



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 16 Iúil 2015*

*Thursday, 16 July 2015*

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

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Septic Tank Grants

1. **Deputy Barry Cowen** asked the Minister for the Environment, Community and Local Government if he will commit to extending eligibility for the domestic wastewater treatment systems grants to include septic tanks that are registered but which have not been inspected by a local authority; and if he will make a statement on the matter. [29451/15]

**Deputy Barry Cowen:** Will the Minister commit to extending eligibility for the domestic wastewater treatment system grants to include septic tanks that are registered but which have not been inspected by local authorities? Many people who have contacted me have recognised an issue with their septic tank and are cognisant of the prospect of it contaminating groundwater sources. As a result, they have sought the grant assistance that was portrayed by the Government as being available for those who wished to rectify such a situation. However, it appears one must be lucky enough to win a lottery in the local authority by virtue of the fact that the septic tank must have been tested and failed the test before one can apply for assistance. Will the Minister examine ways and means by which eligibility might be extended?

**Minister for the Environment, Community and Local Government (Deputy Alan Kelly):** The Domestic Waste Water Treatment Systems (Financial Assistance) Regulations 2013, a copy of which is available in the Oireachtas Library, brought into operation a grants scheme to assist with the cost of remediation of septic tanks and domestic wastewater treatment systems which were deemed, following inspection under the Environmental Protection Agency's national inspection plan and the subsequent issue of an advisory notice by the local authority, to require repair or upgrading. The qualification criteria are set out in the legislation and full

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details of the scheme, including eligibility criteria, are set out in the explanatory leaflet and application form published on my Department's website.

The grants scheme ensures the limited financial resources available are targeted towards householders, particularly those on lower incomes, who incur expenditure directly as a result of the implementation of the Water Services (Amendment) Act 2012. I have no plans to extend or vary the qualifying criteria of the scheme. However, householders who do not meet the eligibility criteria included in the Domestic Waste Water Treatment Systems (Financial Assistance) Regulations 2013 but who wish to remediate or upgrade their on-site treatment systems may qualify for relief under the home renovation incentive scheme introduced under section 5 of the Finance (No. 2) Act 2013. The scheme covers main residence repairs, renovations and improvements, including the repair or replacement of septic tanks. The scheme is administered by the Revenue Commissioners and full details are published on their website, as the Deputy will be aware.

**Deputy Barry Cowen:** The Minister talked about the availability of the scheme and funds. The bottom line is that if somebody's septic tank is contaminating a water source and he or she contacts Irish Water or the local authority with a view to rectifying the matter, as he or she does not have the funds available to him or her to do so, despite the perception that funding is available in the form of a grant from the Government or the local authority, that is not the case. Local authorities and Irish Water are putting their hands to their ears, nobody is rectifying the position and the contamination continues. The cost to the taxpayer will be far greater in the future. The Minister says there is a grants system available, but there is not. One needs to have six numbers in the lotto. The local authority must test the septic tank, but there could be 5,000 septic tanks registered in its area. The householder's must be one of the six that are tested and one of the six that fail in order that he or she can qualify for a grant. That is not at all what it says on the tin. The perception does not meet the reality. It is time the reality met the perception and that an effort was made by the Government to adhere to the wishes of those who wish to rectify the problem and ensure there will be no contamination of water sources.

**Deputy Alan Kelly:** There is a system in place. It had to be put in place as a result of a European Court decision. Under the plan in place and working through the EPA and the local authorities, 1,000 inspections are taking place every year. By and large, local authorities have kept up with the level of inspections they were required to undertake. Incidentally, this is a minimum inspection level. If local authorities wish to increase the level of inspection, they can do so. Some are considering doing this. Regarding the inspections that have taken place, well over half of the septic tanks inspected have been found to be compliant. A considerable number of the rest just need to have normal maintenance carried out such as de-sludging and so forth. In the case of the remainder, additional work is required. Those who wish to do so apply for the grant that is available, but, given the income thresholds, obviously some will not qualify.

**An Ceann Comhairle:** Is the Deputy happy?

**Deputy Barry Cowen:** I am far from happy. The scheme was portrayed as something it was not. When people who have difficulties with their septic tank go to the local authority to ask if they can access the grant, they are told they cannot. They must be one of the lucky ones to have their septic tank tested in the first instance and it must have failed the test. The Minister says there are thousands of inspections taking place. I will put a question to his Department in the coming weeks to ascertain exactly how many there are because it is minimal. The draw-down of funding is probably minimal also, to say the least. However, when the scheme was

introduced, the impression was given that the grant would be available. Some of my constituents have come forward to avail of it, but, unfortunately, they cannot do so. There is no grants system in place for them.

**Deputy Alan Kelly:** This is all in the public domain. The plan sets out that 1,000 inspections will take place. By and large local authorities are meeting the target of 1,000 inspections in total across the country. This is what was deemed achievable within the limited resources available at the time this was set out. On top of that, the Deputy must be aware that there is an evidence-based approach to these inspections. The system that has been developed in conjunction with the EPA targets areas where there are perceived to be issues. It is a fairly sophisticated system. There are over 400,000 septic tanks in the country. If the Deputy is asking whether a scheme should be put in place so that every one of those can be delivered on immediately, that is not realistic. There is an alternative, though, through the home renovation scheme, which I have already outlined to the Deputy. This is an option for all other householders if they have brought the matter to the attention of the local authority, have not been inspected and still want to do something about it. However, I would perceive that a household that has an issue with a septic tank and brings it to the attention of the local authority would be one of, as the Deputy calls them, the lucky few.

### **Water Charges Administration**

2. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government his views on the Irish Congress of Trade Unions position regarding water charges and a referendum to ensure that water services are not privatised. [29232/15]

**Deputy Brian Stanley:** What is the Minister's position regarding the position taken by the Irish Congress of Trade Unions, ICTU, recently at its conference regarding water charges and the need for a referendum to ensure that water charges are not privatised?

**Deputy Alan Kelly:** I note the comments of ICTU. The Water Services Act 2013 provided for the establishment of Irish Water as a subsidiary of Bord Gáis Éireann, now Ervia, conforming to the conditions contained in the Act and registered under the Companies Acts.

Section 5 of the Water Services Act 2013, as amended by Section 46 of the Water Services (No. 2) Act 2013, prohibits each of the shareholders of Irish Water – the Minister for the Environment, Community and Local Government, the Minister for Finance and Ervia - from disposing of its shareholding in Irish Water and thus places a statutory prohibition on the privatisation of Irish Water. To further strengthen this protection of the State's ownership of the company, section 2 of the Water Services Act 2014 provides that in the highly unlikely event of any proposal for legislation being brought forward at any future stage that would involve a change in the State ownership of Irish Water, the matter would have to be put to a plebiscite of the people. Accordingly, an amendment to the Constitution to prevent the privatisation of Irish Water is not necessary.

Section 21 of the Water Services Act (No. 2) 2013 provides that Irish Water is required to charge customers for the provision by it of water services and that customers of Irish Water are required to pay the charges. The charges are subject to the approval of the Commission for Energy Regulation. The Water Services Act 2014 provides that the maximum charge for a household will be €160 for a household with one adult and €260 for other households until the

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end of 2018. Provision is also made for charges to continue to be capped thereafter. I am satisfied that this charging structure provides a clear, certain and affordable way of ensuring that the necessary investment can be secured for our vital water services infrastructure.

**Deputy Brian Stanley:** The Minister's reply missed the point. The Minister will be aware that ICTU, the body representing organised labour in this State, took a very strong position in Ennis and called for the abolition of water charges. It also supported the position I put forward in a Bill earlier this year regarding having a referendum to prevent the privatisation of water services unless the people so decided. I accept that it was put in legislation and that this is a step in the right direction, which was taken under huge pressure. However, that can be changed, as the Minister knows. The next Government, if it is so willed, can do that. I would not advise it to do so, but it could. That shows there is broad support from workers who have really taken a hit in the last four or five years-----

**An Ceann Comhairle:** Question, please.

**Deputy Brian Stanley:** -----in terms of the universal social charge and a number of other charges, taxes, extra pension levies and everything else. What they are saying now is that this is an extra taxation. They really want water charges abolished.

In the reply, do we get one minute or two minutes?

**An Ceann Comhairle:** I will let the Deputy back in again.

**Deputy Brian Stanley:** Is it one minute or two minutes?

**An Ceann Comhairle:** One minute.

**Deputy Alan Kelly:** I note ICTU's comments in Ennis. I also note that there was a broad discussion on it and it was not unanimous. There were many different discussions and different views on it, particularly from many different unions, one of which I am a member of. Under no circumstances will Irish Water ever be privatised. The provisions are in place to ensure that does not happen. As a member of Government, I have to take cognisance of legal advice at all times from the Attorney General. We have put in place enough checks and balances to ensure that in the very unlikely event that somebody else sitting over here proposed to do that, it would not be possible. I believe the people are satisfied with that.

**Deputy Brian Stanley:** From a political point of view, this must be embarrassing. I heard what the Minister said about being a member of one of the unions. The facts are that here we have organised labour coming out strongly on this matter. Very few decisions are unanimous. Ordinary workers are seeing that they have taken a huge hit and here is another hit. Regarding the battle of hearts and minds, there is a problem here for the Government. Looking at the figures released yesterday, it does not matter how it is dressed up, just over four out of ten have paid.

**An Ceann Comhairle:** Please put a question. It is Question Time.

**Deputy Brian Stanley:** Irish Water has received a large subvention. How can the Minister give a guarantee that Irish Water cannot ever be privatised? All it needs is a change in legislation. Eircom, or Telecom, as it was then called, was fattened up by public subvention in the same way as Irish Water is now. That is the fear. We should have a referendum.

**Deputy Alan Kelly:** I have outlined on numerous occasions in this House with the Deputy why the chances of Irish Water being privatised are nil. He can say what he wants. I have heard him numerous times saying that a future Government could just change the legislation. However, it would also have to decide to take away a decision to put it to the will of the people. It would be some Government that would actually do that. When one sits on this side of the House, one has to take legal advice on all occasions on decisions like this. As a Government, we have put in place every possible check and balance to guarantee that this will not happen. I look around both here and in the Seanad and I have not seen many people walk through these doors who would advocate doing what Deputy Stanley just said could happen, privatising Irish Water.

**Deputy Brian Stanley:** I have seen them.

**Deputy Alan Kelly:** If they did, I am not sure they know what they are talking about privatising. Is it water in the ground or Irish Water? What is it? That is the baseline from where he is starting. He has to define something. I am not even sure that is possible.

### **Housing Assistance Payments**

3. **Deputy Catherine Murphy** asked the Minister for the Environment, Community and Local Government if the housing assistance payment will be confined to existing rent cap limits for rent supplement in locations where those rent caps are being routinely negotiated upwards; if so, how they anticipate acquiring houses under the HAP scheme; and if he will make a statement on the matter. [29234/15]

**Deputy Catherine Murphy:** This question relates to the housing assistance payment, HAP, scheme. We know the market rents are, in most cases, higher, and sometimes significantly higher, than the capped rents, yet the scheme is supposed to be limited to the levels of the current rent caps as it relates to rent assistance.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey):** The implementation of the housing assistance payment is a key Government priority and a major pillar of the Social Housing Strategy 2020. The HAP scheme removes a barrier to employment, by allowing recipients to remain in the scheme if they gain full-time employment, it improves regulation of the rented accommodation being supported and it provides certainty for landlords as regards their rental income.

HAP has been rolled out to all categories of households in 13 local authority areas. There are now over 2,600 households in receipt of HAP and a further cohort of local authorities will commence HAP on an incremental basis later this year. While securing accommodation under HAP can be challenging in areas where there is a shortage of supply, the numbers of households securing accommodation nationally under HAP continue to rise, with an average of 100 new tenancies being registered each week at present. Regulations prescribe the maximum rent limits that apply in each local authority area where HAP has commenced. The limits are based on the rent supplement limits set out by the Department of Social Protection. In prescribing these limits, household size and prevailing rents in the relevant areas are also taken into consideration. My Department works closely with the Department of Social Protection in this regard and monitors the data gathered by HAP pilot authorities. In this context, I have recognised that South Dublin County Council requires additional flexibility in the operation of HAP given

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the challenging rental market within its administrative area. Regulations will be signed very shortly to provide for an additional 20% flexibility above the previous maximum rent limits in south Dublin where such flexibility is necessary in order to secure a suitable dwelling for a relevant household. The Minister, Deputy Alan Kelly, and I will continue to keep this matter under active review.

**Deputy Catherine Murphy:** The very fact that the Minister of State has selected south Dublin shows that it is the first big urban local authority where there are serious rental pressures significantly above the rent caps. That is exactly the point I am trying to get to. HAP has the advantage of taking that poverty trap out of the system, which I acknowledge, but in fact it could end up being a very costly solution by virtue of the fact that the rent caps are being negotiated up on a case-by-case basis. In my area, the rent cap is €750 but we negotiate on a case-by-case basis every day. If we do not, in the region of 1,200 to 1,300 people will end up homeless. It is significantly above the cap and the 20% the Minister of State is talking about will be very challenging in terms of getting additional properties for the scheme. Obviously, it does not deal with the supply side issue at all. Has the Government costed into the 2020 strategy the actual situation rather than the situation as it would like to find it in terms of the caps and market rents?

**Deputy Paudie Coffey:** This is a matter we keep under continual review and in respect of which we engage closely with the Department of Social Protection and HAP pilot local authorities. South Dublin County Council reported that the successful implementation of the scheme was being hampered due to the shortage of available accommodation for eligible households within the rent limits which apply. We recognised that there was a need for greater discretion and flexibility in that particular case. Currently, we do not have plans to extend the flexibility to other local authorities, but we are continually reviewing and monitoring the situation in those areas. We are committed in government to making HAP work and increasing numbers are joining the scheme. We will keep it under active review as local authorities come forward. If they make the case, the matter will be considered at that stage.

**Deputy Catherine Murphy:** I can tell the Minister of State straight off that he will find it impossible to get houses in my area for anything approaching the rent cap limit, even with 20% flexibility. Fingal, Dublin City Council, Dún Laoghaire, Kildare, Meath and Wicklow are all going to be a huge challenge. Has the Government actually looked at where people are coming into the scheme? Are they coming into the scheme in areas that pose less of a challenge? Is HAP really going to require very significant increases for the areas that are under the kind of rental pressure we see in the major urban centres?

**Deputy Paudie Coffey:** We recognise that there are pressures, particularly in Dublin and the conurbation around it, in terms of all of the housing issues. HAP is one solution to address the housing demand that is there. With regard to rent limits, I have outlined that where the case is made and there is a real need, as in South Dublin County Council's functional area, we have applied the flexibility and discretion. Local authorities will vary in terms of the success of HAP and the demands on it. Substantial gains have been made in the pilot local authority areas in Limerick, Donegal and Kilkenny. A number of new local authorities just joined the scheme on 14 July and are at the very early stages. It is something to which I am committed to keeping under active review. We are committed to having a successful HAP scheme because we depend on it. If the demand arises, we will continue to engage with the Department of Social Protection and its officials and address it in due course.

## **Leader Programmes Applications**

4. **Deputy Éamon Ó Cuív** asked the Minister for the Environment, Community and Local Government the number of companies/entities that have been selected to deliver the Leader programme in various areas around the country; the number of areas where there will be an open tender to select the entity to deliver this programme; when it is hoped to have the selection of entities to deliver the programme completed; and if he will make a statement on the matter. [29233/15]

**Deputy Éamon Ó Cuív:** The next day for priority questions to the Department of the Environment, Community and Local Government is likely to be the first week of November. At maximum, we have three parliamentary questions days left in this Dáil. We are really coming to the end game here. As such, I seek a comprehensive update from the Department on the roll-out of the Leader programme. When can we expect to see it rolled out and operational nationally?

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** I thank the Deputy for raising the question as it allows me to set out that we are making progress in this area. The Leader element of the Rural Development Programme 2014–20 will provide €250 million in financial resources to support the development of rural communities. Under stage one of the selection process for the new programme, any entity wishing to be considered as a local action group was invited to submit an expression of interest. For the purposes of the new programme, there are 28 sub-regional areas in Ireland and 45 separate expressions of interest were received. A single expression of interest was received in 19 of the 28 areas and at least two expressions of interest were received in the remaining nine areas.

