birth registered in Ireland or be ordinarily resident here. This process will consist of a statutory declaration by the applicant that he or she intends to live permanently in the new gender and a validation by the primary treating physician that the person has transitioned or is transitioning to the preferred gender. Details of care, including medical history or confirmation of a diagnosis, will not be required, nor will the person be obliged to confirm he or she has been living in his or her preferred gender for a specific period prior to his or her application. The Bill requires that, pending the outcome of the referendum on same-sex marriage due to take place in May, an applicant for gender recognition should be single.

The Oireachtas joint committee recommended that the minimum age for gender recognition

be reduced from 18 to 16 years. The Bill provides for applications from 16 and 17 year olds but with significant safeguards, which seek to balance the rights of such applicants with the need to protect their interests at a vulnerable age, attached. In particular, in such cases it will be necessary to secure a court order exempting the applicant from the standard requirement of a minimum age for gender recognition of 18 years.

The Irish College of General Practitioners, ICGP, has been keen to see the definition of “primary treating medical practitioner” contained in the legislation extended to include general practitioners. I support its efforts in this regard for a number of reasons. General practitioners are more than capable and fully qualified to fulfil the certification duties under the legislation and are also more than likely to be familiar with the circumstances of applicants. The latter means that they will be well placed to provide verification of an individual’s medical transition. General practitioners would be also the first point of contact for most transgender people seeking health care and would, I understand, monitor the medical transition after transgender people have engaged with specialist services. Having their local general practitioners involved would be of great benefit to transgender people.

I met representatives from Transgender Equality Network Ireland, TENI, earlier in the week. One of them was a person with whom I had worked some years ago, while another served as a public representative in the 1980s. I wish them every success in having their gender recognised under the terms of the Bill. Transgender people have been and remain marginalised in society. It is well past time that this changed. There is more work to be done in the coming years. I strongly commend this legislation to the House.

**Deputy Anne Ferris:** Before I refer to the Bill, I wish to place on record my deep appreciation for two brave women whose lifelong work has led to the point where, for all of its flaws, we are discussing this Bill. Lydia Foy is a champion of gender equality. Her commitment to human and gender rights has inspired Irish people affected by these issues - young and old, women, men and intersex - to speak up and have their voices heard. One hundred years ago the gender recognition fight was about achieving votes and equal rights for women. That fight is still only partially won. Women occupy just 16% of the seats in this Chamber, which is a sad statistic in international terms. We have a long way to go in this country before women achieve equal rights with men. The road to gender recognition is an extremely long one. For transgender women and men to even get on that road has been a long struggle. Lydia Foy has led that struggle in Ireland. She deserves to be thanked by this House and at the same time given a public apology. It is shameful that it has taken her more than 17 years and three court cases to have the human rights of so many Irish people recognised by the Oireachtas. The other woman I wish to acknowledge is an Englishwoman, Christine Goodwin, who sadly passed away last December at the age of 77 years after dedicating a lifetime to changing the law in her country. Christine Goodwin’s success in the European Court of Human Rights was instrumental in the subsequent 2007 judgment of our High Court that Ireland had breached Lydia Foy’s human rights in a similar manner. The Government of the United Kingdom responded within two years of the Christine Goodwin judgment by introducing the Gender Recognition Act 2004, but for another seven years this State continued to deny human rights to the thousands of people in this country who were affected by the Lydia Foy ruling. For three of those years the former Fianna Fáil led Government had the audacity to challenge Lydia Foy in the Supreme Court.

To say that Ireland urgently needs gender recognition legislation is to state the obvious. What we do not need is a near carbon copy of ten year old British legislation. We have learned a lot in the past ten years about how to legislate for this issue, and Ireland can gain from that

knowledge. Deciding to disregard an official birth gender is not an easy choice for any individual to make. When such a significant life decision is made, it should be trusted and respected rather than second guessed. If a medical fact is deemed to be absolutely necessary, the word of a GP should be considered to be as valuable as that of any other medical expert. This legislation reflects nothing of what we know about the psychological damage that can occur if gender recognition is forcibly delayed beyond the formative teenage years and it needs to be adapted to meet the specific needs of fragile young people. Furthermore, it ignores the existence of an inter-sex gender. I also have significant concerns that the Bill may in fact be unconstitutional in its requirement that married persons must divorce prior to recognition of a gender change. It is deeply worrying that the State might be contemplating legislation which would compel a married couple to live apart for four years and then divorce, and for a family to be forcibly broken up.

Where human rights are concerned, the Oireachtas should use all the tools at its disposal to repair what otherwise may be an unconstitutional Bill. That was my opinion a few weeks ago when I voted in favour of the Protection of Life in Pregnancy (Amendment) (Fatal Foetal Abnormalities) Bill 2013. It remains my position now. I support the passage of this Bill to the next stage of the legislative process and trust that the Members of this House can work together to achieve the necessary amendments.

I thank all the relevant organisations, including Transgender Equality Network Ireland, my colleagues in the Labour Party and friends and constituents in County Wicklow who have contacted me regarding this issue in the past four years. I promise them I will continue to fight the good fight. I also thank the Minister, Deputy Burton, who has worked extremely hard in the past four years to bring this Bill before the House.

**Deputy Billy Timmins:** I welcome this Bill, which was prepared as a result of the campaign by Dr. Lydia Foy and others. Dr. Foy has been seeking a new birth certificate in her preferred gender for the past 21 years. The Bill provides for the formal legal recognition of a transgender person's preferred gender through the grant of a gender recognition certificate when the applicant has satisfied certain criteria. The transgender person will be then entitled to a new birth certificate setting out his or her preferred gender, marry a person of the opposite gender or enter a civil partnership with a person of the same gender. The Bill requires that an applicant for gender recognition divorce pending the outcome of the referendum on same-sex marriage, which is due to take place in May 2015.

This is a subject with which few people are familiar. I acknowledge the work done by those who have lobbied for this Bill in terms of informing and educating me about the issues arising. While there is a broad welcome for the Bill, concerns have been expressed about certain shortcomings, some of which are temporarily required while others are not necessary. When we introduce Bills of this nature, we should do so to facilitate people in obtaining a certain status. I do not understand why we would make it more difficult for people to achieve that status. It has been pointed out to me that the requirement for a certificate from an endocrinologist in order for the process to be completed would give rise to undue weight being put on this area. This process is not the same as changing one's hairdo or favourite football team. It is a serious and brave decision for those involved. I can only imagine the trauma and challenges such individuals have encountered and I hope when the Bill is passed that they will not face similar experiences in future. I ask the Minister to consider allowing the certification to be completed by a GP.