As the Deputy will be aware, I established an independent evaluation committee to evaluate the expressions of interest received. The evaluation committee recently met and the following is the current position. Of the 45 expressions of interest received, one was formally withdrawn before assessment. Of the remaining 44, 42 met the minimum criteria and the evaluation committee decided that these should proceed to the next stage of the process, which is the preparation of local development strategies for their areas. Those who were successful in this process have been notified and invited to attend workshops and presentations in Tullamore, County Offaly, this morning. The purpose of the event is to set out in detail what is expected in terms of the content and quality of local development strategies. A minimum of six months will be allowed for the preparation of local development strategies, but I expect that not all areas will require the full six months to prepare them. As such, I am hopeful that many areas will have their strategies approved and be in a position to begin delivery on the ground by autumn 2015.

In areas where a single strategy is submitted, the evaluation committee will review and evaluate these strategies with a view to ensuring that they meet the required standard. In areas where entities do not come to an agreement and multiple strategies are submitted, it will be a matter for the evaluation committee to make a decision on which local development strategy best meets the needs of a particular community. In this situation, the evaluation committee will not make a decision on the successful strategy until all strategies for that sub-regional area have been submitted for assessment.

**Deputy Éamon Ó Cuív:** I thank the Minister of State for the information. I think it was a minor error when the Minister referred to “a minimum of six months”. I take it that it is a maximum of six months that is allowed to prepare a strategy.

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**Deputy Ann Phelan:** It is a minimum.

**Deputy Éamon Ó Cuív:** Is the Minister of State saying there is a minimum of six months to prepare a strategy? If I take six months from now, I am into next year. I presume it is a maximum period.

**Deputy Ann Phelan:** I am going to presume it is a maximum too and that there was a typo in the script.

**Deputy Éamon Ó Cuív:** As such, it could be anything from two months to six months. That means that where we have one strategy, it could be ready for appraisal at the end of September. Allowing in reality for six to eight weeks for evaluation and getting a strategy to the Minister of State for her approval, we are talking about having the early starters at the end of November. My experience tells me that is realistically the kind of timeframe in which we are working.

*10 o'clock*

If there are two strategies the slower of the two could take up to six months and everything will wait until it is submitted. Must a plan for the total area rather than a sub-area be submitted?

**Deputy Ann Phelan:** It will take six months in some cases to develop a local development strategy and this is what is allowed. Entities successful at stage one have been invited to go to stage two, which is the local development strategy development phase. All entities invited to submit a local development strategy will be provided with a comprehensive template to assist in the development process. We are working very hard. More than €12 million has been allotted to County Galway. Those working on this are very pragmatic people and, like me, they will want to get their hands on the money. It will be in their interest not to slow down the process but to get the prize at the end of the development strategy. The quicker they have a development strategy the quicker we will draw down the money. Most communities would want to see this happen. It is not in anybody's interest to slow down anything in these areas deliberately.

**Deputy Éamon Ó Cuív:** I would not accuse anybody of deliberately slowing it down, but if one begins from a standing start it could take six months to develop a plan. If this happens, they will have to wait. The Minister of State mentioned County Galway and I did not, but I will take her up on it. If there were two bidders in County Galway each would have to submit a plan for the entirety of County Galway and they could not submit a plan for part of County Galway. There would be two or three plans for the whole area. Each bid must cover the whole declared area, such as all of County Leitrim or all of County Galway. A plan cannot be submitted for a sub-area. Will the Minister of State confirm this because it is important? In any area with competing bids, the slowest bid will determine the timescale up to six months. This seems to indicate that by the time contracts are signed and all the formalities are done, it will be next year. I take it the single bid counties could be three months faster.

**Deputy Ann Phelan:** It is a fair assessment that the slower strategy will perhaps take up to six months. I draw the Deputy's attention to the fact communities want this money drawn down. The faster the local development strategy is submitted the better. The independent evaluation committee will make its decision on the strategies and we will leave it to its expert view as to how local development strategies meet the criteria. It will be the local development strategy that best serves the needs of the community which will be chosen. The local development committees are working very hard on the strategies and we are looking forward to see

what they will come forward with.

**Deputy Éamon Ó Cuív:** Is it correct that they must cover the entire area?

**Deputy Ann Phelan:** They must cover the sub-regional area.

### **Irish Water Administration**

5. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government the current position; when he expects a EUROSTAT report on Irish Water's finances to be completed; and if he is satisfied that Irish Water will pass the criteria given that projected income from domestic water charges will fall well short of the running costs of Irish Water until at least 2018. [29236/15]

**Deputy Brian Stanley:** When does the Minister expect EUROSTAT's report and determination on the finances of Irish Water to be completed? Does the Minister believe it will pass given the projected income and particularly yesterday's figures?

**Deputy Alan Kelly:** A key component of the strategy to establish Irish Water is that the utility will be classified as a market corporation under EUROSTAT rules and as a result will not, other than in relation to Government support, be included in the calculation of the general government balance. The Central Statistics Office is responsible for all engagement with EUROSTAT on such matters, and the Department has engaged with this office and has provided the necessary information to facilitate this work. As the Deputy is well aware, because we have discussed it numerous times in the Chamber, they are independent bodies which do their work independently of Departments. The CSO has confirmed it has submitted a classification proposal on Irish Water to EUROSTAT and that the proposal envisages Irish Water being classified outside the general government sector. The CSO has further stated this is a closed process and that it is awaiting the final adjudication by EUROSTAT. When EUROSTAT will announce its decision is a matter for EUROSTAT.

The Government is confident the underlying funding model for Irish Water supports increased investment in the water sector through an off-balance sheet classification of the utility, while at the same time providing for water charges which are affordable, clear and certain. The substance and timing of the decision on the classification of Irish Water will be made by EUROSTAT alone. It is not for me to state when it will do so. I expect it will not be too long into the future.

As the Deputy is well aware, Irish Water's first quarterly billing cycle has been completed. The utility has indicated it is satisfied with the rate of revenue collection to date and a very significant level of engagement with customers is continuing.

**Deputy Brian Stanley:** The Minister's reply does not tell me much. Several months ago he stated we would know in June, then I heard September mentioned and now we do not know. The big justification for establishing Uisce Éireann was that it would be off-balance sheet. Given that four out of ten people are paying domestic water charges, it shows there will be an awful lot on balance sheet. A total of €30.5 million has been received but €32.5 million has been budgeted to go out through the water conservation grant. It does not matter how these figures are juggled or what accountancy tricks are done, the €130 million water conservation

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grant may help the Minister to get it over the line as might the write-off of €59 million in rates, which will fall back on the public purse, and a number of other accountancy tricks which are being worked-----

**An Ceann Comhairle:** The Deputy should put his question.

**Deputy Brian Stanley:** Does the Minister seriously believe he will be able to comply with this? More importantly, does he seriously believe he will be able to keep the finances of Irish Water off-balance sheet?

**Deputy Alan Kelly:** I thank the Deputy. I also have to be open and straight with the House. This is a matter for EUROSTAT. I expect it will be imminent but I cannot dictate or decide when it will make its decision. We have already stated quite publicly what has been put forward to it, but it is an independent process with regard to its decision and when it announces that decision. I have no control whatsoever over this and I hope the Deputy appreciates this. I do not know whether he is shaking his head because he agrees or disagrees with me, but I have no control over it. I expect it will come forward with a decision. I am very confident it will decide it is off-balance sheet. For the Deputy's information, I am very satisfied, as I said through numerous media yesterday, with the response in the first billing period from customers of Irish Water.

**Deputy Brian Stanley:** Here we are seven months into the billing period and we do not know when EUROSTAT will rule on it. We know what is coming in is one tenth of what were projected to be the costs this time last year, which was €300 million. If the Minister remembers, just before the Government pushed the Commission for Energy Regulation out of the way, it was stated €300 million was to be brought in this year through domestic water charges. There is massive subvention, with €339 million in operating costs, €222 million in capital costs, €59 million in offsetting of rates, and €130 million in the water conservation grant. Does the Minister realise what he has put onto the balance sheet from Irish Water? A total of €810 million is all on the balance sheet. It is Alice in Wonderland economics. Is it not the case the only way Irish Water will ever be able to cover the cost is either through massive subsidy, such as the €810 million going to it this year, or by increasing the cost massively on the far side of the general election? The Minister has given an assurance that costs will not increase until the end of 2018. How will Irish Water get from here to the end of 2018, given the figures released yesterday?

**Deputy Alan Kelly:** Very simply, people will pay their bills. That is how Irish Water will get there. It is a straight question and a straight answer.

**Deputy Brian Stanley:** The figure is €810 million.

**Deputy Alan Kelly:** The Deputy asked a question and I ask him to do me the courtesy of allowing me to give him the answer. People will pay their bills. That is how Irish Water will get there and how the model will work. I have no plans to increase anything post the general election, now that the Deputy has raised the issue, considering that I have put this model in place. The Deputy does not like the information, but the billing period for which statistics were released yesterday covered April, May and June. In some cases, people only received their bills a few weeks ago. The average period of time in which people pay their bills is three to four months. I know that does not suit the Deputy's theory and thinking, but the idea that everyone should pay his or her bills immediately to suit his belief system is unrealistic.

*Dáil Éireann*  
**Other Questions**

**Housing Provision**

6. **Deputy Bernard J. Durkan** asked the Minister for the Environment, Community and Local Government the extent to which he remains satisfied about the effectiveness of the steps taken to date by his Department to deal with the ongoing housing crisis which he inherited from his predecessors; his proposals in this regard, given the extent of hardship and concerns among those who are on local authority housing waiting lists or those who are about to become homeless as a result of rent increases or other circumstances; and if he will make a statement on the matter. [28941/15]

**Deputy Bernard J. Durkan:** This question relates to the ominous growth of the housing crisis. Notwithstanding the tremendous efforts made by the Minister and the Minister of State in this regard, it is becoming increasingly obvious that the issue is much larger than was anticipated. It was inherited from a previous era, which is unfortunate, and came at a very bad time. This might be a good time to examine whether the measures already taken are sufficient to deal with the issue.

**Deputy Alan Kelly:** The Government's social housing strategy targets the provision of over 110,000 social housing units to 2020, through the delivery of 35,000 new social housing units and meeting the housing needs of some 75,000 households through the housing assistance payment and rental accommodation scheme. This will address the needs of the 90,000 households on the housing waiting list in full, with flexibility to meet potential future demand.

I set ambitious targets for local authorities for the period 2015 to 2017 in my announcement on 1 April 2015, with an investment of €1.5 billion in a combination of building, purchase and leasing schemes which will accommodate 25% of those currently on social housing waiting lists. On 5 May I announced funding of €312 million to support 100 separate housing projects, providing 1,700 units of accommodation across all 31 local authorities. I will make further announcements, with the Minister of State, Deputy Paudie Coffey, in the coming weeks and months.

Ultimately, a shortage of supply is at the heart of rising rents and the Government is addressing the issue on a number of fronts. Construction 2020: A Strategy for a Renewed Construction Sector, published last year, is aimed at addressing bottlenecks that might impede the construction sector in meeting demand. My Department, in particular the Minister of State, Deputy Paudie Coffey, is leading on a range of actions under Construction 2020, including two significant pieces of planning legislation, one of which, the Urban Regeneration and Housing Bill, is progressing through the Oireachtas, as the Deputy is aware.

My overriding objective in regard to rents is to achieve stability and sustainability in the market for the benefit of tenants, landlords and society as a whole. The regulation of rent raises many complex economic and legal issues and I have to be satisfied that any measure proposed is balanced and will have the desired effect on the rental market, while being fair to landlords and tenants alike. Ultimately, any decision on rent certainty is a matter for the Government. It is my intention to bring proposals to the Government for consideration in the very near future.

**Deputy Bernard J. Durkan:** I thank the Minister for his comprehensive reply. I appreci-

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ate and fully support the measures take to date. My only problem is the extent to which he has been able to identify, in respect of the various local authorities, in particular in the greater Dublin area, the number of houses acquired, purchased or built with a view to allocating them immediately. In County Kildare alone, about 600 houses are required to address the housing emergency. It would not solve the problem, but it would be a major step in the right direction. I, therefore, ask the Minister whether it is possible to re-examine the extent to which local authorities have the facilities and ability to urgently deal with the question.

**Deputy Alan Kelly:** I thank the Deputy. I will not deny that everyone knows that there are issues regarding housing. It is probably the biggest priority in my Department and the main reason I took this job. There is a legacy issue. It is like stopping a ship from turning to face the opposite direction and getting it moving again because the policies in place for a number of years had to be rescinded and changed to allow houses to be built once again. I will refer to the position in Dublin and surrounding areas, including County Kildare, because that is where the need is greatest. As late as two days ago I met in one room all local authority representatives, chief executives or senior housing representatives, depending on who was available, to outline the priorities and focus on how we needed to deliver solutions in terms of timelines and turning around developments quickly. I have made local authorities well aware that the resources they require will be provided for them, within reason. I will be very open to providing whatever resource allocation is required. In excess of 350 staff have been recently allocated to local authorities.

**Deputy Bernard J. Durkan:** I fully appreciate the efforts being made, but I am anxious that they succeed in the short as well as the medium term. Might it be possible to ask various local authorities to implement, or can the Minister set, particular objectives for them, with a view to achieving them within a two or three month period? One cannot build a house in a day, but a means needs to be found to identify the period within which those now in a crisis might expect to access housing.

**Deputy Alan Kelly:** It is interesting that the Deputy has asked that question. Not alone am I doing it, but we have measurement and management information techniques built into every decision we make. On the allocations given across a range of areas, I have informed local authorities that within a couple of weeks we will conduct an analysis of those that are up to speed. If they are not, funding will be taken from them and used where it is most necessary. Local authorities which are actively providing accommodation and using the available funding will be rewarded for so doing and they deserve to be. We will not fall below a certain threshold. The measurements applied to local authorities have been in place for some time. In profiling every area of expenditure local authorities are well aware that anything that may have happened in the past will no longer happen and that they will have to show results.

### **Housing Assistance Payments**

7. **Deputy Thomas Pringle** asked the Minister for the Environment, Community and Local Government if he will consider raising the housing assistance payment rental levels for applicants in recognition of the fact that it is impossible to secure rental properties at or near the current levels in County Donegal; and if he will make a statement on the matter. [28765/15]

**Deputy Thomas Pringle:** This question relates to the housing assistance payment in County Donegal which has been rolled out in the past four or five weeks. I refer to the possibility of

increasing the levels of payment.

**Deputy Paudie Coffey:** I thank the Deputy for his question. The housing assistance payment has been rolled out to all categories of household in 13 local authority areas, including County Donegal. There are now over 2,600 households nationally in receipt of the payment. The payment has been operational in the administrative area of Donegal County Council since 25 May. In the seven weeks since it has been introduced over 40 households have been accommodated under the scheme in County Donegal. I am pleased with this progress and would like to commend the local authority for its engagement with the scheme to date. Of the six local authorities that have been added, Donegal County Council has performed the best by far, for which the local authority deserves to be commended.

The maximum rent limits for the different household classes that apply in each local authority where the housing assistance payment has been commenced are set out in regulations and are currently based on the rent supplement limits as set out by the Department of Social Protection. In prescribing these limits household size and prevailing rents in the relevant areas are taken into consideration. In the context of implementation of the housing assistance payment, my Department works closely with the Department of Social Protection and monitors data gathered by housing assistance payment pilot authorities for the rent limits applying and difficulties that may arise. The operation of the housing assistance payment by Donegal County Council will be kept under active review in this context.

**Deputy Thomas Pringle:** The levels set for the HAP are in line with the rent assistance and I suppose the only positive difference with the HAP is that one does not get refused if one is paying a rent above the HAP level that is set. The rents are not based on the market in the local areas. In County Donegal, this morning there were five properties available under the HAP limit for a family with one child in a county the size of Donegal with 160,000 of a population and over 2,500 on the housing lists.

The HAP limits are not high enough and they need to be increased if the Government is serious about addressing this issue. While applicants are not turned down for being over the limit, they are still struggling to meet those rents and still have to pay the landlord the difference between the HAP limit and the amount that the local authority pays. No doubt Donegal County Council will work the scheme well because its housing office has always been proactive. If the Minister of State is serious about the success of this scheme, the limits need to be increased to reflect what is happening on the ground. A simple two-minute search on *daft.ie* by the Department will show the extent of the lack of properties available within the limits of the scheme.

**Deputy Paudie Coffey:** The figures speak for themselves, especially in regard to Donegal. In the seven weeks since the HAP has been rolled out, and it is only the second wave of HAP local authorities of which Donegal is one, over 40 households have been accommodated. That, in itself, proves it is working quite well in Donegal.