Issues also arise in respect of putting obstacles in the way of individuals aged between 16 and 18 years. The issue of blocking at puberty was raised with me. I ask the Minister to take expert medical advice or to engage with stakeholders on this issue because it is an important aspect of the Bill which might make life much easier for those concerned. The context of this Bill is situations in which gender was incorrectly assigned from the beginning or else where the nature of the gender assigned to an individual changed for biological reasons. It is not an illness or something that lands overnight; it is a fact of life.

Married people will be required to divorce before they can avail of the provisions in this Bill unless the same-sex referendum is passed. It would be regrettable if the referendum is defeated and people are not be able to avail of the Bill. I am a strong defender of equality and I am also conscious that when one does not utter a certain mantra or line, one can leave oneself open to ridicule. My good colleague, Deputy Buttmer, is a strong advocate of same-sex marriage. I believe the majority of Irish people support the principle of equality. Perhaps, however, the Government should have considered putting same-sex marriage on an equal footing in the Constitution rather than redefine the current provisions. I am concerned this issue will be used in the coming months to create uncertainty and muddy the waters. I believe there is overwhelming support for gender recognition. There is no room for ambiguity because it is a factual, biological matter for people who have encountered considerable difficulties in the past.

There is an onus on all of us, including educators, to examine the way in which we treat younger children who self-identify as a different gender from the one that society ascribes to them. Such a child may be attending an all-boys or all-girls school. The authorities and the State must give credence to that position and to take whatever logistical steps which might be required. It should be understood that it is not acceptable to describe a class as an all-girls class if it includes a transgender person. We have to put in place the physical mechanisms and create an understanding of such people. We should not regard this Bill as merely setting out an administrative process for people who reach the age of 16 or 18 years. We should educate ourselves and society about the needs of those who are caught in this situation earlier in life. For many, the recognition that they have been incorrectly assigned a gender or that their gender has changed over time and the practical issues that arise are very difficult. It is important that any assistance that can be given by society at large and State agencies, in particular, is given to make things much easier. I support the Bill fully and hope the shortcomings which may be identified for very good reasons can be addressed as soon as possible.

**Deputy Jerry Buttmer:** I hope Deputy Billy Timmins is still my colleague and friend. He may have strayed for a while, but he will be always welcomed back in our tent, which is a big one.

**Deputy Billy Timmins:** The herd left a long time ago.

**Deputy Jerry Buttmer:** This is a very important day. It is days like today on which one has a sense of pride in being a Member of the Dáil. If we cast our minds back 30 years, we remember that those of us who are gay were discriminated against and criminalised. Those of us who are transgender were marginalised and cast to one side by a society that was uncaring and unkind. I commend the Minister of State, Deputy Kevin Humphreys, and the Minister, Deputy Joan Burton, for the work they have done on the Bill, notwithstanding the fact that not everyone will consider it perfect or that it may not contain everything the Ministers or I want. Nevertheless, it is a Bill of which we can be proud and for which we will vote.

Like Deputy John Lyons, I am not a latecomer to this issue. I cast my mind back to a trans conference in Waterford two years ago which was probably the most influential morning of my public life. For all of my involvement in the gay and trans communities and the enthusiasm of people in TENI, including Vanessa, I remember a mother who spoke about her love for her child, the anguish and upset in their house and the transformation to acceptance and love. I am doing her a disservice in my commentary and speech, but they were probably the most influential few words I had ever heard. That morning I had a real awakening. There are people in the Visitors Gallery who are citizens of the Republic and deserve not just our words and accolades but everything we can give them and more. They are our friends, work colleagues and neighbours. They have worked diligently to bring about a Bill that reflects the reality of life for them. I am so proud of them. We talk about Lydia Foy who was the person at the front and the trail blazer. Behind her are people whom we need to acknowledge in many ways. In our own Fine Gael LGBT group we have a tremendous person in Claire who is so determined and positive and really wants to see change, not just for her but for all of our society. I think of the many telephone calls I have had with Vanessa, Broden, Sarah and Sam. They are people who want us to reach out. Hillary Clinton spoke about shattering the glass ceiling and that is what the people mentioned are doing in this country. While they may be disappointed with the Bill and while we might like to go a little further in an ideal world, in fairness to him, the Minister of State has been receptive and open to engagement. His door has always been open.

I had a huge speech written like Deputy John Lyons, but I will not use it as the arguments have been articulated. This is a day on which we can hang out our brightest colours in celebration of the fact that in the Houses of the Oireachtas we are acknowledging as a state our trans friends and saying they are citizens with equality. While they may argue that there is not full equality, there will be. That long journey and the long nights of meetings and travel around the country to persuade and cajole people to come out and tell their stories have worked. More than anything, we must ensure people who are on a journey cannot be marginalised, allowed to walk down town to be hassled, cajoled and mocked, or side-lined by the State. That is why today is so important. It is about people's stories. They are ones with a right as citizens of the Republic. We must put the pall to one side and unveil a new Ireland of equality, acceptance and love.

For future children, the Bill is so important, as is this debate. It is imperative that we acknowledge that when the Bill is passed, this will no longer be the only country in Europe with no legal provision for our trans friends. The journey we have been on has been the result of the work of the brave campaigners who brought transgender issues to public attention. We are here because of the people who have lobbied and advocated and the Bill is a symbol and a sign on one level of the change we have wrought and the movement of the country. It offers affirmation to transgender and intersex people. It is saying that as a state we support them in the challenges they face and that we are prepared to walk with them to make things a little easier. The Bill and the debate and the attention arising from them will have the effect of bringing to the attention of our wider society the difficulties transgender and intersex people face as they go about their daily lives. I hope, by focusing that attention, we can help to overcome misconceptions, challenge prejudice and create a better place in which to live. As TENI state in its debate pack for Members, this is about the most vulnerable people.

As Deputies Seán Kyne and Andrew Doyle who are strong campaigners want to speak, I will conclude by saying this is a significant step. We are giving formal recognition 22 years after Lydia Foy started her campaign. It has been a long and difficult road which has been fraught with tension. However, there is also time for celebration today. I commend TENI, LGBT Noise

and any other group that has been involved. They have helped to make the country a better place. The aim of the Bill is to help people and make it easier for them to live their lives. I commend the Minister of State on his work. He understands the issues raised into which I have not had time to go. I hope we can come back to them to, perhaps, make this a better Bill. I commend the Minister of State and the Minister on their work.

**An Leas-Cheann Comhairle:** Deputies Seán Kyne and Andrew Doyle are sharing time. Topical Issues will commence at 4.42 p.m.

**Deputy Seán Kyne:** I apologise for being late. I was chairing the EU affairs committee and will have to rush off after this to get to Galway to attend meetings this evening.