We have ambitious targets for the HAP. With the Department of Social Protection, my Department will be monitoring closely the rent limits. We actively review that constantly. As I explained earlier to Deputy Catherine Murphy, in South Dublin County Council, where it was proven to us that there was a strong demand for flexibility, we applied such discretion. If that arises in other local authority areas, the same will apply. We are keeping it under active review.

Donegal is performing well and we expect it to continue to engage with many more house-

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holds in the successful HAP accommodation scheme.

**Deputy Thomas Pringle:** In the past seven weeks, if the HAP had not been rolled out in Donegal, 40 applicants would have got rent allowance because they would have submitted on their form that they were under the rent limits and they would have been approved. What the Minister of State says bears no reality to the situation on the ground. I would be interested to see if he would go back and ask Donegal County Council for how many of those 40 applicants was the rent at or below the HAP limit. That would show first-hand from the Minister of State's own officials what the situation is.

The Minister of State can get an official in the Department to spend two minutes on a computer and see the position on rent limits and whether the HAP limit is suitable or not. That would be a simple exercise for him to do and it would show that the HAP limits are not viable or realistic for anybody.

**Deputy Paudie Coffey:** As the Deputy will be aware, the Department of Social Protection has issued instructions to its local staff to use discretion as required. In the overall sense, we have ambitious targets for the HAP around the country and we are rolling it out to a number of local authorities. The second wave has just been announced and Donegal is one of six local authorities in that second wave. These are new applicants who are joining the scheme in the HAP and we will also be transferring recipients of rent supplement into the HAP scheme. That will be ongoing.

I have committed to the Deputy that we will review the scheme. We actively review and evaluate how successful the scheme is in each area and if problems arise, we will engage on that basis, as has been done on South Dublin County Council. We are committed to this and we want a successful efficient HAP scheme. The scheme is new. It is taking time for applicants to understand it and engage in it. Limerick City and County Council has proven it. It has over 400 people on the HAP scheme and is continuously engaging, as are the other local authorities, to ensure that there are more people joining the scheme, almost on a daily basis.

### **Pyrite Remediation Programme**

8. **Deputy Clare Daly** asked the Minister for the Environment, Community and Local Government his views regarding the operation of the pyrite remediation scheme, with particular reference to any consideration being provided to widen the terms of the scheme to include more homes with pyrite, particularly those which do not have a Building and Construction Authority rating of 2; and if he will make a statement on the matter. [28734/15]

**Deputy Clare Daly:** I welcome that the pyrite remediation scheme is up and running. A number of units have been entirely remediated and a number of others are underway. What are the views of the Minister of State? Is he happy with the progress, is he fully briefed on the issues that have emerged in the course of that remediation which may require a change to the scheme, and is he looking at revisiting those who are eligible for the scheme, most particularly those who do not have a building condition assessment, BCA, rating of 2?

**Deputy Paudie Coffey:** I note Deputy Clare Daly and many other colleagues, from all parties and none, are actively engaged in assisting homeowners with the pyrite remediation scheme. I have been briefed on it. I visited a number of sites where remediation is getting un-

derway and it is progressing at a rapid rate. I expect to be reporting considerable progress over the coming months.

The pyrite remediation scheme, which was first published by the Pyrite Resolution Board in February of 2014, was developed having regard to the recommendations set out in the Report of the Pyrite Panel and the relevant provisions of the Pyrite Resolution Act 2013. The full conditions for eligibility are set out in the scheme, which is available on the board's website. It is a condition of eligibility under the scheme that an application to the board must be accompanied by a building condition assessment carried out by a competent person in accordance with I.S. 398-1:2013 Reactive pyrite in sub-floor hardcore material.

I emphasise that the pyrite remediation scheme is a scheme of last resort which aims to repair homes with substantial damage due to pyritic heave and is targeted to assist a restricted group of homeowners who have no other practicable options to access redress. Deputy Clare Daly has been active on this issue, as have many Deputies. I do not want to see residents left in the lurch. I have seen the distress that it has caused to many families.

In the first year of the scheme, we were setting up the board, the housing agency and the technical staff had to be put in place, and we ran a pilot scheme before Christmas. I am happy to report that substantial progress has been made and many tenders are being prepared so that they can be contracted out for further progress. However, it is a scheme of last resort. We are prioritising those that are worst affected, that is, category 2. It is my job to ensure that this scheme is run as efficiently as possible to ensure that these residents are assisted with the problems with which they have been left due to the legacy of poor standard regulation in the building sector. The priority is category 2, and that is where the priority will remain for the moment.

**Deputy Clare Daly:** We are now in a new phase of the scheme. Inevitably, there would be teething problems. The board is confident that it can achieve its target of having 600 houses completed by the end of next year. I welcome that and hope it is the case.

I refer to some of the issues that have emerged during the remediation works. In some areas, when homeowners moved out, the job took longer because of structural problems that emerged in the course of the remediation of the infill or other issues that were outside the control of the homeowners. These homeowners have had to enter into three-month leases in rented accommodation, move their post and, for example, be eligible for two water charges bills, and the idea of the works being extended beyond a couple of weeks throws that into crisis because of the inability to extend. People do not operate on that basis. Is the board considering that it is not reasonable to expect the homeowners in that situation to bear the extra cost?

Issues have emerged about the quality of the replacement products, that they are not up to standard with what some of the homeowners had in terms of flooring, house decoration, etc. That needs to be looked at. In particular, there is the issue of the need to change the scheme away from being purely damage-based. Once the scheme gets up and running, we must look at those who have pyrite with less damage.

**Deputy Paudie Coffey:** Deputy Clare Daly acknowledges the progress that is being made. It is not before time. I am committed to ensuring we give it full focus and priority over the coming months. As I said, I expect substantial progress to be made now as more homes are remediated.

The Deputy is correct in saying that some issues are coming to light when the mediation

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crews are moving onto site where they are discovering further defects, in terms of substandard building and construction works. This is something about which we need to be careful, first and foremost, because the pyrite resolution scheme is essentially to deal with the pyrite-related issues only. As other substandard work arises, it is important that it is highlighted as early as possible after it is discovered. The remediation crews have a responsibility to ensure that no house is handed back in a dangerous or substandard condition. It is not appropriate that the cost of remediating other structural works that have nothing to do with pyrite should fall back on the taxpayer. That would give rise to all kinds of issues, not just concerning pyrite, right around the country. The scheme is a scheme of last resort. We are conscious that other issues arise. We are working with the homeowners through the project managers to ensure the issues are addressed as appropriately as possible.

**Deputy Clare Daly:** We need to revisit the other structural issues that emerge, including in respect of HomeBond, for example. I do not know whether the Minister of State has done any work on this. He is correct that some of these matters are very serious. While the taxpayer should not be liable under this scheme, the homeowner should not be either.

With regard to the basis of the scheme and the idea that it is connected with damage, the board has asked what the problem is if one's house is not damaged. If there is pyrite, the house will get damaged. One cannot build an extension and one cannot sell the house, decorate it or put in a new floor. One cannot move the house. Therefore, there needs to be a system that captures those people who have pyrite that may result in problems. There needs to be some way to alleviate the burden of testing so those concerned might be able to get a green certificate after a certain period. If there is to be no oxidisation and further damage, the homeowner needs to be able to show this. Unless the problem is remediated or the homeowner gets a green certificate, he or she cannot move on. We are talking about tens of thousands of homeowners. This will have to be addressed, probably sooner rather than later.

**Deputy Paudie Coffey:** The budget is being provided for, and priority is being accorded to, those who are most affected, namely those in category two. However, I am conscious of many of the issues that arise. I have met many of the householders who have concerns. They do not know whether they have pyrite in their houses. Core testing is the only way this can be decided upon. I appreciate that it is costly but our funds are going towards remediation.

As I said to the householders, I do not want to leave anybody behind who has been affected by pyrite. The Government has committed to addressing this but the scheme is one of last resort. I will work with the homeowners to determine whether we can find solutions. As I said to them, the more houses that are remediated, the closer we will be to dealing with their issues. I mean that and do not want to leave anybody behind.

The Deputy referred to HomeBond. It is on the record and I have no problem saying that HomeBond did not cover itself in glory regarding this issue. If other structural defects are found — some are arising — it will be open to the homeowners or other householders to pursue HomeBond or any other insurance company or builder associated with the building. We cannot let this fall back on the taxpayer. It is completely separate from the pyrite remediation scheme.

## **Septic Tank Inspections**

9. **Deputy Mick Wallace** asked the Minister for the Environment, Community and Local Government if he will provide details of the number of houses in County Wexford that have their own septic tank unit; if he is satisfied with the number of inspections carried out by the local authorities; and if he will make a statement on the matter. [29011/15]

**Deputy Mick Wallace:** It is nearly two years since we were arguing with the former Minister for the Environment, Community and Local Government, Commissioner Phil Hogan, about septic tanks. One day I tried to pin him down and asked him how many septic tanks would be inspected. He said that one in eight would probably be inspected. I asked about the other seven. Whatever about inspecting the other seven, the inspection of one in eight is a long way off also. We have serious problems. If the Government is genuinely concerned about the water table, it will have to review the scheme.

**Deputy Alan Kelly:** I was not present for the debate but I am sure I can access the record of it. Census 2011, published by the Central Statistics Office, indicates there were 21,242 septic tanks and 4,369 individual treatment systems in County Wexford in 2011. Those are the facts.

The Environmental Protection Agency is the supervisory body for the purpose of meeting the objectives of the National Inspection Plan 2015-2017: Domestic Waste Water Treatment Systems. The plan is managed and implemented by the local authorities. The plan underpins the risk-based inspection of septic tanks and other on-site treatment systems. My Department does not have any direct role in monitoring the implementation of the EPA's plan by the local authorities. However, the plan has been drawn up to best international standards and I am satisfied the risk-based inspection system is consistent with the necessity to ensure compliance with the provisions of the EU waste directive and the European Court of Justice ruling against Ireland in October 2009. It also has regard to the European Parliament and Council's recommendations of 4 April 2001 regarding the minimum criteria for environmental inspections in the member states.

Inspections are objective, evidence based and aimed at identifying septic tanks and similar treatment systems that are a risk to public health or the environment. The EPA has set the minimum number of inspections to be carried out in the years 2015 to 2017 at 1,000 nationally per annum. It is important to note this is the recommended minimum number and there is nothing preventing a local authority from carrying out more inspections than the recommended minimum should it consider it necessary or appropriate to do so.

**Deputy Mick Wallace:** In Wexford, there are two members of staff working on this. The local authority inspected 54 tanks in the first year and it hopes to inspect 104 this year. At this rate, it will take over 200 years to inspect all septic tanks. I said initially and it is a fact that half the tanks in Wexford are faulty. Therefore, we are poisoning the water table. This system must change. At present, one cannot request an inspection even if one knows there is a problem with it, and third party complaints are being ignored. If one carries out the work oneself, one cannot apply for a grant retrospectively. The fact is that if one is not on the council system, one cannot possibly qualify for a grant. This is not a good structure and the Minister would find it hard to stand over it. He did not invent it and I am not saying it is his fault, but I believe a new structure needs to be put in place. The contamination of the water table is a serious issue. The Department of Health should be seriously concerned about it.

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**Deputy Alan Kelly:** I thank the Deputy. I remember the debate on this although I was not centrally involved. There were many Deputies in the House who opposed the inspection process, although I am not saying Deputy Wallace did. The plan is in place and it predates my term of office, but I now have responsibility for it. There is an agreed plan in place for the period 2015 to 2017. As part of that, we will be reviewing in 2016 how it will work from the following year onwards. I am certainly committed to this analysis.

The 1,000 inspections resulted in no issues in approximately half the cases. Of the 500 odd with issues, half had only sludging issues or small issues. The remainder have some work to be done. These are rough figures.

There is a plan in place for the period 2015 to 2017 and it is evidence based. With regard to considering changes, I agree with the Deputy regarding self-referrals to local authorities from 2017. Local authorities can inspect more tanks than the designated minimum.

**Deputy Mick Wallace:** Is the Minister telling me that if Wexford local authority wants more staff to work in this area, the State will cover the cost? I believe the local authority would inspect more septic tanks if it had them. Let me outline a big problem with the evidence-based system. Many tanks built in the early years — I built many of them — were built according to the planning conditions laid down and agreed by the local authority but they are not right. We have built many of the tanks incorrectly but we did not know at the time.

In the past few years, the raised-bed idea was introduced. The idea behind this was that one would import soil that could actually take the bacteria out of the water before it reached the water table. However, one needs good quality topsoil to take the bacteria out of the water. Good topsoil was very expensive and importing it was even more expensive. Transport is even more expensive than the soil itself. This meant people did not import the soil and instead created a raised bed with the soil already in the land. Was that cheating? It was, but the practice was prevalent. I know for a fact that there are many cases of it in Wexford. Those concerned will not even be caught in the risk-based assessment. A lot of thinking must be done on this. The Government will have to spend more on it or we will continue to have a contaminated water table, which I believe is directly linked to the high rate of cancer in Ireland.

**Deputy Alan Kelly:** The Deputy made many comments. Given his previous occupation, he has much direct evidence and knowledge of this subject. The plan that is in place has been signed up to for 2015 to 2017. I am not afraid of change or of looking at some things a second or third time. I am not that type of person. I am committed to dealing with issues if I see them.

The Deputy asked a specific question about resources. I have allocated almost 350 staff across local authorities over recent months. If there is a specific issue relating to perceived water contamination in some counties and they look for resources, I must look at that. If the Deputy tells me or the local authority writes to me to say it believes it needs additional resources because of concerns it has, I must look at that. That goes for any local authority. If it is perceived there is a particular issue in a region or location such as the south east and if the local authorities make a submission to me, I must consider it.

## **Building Regulations**

10. **Deputy Catherine Murphy** asked the Minister for the Environment, Community and Local Government the reason he and his colleague, the Minister of State with responsibility for housing and planning, wrote to each chief executive of the four local authorities in County Dublin on 10 June 2015 on the matter of building standards; if he will describe precisely the unreasonable and excessive requirements in the standard of housing or ancillary services to which he referred in the letter; the standards he would deem acceptable; and if he will make a statement on the matter. [28763/15]

**Deputy Catherine Murphy:** The Minister and the Minister of State wrote to the local authorities in Dublin about building standards. They spoke about unreasonable and excessive requirements. What precisely did they mean by this?

**Deputy Paudie Coffey:** The current indications are that to meet rising demand and address recent under-supply, the level of house building in Dublin needs to at least double from the 3,000 or so new homes that were built in 2014. Consequently, the Minister and I wrote to the chief executives of each of the four Dublin local authorities regarding the preparation and finalisation of the new development plans for their areas. The letter requested the local authorities to focus on practical measures for inclusion in the development plans to boost housing supply and ensure good quality housing in suitable locations is available at prices that people can afford and that investors will find attractive to develop for the rental market.

Current indications are that viability of new housing construction in Dublin, although improving, remains in a very fragile condition. Therefore, it is essential that the development plan places the viability of development and early delivery as a high priority. Requiring particular or proprietary forms of housing construction or large setback distances of existing housing from new apartments will increase development costs and result in higher house prices and rents.

The purpose of the letter is not to compromise quality or standards. Indeed, it should be clearly understood and I want to emphasise that the building standards in this country respect and meet all relevant EU requirements. The intent of our letter is to encourage the local authorities concerned to ensure the development plan process supports the viability of new development through rigorous economic and regulatory impact assessment of any new or existing development plan standards that are above relevant national minimum requirements.

**Deputy Catherine Murphy:** We have had many examples of bad decisions being made during a crisis, which is why I asked the question. It is fine as long as the standards end up being good standards and we do not end up paying money in the future for cutting back on something on which we should not have cut back. Insulation standards are an example. We do not want to end up with a situation where we have to retrofit storage in apartments. It can be very offputting and expensive for families. Families frequently have to sell baby stuff and then buy it again when a new baby arrives because there is no place to store things. Setback distances can be really important if buildings are higher so that one does not lose light, which can be very unattractive and unhealthy for people. I am looking to explore this aspect.

**Deputy Paudie Coffey:** I understand where the Deputy is coming from and I want to reassure her that this is not about reducing standards. We already have minimum standards in this country and we comply with EU requirements. This is about ensuring we have development that is sustainable and affordable and that the construction of housing from the concept to de-

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sign to planning to construction is affordable. Otherwise, we will price ourselves out of the market. I recognise that we need good quality development plans that are sustainable and the Deputy is right to raise this issue in the House.

She asked what unreasonable and excessive requirements we were referring to. One area that has been highlighted to Dún Laoghaire-Rathdown County Council was the inclusion of the passive housing standard as a minimum energy performance requirement. I have no issue with housing construction standards being as high and efficient as possible and believe they should be encouraged, but we need to be careful that we are not overly prescriptive or restrictive in our county and city development plans. It is important that issues such as the location of apartments are more appropriately considered in the individual planning application. There is nothing stopping local authorities from applying conditions rather than having overall restrictive or prescriptive conditions in a county or city development plan. In other words, one has belts and braces when one does not need them because they will add to cost and restrict housing output, which is not something any of us wants to see.

**Deputy Catherine Murphy:** Sometimes, if one does not put standards in place, one gets the lowest possible standards with the applications. This is a counter-argument to not setting that out. We should seek not to have to end up doing or reversing things in the future. Has the Government looked at other elements of the cost of building other than the standards? I presume it has. What evidence does the Minister of State have that what is happening in these particular local authorities is driving those costs up?

**Deputy Paudie Coffey:** It is not the Minister or I who are saying this. We have utilised expertise in the Housing Agency, which has carried out a deep analysis of the cost of delivering on housing units. We have addressed other areas that have added to cost. We debated some of those in the House last week during the debate on the Urban Regeneration and Housing Bill. Overheads like development contributions under Part V were very high in the past. We are giving local authorities flexibility to reduce these. This is just one way in which we are trying to reduce costs.

I reassure the Deputy that we are not trying to undermine what are already quality standards in building construction in this country. What we are warning against is having standards that are over and above what is in place, that may not be necessary and that may restrict any application that comes before a local authority. We want to ensure we boost housing construction and increase the output. If we restrict that in any way, we will all have a right to complain. It is important that our Department's efforts to tackle any impediments or barriers are addressed. We are writing in good faith to those local authorities to ask them to take that on board.

*Written Answers follow Adjournment.*

### **Civil Debt (Procedures) Bill 2015: Order for Report Stage**

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I move: "That Report Stage be taken now."

Question put and agreed to.

**Civil Debt (Procedures) Bill 2015: Report Stage**

**Acting Chairman (Deputy Jack Wall):** Amendment No. 1 has been ruled out of order.

Amendment No. 1 not moved.

**Deputy Pádraig Mac Lochlainn:** Before I came in here, I was informed that our amendments have been ruled out of order. I have no explanation as to why this is the case and I am seeking clarification because I was in attendance on Committee Stage last Friday. Therefore, we had clearly indicated that these amendments would be submitted on Report Stage. I do not understand, therefore, why they are being ruled out of order.

**Acting Chairman (Deputy Jack Wall):** I will read the notice for the information of the Chair on amendments which have been ruled out of order. Amendments Nos. 1, 3, 13, 15 to 18, inclusive, 23, 27, 58, 62, 64, 69 and 71 in the name of Deputy Pádraig Mac Lochlainn; amendments Nos. 28, 29, 34, 36, 38, 41, 42, 52 and 54 in the names of Deputies Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy and Joe Higgins; amendments Nos. 44, 49 and 51 in the names of Deputies Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins, Clare Daly and Mick Wallace propose to delete all sections from the Bill, apart from section 26 which amends the Debtor Act (Ireland) 1872, to remove references to the imprisonment of debtors for non-payment of debt and to amend the Long Title, accordingly. The amendments form a composite proposal which negates two of the central planks of the Bill and must, therefore, be ruled out of order on the basis that they are in conflict with the principle of the Bill as read a Second Time, in accordance with Standing Order 131.

**Deputy Paul Murphy:** Each individual amendment seeks to delete a particular part of the Bill. The amendments stand independently; they do not form a composite proposal. The Bill would still stand with its main purposes in accepting any one of the amendments. That all Sinn Féin and Anti-Austerity Alliance amendments have been ruled out of order is a little incredible in dealing with a matter that is the subject of significant debate.

**Acting Chairman (Deputy Jack Wall):** That is the information given to the Chair and I must rule accordingly.

**Deputy Pádraig Mac Lochlainn:** As I have only been a Member of the House for four years, I will defer to the Acting Chairman's greater service. However, I find this to be an extraordinary decision by the Bills Office. To be made aware five minutes before we take Report Stage after we have prepared for the debate that the amendments have been ruled out of order is incredible. I will seek further clarification other than the information that has been given. It seems to be an arbitrary decision.

**Acting Chairman (Deputy Jack Wall):** We can provide that information for the Deputy. We will proceed the debate. As amendment No. 2 is consequential on amendment No. 70, they will be discussed together.

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I move amendment No. 2:

In page 5, line 8, after "1872" to insert "and section 6 of the Enforcement of Court Orders Act 1940".

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Amendment agreed to.

Amendment No. 3 not moved.

**Acting Chairman (Deputy Jack Wall):** Amendments Nos. 4, 5, 7, 8, 14, 39, 43, 47 and 55 are technical and will be discussed together.

**Deputy Frances Fitzgerald:** I move amendment No. 4:

In page 5, between lines 24 and 25, to insert the following:

“ “credit” has the meaning it has in section 2(1) of the Consumer Credit Act 1995;”.

The amendments are required to improve the final draft of the Bill. The main amendment is the refinement of the definition of “debt” and the new definition of “credit”. It is important that the meaning of these terms is made clear in the Bill. They give effect to the decision to exclude from the scope of the Bill consumer debts owed to financial institutions or licensed moneylenders and arising from loans. All of these debts are excluded from the scope of the Bill. The reason for the exclusion is that these debts are different in nature from other civil debts. There are other mechanisms available to deal with them.

The other amendments are required to further improve the drafting of the Bill. Like most Bills, it is part of the drafting process, from which quite a few technical amendments follow on.

Amendment put:

<i>The Dáil divided: Tá, 56; Níl, 30.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Aylward, Bobby.</i>
<i>Breen, Pat.</i>	<i>Boyd Barrett, Richard.</i>
<i>Butler, Ray.</i>	<i>Collins, Niall.</i>
<i>Buttimer, Jerry.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Cowen, Barry.</i>
<i>Byrne, Eric.</i>	<i>Creighton, Lucinda.</i>
<i>Carey, Joe.</i>	<i>Fitzmaurice, Michael.</i>
<i>Coffey, Paudie.</i>	<i>Flanagan, Terence.</i>
<i>Conaghan, Michael.</i>	<i>Halligan, John.</i>
<i>Connaughton, Paul J.</i>	<i>Healy, Seamus.</i>
<i>Coonan, Noel.</i>	<i>Kitt, Michael P.</i>
<i>Creed, Michael.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deasy, John.</i>	<i>McDonald, Mary Lou.</i>
<i>Deenihan, Jimmy.</i>	<i>McGrath, Finian.</i>
<i>Deering, Pat.</i>	<i>McGrath, Mattie.</i>
<i>Dowds, Robert.</i>	<i>McLellan, Sandra.</i>
<i>Doyle, Andrew.</i>	<i>Martin, Micheál.</i>
<i>Durkan, Bernard J.</i>	<i>Moynihan, Michael.</i>
<i>English, Damien.</i>	<i>Murphy, Catherine.</i>
<i>Feighan, Frank.</i>	<i>Murphy, Paul.</i>

<i>Ferris, Anne.</i>	<i>Naughten, Denis.</i>
<i>Fitzgerald, Frances.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Gilmore, Eamon.</i>	<i>Ó Cuív, Éamon.</i>
<i>Griffin, Brendan.</i>	<i>O'Brien, Jonathan.</i>
<i>Harrington, Noel.</i>	<i>Pringle, Thomas.</i>
<i>Humphreys, Heather.</i>	<i>Ross, Shane.</i>
<i>Kelly, Alan.</i>	<i>Smith, Brendan.</i>
<i>Kenny, Seán.</i>	<i>Stanley, Brian.</i>
<i>Kyne, Seán.</i>	<i>Timmins, Billy.</i>
<i>Lynch, Kathleen.</i>	<i>Wallace, Mick.</i>
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McNamara, Michael.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Phelan, Ann.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Niall Collins and Pádraig Mac Lochlainn.

Amendment declared carried.

16 July 2015

11 o'clock

Debate adjourned.

### Business of Dáil

**An Ceann Comhairle:** For the interest of Members as it is their last day, we have received notification that Alexis FitzGerald, a former Member of this House and the Upper House, married to Mary Flaherty, has just passed away. May he rest in peace.

### Civil Debt (Procedures) Bill 2015: Report Stage (Resumed)

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I move amendment No. 5:

In page 5, to delete lines 25 to 31, and in page 6, to delete lines 1 to 3 and substitute the

following:

“ “debt” does not include a debt for repayment of credit provided to the debtor—

(a) by a person pursuant to an authorisation to provide credit in the State granted by the Central Bank of Ireland or an authority that performs functions in an EEA country that are comparable to the functions performed by the Central Bank of Ireland, or

(b) by any other person holding himself or herself out as carrying on a business of, and whose business consists wholly or partly of, providing credit in the State and who provided the credit in the ordinary course of that business;”.

Amendment put:

<i>The Dáil divided: Tá, 58; Níl, 29.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Aylward, Bobby.</i>
<i>Breen, Pat.</i>	<i>Browne, John.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Eric.</i>	<i>Cowen, Barry.</i>
<i>Carey, Joe.</i>	<i>Creighton, Lucinda.</i>
<i>Coffey, Paudie.</i>	<i>Fitzmaurice, Michael.</i>
<i>Conaghan, Michael.</i>	<i>Flanagan, Terence.</i>
<i>Connaughton, Paul J.</i>	<i>Halligan, John.</i>

<i>Coonan, Noel.</i>	<i>Healy, Seamus.</i>
<i>Creed, Michael.</i>	<i>Kitt, Michael P.</i>
<i>Deasy, John.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deenihan, Jimmy.</i>	<i>McGrath, Finian.</i>
<i>Deering, Pat.</i>	<i>McGrath, Mattie.</i>
<i>Dowds, Robert.</i>	<i>McLellan, Sandra.</i>
<i>Doyle, Andrew.</i>	<i>Martin, Micheál.</i>
<i>Durkan, Bernard J.</i>	<i>Moynihan, Michael.</i>
<i>English, Damien.</i>	<i>Murphy, Paul.</i>
<i>Feighan, Frank.</i>	<i>Naughten, Denis.</i>
<i>Ferris, Anne.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Fitzgerald, Frances.</i>	<i>Ó Cuív, Éamon.</i>
<i>Gilmore, Eamon.</i>	<i>O'Brien, Jonathan.</i>
<i>Griffin, Brendan.</i>	<i>Pringle, Thomas.</i>
<i>Harrington, Noel.</i>	<i>Ross, Shane.</i>
<i>Humphreys, Heather.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Kevin.</i>	<i>Stanley, Brian.</i>
<i>Kelly, Alan.</i>	<i>Timmins, Billy.</i>
<i>Kenny, Seán.</i>	<i>Wallace, Mick.</i>
<i>Kyne, Seán.</i>	
<i>Lynch, Kathleen.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McNamara, Michael.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	

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<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Wall, Jack.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Niall Collins and Pádraig Mac Lochlainn.

Amendment declared carried.

**An Ceann Comhairle:** Amendment No. 6 has been ruled out of order.

Amendment. No. 6 not moved.

**Deputy Frances Fitzgerald:** I move amendment No. 7:

In page 6, between lines 4 and 5, to insert the following:

“ “earnings” means any sums payable to a person—

(a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service), and

(b) by way of pension or other like benefit in respect of employment (including an annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement;

“EEA country” means a state that is a contracting party to the EEA Agreement;”.

Amendment put:

<i>The Dáil divided: Tá, 59; Níl, 29.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Aylward, Bobby.</i>
<i>Breen, Pat.</i>	<i>Browne, John.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Colreavy, Michael.</i>

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<i>Byrne, Eric.</i>	<i>Creighton, Lucinda.</i>
<i>Carey, Joe.</i>	<i>Ellis, Dessie.</i>
<i>Coffey, Paudie.</i>	<i>Fitzmaurice, Michael.</i>
<i>Conaghan, Michael.</i>	<i>Flanagan, Terence.</i>
<i>Connaughton, Paul J.</i>	<i>Halligan, John.</i>
<i>Coonan, Noel.</i>	<i>Healy, Seamus.</i>
<i>Creed, Michael.</i>	<i>Kitt, Michael P.</i>
<i>Deasy, John.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deenihan, Jimmy.</i>	<i>McGrath, Finian.</i>
<i>Deering, Pat.</i>	<i>McGrath, Mattie.</i>
<i>Dowds, Robert.</i>	<i>McLellan, Sandra.</i>
<i>Doyle, Andrew.</i>	<i>Martin, Micheál.</i>
<i>Durkan, Bernard J.</i>	<i>Moynihan, Michael.</i>
<i>English, Damien.</i>	<i>Murphy, Paul.</i>
<i>Farrell, Alan.</i>	<i>Naughten, Denis.</i>
<i>Feighan, Frank.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Ferris, Anne.</i>	<i>Ó Cuív, Éamon.</i>
<i>Fitzgerald, Frances.</i>	<i>O'Brien, Jonathan.</i>
<i>Gilmore, Eamon.</i>	<i>Pringle, Thomas.</i>
<i>Griffin, Brendan.</i>	<i>Ross, Shane.</i>
<i>Harrington, Noel.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Heather.</i>	<i>Stanley, Brian.</i>
<i>Humphreys, Kevin.</i>	<i>Timmins, Billy.</i>
<i>Kelly, Alan.</i>	<i>Wallace, Mick.</i>
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McNamara, Michael.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	

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<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Niall Collins and Pádraig Mac Lochlainn.

Amendment declared carried.

**Deputy Frances Fitzgerald:** I move amendment No. 8:

In page 6, line 14, to delete “(“judgment debtor”)”.

Amendment put:

<i>The Dáil divided: Tá, 58; Níl, 28.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Browne, John.</i>
<i>Breen, Pat.</i>	<i>Collins, Joan.</i>
<i>Butler, Ray.</i>	<i>Collins, Niall.</i>
<i>Buttimer, Jerry.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Creighton, Lucinda.</i>
<i>Byrne, Eric.</i>	<i>Ellis, Dessie.</i>
<i>Carey, Joe.</i>	<i>Fitzmaurice, Michael.</i>
<i>Coffey, Paudie.</i>	<i>Flanagan, Terence.</i>
<i>Conaghan, Michael.</i>	<i>Halligan, John.</i>
<i>Connaughton, Paul J.</i>	<i>Healy, Seamus.</i>
<i>Coonan, Noel.</i>	<i>Kitt, Michael P.</i>
<i>Creed, Michael.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deasy, John.</i>	<i>McGrath, Finian.</i>
<i>Deenihan, Jimmy.</i>	<i>McGrath, Mattie.</i>
<i>Deering, Pat.</i>	<i>McLellan, Sandra.</i>
<i>Dowds, Robert.</i>	<i>Martin, Micheál.</i>

Dáil Éireann

<i>Doyle, Andrew.</i>	<i>Moynihan, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>Murphy, Paul.</i>
<i>English, Damien.</i>	<i>Naughten, Denis.</i>
<i>Farrell, Alan.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Feighan, Frank.</i>	<i>Ó Cuív, Éamon.</i>
<i>Ferris, Anne.</i>	<i>O'Brien, Jonathan.</i>
<i>Fitzgerald, Frances.</i>	<i>Pringle, Thomas.</i>
<i>Gilmore, Eamon.</i>	<i>Ross, Shane.</i>
<i>Harrington, Noel.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Heather.</i>	<i>Stanley, Brian.</i>
<i>Humphreys, Kevin.</i>	<i>Timmins, Billy.</i>
<i>Kelly, Alan.</i>	<i>Wallace, Mick.</i>
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McNamara, Michael.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Niall Collins and Pádraig Mac Lochlainn.

Amendment declared carried.

**An Ceann Comhairle:** Amendments Nos. 9, 21, 24 to 26, inclusive, 35, 37, 40, 50, 53 and 57 are related and may be discussed together by agreement.

**Deputy Frances Fitzgerald:** I move amendment No. 9:

In page 6, between lines 30 and 31, to insert the following:

““personal public service number” has the same meaning as it has in section 262 of the Act of 2005;”.

These Government amendments are all related to the service of documents. The Bill currently makes reference to the service of documents by the court or that notifications are made to the court when a debtor changes employment. However, this approach is not consistent and, on further reflection, examining other civil law matters in which documents are served on one party by another, I have decided to change it. The court will not be involved in such matters and these amendments address this issue, which a number of Deputies have raised.