I acknowledge the people in the Visitors Gallery. I met Broden, Claire, Sam and Tanya of TENI yesterday. The Bill is long overdue and will finally provide a mechanism for transgender persons to acquire official recognition and birth certificates indicating their true gender. It is long overdue and it will finally provide a mechanism for transgender persons to acquire official recognition and a birth certificate of their true gender. Unfortunately, this has taken 22 years which, in my view, is outrageous. Dr. Lydia Foy, first sought a new birth certificate to show her gender as female, as far back as 1993. Unfortunately she was refused and in the time-honoured tradition, the State commenced a battle through the courts. The State persisted even when a High Court judge declared for the first time that Irish law was incompatible with the European Convention on Human Rights. It is deeply disappointing that the State chose to continue appealing decisions until 2010. It is also disappointing that nearly five years passed before the introduction of this gender recognition legislation.

Dr. Foy and her solicitor, Michael Farrell and the free legal advice centres, are to be commended on their work in getting us to this point. The publication of this Bill is very welcome and it will start the process of ending discrimination against one of the most marginalised sectors of our community.

Many of us are not familiar with the issue which this Bill addresses and perhaps it is because of this lack of familiarity that reform has taken so long and that so many people have had to endure problems caused by the law and by attitudes which the law has reinforced. It is difficult to imagine the challenges that transgender persons face but we must try to imagine them. We must try to imagine what daily life can be like for a transgender person in a world in which gender is so demarcated. We must try to imagine what it is like when one's feelings, one's identity and one's sense of self do not match the outside physical attributes. It is only when we do this that we can begin to enact legislation that is meaningful and effective, legislation that will tackle problems and challenge discrimination.

It is clear that some people need to make a greater effort. The Bill contains positive measures but also glaring deficiencies. The Bill is positive because, when enacted, Ireland will finally join every other country in the European Union by having a provision for recognising transgender persons.

I have attended meetings with the Transgender Equality Network of Ireland, TENI, with parents of transgender persons and with constituents and it is clear that several areas of concern need to be examined. Other speakers may have commented on these issues but I wish to put them on the record of the House. The first is the condition that a person be single before being able to avail of the provisions in the Bill. In effect, this condition will mean that the State

is seeking to break up existing relationships against the wishes of partners. I realise that a Yes vote in the forthcoming marriage equality referendum, which I dearly hope happens, will negate this condition. While we are working towards securing this result, I urge the Minister of State to reaffirm his commitment to removing this condition without delay if the referendum succeeds.

The second issue concerns the age requirement. The Bill does not apply to persons under 16 years of age and this is despite the fact that many transgender persons are aware of their true gender long before the age of 16. It can be a very challenging time for families and some parents have great difficulty with acknowledging it. Everyone must remember that gender is not a choice. We need to re-examine the Bill in order to provide help for both parents and the child. A provision is required to allow parents to make an application on behalf of their child.

The third issue is medical recognition. While the best system of recognition is one similar to that in force in Denmark which is based on self-declaration, this Bill could be improved by an amendment of section 2. I urge the Minister of State to widen the definition of medical professional, as set out in section 2, to include general practitioners. A person's GP is very well placed to assist in meeting the medical criteria of this Bill. I note the Irish College of General Practitioners would welcome such an amendment, as would the IMO.

I acknowledge the Minister of State's commitment to review this legislation after two years. However, it would be in everyone's interests if the legislation were to be reviewed after one year, given that it has taken decades to get to this starting point. Any further delays in enacting the rights-centred gender recognition legislation would be completely unacceptable.

I commend the Minister of State on his work on this Bill. I acknowledge those in the Gallery and their campaigns over many years to see this Bill to this point. It is regrettable it has taken so long but I look forward to Committee Stage next week and a safe passage after that.

**Deputy Andrew Doyle:** I thank my colleagues for affording me speaking time. I wish to register my support of the intent of this legislation which is long overdue. I was away on parliamentary business so I have not prepared a written contribution.

A former school mate of mine is in the Visitors Gallery. It was only when he approached me that I came to realise the impact and import of this lack of recognition and legislation for people who need and wish to have their gender alteration recognised legally and who wish to be afforded the same status as everyone else. As I said during the debate on the Children and Family Relationships Bill, people are good and bad and neither their sexual orientation nor their gender determines their qualities. There are many other reasons people are either good or bad but everyone should be treated equally. It is very important that we are a society of equals and that respect is given and tolerance is the norm, that people are not subjected to bigotry or are targeted because they are different. The positive aspect is that at long last this legislation has come to the House and gender recognition for people in this group will finally come to pass. In the event the upcoming referendum on same-sex marriage is passed - this is never certain but current trends indicate it should be passed - the issue of single status and divorce must be dealt with as quickly as possible either by amending legislation or by regulation. The referendum, if passed, will mean that same-sex marriage will be legal.

These issues, including the age limitation, can be further discussed on Committee Stage. There are concerns about people of a young age making decisions that are so life-changing

and fundamental. Young people under the age of 16 may not be fully capable of making those decisions. Doctors, parents and the child in question, need to be consulted. There needs to be compassion and understanding shown. At all times the best interests of the child must be considered. It is important that all outstanding issues raised by TENI and others are taken on board during the discussion on Committee Stage. After so many years waiting for this legislation we must ensure it is fit for purpose. There is no point in legislation that is well intentioned but not workable for some. However, as the Bill stands it will help many people who have been alienated.

I commend the Bill to the House. It is important that we take on board everything that has been said. The organisations who made submissions are speaking from their knowledge and understanding. Most people in this House would not be as *au fait* as others. I listened to Deputy Lyons's impassioned contribution. We should speak as he has from the heart rather than from the head. If we embrace this legislation for what it is we can make it right and fit for purpose for the future.

**Acting Chairman (Deputy Jack Wall):** According to the Order of Business we must conclude the debate at 4.42 p.m. What is the Minister of State's position regarding his concluding contribution? I am sure he would like very much to respond to all of the issues raised by Members if time permitted. Will that happen next week on Committee Stage?

**Minister of State at the Department of Social Protection (Deputy Kevin Humphreys):** It will, Acting Chairman. However, if I may, I will use the remaining two minutes to respond very briefly to the debate.

**Acting Chairman (Deputy Jack Wall):** Of course.

**Deputy Kevin Humphreys:** I very much welcome the discussion we have had today. I was particularly struck by the contributions from Deputies Jerry Buttmer and John Lyons, which were not scripted and were spoken from the heart. When the Labour Party included this legislation in the programme for Government, this conversation was not taking place among members of the public. The debate in the Seanad and in this Chamber today will help to ensure there is a much broader understanding of the issues.

Deputy Willie O'Dea referred to the scheduling of Committee Stage. Yesterday, all Deputies were e-mailed to notify them of when the Bill would be debated in committee and that the deadline for submitting amendments is 11 a.m. tomorrow morning. Almost all the parties have submitted their amendments already. We published this legislation just before Christmas and it has already gone through the Seanad. It was flagged up well in advance of its coming to this House. I have taken note of all contributions and look forward to addressing the issues raised as we go through Committee Stage.

I thank Members for their contributions and the persons in the Visitors Gallery for their attention. Above all, I thank Dr. Lydia Foy for campaigning for so long on this issue. This legislation is 20 years in the making and has been on the programme for Government for four years. I thank Members for supporting it.

Question put and agreed to.

**Gender Recognition Bill 2014 [Seanad]: Referral to Select Committee**

**Minister of State at the Department of Social Protection (Deputy Kevin Humphreys):**  
I move:

That the Bill be referred to the Select Sub-committee on Social Protection pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1).

Question put and agreed to.

**Topical Issue Debate**

**Film Industry Development**

**Deputy Andrew Doyle:** I thank the Ceann Comhairle's office for selecting this issue for debate. Most people will agree with me that County Wicklow is the headquarters of the film industry in Ireland. For more than 40 years, Ardmore Studios in Bray was the Lone Ranger in the provision of studio facilities. In more recent times, larger studios have been opened in Ashford by Ashford Studios, which was set up by the O'Connell family. The film production company headed up by Morgan O'Sullivan has brought many productions to this country. At the moment we have "Penny Dreadful" being filmed in Bray and "Vikings" in Ashford.

The Action Plan for Jobs includes several initiatives to promote the film industry. One of these is the proposal to set up an expert review group to examine what measures are necessary to assist in the provision of additional studio space. A recent report by Grant Thornton highlights the need for funding for such infrastructure. A particular problem for the industry in Ireland is that film studios are classified under class 4, section 2 of the Planning and Development Regulations 2001, as amended, which means a fee of €3.60 per square metre is payable. This is proving prohibitive to the provision of this vital infrastructure.

In reply to a parliamentary question I tabled recently, I was told there are no plans to amend the planning fees at this time. To clarify, that is not what I asked. My question was whether film studios would be allocated a new class under the regulations. In other words, the specific class under which studios are currently categorised would not need to change, but it should no longer apply to them. As it stands, the applicable fee for large-scale studios has proven to constitute an inordinately high cost.

The second issue I wish to highlight is that when it comes to development contribution schemes, film studios are treated in the same way as other commercial premises on the scale, say, of an Ikea store. However, such a facility is really a totally different ball game, because it has footfall all year around and who knows how many cash registers in operation at all times. A film studio, on the other hand, might only be used for three months of the year at high intensity. It may well be part of an overall package which includes location shoots. One of the reasons Wicklow is so popular as a location for shoots is that it is less than an hour from the airport and has the backdrop of mountain and valley, including Glendalough. The Market Square in Rathdrum has been used in films about Michael Collins and in a number of advertisements because

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there are four different aspects to it. My in-laws own the post office there and at one stage it was being repainted three times a year for different productions. That gives a flavour of the potential which is there.

Studios are a vital element of our film industry and I am asking that they be recognised as such. I can short-circuit some of the expert review group's findings by predicting that what I am proposing here will be one of its recommendations. It is very pertinent that the Minister of State, Deputy Jimmy Deenihan, is here to respond to this matter. He has visited the studios in Ashford and is well aware of the issues. In his former role as Minister for Arts, Heritage and the Gaeltacht, which included responsibility for the film industry, he acquired a good appreciation of the requirements of the sector. I look forward to his response.

**Minister of State at the Department of the Taoiseach (Deputy Jimmy Deenihan):** I am delighted to be here to respond to this Topical Issue matter on behalf of the Minister for the Environment, Community and Local Government, Deputy Alan Kelly. It gives me an opportunity to acknowledge the initiative shown by Mr. Joseph O'Connell and his family in establishing Ashford Studios, which is currently home to the "Vikings" television show, which is very successful in the United States and around the world. I have been on site there and seen the studio space, which is built to a very high specification. The same applies to Ardmore Studios, whose whole space has been taken over by the "Penny Dreadful" production, which is also very successful.

As Minister for Arts, Heritage and the Gaeltacht, I was delighted to have the opportunity to extend section 481 provisions and increase the benefit to 32%, which is one of the best offerings in the world. I also introduced the so-called Tom Cruise clause whereby the fees paid to major actors from outside the European Union are treated as part of the overall budget. During my time in that Ministry I met with Steven Spielberg during a visit he made to Ireland. Mr. Spielberg told me he would love to work in this country provided he had access to a studio space of 60,000 sq. ft. I understand Mr. O'Connell is prepared to provide that space, with some assistance from Government.

Planning authorities in Ireland have been receiving 20,000 to 30,000 planning applications annually in recent years, down from a peak of more than 90,000 in 2006, which cover everything from house extensions to large developments. The consideration of planning applications by planning authorities is resource-intensive and expensive. A planning application must be extensively checked and validated to verify compliance with the regulations, with a view to ensuring, in particular, the right of the public to participate. Each application also requires thorough assessment, in line with the county development plan, and must comply with our obligations under EU environmental directives.

Planning application fees yielded in the order of €7.7 million of revenue in 2012 to local authorities to run a system which employed 1,343 staff, of whom 227 were professional and technical staff. The annual financial statement for the local government sector states that in 2012, expenditure by local authorities on forward planning was nearly €37.2 million and on development management was just under €88.5 million, bringing total local authority expenditure on planning to €125.7 million.

It can be seen therefore that the amount of income received in fees is only a fraction of the cost of running the planning service. Section 2 of Schedule 9 of the Planning and Development Regulations 2001, as amended, sets out the scale of fees for all planning applications.

These include €65 for the provision of a house, and €34 for maintenance, improvement or other alteration of an existing house, including any works for the provision of an extension. In respect of class 4, to which Deputy Doyle referred and which pertains to the provision of other buildings, the fee is €80 for each building or €3.60 for each square metre of gross floor space to be provided, whichever is greater. This is subject to a maximum of €38,000 for any planning application. Class 4 therefore includes the provision of buildings for commercial, retail, industrial and manufacturing purposes and includes studios. The fees of €3.60 for each square metre of gross floor space in respect of studios therefore are the same as for any other commercial development. It also should be noted that the fee payable for applications for permission for strategic infrastructure development made directly to An Bord Pleanála is the economic cost of dealing with these applications. In other words, the fee involved would be considerably higher than for applications to the planning authority. While the planning regulations generally are kept under review in the Department of the Environment, Community and Local Government, I understand that the Minister, Deputy Kelly, has no plans to reduce the planning fees at this time either generally or in respect of studios.