Amendment No 9 inserts the definition of “personal public service number”, PPSN, into the Bill. Amendment No. 21 makes clear that the documents served on the debtor under section 6 shall be accompanied by a statement of the debtor’s means. Amendment No. 24 is related and clarifies the intention of section 7(2)(c) regarding the statement of means.

Amendment No. 25 provides for service of the statement of means on the judgment creditor by the judgment debtor rather than the court and, where applicable, the verifying certificate attached to the statement of means. Importantly, it provides that the debtor’s PPSN is not to be disclosed to the creditor.

Amendments Nos. 26, 37, 50, 53 and 57 are consequential technical amendments. Amendment No. 35 substitutes section 11 of the Bill with new text which sets out clearly the requirements for the service of documents in relation to an attachment of earnings order made under section 10. The judgment creditor, and not the court, serves the order on the person to whom it is directed. Amendment No. 40 removes the reference in section 13(3) to notifying the court. The debtor’s new employer is required to notify the creditor, not the court.

That is the description of the servicing of documents, who is responsible and how it is to be done.

**Deputy Paul Murphy:** I object in particular to amendment No. 25 and the related amendments. As the Bill currently stands, it is quite clear that the court shall not disclose a verifying certificate to the judgment creditor concerned. Amendment No. 25 provides that the judgment creditor would end up with the statement of means of the creditor. It gives more power to the creditor over the debtor than is currently contained in the Bill. For that reason, I will oppose

the amendment.

The amendment is in line with the general approach of the Government, which is to attempt to use this legislation to bully people into paying water charges in particular. Although this legislation predates the water charges and originally had nothing to do with them, it is being used as an excuse to try to drive the water charges home. Of course, the Government had quite a problem yesterday when the efficiency of its bullying was revealed to be relatively low. It is very pleasant to finish the parliamentary term on a note of agreement with the Minister for water charges, Deputy Alan Kelly. Despite all of our disagreements throughout the year, we are both more than happy with the levels of payment of the water charges.

Despite the amendments that the Minister for Justice and Equality and the Government are making, and despite the fact that those amendments will pass, none of this is a serious threat to the 57% of people who have not paid or to the others who will now join them. There are no direct deductions from wages, social welfare or pensions. There are no deductions whatsoever until two court cases take place. The first of those court cases cannot take place until someone already owes €500, which takes us at least until the end of 2017 before any of this process could start from the point of view of the water charges. They can only take a tiny percentage of non-payers to court and, between now and then, we have an election. If over 50% of people are not paying, this will be the number one issue and there will be immense pressure on the Government to abolish the charges.

I oppose the shifting of the balance of power further towards the creditor in terms of the information and statement of means.

**Deputy Frances Fitzgerald:** Debt enforcement and recovery of moneys owed is part of any normal economic activity. The provisions in the Bill are in line with many other countries in terms of this issue. The Bill makes sure that those who owe money and have the capacity to pay something towards the debt should do so.

On Second Stage, I went into a lot of detail on how the debtor is protected. I repeat that this follows the Law Reform Commission recommendations. It is one of a suite of measures for the enforcement of debt. Clearly, there are also other mechanisms. Before ever getting to the point where there would be an attachment, there is a series of other opportunities for the debtor to pay. There are all the normal reminders; there is the need to go to court to get the judgment on the debt; and there are options for instalments. There is a variety of measures for debt enforcement and recovery of moneys, and this amendment adds to them.

The provisions of the Bill will be available to a wide range of creditors and utilities, including Irish Water. In this section, I am making very clear that the debtor's PPSN is not to be disclosed to the creditor. That is important. As in any court case, there will be the usual exchange of documents. It would be inappropriate to have a blanket prohibition. It is up to the courts.

I do not agree with Deputy Murphy that this is a change in balance. The Bill is fully balanced between creditor and debtor. The assessment of affordability is key. A baseline has been agreed with the Minister for Social Protection on social welfare payments. There is an assessment of affordability, strong representation to the court by the debtor and, if the circumstances of either party change after the agreement, there is provision in the Bill to return to court and vary the order. We will be discussing the amendments pertaining to the variability order later.

**Deputy Paul Murphy:** It is clear that the purpose of the amendments is to shift the balance

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in favour of the creditor. The same applies to amendment No. 50, which allows the creditor to serve the deductions order to the Department of Social Protection rather than the clerk of the court. It is aimed at speeding up the process from the point of view of the creditor. Under the Bill as currently drafted, the creditor does not get the statement of means, while under the Government's amendment, it will.

The more general problem that the Government has is that, although there may be a variety of options to pay the water charges, people are not taking any of them. Instead, we have this new terminology about a suite of measures designed to make people pay. The problem is there is nothing in the suite of measures which is going to bully people into paying. There is nothing in here, compared to all the threats about direct deductions and everything else, that can break the non-payment of 57% of people. The likelihood is that, of the 43% who paid, there is a substantial number who are opposed to water charges but paid under threat or propaganda. They will now see that there are no penalties for non-payment until July 2016 and Irish Water cannot do anything to get the money. Why would they spend more money on something that is going to be abolished? Why throw good money after bad? It is clear that if the water charges are abolished, it is extremely unlikely they would get refunds.

The figures are only going to go in one direction and it will be very difficult for the Minister, Deputy Alan Kelly, to pronounce himself extraordinarily satisfied and delighted with them as they go up to 60% and 65% non-payment. The Government will have a massive crisis on the issue. All this legislation is worthless from the point of view of forcing people to pay.

**Deputy Frances Fitzgerald:** I repeat that there is balance in the Bill. It follows on from the recommendations of the Law Reform Commission. The very important aim of the Bill is to do away with the imprisonment of debtors. That is a key principle and it is fully covered. I have read some documentation that suggests it is not, but it is fully addressed in the Bill. People who cannot afford to pay will not have to pay. That is a very important principle, which is why we have the assessment of means. The court has full authority to look at the means of a person and make very reasonable judgments on what he or she can afford. This is straightforward legislation which allows for this. We must deal with those who owe money but will not pay. The Law Reform Commission in its report acknowledged the need for creditors to recover their debts, in particular where a debtor has the capacity to repay but refuses to engage meaningfully with the creditor. That is what the Bill is about. We are taking the LRC's report and implementing the key recommendation in relation to the imprisonment of debtors and adding to the suite of measures available by ensuring an attachment of earnings order can be made.

Amendment put:

<i>The Dáil divided: Tá, 60; Níl, 27.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Browne, John.</i>
<i>Barry, Tom.</i>	<i>Collins, Joan.</i>
<i>Breen, Pat.</i>	<i>Colreavy, Michael.</i>
<i>Butler, Ray.</i>	<i>Coppinger, Ruth.</i>
<i>Buttimer, Jerry.</i>	<i>Creighton, Lucinda.</i>
<i>Byrne, Catherine.</i>	<i>Ellis, Dessie.</i>
<i>Byrne, Eric.</i>	<i>Fitzmaurice, Michael.</i>

<i>Carey, Joe.</i>	<i>Fleming, Tom.</i>
<i>Coffey, Paudie.</i>	<i>Healy, Seamus.</i>
<i>Conaghan, Michael.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Connaughton, Paul J.</i>	<i>McGrath, Finian.</i>
<i>Coonan, Noel.</i>	<i>McGrath, Mattie.</i>
<i>Creed, Michael.</i>	<i>McLellan, Sandra.</i>
<i>Deasy, John.</i>	<i>Mathews, Peter.</i>
<i>Deenihan, Jimmy.</i>	<i>Moynihan, Michael.</i>
<i>Doherty, Regina.</i>	<i>Murphy, Paul.</i>
<i>Dowds, Robert.</i>	<i>Naughten, Denis.</i>
<i>Doyle, Andrew.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Durkan, Bernard J.</i>	<i>O'Brien, Jonathan.</i>
<i>English, Damien.</i>	<i>O'Dea, Willie.</i>
<i>Farrell, Alan.</i>	<i>O'Sullivan, Maureen.</i>
<i>Feighan, Frank.</i>	<i>Pringle, Thomas.</i>
<i>Ferris, Anne.</i>	<i>Ross, Shane.</i>
<i>Fitzgerald, Frances.</i>	<i>Smith, Brendan.</i>
<i>Gilmore, Eamon.</i>	<i>Stanley, Brian.</i>
<i>Harrington, Noel.</i>	<i>Troy, Robert.</i>
<i>Humphreys, Heather.</i>	<i>Wallace, Mick.</i>
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McNamara, Michael.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Phelan, Ann.</i>	
<i>Quinn, Ruairí.</i>	

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<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Joe Carey and Emmet Stagg; Níl, Deputies Pádraig Mac Lochlainn and Paul Murphy.

Amendment declared carried.

**An Ceann Comhairle:** Amendments Nos. 10, 30 to 33, inclusive, 45, 46, 48 and 63 are related and may be discussed together by agreement. Amendment No. 63 is consequential on amendments Nos. 31 and 45.

**Deputy Frances Fitzgerald:** I move amendment No. 10:

In page 6, between lines 32 and 33 to insert the following:

“relevant total amount” means in relation to a relevant order, the total amount specified in the order as being payable under the order to the judgment creditor concerned;”.

These amendments relate to costs and how costs are dealt with in regard to the debt amount. The Bill did not provide sufficient clarity on how costs which arose in an application under the Bill were to be treated. The definition of “judgment debt” deals with the costs which arise in seeking the judgment order in relation to the debt.

Amendment No. 10 inserts a new definition of “relevant total amount” which is the total amount specified in the order as being payable under the order to the judgment creditor concerned. Amendment No. 32 introduces this new term into section 10, which deals with the making of an attachment of earnings order. Amendment No. 46 introduces the term in section 16, which deals with the making of a deduction from payments order. Amendment No. 30 makes clear that it is the costs which arise in relation to an application under section 6 which are being referred to here.

Amendments Nos. 31 and 45 are similar. Amendment No. 31 inserts a new subsection (5) in section 10 while amendment No. 45 inserts a new subsection (4) in section 16. These new subsections make clear that an attachment of earnings order or a deduction from payments order may direct that the costs of an application under section 6 may be included in the total amount to be repaid. Amendments Nos. 33 and 48 are similar. They insert a new subsection (5) in

section 10 and new subsection (4) in section 16. These new subsections make clear that the amount being paid off by the debtor is still the original debt amount plus any costs which have been added on. Amendment No. 63, which seeks to delete section 23, arises as a consequence of amendments Nos. 33 and 48. I am advised by the Parliamentary Counsel that it is preferable to deal with these matters in the sections themselves and that section 23 of the Bill should be deleted as a consequence. This relates to the costs that arise during the court case and outlines how they need to be dealt with regarding the original debt.

**Deputy Paul Murphy:** I oppose the amendments. They are part of the Government's bullying, scaremongering approach. In particular, I highlight amendments Nos. 31 and 45, relating to the costs of the court cases. We are dealing with the costs of the second application of two court cases here being awarded against the so-called debtor. It is about intimidating people into paying bills. In this case, it is attempting to intimidate people into paying their water bills, which is outrageous. Amendment No. 45 relates to pursuing those in receipt of social welfare for costs. It is outrageous and is obviously bullying. We will oppose the measure, the Government will pass it, but outside the Dáil the Government will not be able to use it to bully people, who will know that none of it applies until after 2017, given that they must owe at least €500.

**Deputy Eric Byrne:** Will the Deputy be in charge? He has a good track record.

**Deputy Paul Murphy:** It will be nice not to see Deputy Eric Byrne and the Labour Party in the next Government. They will be gone.

**Deputy Dinny McGinley:** Leave him alone.

**Deputy Paul Murphy:** We will have new social democrats and socialists who do not sell people out and we will have a government that will be forced to abolish water charges. The Labour Party will be abandoned by their voters. Given the levels of payment, they must be a little desperate right now.

**Deputy Eric Byrne:** How are things in Athens?

**Deputy Paul Murphy:** The bullying will not work. People know none of it applies until 2017 and we will have the water charges well defeated by then. The bullying should be opposed in here.

**Deputy Frances Fitzgerald:** As I said, the Bill is fully balanced between creditor and debtor. There is a strong assessment of affordability.

*12 o'clock*

Clear representations can be made to the court by the debtor. There are many protections for the debtor, including the assessment of means. This is one of a suite of measures recommended by the Law Reform Commission. It is quite clear that debt enforcement and the recovery of moneys owed are part of normal economic activity. That is what we are allowing for in this legislation.

Debate adjourned.

### Topical Issue Matters

**An Leas-Cheann Comhairle:** The following matters in respect of which notice has been given under Standing Order 27A were received by the Ceann Comhairle and this is a list of the names of the members in each case: (1) Deputy Joanna Tuffy - the need to make further representations to the Pakistan Government regarding the plight of Asia Bibi who has been sentenced to death for blasphemy and has been suffering ill health after spending five years in prison; (2) Deputy Catherine Byrne - the need for increased home help provision in the community; (3) Deputy Dan Neville - the need to include Ballyhoura Fáilte Country in the Ireland Ancient East project; (4) Deputy Michael Lowry - the progress being made in the construction works at Cormac's Chapel on the Rock of Cashel monument site in Cashel, County Tipperary; (5) Deputy Martin Heydon - the need for increased adult education training opportunities and a training centre for the Kildare south region; (6) Deputy Caoimhghín Ó Caoláin - the need to address issues surrounding allegations of sexual abuse against a child and subsequent criminal proceedings against the accused person; (7) Deputy Aengus Ó Snodaigh - the need to address the record number of persons in Dublin city who are in an urgent need of housing; (8) Deputy Bernard J. Durkan - the need to address the stalled development of the town centre in Naas, County Kildare; (9) Deputy Terence Flanagan - the need for extra measures to be taken to reduce the misuse of drugs; (10) Deputy Willie Penrose - the need to expedite the motion of high speed broadband services in rural areas, especially in counties Longford and Westmeath, where the survival and growth of industries are being threatened by the lack of broadband connectivity; (11) Deputy Thomas P. Broughan - the urgent need to provide homes for the 21,592 persons on Dublin City Council's housing waiting list in view of the large discrepancy between this figure and the target of 3,347 new housing units planned for by the end of 2017; (12) Deputy Clare Daly - the need to address the situation where a garda (details supplied) has returned to duty in Roxboro Garda station, County Limerick, despite the person still facing outstanding allegations of misconduct; (13) Deputy Joe Costello - the need to review the travel advice previously given to avoid non-essential travel to Nepal, which will facilitate the recovery of the Nepalese tourism industry which was devastated in the aftermath of the recent earthquake; (14) Deputy Éamon Ó Cuív - an gá atá ann a chinntiú go bhfuil cothrom na féinne tugtha don Ghaeilge, mar an teanga náisiúnta, i riaradh an chórais nua cóid poist, Eircode agus go dtabharfar ard ar an méid a bhí le rá ag Conradh na Gaeilge i dtaobh na ceiste seo i rith na seachtaine; (15) Deputy Shane Ross - the need to ensure NAMA provides for full co-operation with the Northern Ireland investigation into Project Eagle and end its boycott of same; (16) Deputy David Stanton - the need to debate the future of Ireland's only oil refinery following recent media reports on same and given its strategic importance to national energy security and the price competitiveness of its refined product; (17) Deputy Ruth Coppinger - the need to discuss the level of payment of water charges; (18) Deputy Dessie Ellis - the record number of people in housing need in Dublin city; (19) Deputy Dara Calleary - the need to ensure the Irish Association of Supported Employment receives financial support in its support of people with disabilities at work; (20) Deputy Paul Murphy - the need to discuss the current level of payment of water charge bills; (21) Deputy Mick Wallace - the need to address the situation where a garda (details supplied) has returned to duty in Roxboro Garda station, County Limerick, despite the person still facing outstanding allegations of misconduct; (22) Deputy Robert Troy - the need to address the low number of IDA Ireland visits to Mullingar and surrounding areas in County Westmeath; and (23) Deputy Tom Fleming - bed closures at Kerry General Hospital and the need to expedite the provision of an upgraded oncology unit.

The matters raised by Deputies Joanna Tuffy, Bernard J. Durkan, Catherine Byrne and Michael Lowry have been selected for discussion.

### **Leaders' Questions**

**Deputy Robert Troy:** The Tánaiste will be aware there has been a massive investment in the post office network for several years. I am sure she will acknowledge that this happened primarily during the lifetime of the previous Government. Yes, some of those running post offices took the decision when this upgrading was being carried out to take voluntary redundancy which resulted in closures.

**Deputy Emmet Stagg:** Over 400 post offices were closed under the previous Government.

**Deputy Robert Troy:** There are 1,150 post offices across the country in which 3,700 people are employed. What is happening is up to the Government and its policies. Post offices play a vital part in communities and are a serious focal point for the elderly and families living in rural areas.

**Deputy Emmet Stagg:** How is the Deputy's local post office going?

**Deputy Robert Troy:** A Leas-Cheann Comhairle, may I have the floor, please? I am raising a serious issue.

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

**Deputy Robert Troy:** Banks have closed in many smaller towns. Garda stations have also been closed and sold. Post offices have to be protected and enhanced. Department of Social Protection payments account for 30% of the business of the post office network. The spin-off value of people buying other items is as high as 50%. The contract for making social protection payments is worth €25 million per annum to post offices.

**The Tánaiste:** It is not; it is twice that amount.

**Deputy Kevin Humphreys:** If Deputy Robert Troy cannot get his figures right, it is not surprising that Fianna Fáil broke the country.

**Deputy Robert Troy:** The Tánaiste will have an opportunity to respond. Whether it is accepted by her, there is genuine concern among postmasters that their businesses will end up being closed, mainly due to the fact that the Department of Social Protection is issuing forms instructing people to change their method of collection to their bank accounts.

*(Interruptions).*

**Deputy Finian McGrath:** One will not be even be able to buy a stamp soon.

**Deputy Robert Troy:** The concerns of postmasters have been independently verified in a report commissioned from Grant Thornton in 2014. The Tánaiste has taken many policy decisions which have irked particular groups across the country.

**Deputy Mattie McGrath:** Many decisions.

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**Deputy Robert Troy:** Her decision, however, to send forms to people to select bank accounts in which to receive social protection payments threatens to lead to the closure of up to 400 post offices.

**Deputy Mattie McGrath:** Sabotage.

**Deputy Bernard J. Durkan:** What about the 400 Fianna Fáil closed?

**Deputy Robert Troy:** Postmasters are simply asking for a level playing field, but they are not getting it. The Tánaiste is undermining the future and viability of post offices. Will she confirm that it is the Government's intention to maintain the current network at 1,150 post offices? Will it invest the much needed funding to allow post offices to develop an electronic transaction account which will afford people the option of receiving and transacting social welfare payments in the post office, either electronically or by cash? Will she confirm that she will meet the Irish Postmasters Union as it has requested? Two months ago she said she would change the social welfare forms that requested social welfare recipients to change to bank accounts. Today the very same forms are on the Department's website. Will she instruct her officials to take them down and ensure new forms are sent that will not recommend that people receive their social welfare payments electronically?

**Deputy Dinny McGinley:** I did not think the Deputy had such neck.

**The Tánaiste:** I am aware that quite a number of Deputies and their families have an interest in post offices. I hope any Member who has a direct commercial interest in a post office will actually let us know.

**Deputy Niall Collins:** The Deputy has declared it already.

**Deputy Robert Troy:** It was declared in the register of Members' interests and during the general election.

**The Tánaiste:** Is the Deputy also a postmaster?

**Deputy Niall Collins:** The Tánaiste should answer the question.

**Deputy Brendan Smith:** It is disgraceful. She should answer the question.

**The Tánaiste:** I am just asking in the interests of debate.

**An Leas-Cheann Comhairle:** Please, Deputies, this is Leaders' Questions.

**Deputy Niall Collins:** The Tánaiste is a disgrace.

**The Tánaiste:** I asked because I am aware that Deputy Robert Troy has a long-standing interest in post offices.

**Deputy Brendan Smith:** He has declared it in this House.

**Deputy Niall Collins:** The Tánaiste is a disgrace.

**The Tánaiste:** I am just asking if there is a commercial interest.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Please stop, as we cannot hear the reply.

**The Tánaiste:** When Fianna Fáil was in government, it closed 197 post offices.

**Deputy Niall Collins:** Tell the truth.

**The Tánaiste:** In fairness, Deputy Robert Troy said many were voluntary decisions made by postmasters because, for instance, a family member was retiring and no one else wanted to take on the job. Of the 25 closures during the Government's tenure, almost all have been for that exact reason. Like other Deputies, I, too, was involved in my constituency in efforts to recruit a new postmaster or postmistress when one retired. That is a familiar story in the post office system, of which all Members will be aware. It might have escaped Deputy Robert Troy's attention that the contract for services with the Department of Social Protection is worth €50 million per annum. He suggested it was only worth half of that amount.

**Deputy Mattie McGrath:** The Tánaiste is trying to undermine them - sabotage.

**The Tánaiste:** The figure is €50 million and it is higher when other departmental services supplied through the post office network are taken into account. To suggest it is half that figure is pretty poor counting by somebody involved in the post office network. That is why I asked Deputy Robert Troy if he had a personal awareness and familiarity with the post office system. I would have expected him not just to have a researcher's brief but also some personal knowledge. Post offices play an important role in urban and rural communities. They provide important services, particularly for people who do not actually have a formal bank account. It is not just past Fianna Fáil taoisigh who do not have a formal bank account. It is actually quite a lot of other people in this country.

**Deputy Mattie McGrath:** My goodness.

**The Tánaiste:** Up to 200,000 people in this country do not have a formal bank account.

**Deputy Mattie McGrath:** Wonder Woman is back today.

**Deputy Finian McGrath:** Leave Bertie out of it.

**Deputy Ray Butler:** Listen.

**Deputy Mattie McGrath:** Wonder Woman is back.

**Deputy Noel Coonan:** Stop breaking the peace. Be quiet.

**The Tánaiste:** Let me say as Minister for Social Protection that, in that context, the Department of Social Protection relies on the post office system to make payments to the people who do not have bank accounts, and we will continue to rely on it.

**Deputy Mattie McGrath:** The Tánaiste is telling them all to take their money away.

**The Tánaiste:** We also require the post office to be available for people-----

**Deputy Mattie McGrath:** The Tánaiste is undermining post offices.

**The Tánaiste:** -----to collect their social welfare jobseeker's payments through the post office and turn up in person to collect them. It is for that reason that the post office has a very large and very valuable contract with the Department of Social Protection, worth more than €50

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million. Fianna Fáil seems unable to count because it is suggesting that it is worth less than half of that. So let us get our facts right.

**Deputy Finian McGrath:** The Government is not able to count regarding Irish Water.

**Deputy John Browne:** What about the form?

**The Tánaiste:** They are the first few facts-----

**Deputy John Browne:** What about Deputy Troy's question?

**The Tánaiste:** -----that I would like to give to Deputy Troy.

**Deputy Noel Coonan:** Hear, hear.

**An Leas-Cheann Comhairle:** Deputy Troy can ask a supplementary question. He has one minute.

**Deputy Robert Troy:** It ill behoves the Tánaiste to try to take cheap shots at me.

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

**Deputy Robert Troy:** It is a matter of fact that I have a post office in my constituency.

*(Interruptions).*

**Deputy Robert Troy:** I declared it on the list of Members' interests. I have declared it umpteen times on the floor of this House.

**The Tánaiste:** I was just questioning why the Deputy's facts were so wrong.

**Deputy Robert Troy:** No. What the Tánaiste is trying to do is make it personal.

**Deputy Seán Ó Fearghail:** Yes.

**Deputy Noel Coonan:** When you are explaining, you are losing.

**Deputy Robert Troy:** Post office staff are listening to this debate.

**Deputy Niall Collins:** The Tánaiste made it personal for lone parents.

**Deputy Robert Troy:** Those staff want answers. I want answers on behalf of the 3,700 people employed in the post office network across the country.

**Deputy Brendan Smith:** Hear, hear.

**Deputy Mattie McGrath:** Not cheap shots.

**Deputy Robert Troy:** I have asked a number of questions this morning, but the Tánaiste has not answered one.

**Deputy Niall Collins:** Correct.

**Deputy Robert Troy:** In her typical style-----

**Deputy Kevin Humphreys:** The Deputy was factually incorrect with his questions.

**Deputy Robert Troy:** -----she has come in and tried to talk the topic down.

**Deputy Emmet Stagg:** This is supposed to be a supplementary question.

*(Interruptions).*

**Deputy Robert Troy:** It does not do her justice that she does not answer the questions.

**Deputy Emmet Stagg:** The minute is up.

**Deputy Robert Troy:** We are asking questions on behalf of the people whom we represent.

**Deputy Finian McGrath:** We are representatives to Dáil Éireann.

**Deputy Robert Troy:** I will ask the questions again. Will the Government commit to maintaining the current network of 1,150 post offices?

**Deputy John Browne:** A simple question.

**Deputy Robert Troy:** It is a simple “Yes” or “No” question. Will the Tánaiste commit to meeting the Irish Postmasters Union-----

**Deputy Emmet Stagg:** It is too bad Fianna Fáil closed them all.

**Deputy Robert Troy:** -----to work through its six-point plan-----

**Deputy John Halligan:** What about lone parents?

**Deputy Emmet Stagg:** Fianna Fáil is the crowd that closed all of the post offices.

**Deputy Robert Troy:** -----to save the post office network, yes or no?

**Deputy Finian McGrath:** What about the lone parents?

**Deputy John Halligan:** What about lone parents?

**Deputy Mattie McGrath:** Withdraw the letters.

**Deputy Robert Troy:** Will the Tánaiste-----

**An Leas-Cheann Comhairle:** I am sorry, but will Deputies please lower the noise level?

**Deputy Finian McGrath:** Deputy Stagg is having a go.

**Deputy Robert Troy:** Will the Government commit to investing in the development of the post office-based electronic transaction account, yes or no?

**Deputy John Browne:** What about the form?

**Deputy Robert Troy:** Finally, will the Tánaiste honour her commitment of two months ago when she said that the forms would be taken down and replaced? That has not happened. As of this morning, the old forms are still on the Department’s website. I am aware of this because I am a postmaster and sent back to the Tánaiste and her Department the old forms that every post office across the length and breadth of this country still had.

**Deputy Emmet Stagg:** Special delivery.

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**Deputy Robert Troy:** Those forms request, direct and recommend that people change from having their payments made through post offices to through banks. Will the Tánaiste live up to her commitment and ensure that those promises are maintained?

**An Leas-Cheann Comhairle:** The Tánaiste to reply.

**The Tánaiste:** I am happy to say that-----

**Deputy Mattie McGrath:** Answer the questions today.

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

**The Tánaiste:** -----my Department provides over €50 million worth of business to the post office system in Ireland.

**Deputy Niall Collins:** We heard that already. Answer the question.

**Deputy Finian McGrath:** There are more than 1,100 post offices.

**The Tánaiste:** It is its largest single customer.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Sorry, Deputies.

**Deputy Niall Collins:** Answer the questions.

**The Tánaiste:** Normally, when entities have a significant and important customer-----

**Deputy Niall Collins:** The Tánaiste is not going to answer the questions, as usual.

**The Tánaiste:** -----I expect the people who are being paid-----

**Deputy Niall Collins:** It is not just on the “Late Late Show” that she does not answer questions. It is in here as well.

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

**The Tánaiste:** -----for the service to give a good service to the people who use the post offices. That is what the people who use the post offices want. The biggest problem is the fact that so few people who use post offices have a full bank account. The purpose of the recent report by Mr. Bobby Kerr and the recent examination under the auspices of the Minister of State for rural affairs was, in fact, to find a pathway that would provide an efficient and a profitable service, both for the customers and for the people-----

**Deputy Mattie McGrath:** The Tánaiste will be getting her pathway in the next few days.

**Deputy Charlie McConalogue:** What about the forms?

**The Tánaiste:** -----who run and who work in the post offices.

**Deputy Mattie McGrath:** She will get a P45.

**The Tánaiste:** You must be getting all of the shouts out today because you are worried that you will miss them for the next few weeks,-----

**Deputy Niall Collins:** What about the forms? Come on.

**An Leas-Cheann Comhairle:** Deputies, please stop.

**Deputy Robert Troy:** Will the Tánaiste answer the questions that I asked her, please?

**The Tánaiste:** -----so give it a rest.

*(Interruptions).*

**Deputy Mattie McGrath:** I will shout any day and give you a piece of my mind. That will be your pathway.

**An Leas-Cheann Comhairle:** Deputies, stop.

**Deputy Mattie McGrath:** Your pathway is the P45 pathway.

**The Tánaiste:** We know you.

**Deputy Mattie McGrath:** Go get ready.

**The Tánaiste:** We know you.

*(Interruptions).*

**Deputy Kevin Humphreys:** Calm down.

**The Tánaiste:** In relation to-----

**Deputy Robert Troy:** The Tánaiste might answer the questions that were asked of her.

*(Interruptions).*

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

**Deputy Bernard J. Durkan:** Calm down, Mattie.

**An Leas-Cheann Comhairle:** The Tánaiste to conclude. Quiet, please.

**The Tánaiste:** Regarding the standard bank account,-----

**Deputy Noel Coonan:** Did you use the post office to pay the court fines, Mattie?

**Deputy Mattie McGrath:** What did you say?

**The Tánaiste:** -----we have put forward detailed-----

**Deputy Noel Coonan:** Did you use the post office to pay the courts?

**Deputy Mattie McGrath:** You do not have a clue.

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

**The Tánaiste:** -----proposals to the Minister for Finance. So has the Kerr report.

**Deputy Seán Ó Fearghail:** The answer must be “No”, then.

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**The Tánaiste:** I broadly support the recommendations made in the Kerr report.

**Deputy Robert Troy:** Will the Government make the investment, yes or no?

**Deputy Mattie McGrath:** No answer.

**The Tánaiste:** I think they make a lot of sense.

**Deputy Mattie McGrath:** Pathway.

**The Tánaiste:** Deputy Troy spoke a few moments ago as a postmaster. Maybe he will tell us what the postmasters are going to bring to the table,-----

**Deputies:** Hear, hear.

**Deputy Robert Troy:** They have-----

**The Tánaiste:** -----seeing as how he is standing-----

**Deputy John Browne:** What about the form being withdrawn?

**Deputy Robert Troy:** I am asking the Tánaiste to meet them.

**The Tánaiste:** -----here speaking on behalf of them.

*(Interruptions).*

**Deputy Robert Troy:** Will the Tánaiste meet them?

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

**The Tánaiste:** So, in relation to-----

**Deputy Robert Troy:** I will meet them with the Tánaiste.

**The Tánaiste:** -----the forms, this is another issue-----

**Deputy Robert Troy:** Will the Tánaiste meet them, yes or no?

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

**Deputy Robert Troy:** Will the Tánaiste meet them, yes or no?

**An Leas-Cheann Comhairle:** I am sorry, but the Tánaiste has the floor.

**The Tánaiste:** -----that the Deputy is extremely familiar with, which is, all of the forms that relate to social welfare payments are designed and redesigned with a couple of objectives in mind, which is why they take quite a time to design and redesign.

**Deputy Robert Troy:** Take a long time?

**Deputy Mattie McGrath:** Paid consultants.

**The Tánaiste:** One is to prevent fraud and the other is to ensure accuracy and simplicity in so far as a long form for a pension application-----

**Deputy Seán Ó Fearghail:** It would be very simple.

**The Tánaiste:** -----can be made as simple as possible.

**Deputy Robert Troy:** It did not take the Labour Party too long to take defected members down from its website, so-----

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

**The Tánaiste:** That is actually being done at the moment.

**Deputy Robert Troy:** -----why will the Tánaiste not take the form down from the Department's website?

**The Tánaiste:** As a postmaster, Deputy Troy seems to be taking an attitude whereby he does not want people who have bank accounts to actually-----

**Deputy Niall Collins:** No, he wants choice.

**The Tánaiste:** -----be able to use their bank account.

**Deputy Mattie McGrath:** He wants fair choice.

**The Tánaiste:** He wants them, because he is a business owner in a post office,-----

**Deputy Robert Troy:** I want choice.

**The Tánaiste:** -----to only be allowed to queue up at the post office.

**Deputy Charlie McConalogue:** The Tánaiste told them to go to the banks.

**The Tánaiste:** That is not right, Deputy Troy.

**Deputy Niall Collins:** The Tánaiste is not playing-----

**Deputy Mattie McGrath:** Stop making a cause for the banks.

*(Interruptions).*

**The Tánaiste:** One actually has to provide a bank account system that the post offices can use.

**Deputy Robert Troy:** Will the Tánaiste meet them?

*(Interruptions).*

**The Tánaiste:** As a postmaster, Deputy Troy will have to co-operate with that.

**An Leas-Cheann Comhairle:** Thank you. I now call Deputy McDonald.

**Deputy Robert Troy:** Is the Tánaiste going to meet them?

**The Tánaiste:** As a postmaster, Deputy Troy is going to have to co-operate.

**Deputy Niall Collins:** She is a complete bluffer. She never answers a question.

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

**Deputy Kevin Humphreys:** Is Deputy Mattie McGrath going to be a Fianna Fáil candidate?

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

*(Interruptions).*

**Deputy Finian McGrath:** One cannot even buy a stamp these days.

**An Leas-Cheann Comhairle:** Please, Deputy McDonald has the floor.

**Deputy Mary Lou McDonald:** Yesterday, Irish Water was forced to admit that fewer than half of householders were paying the Government's water tax. The Minister for the Environment, Community and Local Government, Deputy Kelly, the Tánaiste's deputy leader,-----

**Deputy Mattie McGrath:** Who wants to be leader.

**Deputy Mary Lou McDonald:** -----has insisted that the €30.5 million collected to date of a projected income of €66.8 million was "a good start". I do not know what planet the Minister is living on, but his delusional response to the overwhelming rejection of water charges further discredits the Government. We learned today that, with the failure of the Government's intimidation and threats, Irish Water has proposed a campaign of direct harassment of struggling families. It proposes to bombard thousands of households-----

**Deputy Aodhán Ó Ríordáin:** Sinn Féin would know about that.

**Deputy Mary Lou McDonald:** -----by telephone in a desperate, last ditch attempt-----

*(Interruptions).*

**Deputy Mary Lou McDonald:** -----to get them to sign up to water charges. This move is pathetic.

I raised with the Taoiseach yesterday all of these issues. How does Irish Water expect to attract investment with such a derisory level of compliance with the Government's charge? According to one economist, at least 80% of householders would need to pay if the company were to borrow at competitive rates. That is not going to happen. The Government's water tax has been roundly and comprehensively rejected. The Tánaiste has heard what people are saying. Now, it is time to act. Abolish the charges. Abolish Irish Water.