**Deputy Andrew Doyle:** I thank the Minister of State and appreciate he was reading from a script prepared by the office of the Minister, Deputy Kelly. Unfortunately, its last phrase reads “no plans to reduce the planning fees at this time”. What I am asking is that this item of infrastructure be treated in a different way. I do not accept it is as onerous to process an application for a film studio as it is to process one for large commercial buildings. I acknowledge there is a visual impact and noise but there is very little by way of threats to damage the environment from effluent or anything else. The film industry is highly mobile and New Zealand and some parts of Eastern Europe are highly active and will compete. The section 481 provision is helpful and is a major incentive. Moreover, Ireland has the expertise and people who are involved in film production, be they actors or producers, like being around. They like Ireland and Dublin and like being near it. Consequently, it is important to recognise these facts and to talk to the people in the industry because unless this matter is addressed, we unfortunately run the risk of not having enough studio space, which is a limiting factor. Were it possible to provide the industry with the full package, of which this proposal is part, an additional 5,000 jobs and €1 billion annually into this country could be leveraged. I do not accept that the planning fees need to be reduced *in toto*. Consideration must be given to this item of infrastructure and to the film industry and we must decide whether it is worth pursuing. The State gives all kinds of incentives through the IDA and others to bring in jobs but this measure would benefit indigenous people to enable them to provide the infrastructure for this industry to locate and to pick Ireland. As they wish to do so, we should help them.

**Deputy Jimmy Deenihan:** Again, I can understand where Deputy Doyle is coming from. Members should consider what has been achieved in Belfast, where an old building that had been used by Harland and Wolff has been turned into a studio. For example, they secured the “Dracula Untold” movie because they had the necessary space. In addition, the greater London area currently takes in approximately \$1 billion of business from Hollywood in general because it has the requisite studio space. This is a critical issue and I agree with Deputy Doyle that it must be addressed in some way if we seek to continue the progress currently being made by a vibrant and growing film industry in Ireland. I remind Members again that the planning application fee in respect of the studio is €3.60 for each square metre of gross floor space to be provided, subject to a maximum of €38,000. This is the same application fee applicable to all types of building other than individual houses and agricultural buildings, that is, the same as for the provision of buildings for commercial, retail, industrial and manufacturing purposes. It

is unclear why a special case should be made - I am reading from a script - for studios as opposed to all these other types of buildings. However, I should state that €38,000 is the maximum. Apart from consideration of planning fees, other incentives also should be given to those who are prepared to develop studios. In this case, I believe these people have invested a huge amount already with no State aid. Hopefully, when a review is carried out of the entire support structure for the film industry, this is a matter that can be considered. I will convey the points made by Deputy Doyle today to the Minister.

### EU Regulations

**Deputy Michael Fitzmaurice:** On 1 July 2014, a directive entitled EN 1090 came into force in Ireland. To simplify the issue, it essentially means that people around the country who have small or large fabrication works must get new quality assurance certification. The first problem was nobody knew about it, even though it was being kicked around in Europe for eight years. As people got word of it - I only got word last December - they began to highlight the needs that arise in this regard because Members should bear in mind that these people have come through a recession. They are people running small to medium-sized enterprises around the country with one, two, three or five people working in them. In order to comply and to get this EN 1090 qualification, which is similar to an ISO standard, figures started to emerge of costs between €15,000 and €30,000. This has created pandemonium in the entire sector. I telephoned a few Departments but could get no information. I was obliged to telephone England to find out what people there were doing about it and to have it clarified. What it entails is that an ordinary person in an ordinary shed in any part of Ireland, be it the Minister's native place or anywhere else, who carries out work in four different categories, including for farmers and builders, must have all their welds tested. There are also requirements such as participation in a welding co-ordinator course and certification. As for the paperwork, when one gets people with letters after their names, they seem to charge high fees to get one in line. Moreover, these enterprises cannot price for work and work is being lost in different regions at present because of this.

**Deputy Mattie McGrath:** Yes.

**Deputy Michael Fitzmaurice:** There is a fear abroad among the smaller operators, many of whom are talking about shutting up shop. While everyone is in favour of creating jobs, we must hold on to what is in place. In fairness, I have been in contact with the local enterprise office, LEO, in County Roscommon and with the National Standards Authority of Ireland, NSAI, and we held meetings in Claremorris to try to explain to people what was going on. Ms Cáit Kenny in the Roscommon local enterprise office has been outstanding in trying to co-ordinate efforts to bring some reason to this issue. Prices were quoted that were extortionate. While bigger operators with 50 to 70 people working in them will stay in the business, unless something is done through the LEOs, Skillnets or SOLAS, the smaller operators in the different corners of Ireland, that is, those firms with two, three or four jobs, will be pushed out.

*5 o'clock*

We need to get to grips with this matter. Going by my tally, Skillsnet can give 20% of funding towards training. There needs to be joined-up thinking on this with existing resources used to assist training programmes along with funding. The responsible authority in Northern Ireland has given 50% of the funding for training in all the different procedures. For example,

to get a welding fabricator certification, welds will have to be sent away for inspection, as well as a new welder co-ordination test.

Everyone appreciates the economic recovery. We need to keep these types of firms in business as they are vulnerable, coming through patchy work over the past few years. They have kept going and stemmed the tide. While the directive has been in place since last July, if it is thrown at these welders and small welding firms now, some of them will give up. The LEO boards will explain how a large number of people are concerned about this directive being implemented. If SOLAS or Enterprise Ireland wants to get involved in the new training requirements, they will have to liaise with the LEOs because they know the different firms affected in their counties. Funding is needed to be given directly to those doing these courses. If it is not, much-needed jobs will be lost in all parts of the country.

**Deputy Jimmy Deenihan:** I thank Deputy Fitzmaurice for raising this issue and for providing an in-depth overview of the challenges faced by the introduction of this regulation.

In general, the implementation of the construction products regulation setting out requirements regarding the CE mark for structural steel is a matter for the Department of the Environment, Community and Local Government. Under the construction products regulation which came into full and direct effect across the European Union on 1 July 2013, all construction products covered by a European harmonised standard require a declaration of performance and must be CE marked before such products can be placed on the market. From 1 July 2014, the requirements of the construction products regulation applied to steel fabricators whose products fall within the scope of IS EN 1090-1:2009.

A European harmonised standard for steel, EN 1090-1:2009, execution of steel structures and aluminium structures - part 1: requirements for conformity assessment of structural components, was approved by CEN, the European Committee for Standardisation, on 15 June 2008 and was first published on 1 July 2009. The standard was subsequently published by the National Standards Authority of Ireland on 9 September 2009. The standard's applicability date as a harmonised European standard was 1 January 2011, as agreed by the European Commission in consultation with member states.