This morning in Dublin Castle, the Tánaiste claimed, mar dheá, that she wanted to listen to people's views regarding the direction of economic policy. I do not know if that was some sort of joke, but if it was, no one is laughing. Clearly, she has no intention of listening to anyone outside the Government about its discredited and shambolic water policy. The people have spoken loudly, repeatedly and clearly. They have flatly rejected its water tax.

**Deputy Bernard J. Durkan:** Did Deputy McDonald pay?

**Deputy Mary Lou McDonald:** The Government's figures for the Irish Water quango do not add up. It is time that she face this reality. The water tax is finished. Will the Tánaiste and the Labour Party heed this message?

**The Tánaiste:** When I spoke this morning in Dublin Castle to a very wide group of people from the trade union movement, from the business movement and from the voluntary and advocacy organisations in Ireland, big and small, I talked about a future that we would all put together for Ireland that would give us a good outlook for people who were older and retired, for younger people and for families with children. The feedback was very strong and it is a vision people in Ireland wanted, with everyone back at work-----

**Deputy Brian Stanley:** On slave wages.

**The Tánaiste:** -----the country investing in schools and hospitals and a water system that produces safe clean water. I cannot understand why Sinn Féin's policy is to bankrupt Irish Water and to potentially seek to bankrupt the Irish State, as it advocated some six or seven years ago when it wanted this country to default and do what some countries have, unfortunately, experienced in recent times. If we are to fulfil the vision of this morning in Dublin Castle, of getting our people back to work and building infrastructure, clean water is critical to that. Whether Sinn Féin likes it or not we have taken the water supply away from over 30 councils-----

**Deputy Dessie Ellis:** To privatise it.

**The Tánaiste:** -----who all dealt with it in a different way and we have brought it together into a national utility, like the ESB or Bord Gáis, identifying leaks and lead pipes, issues which county councils around the country had sat on for years and not addressed. We have already begun to bring to an end to the scandal of boil water notices in County Roscommon, which is an enormous achievement that was not achievable by a local authority on its own.

**Deputy John Halligan:** If the Government had given €500 million to local authorities they would have done it.

**The Tánaiste:** We want to build a tourism industry, to attract foreign direct investment and build local Irish businesses. Above all, we want our farmers and our agriculture industry to prosper and we need good clean water for all those things, as well as for ourselves, our children and our grandchildren. Sinn Féin's vision is to pretend that instead of a functioning utility, we can load €800 million onto income tax and taxes on workers this year.

**Deputy Brian Stanley:** The Government is both subsidising and charging and it is still not fixing the leaks.

**The Tánaiste:** What we are proposing in the budget is to give workers tax relief, particularly in terms of the USC, and to have a separate system for paying for water at a very moderate rate of €60 net for a single person household and €160 for two adults or more. This has been an extremely difficult debate and I acknowledge that there are people vehemently opposed to the development of Irish Water but there are many people who have paid the charges. I congratulate the hundreds of thousands of families, individuals and households who have done so.

**Deputy Ruth Coppinger:** The Government bullied them into paying.

**Deputy Brian Stanley:** The Government intimidated them.

**The Tánaiste:** The billing cycle started relatively recently and I am very confident that people will pay for clean, reliable drinking water that serves their needs from industry to hospital to private home.

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**Deputy Mary Lou McDonald:** I am struck by the extent to which the Tánaiste has morphed into a Fine Gael mouthpiece. There is not a sliver of difference between her answer-----

**The Tánaiste:** At least I am not the mouthpiece of Deputy Adams.

**Deputy Robert Troy:** The Tánaiste is admitting, then, that she is the mouthpiece of Fine Gael.

**Deputy Mary Lou McDonald:** The Labour Party, led by the Tánaiste, which came to office on a platform of opposition to water charges for some very obvious reasons, not least that people had suffered so much by way of cutbacks and were struggling to get by, now staunchly defends the indefensible. The Labour Party and the Tánaiste stand shoulder to shoulder with the Taoiseach, Deputy Enda Kenny and tells people they really do not care what their view is, what their struggles are or what their difficulties are - they are going to stick with this unfair charge in any event. The financing model for this utility is now utterly undermined but the Tánaiste is in cloud cuckoo land on that score as well.

The subvention for Irish Water on the State balance sheet in 2015 is €810 million. Fewer than 50% of households have paid up and if the Tánaiste thinks that is going to improve she is wrong as it is not going to happen. Many people will not pay as a matter of principle, as they pay already and oppose moves towards privatisation, but a huge number of people simply cannot pay. This is not about whether or not Sinn Féin likes it, as the Tánaiste would have it. This opposition is beyond any political party or anything we have seen in recent times in this State.

**Deputy Noel Coonan:** Sinn Féin is like Syriza.

**Deputy Brian Stanley:** New Democracy is the Fine Gael crowd in Greece.

**Deputy Mary Lou McDonald:** The Tánaiste should listen to the people as she has promised to do and scrap this scheme. It is not working for the people or for the State's balance sheet. Would the Tánaiste prefer to blindly follow where Deputy Enda Kenny and his Blueshirt colleagues lead her, and insist on a policy that is clearly failing? She disregards lone parents, pickpockets them and leaves them struggling. She then delivers a homily in which she says it is only €3 per week but that does not add up for people who have to run their households. She is persisting with this even though she knows the damage it will do to individuals and families.

**The Tánaiste:** In the forthcoming budget the Government will have room for spending of between €1.2 billion and €1.5 billion. Given where the country has come from, the improvements in both last year's and next year's budget offer us an opportunity to assist everybody in this country.

**Deputy Dessie Ellis:** Did the Government assist lone parents?

**The Tánaiste:** More important, it will help us get more people back to work because the key to economic recovery is to get people back to work, either in jobs or in self-employment. There are some 4,000 involved in working directly or indirectly in the area of water services. Sinn Féin's proposal for water services is to throw those people out of a job and to bankrupt the provision of proper water services in this country.

**Deputy Brian Stanley:** Rubbish. This is Alice in Wonderland economics.

**The Tánaiste:** In the forthcoming budget the important thing is to see a shift in favour of

people at work or in self-employment with low or middle incomes and to use that for the economic growth that everybody in this country has worked so hard to create. The people have worked so hard to get the country out of the economic difficulties they have borne. We want a recovery dividend and an easing in income taxes on labour so that people, especially families with children, can work and have a lower burden.

We also want a well-structured service sector that provides for absolute essentials. I note that Deputy McDonald did not disagree with me that a good quality water service is essential in a modern economy, as is a good quality sewerage service. Deputy McDonald did not say this could be provided for nothing or magicked out of thin air. We have a strategy in the Labour Party.

**Deputy Mary Lou McDonald:** I am suggesting that the Government should stop screwing struggling families. That is my proposition to the Tánaiste.

**The Tánaiste:** We have a strategy in the forthcoming budget to put money back in the pockets of workers while building quality services.

**Deputy Jonathan O'Brien:** What about parents who work less than 19 hours?

**The Tánaiste:** Sinn Féin does not even seem to have an economic policy.

*(Interruptions).*

**The Tánaiste:** It does not have a water policy and it does not have a policy which will put money in workers' pockets and help them go back to work.

**Deputy Jonathan O'Brien:** The only policies the Tánaiste has are Fine Gael policies.

**The Tánaiste:** What does Sinn Féin want? It seems only to care about soundbites.

*(Interruptions).*

**Deputy Dessie Ellis:** The Government certainly is no friend of the Greeks. It never even tried to help them.

**The Tánaiste:** Sinn Féin has nothing of substance to say in this debate or any other debate.

*(Interruptions).*

**Deputy Pádraig Mac Lochlainn:** The Fine Gael Deputies are smiling over there. Their policies were implemented. It is only the Fine Gaelers who are smiling.

**Deputy Paul J. Connaughton:** It is summertime.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Order for Deputy Michael Fitzmaurice, please.

**Deputy Michael Fitzmaurice:** Over the past seven years, the people have struggled in many ways to come through the recession. Throughout Ireland, people struggle with mortgages. They are raising families in difficult situations. I saw a report which states grocery prices have gone up approximately 70%. People are struggling to send their kids to college. We have property tax. Elderly people will get 45 minutes of home help to get out of bed. County

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councils cannot take on new employees even though the number of employees they have has been decimated. We all know the state of the health service. Each one of us in this Dáil gets calls every day about the distress families are suffering. The Tánaiste told us earlier to look at where we have come from. She is right. Look at it. The kick in the teeth to the people is to be found in the reports in the media telling us that top politicians and former taoisigh will now get a couple of grand extra. They will end up with €136,000 to look out the window at home and smile at Ireland. Former Ministers will be looked after. Just imagine it. The rise they will get in their pensions equates to extra home care for three people. Some of them, including the Tánaiste, have said they will not accept it, which I acknowledge. However, that is not the way to go forward. Some of these people will give the State the two fingers. They will run for the hills with the money in their pockets. The Minister for Public Expenditure and Reform, Deputy Howlin, has been asked about this situation. What did he do? He put his hands in the air and asked what could he do.

When crises hit this country, the Government was prepared to bring in emergency legislation. We are legislators. We are here to solve the problems of the country. We cannot have a family home being repossessed. We cannot have banks closing in on families throughout the country and at the same time give €2,000 to the fat cats. I am not long a Member of the Dáil but I will ask the Tánaiste one thing. Will she answer me straight? I do not need an epitaph. I want straight answers. Does she agree with those increases in pensions? Will her Government legislate to stop this immediately? When will she bring in that legislation?

**Deputy Mary Lou McDonald:** The answer is never.

**The Tánaiste:** I thank the Deputy. First of all, in relation to the issue of local authorities hiring staff-----

**Deputy Michael Fitzmaurice:** We do not want to know about them.

**Deputy John Halligan:** Answer the question.

**Deputy Mattie McGrath:** Answer the question.

**The Tánaiste:** -----I am sure the Deputy is aware that his own county council in Galway, along with all the other county councils, have been sanctioned to hire more than 300 additional staff.

**Deputy Mattie McGrath:** We have not got one in Tipperary. Not one.

**Deputy Ann Phelan:** Deputy McGrath needs to speak to his county manager.

**The Tánaiste:** It is up to the county manager to apply. Some 300 additional staff have been sanctioned to provide for the planning, building and development of new homes and houses in all counties throughout Ireland-----

**Deputy John Halligan:** Answer the question.

**The Tánaiste:** -----as part of the Government's €3.5 billion investment in housing in this country. In case Deputy Fitzmaurice is not aware of the fact-----

**Deputy Mattie McGrath:** Answer the question.

**The Tánaiste:** -----I know from visiting Galway that Galway County Council has taken

on more staff. Those extra staff are in addition to the 1,800 or so additional teachers and the 600 additional special needs assistants who have been taken on throughout the country. The Deputy's suggestion that a recovery dividend is not being paid in terms of additional staff is wrong. While it is a few counties away from him, Deputy Fitzmaurice will probably know that Templemore, which was shuttered by the previous Government, is now home at any one time to 500 or 600 gardaí in training.

**Deputy John Halligan:** What has this got to do with the question he asked about the pensions? This is unreal. A specific question was asked but we cannot get an answer.

**Deputy Peter Mathews:** I have had enough. I am going to leave.

**Deputy Shane Ross:** Peter has had enough.

**Deputy Finian McGrath:** Peter could not take it any more. Even Peter walked out.

**The Tánaiste:** On the Lansdowne Road agreement and the emergency financial measures in the FEMPI legislation, the advice to the Minister, Deputy Howlin, has been that the FEMPI measures should be unwound as the Lansdowne Road deal comes to an end.

**Deputy Mattie McGrath:** The Government can cut the lone parents payment but it cannot cut payments to the fat cats.

**Deputy John Deasy:** Take it easy, Mattie.

**Deputy Mattie McGrath:** I will not take it easy. It is a fact.

**The Tánaiste:** As the House will be aware, a new deal is currently being negotiated and finalised with the trade unions. People on pensions in excess of €100,000 have rightly taken a pension deduction of 20% in the special levy on high level pensions. There is a significant deduction in existence at the moment, in respect of FEMPI, imposed on people who have very high pensions at more than €100,000.

Deputy Fitzmaurice referenced my personal view. If the Taoiseach of this country earns less than €200,000 and therefore might be in line for a pension of somewhat less than half of that, and the Taoiseach now earns significantly less than €200,000, I do not see why anyone in this country-----

**Deputy John Halligan:** One Minister living in America for the past five years is still getting his pension. He is not even living in Ireland.

**The Tánaiste:** -----who was paid out of public funds should earn a pension in excess of €100,000.

**Deputy Dessie Ellis:** What is the Tánaiste going to do about it?

**The Tánaiste:** However, the principal people in receipt of these sums are medical consultants who are very highly paid following a move initiated by the previous Government.

**Deputy Róisín Shortall:** It has been endorsed by this Government.

**The Tánaiste:** I have said it publicly and I will say it again. We have been legally advised that now that the financial emergency is over, thankfully, the FEMPI legislation should be un-

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wound in line with the restoration of, in particular, low-paid public servants' pay in respect of the cuts they took in terms of both actual cuts to their wages and additional levies in relation to pensions.

**Deputy Mary Lou McDonald:** Can we see that advice?

**The Tánaiste:** The same applied to low earning retired civil servants on pensions. I have made a suggestion-----

**Deputy Mattie McGrath:** Cut the lone parent's payment.

**The Tánaiste:** -----to the people involved who are fortunate enough. Some of these former Ministers and taoisigh earn more than serving Ministers and taoisigh or almost as much nowadays.

**Deputy Mattie McGrath:** Which is why they do not need it.

**Deputy John Halligan:** As I said, one is living in America. He is not even living in Ireland. Martin Cullen is living in America. He has been living there five years.

**The Tánaiste:** I think they should have the decency to offer-----

**Deputy Mattie McGrath:** Legislate.

**The Tánaiste:** -----to refund that pension increase to the State.

**Deputy Mattie McGrath:** They should not get it.

**The Tánaiste:** They should do it on a voluntary basis and they should acknowledge the strong level of pension they receive.

**Deputy Dessie Ellis:** They can claim it after a year or two. It will come back to them.

**The Tánaiste:** I do not see why they would need it. It would be an honourable gesture-----

**Deputy Mattie McGrath:** Like burning the bondholders.

**The Tánaiste:** -----to the State they served.

**Deputy John Halligan:** The Tánaiste is asking them to give it back but will not take it off them.

**The Tánaiste:** The State now contributes significantly to their pensions and comfort in retirement. They should refrain from accepting it.