The Department of the Environment, Community and Local Government informs me that, subsequently, the European Commission extended the standard's applicability date as it recognised there were a large number of small steelwork fabricators across the EU which would benefit from the extra time. It was anticipated the sector across the EU needed a little more time to adapt and prepare. It was agreed on 1 July 2014 as the date of the end of the co-existence period. Accordingly, when the co-existence period came to an end, CE marking became mandatory for fabricated structural steelwork that falls within the scope of IS EN 1090-1 placed on the market on or after 1 July 2014.

Since before the construction products regulation came into effect, the Department of the Environment, Community and Local Government has indicated it has been working with a wide range of organisations in both the public and private sectors to ensure the construction industry was made aware of, and could prepare for, the regulation when it came into full effect across the European Union on 1 July 2013. In early 2012, the Department, working through the Building Regulations Advisory Body and in conjunction with the National Standards Authority of Ireland, the National Roads Authority, the Office of Public Works and the Building Materials Federation, prepared an information paper setting out the implications for manufacturers,

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importers and distributors of placing construction products on the market arising from the introduction of the construction products regulation on 1 July 2013.

This information paper was widely circulated to stakeholders across the construction sector by the Department, local authorities and by each of the participating organisations. The Department of the Environment, Community and Local Government also proactively promoted awareness of the construction products regulation at key industry conferences and workshops. In addition, a comprehensive three-month public consultation was held as an integral part of the development of the supporting European Union (Construction Products) Regulations 2013 setting out the framework for market surveillance in Ireland under the construction products regulation.

The Construction Products Regulations 2013, SI No. 225 of 2013, were signed into law by the Minister for the Environment, Community and Local Government on 27 June 2013 to facilitate the application of the construction products regulation and providing for inspection of products on the Irish market by local authorities. These regulations came into operation on 1 July 2013.

A significant number of steel fabricators operating in the State have already established, or are in the process of establishing, the systems necessary to comply with their obligations under the construction products regulation and IS EN 1090-1. Since July 2014, structural steelwork and aluminium now fall under the regulation and, therefore, must carry CE marking to demonstrate they comply with the European Commission's harmonised standard EN 1090-1:2009 which relates to the execution of steel structures and aluminium structures.

**Deputy Michael Fitzmaurice:** While I know this is not the responsibility of the Minister of State, Deputy Deenihan, with all due respect, someone in an office wrote that reply who does not have a clue what is happening on the ground. We know all the regulations and that they have been in place since 2014. However, there is a problem on the ground that is costing money for the smaller firms involved. The only firms in compliance with the regulations are the larger operators. Are we prepared to lose those small firms employing one to four people or will we follow the authorities in Northern Ireland in putting funding into training these small-sized fabricators to be compliant with these regulations? It is not the fault of these small firms, be they working out of a small shed in Kerry, Dublin or Mayo, that this regulation has been brought in on top of them.

Will the Minister of State go back to whoever wrote this reply to explain to them the real facts on the ground and how jobs will be lost? As a nation we do not want to lose jobs but promote them. The LEO boards are dealing with each group of welders in their respective counties. The boards need the funding for compliance training to save these jobs. The clock is ticking with many of these welding companies near the eleventh hour. When they look for work from the larger builders, they cannot tender because they cannot get the new welder certification. Someone has to get real and realise what is on the ground. Will the Minister of State bring that back to the Department responsible?

**Deputy Jimmy Deenihan:** I will deliver that message to the Minister of State, Deputy Damien English, for whom I am deputising.

Under EN 1090, there are requirements for conformity assessment of structural components which involves several steps that culminate in certification by a third party, known as a noti-

fied inspection body. In Ireland, the certification role is performed by the National Standards Authority of Ireland.

The Department of Jobs, Enterprise and Innovation through Enterprise Ireland, the LEOs and in conjunction with the National Standards Authority of Ireland, have held a series of four general information workshops about the requirements under the construction products regulations at various locations. The role of the LEOs' network is to provide guidance and assistance to small and micro-firms and to signpost these firms to other State agencies or bodies where appropriate.

One of the issues that came up at the information workshops was that of training courses for steel fabricators. In this regard, I understand the Department of Jobs, Enterprise and Innovation has been in contact with the Department of Education and Skills about the SOLAS-administered metal fabrication apprenticeship programme. I know that Deputy Michael Fitzmaurice has a particular interest in apprenticeships. In the context of the SOLAS-administered metal fabrication apprenticeship programme, all apprentices who undertake it are made aware of the regulatory requirements. Skillnets, an employer-led training facilitator funded by the Department of Education and Skills through the national training fund, provides a number of training programmes through two of its training networks. The courses include a BA in engineering and a responsible welding co-ordinator and visual inspection programme. It is open to companies to explore with their local education and training board whether relevant training can be provided, usually on a contracted basis.

A key feature of the further education and training strategy is ensuring there are close connections between ETBs and enterprise in order that the needs of enterprise, as well as individuals, can be anticipated and factored into the annual service plans for further education and training. As the Department of Education and Skills reforms the further education and training sector, it is confident that enhanced collaboration between enterprise and the education and training sector will ensure further education and training provision will be relevant to the needs of enterprise. It may also be beneficial for companies to explore what economies of scale might be achieved for companies seeking upskilling in the same areas. I will convey the Deputy's concerns to the Minister of State, Deputy Damien English, and ask that he get back to him directly.

## **Hospitals Building Programme**

**Deputy Derek Nolan:** The emergency department in Galway is the second busiest, if not the busiest, in the country, with 65,000 attendances last year. There is not a week that goes by when I do not receive representations in the form of an email or a call from somebody sitting in the emergency department, or whose partner or child is sitting in it. The conditions in which they have to wait are appalling. The emergency department was built in the 1950s and in the interim period was redesigned in the mid-2000s to get over a particular hump. Clearly it is in need of replacement. Some of the statistics and facts we have seen and the admissions the HSE has made about it are stark. For example, it does not allow effective patient streaming; it does not comply with infection control standards; it does not allow the emergency medical programme or unscheduled care and patient experience targets to be met. It is simply not up to scratch and is failing the people of Galway and counties Roscommon, Mayo and Clare, all of whom feed into this acute hospital.

I have raised this issue with the Minister before and we had very positive and constructive engagement, for which I thank him, as well as for being in the Chamber to debate it. We have the hospital on record as stating its emergency department needs to be replaced. Patients, staff and doctors have told me from their personal experience that we need a new emergency department. Everyone, including the Minister, agrees. He has been very forthright in saying in the House that we need a new emergency department in University Hospital Galway. Everyone agrees that the emergency department is failing its patients and staff, but what are we going to do about it?

There are two options available - a €30 million or a €60 million new build, in which the maternity unit would also be replaced. I understand the HSE has opted for the latter as probably the more preferable option. Given this, the next step is providing the money to design a new emergency department. The hospital should be given the go-ahead to engage architects, engineers and surveyors who should get to know the site, design something and obtain planning permission for it. When we have this done - it will take at least one year to go to tender - we will be able to talk about funding. That work is crucial in accessing funding and having a capital plan. There is no point in allotting money for a building that has not been designed or making capital available for a scheme that is nowhere near starting. Let us give the relatively small amount of money required - less than €1 million, plus VAT - to undertake this initial work. That amount could be found in the budget and would go a long way towards advancing the project which the people of Galway and those living in the hospital's wider catchment area deserve. The unfair, undignified and improper setting in which patients are being treated cannot be allowed to continue in place. Simply saying it is wrong and needs to change is not enough.

**Minister for Health (Deputy Leo Varadkar):** I thank the Deputy for again raising this issue and giving me an opportunity to outline to the House the current position. During a previous Topical Issue debate last October we both acknowledged the high level of activity at the emergency department in Galway, with approximately 66,000 annual attendances, making it one of the busiest emergency departments in the State. The HSE is working closely with the special delivery unit, SDU, to better manage patient flow through the hospital. This collaboration has reduced the overall number of patients awaiting admission from the emergency department to the main hospital. In the first two months of 2015, 798 patients were on trolleys in Galway University Hospital. This represents a reduction of 309, or almost 28%, compared to the figure in the baseline year of 2011, when there were 1,107 patients waiting on trolleys at some point during those two months. However, it does represent a deterioration on the figure for last year. The level of overcrowding increased by 8.7% in January and February of 2015 compared to this time last year.

Galway University Hospital has recruited and allocated experienced general and paediatric nurses to the emergency department, as well as a fourth advanced nurse practitioner with a specific function in the management of minor injuries. As well as additional staff, a number of construction and infrastructural projects are under way such as the upgrade of the medical gas network, which is the first step to upgrading the maternity department. The construction of the clinical research facility is now complete and the facility is expected to be operational within the next four to six weeks.

The HSE is also in the process of appointing a contractor for the construction of a new clinical ward block which will provide 75 beds, with construction anticipated to start by the middle of April and due to be completed by the end of next year. Enabling works for the new 50-bed acute mental health department have started and it is projected that this facility will also be

completed by the end of next year. The transfer of these services to a new unit will facilitate the construction of a new radiation oncology project, currently in design phase, on the old mental health services site.

When we examine trolley numbers and their pattern each week, it is clear that changes in working practices and the way things were done in the past will help to make better use of facilities and smooth out activity in hospitals. Today I received a briefing on the Irish hospitals redesign project which is being piloted at Tallaght hospital. This approach is invaluable in working out, with fresh and often external eyes, how hospitals can be better run and managed. I have mentioned Galway University Hospital as a potential candidate in the future should it prove to be a success at Tallaght hospital.

In the past I have acknowledged that the current physical infrastructure of the emergency department is not fit for purpose and requires investment. That investment must be considered within the overall acute hospital sector infrastructure programme and the overall capital envelope available to the health service, which is constrained. The HSE is concentrating on applying the limited funding available to infrastructural development in the most effective way possible to meet current and future needs. However, there will be limited funding available for new projects in the next multi-annual period, from 2015 to 2019. I have, however, asked the HSE to make some funding available to advance the development of the plans to upgrade the emergency department at Galway University Hospital. I will seek to have further funding for this project included in the 2016-22 capital plan, although that is a matter for the Government as a whole.

Debate adjourned.

### **Messages from Select Committees**

**Acting Chairman (Deputy Jack Wall):** Before Deputy Derek Nolan comes back in, I inform the House that the Select Committee on Justice, Defence and Equality has completed its consideration of the Children and Family Relations Bill 2015 and has made amendments thereto.

### **Topical Issue Debate (Resumed)**

**Deputy Derek Nolan:** I thank the Minister for Health for his response. I am trying to read between the lines. I welcome some of the positive investment in Galway University Hospital. It is the case that construction on a new 75 bed ward block will start next year which will have a big effect on the number of people on trolleys. However, we are still left with a completely inadequate, underdeveloped and unsafe emergency department. The Minister said he asked the HSE to ensure some funding is available. The term “some funding” is vague. Will some funding allow what I have asked to happen to take place? Will it allow the HSE in Galway to

engage people to design an emergency department, go to planning and move it along the line? The capital plan is a number of years away. There is no point being in a capital plan if we do not have a project ready to go.

Will the Minister be clear with me, because this is extremely important to me, as a public representative, and to the people of Galway? Will he ensure the funding, for which he has asked the HSE, will allow the emergency department to be redesigned, to go to planning and to be brought along to a stage where it can be capital-funded in the future? There is no point applying some funding, which only goes halfway. We are either going to do something right or not do it at all. Will the Minister clarify that, because it is particularly important? As he will have seen, the situation is getting worse as time goes on.

**Deputy Leo Varadkar:** I do not necessarily want to make promises that I might not be able to deliver but, I suppose, reading between the lines what I am saying is that I acknowledge there is a serious problem with overcrowding in the emergency department in UHG, about which I want to do something. It is better than it was in 2011 but it is starting to get worse again. It is certainly worse than it was this time last year. It is a very busy emergency department with 57,000 attendances in 2006, increasing to 65,000 attendances last year. Daily attendances can be as high as 258 patients so it is certainly one of the busiest departments in the country.

Much development is under way in UHG. It is certainly not being neglected but is being developed and improved all the time as a major regional centre and university teaching hospital at the heart of the Saolta group. What I am indicating is that I want to have it included in the next capital plan, if funding can be secured for it. I am indicating to the HSE to see if it can find funding within its existing budget to begin planning and design for a new emergency department as soon as possible because it takes time to design, plan, get planning permission and so on. If funding is available in the post-2016 envelope, I would like us to be able to prioritise that project.

### Hospital Accommodation Provision

**Deputy Bernard J. Durkan:** I thank the Ceann Comhairle's office for allowing me to raise this issue and I especially thank the Minister for coming to the House to reply. I raise this issue for a number of reasons. I do not propose to name the patient concerned, even though that patient has already been named in the media. There are serious issues which need to be dealt with. The more we find that we must respond to each issue raised in the public arena, the worse the reputation of all of us seems to get.

There are three aspects to this issue, the first of which is patient health, safety and well-being. The second aspect is damage to the hospital's reputation and the third aspect is the remedy. In a previous incarnation, I spent many years on the visiting committee of Naas hospital, so I have a reasonable idea of what can and cannot be done.

The hospital has had 100% bed occupancy for the past number of weeks. If anything happened which over-extended that further, there would be an overspill. This can be resolved in the case of Naas hospital. There are at least two decommissioned wards which do not meet health and safety standards and fire prevention requirements. They could be recommissioned, if necessary.

The Minister is a caring and compassionate man and is mindful of the need to address the concerns of patients. We should look at the availability of this space with a view to bringing it up to standard, which could be done at a reasonable cost, and making it available so that over-spill in the future can be dealt with and that we do not have a situation where the unfortunate patient must remain on a trolley for three days awaiting attention. It is far better to get ahead of a problem and to resolve it in a meaningful way before it becomes a potential tragedy.

Every patient in hospital feels vulnerable. People going into a hospital at any age are dependent on their surroundings and the care and attention they get. Naas hospital has a very dedicated staff who have done tremendous work in very trying and testing circumstances which become more trying and testing as time goes on. However, in order to preserve and protect their reputations, that of the hospital and the health service, it is important we focus on how best to deal with the problem.

While I do not claim to be an expert in this area, I know a little bit about it, as I am sure the Acting Chairman, Deputy Wall, does. The situation I see emerging needs to be dealt with as a matter of urgency because if we do not deal with it now, something may happen which could be hugely damaging to everybody's reputations, including hospital services in general, and it could put patients at risk. There is no need for it to happen because we have, in theory, a good service and dedicated staff. We need to allay the fears and concerns of patients who might find themselves in hospital awaiting attention. Older people, in particular, are very vulnerable and they expect things to happen more quickly than would ordinarily be the case because of their vulnerable situation and their age.

I thank the Minister for coming to the House to reply to this issue, about which I know he is concerned. I deliberately did not name the patient because this is an issue we should not have to visit again and again.

**Deputy Leo Varadkar:** I thank Deputy Durkan for raising this issue and giving me an opportunity to outline the current position on this matter. As the House will know, I cannot comment on individual cases for reasons of privacy and confidentiality. Moreover, I do not have access to any individual's patient files or patient information, so I cannot speak authoritatively on any individual case. I appreciate that the Deputy did not name any individual in the House. However, I can address the matter in general.

I am always very disappointed to hear about anyone who has had a bad experience of our health service, although most people tell me their experience is very good once they get access to the hospital. I also want to make it very clear to the House that I consider long trolley waits of more than nine hours to be indefensible. That is why the reduction of emergency department overcrowding and the provision of safe, quality care are key priority issues for the Government and me.

The Government acknowledges the difficulties that the recent surge in emergency department activity is causing for patients, families and the staff who are doing their utmost to provide safe, quality care in very challenging circumstances, in emergency departments and elsewhere in our hospitals.

Actions currently being taken to address emergency department overcrowding include accessing all suitable non-acute accommodation to the maximum extent possible to allow those who have been clinically discharged to leave acute hospitals; the provision of 900 additional

transitional care beds in nursing homes, 500 in January and an additional 400 in February; 50 short stay public beds have been opened across the country for a three-month period; up to 300 overflow beds have been opened in acute hospitals; 400 additional home care packages have been provided; 300 additional fair deal places have been provided; and the community intervention teams, where nurses go into nursing homes and homes to give patients IVs, have been extended to Kildare this year.

Arrangements are in place in the HSE to allow for recruitment of staff where it has been established that there is an urgent service requirement and this year the number of general nurses directly employed by the public health service will increase by at least 500. Mental health nursing will be in addition to that.

I am happy to advise the Deputy that 39 posts have been agreed for Naas and recruitment of nursing staff is under way. It is also important to point out that individual hospitals also need to take local actions to improve patient flow and reduce length of stay, so patients who are admitted get their tests and treatment more quickly and get home quicker, thus freeing up beds.

As the Deputy will be aware, I convened an emergency department task force in December 2014 to provide focus and momentum in dealing with the challenges presented by the current trolley waits and emergency department overcrowding. I am determined that an action plan be completed as soon as possible, taking the views of the task force into account, and then made operational without delay. The task force is due to meet again next Monday, 9 March.

I reassure the Deputy that we are working hard to find workable solutions to the management of emergency care, with optimum patient care and patient safety at all times remaining a Government priority. I will have the issue of the two decommissioned wards in Naas examined. If it is possible to reinstate them and have them opened as overflow wards, it would make sense, but I would need to have that examined in terms of capital costs, HIQA requirements and the ability to have them staffed. I would also like to recognise Portlaoise in particular, which helped out Naas during the week when Naas became very overcrowded. I appreciate that local solutions may be needed in Naas. Most overcrowding in our hospitals is caused by delayed discharges, people awaiting nursing home places and homecare packages. That is not a problem in Naas, which does not have a high number of delayed discharges. It seems that the overriding issue in Naas is the significant increase in population in that county in recent years. We have not been able to invest adequately in providing additional acute beds for the hospital in the past ten years because of the economic crash but perhaps we can right that in the next couple of years.

**Deputy Bernard J. Durkan:** I thank the Minister for his comprehensive reply, which clearly indicates his understanding of the situation. In particular, I compliment him on his recognition of the possibility of examining the decommissioned wards with a view to bringing them on stream for emergencies of this nature. I also wish to point out that the Acting Chair and I, and other elected Members, would be delighted to escort the Minister if he should wish to visit Naas hospital in the near future, where he can see for himself the situation as far as the patients are concerned in respect of overcrowding. It would also enable him to consider what is required in the future so that no one else has to raise an individual case in this House.

The reputation of Naas hospital is excellent and the staff there are very dedicated. All staff members show commitment that is above and beyond the call of duty. I have been visiting, as has the Acting Chair, at times when the place was so over-crowded that it was virtually impossible to know who was likely to be doing what and where at any time because staff were

reaching over other patients and colleagues to attend on patients. It would be of great benefit, in terms of reassurance to the hospital itself and patients who will be referred to the hospital in the future, if it were possible for the Minister to make that visit, because he would see the situation for himself. Given his background in the medical profession, he would recognise that the situation can be resolved effectively in the short term and without a great deal of expense.

**Deputy Leo Varadkar:** I thank Deputy Durkan for the invitation. I would like to visit Naas and intend to do so in the coming months. It is a case of trying to fit it into the diary between everything else I am asked to do in addition to my commitments in the Dáil and Seanad. It is a visit I intend to make whenever it can be scheduled.

There are developments happening at the hospital. The phase 3C development is now being progressed. I am not sure whether planning permission has been awarded yet, but subject to its award the project will go ahead and there will be a two-storey building, which will provide for further development of the hospital, with endoscopy and day services. It is an important hospital in a county with a rapidly expanding population, to which the Government is very committed. If there is a workable solution around those two wards I will have it examined and see if it can provide us with a solution to those problems.

The Dáil adjourned at 5.35 p.m. until 10 a.m. on Friday, 6 March 2015.