**Deputy Michael Fitzmaurice:** I am not long in the Dáil but after listening to that waffle a person would lose the will to be here. The same ding-dong goes on every day. I look around me and no one answers a question straight. The fact is those politicians who are gone have given the two fingers to the State. We need to do something as legislators to stop what is going on. Go out on the ground and listen to the people. This is a problem with many politicians. The Government should listen to its backbenchers. In fairness to the backbenchers of all parties and none, behind the scenes they will say what is going on is a disgrace. Why does the Tánaiste not listen to the people on the ground who have made the sacrifices in the past six or seven years? Why does she not show an example as a leader or a deputy leader of a country, show the people

and give them the hope they need? They need to know there is someone at the top who will show the light, show the way and not keep with the same ding-dong with the fat cats of this country.

The Tánaiste should go around Ireland to the small and medium-sized businesses. She has talked about where we are now. We are €208 billion in debt. We are not out of the woods. The Tánaiste should go into every small town in this country. Small and medium-sized businesses are struggling and on their knees. They are keeping the door open and the light lit but I can tell the Tánaiste they will not have a holiday.

These people who have absconded and gone include ex-*taoisigh* and ex-ministers. Some of them are living outside the State. They do not give a damn. They are not worried about small business. The small businesses are what will bring Ireland back and make an Ireland of the future, not these people who have headed for the hills.

I do not accept that we could ask someone if they might give it back to us. That day is gone. As legislators, we need to sit down. Whatever the way, legally it can be done.

**Deputy Mattie McGrath:** Of course it can.

**Deputy Michael Fitzmaurice:** If we say it cannot be done, then we are giving up as a country.

I am appealing to the Tánaiste. Altogether, I think there would be support right around the House. We could work together and make sure this will not go on. There are senior civil servants who have retired on massive pensions as well. This cannot go on, when we see people struggling on €20,000, €30,000 and €40,000. They cannot send their children to college. They are the people who have pulled Ireland out of the coals, out of the fire. I appeal to the Tánaiste to reconsider what she is doing. We would work with the Government. I believe everyone in the House is disgusted with what has been said. I put it to the Tánaiste that legislation has to come in: if we need to come in during the holidays, let us do it. Let us go forward, show example and let the people see that there is some decency in politicians before they given up on us once and for all.

**The Tánaiste:** When this Government came into office the first thing we did was abolish a series of privileges which applied to politicians, in particular, to officeholders who served in government. We abolished all of the transition payments relating to retiring Ministers. Not only that, but Ministers and others who would serve henceforth received and took significant cuts in their salaries and in their future pension entitlements. In fact, for ordinary Deputies the future pension entitlements of those who came to serve recently apply from the age of 65 years. By the way, at the time, I did not see the Independent Members offering the €41,000 allowance that each of them get on a tax-free basis.

**Deputy John Halligan:** Yes we did.

**Deputy Paul Kehoe:** It is €40,000 a year.

**The Tánaiste:** I did not see them offering that.

**Deputy Catherine Murphy:** The Government parties get it as well.

**The Tánaiste:** I did not see them offering that.

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**Deputy Paul Kehoe:** They get €200,000 over five years.

**Deputy John Halligan:** The Government parties get millions.

**Deputy Paul Kehoe:** They get €200,000 over five years.

**Deputy Stephen S. Donnelly:** Government Members get €25 million.

**An Leas-Cheann Comhairle:** Excuse me, can we have order, please?

**Deputy John Halligan:** They get it free into their pockets.

**Deputy Paul Kehoe:** They get €200,000.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Can we have order, please?

**Deputy Paul Kehoe:** Will they give it back? Will they give back the €40,000?

*(Interruptions).*

**Deputy Stephen S. Donnelly:** I will swap Deputy Kehoe my €40,000 for his €25 million.

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

*(Interruptions).*

**The Tánaiste:** Perhaps Deputy Fitzmaurice might lead by example. Perhaps he does not take that particular payment.

*(Interruptions).*

**The Tánaiste:** Perhaps Deputy Fitzmaurice would lead or, in terms of his fellow Independent Deputies, address-----

*(Interruptions).*

**An Leas-Cheann Comhairle:** Sorry. This is Deputy Michael Fitzmaurice's question. Can we have order, please? Deputy Donnelly, please.

*(Interruptions).*

**Deputy John Halligan:** What is the Tánaiste going to do about it? The former Minister is off living in America. What is the Tánaiste going to do about the former Minister living in America who brought this country to its knees? He is laughing at this State in America.

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

*(Interruptions).*

**An Leas-Cheann Comhairle:** I have asked the Tánaiste to reply.

*(Interruptions).*

**An Leas-Cheann Comhairle:** Deputy Halligan, this is Deputy Fitzmaurice's question,

please. Deputy Fitzmaurice asked the question.

**The Tánaiste:** Deputy Fitzmaurice-----

**Deputy John Halligan:** He is on a golf course in America with a huge pension after wrecking this country. The pension is being sent out to America to him.

**An Leas-Cheann Comhairle:** Deputy Halligan, I do not know what you are talking about. I am going to have to suspend the House if we cannot have Deputy Fitzmaurice's question addressed.

**The Tánaiste:** Deputy Fitzmaurice said that he would support moves that "can legally be done" - that was the phrase he used. In that, he has used a very wise phrase, one with which I concur. This is because it is the same constitutional advice as has been given to the Government.

**Deputy Mattie McGrath:** Can we see it?

**Deputy Mary Lou McDonald:** Can we see the advice?

**The Tánaiste:** It is related to the financial emergency measures. The financial emergency period, thankfully, is over and is beginning to recede.

**Deputy Michael Fitzmaurice:** We are €208 billion in debt.

**The Tánaiste:** That is because of the sacrifices the people in Ireland have made. The legal advice to us, whether Deputies like it, is relevant. Deputy Fitzmaurice talked about what can be legally done. I accept the spirit in which he is making his proposal. However, he asked that we could see what can legally be done.

**Deputy Dessie Ellis:** Tax them.

**The Tánaiste:** I will certainly take it up again with the Attorney General. However, a range of legal advice suggests that a pension right is a particular right people have. It was reduced in the emergency for people on over €100,000 by 20% and upwards. It was reduced even more by this Government when we came into office for current and future officeholders and Members. That was agreed and it was legally okay.

**Deputy Michael Fitzmaurice:** Why not leave it reduced?

*(Interruptions).*

**An Leas-Cheann Comhairle:** This is Leaders' Questions, please.

**The Tánaiste:** At the moment according to the legal advice that is available to us, the recourse is that the people involved, whether they are in America sunning themselves, as Deputy Halligan has suggested-----

**Deputy John Halligan:** They are in America. He is in America.

**The Tánaiste:** Then, it behoves them and perhaps their former party members in the House - I am referring to the former party of government - to advise them that in the public interest they should actually not take what would be, in effect, some reduction in the level of reduction they are currently taking.

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**An Leas-Cheann Comhairle:** That concludes Leaders' Questions. I hope Deputy Fitzmaurice heard all that was said there; I could not.

### Order of Business

**The Tánaiste:** My God, we will miss them. They left very fast.

**Deputy Mattie McGrath:** We have not gone away, you know.

**The Tánaiste:** They actually have. They went out the door. They have gone away.

**Deputy Robert Troy:** Many of the Tánaiste's party have left as well.

**Deputy Kevin Humphreys:** They have gone. Deputy McGrath should go to Specsavers.

**The Tánaiste:** They left.

It is proposed to take No. 44, Civil Debt (Procedures) Bill 2015 - Report and Final Stages (resumed); No. 1*a*, Industrial Relations (Amendment) Bill 2015 - Amendments from the Seanad; No. 1*b*, Teaching Council (Amendment) Bill 2015 - Amendments from the Seanad; No. 16, motion re Appointment of a Member of the Garda Síochána Ombudsman Commission (back from committee); No. 7, Harbours Bill 2015 - Order for Second Stage and Second Stage, to adjourn at 5.50 p.m. today, if not previously concluded.

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 5.30 p.m. tonight and shall adjourn on the conclusion of Topical Issues, which shall take place not later than 5.50 p.m.; the resumed Report and Final Stages of No. 44 shall be taken today and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 1.30 p.m. by one question which shall be put from the Chair and which shall, in regard to amendments, include only those set down or accepted by the Minister for Justice and Equality; the proceedings on No. 1*a* shall, if not previously concluded, be brought to a conclusion at 2.30 p.m. and any amendments from the Seanad not disposed of shall be decided by one question, which shall be put from the Chair and which shall, in relation to amendments to the Seanad amendments, include only those set down or accepted by the Minister for Jobs, Enterprise and Innovation; the proceedings on No. 1*b* shall, if not previously concluded, be brought to a conclusion at 4.30 p.m. and any amendments from the Seanad not disposed of shall be decided by one question, which shall be put from the Chair and which shall, in relation to amendments to the Seanad amendments, include only those set down or accepted by the Minister for Education and Skills; the proceedings in relation to No. 16 shall, if not previously concluded, be brought to a conclusion after 20 minutes and the following arrangements shall apply: the speech of a Minister or Minister of State and of 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; and the Dáil on its rising today shall adjourn until Tuesday, 22 September 2015 at 2 p.m.

**An Leas-Cheann Comhairle:** There are six proposals to be put to the House today. Is the proposal for dealing with the late sitting agreed to? Agreed. Is the proposal for dealing with No. 44, Report and Final Stages of the Civil Debt (Procedures) Bill 2015, agreed to?

**Deputy Robert Troy:** It is not agreed. When the Government came to power, it promised a democratic revolution. We have just sat through 50 minutes of what could only be described

as verbal diarrhoea in which the Tánaiste refused to answer very basic questions.

**Deputy Bernard J. Durkan:** The Deputy should be ashamed of himself.

*(Interruptions).*

**Deputy Robert Troy:** Deputy Durkan is now going to add to that.

**Deputy Bernard J. Durkan:** The Deputy has a lot to learn.

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

**Deputy Robert Troy:** Once again, we have heard another broken promise.

**Deputy Mattie McGrath:** Shattered.

**Deputy Robert Troy:** The Government was going to abolish the guillotining of legislation, yet a very important Bill, which was debated this morning and on which there were numerous divisions called, is to be guillotined. The only way the Government feels it can get it through is by introducing a guillotine. It is wrong that the Government has broken a promise it made. For that reason, we oppose the guillotining of this Bill.

**Deputy Mary Lou McDonald:** We oppose the guillotining of important legislation but there is something especially cynical about guillotining this Bill, which has been rushed from start to finish. In its haste to get these matters through, the Government got the justice committee to sit last Friday, which was most unusual. It has allowed an hour or an hour and a half to scrutinise legislation that proposes attachment orders, court proceedings and the facility for the State to pickpocket people's wages, social welfare and pensions in respect of utility bills, but particularly in respect of water charges. That is what this is all about and everybody knows it. It is part of the last-ditch attempt to enforce a tax and a charge that has been comprehensively discredited and rejected. The Government's move today, as with last week, to ram it through is despicable and cynical. It is yet another attempt to frighten into paying what is an unjust and unfair tax those who struggle and for whom the Tánaiste once cared, or so she said. The cynicism of this, quite apart from the verbal diarrhoea or verbal constipation - one can take one's pick on that score - is stunning. It is sneaky and bad parliamentary practice, but it is much more than that. It is recognised outside this Chamber for exactly what it is: yet another episode in the Government's attempt to strong-arm people into coughing up a tax that is unfair, unjust and, for many families, unpayable.

**Deputy Ruth Coppinger:** On behalf of the Anti-Austerity Alliance and Socialist Party, I object to the guillotining of vital Bills, particularly the Civil Debt (Procedures) Bill. Yesterday, the deputy leader of the Labour Party told the nation on Sean O'Rourke's radio programme that he was beyond satisfied with the payment levels and that there were enforcement mechanisms being considered in the Dáil that would sort it all out. Now we have found out that after this discussion ends, we will have approximately 20 minutes in which to discuss the legislation. This is incredible. In this Dáil session, the pattern has been one of democracy being completely upended and of the Government failing even to bother taking any note of the institutions it set up itself. Last night, for example, the Seanad overturned the Tánaiste's proposal to the cut lone parents benefits. What has she to say about that? She has not opened her mouth about it. I voted to abolish the Seanad because I believe it is a waste of space and its Members are unelected, but the people spoke. I have not heard a peep out of the Tánaiste about what happened in the

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Seanad last night. We are to finish today at 6.30 p.m. although this issue has not even been addressed. When are we going to discuss it and the Civil Debt (Procedures) Bill?

The Tánaiste advertised on social media using the phrase “Ask Joan”. However, when anyone ever asks her anything in here, she waffles on and ignores it. “Ask Joan” is right. She never answers any questions and makes no time for the key issues. This will increase the cynicism of people about politics. The Tánaiste is ignoring the fact that she has no mandate on water charges. She got her answer yesterday and I predict the rate of non-payment will increase now as others gain confidence.

On the issue of lone parents, there is lasting bitterness for which the Tánaiste will pay the price.

**An Leas-Cheann Comhairle:** We are on the proposal on the Civil Debt (Procedures) Bill.

**Deputy Ruth Coppinger:** The Tánaiste has turned a deaf ear throughout this session to the escalating housing crisis, particularly in her constituency, which has the youngest population and the highest number of renters. She is not doing anything about it.

**An Leas-Cheann Comhairle:** That is a different issue. I call the Tánaiste on the proposal on the Civil Debt (Procedures) Bill.

**The Tánaiste:** It sounds from the contributions of some people that they probably need a little bit of a rest from this House.

**Deputy Robert Troy:** A lot of Members on the other side will get a permanent rest when they go to the country.

**Deputy Ruth Coppinger:** We certainly do.

**The Tánaiste:** However, if anybody should want to stay here throughout August, I will be happy to have the Fianna Fáil Members come in and we will sit here, if necessary. I presume that is what Fianna Fáil might support. I am happy to stay here right through the summer period. However, I will be working next week and the week after to get people in my constituency and every other constituency back to work-----

**Deputy Ruth Coppinger:** It is a race against time.

**The Tánaiste:** -----and get young people into apprenticeships and put more money into people’s pockets.

**Deputy Ruth Coppinger:** What about JobBridge?

**Deputy Robert Troy:** This legislation is about taking money out of their pockets.

**The Tánaiste:** We are reforming and reducing the universal social charge and other taxes so people can have a higher standard of living. It seems that the Deputies opposite do not want people to do better or to go back to work. We do, however. Our mandate is to put more money into people’s pockets and increase their standard of living.

**Deputy Ruth Coppinger:** That is why we are saying they should not pay the water charges-----

**The Tánaiste:** An aspect of achieving a better standard of living involves improving water supplies and sewerage infrastructure.

This legislation implements the report of the Law Reform Commission and, among other things, ends the practice of imprisoning people for ordinary debt, a practice that dates from Dickensian times. I am happy that in a reforming Dáil like this, we are bringing such a practice to an end.

**Deputy Paul Murphy:** Pick a pocket or two.

**The Tánaiste:** For that reason, I commend the reform-----

**Deputy Ruth Coppinger:** Twenty minutes left.

**The Tánaiste:** -----and all the other reforms that the Government has made in this session of the Dáil.

**Deputy Peter Fitzpatrick:** Hear, hear.

**Deputy Bernard J. Durkan:** Hear, hear.

1 o'clock

Question put: "That the proposal for dealing with No. 44 be agreed to."

<i>The Dáil divided: Tá, 65; Níl, 35.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Boyd Barrett, Richard.</i>
<i>Barry, Tom.</i>	<i>Broughan, Thomas P.</i>
<i>Burton, Joan.</i>	<i>Collins, Joan.</i>
<i>Butler, Ray.</i>	<i>Collins, Niall.</i>
<i>Buttimer, Jerry.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Coppinger, Ruth.</i>
<i>Byrne, Eric.</i>	<i>Creighton, Lucinda.</i>
<i>Carey, Joe.</i>	<i>Dooley, Timmy.</i>
<i>Coffey, Paudie.</i>	<i>Ellis, Dessie.</i>
<i>Conaghan, Michael.</i>	<i>Fitzmaurice, Michael.</i>
<i>Connaughton, Paul J.</i>	<i>Flanagan, Terence.</i>
<i>Coonan, Noel.</i>	<i>Fleming, Tom.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Halligan, John.</i>
<i>Costello, Joe.</i>	<i>Healy, Seamus.</i>
<i>Creed, Michael.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deasy, John.</i>	<i>McConologue, Charlie.</i>
<i>Deenihan, Jimmy.</i>	<i>McDonald, Mary Lou.</i>
<i>Deering, Pat.</i>	<i>McGrath, Finian.</i>
<i>Doherty, Regina.</i>	<i>McGrath, Mattie.</i>
<i>Dowds, Robert.</i>	<i>McLellan, Sandra.</i>
<i>Doyle, Andrew.</i>	<i>Martin, Micheál.</i>

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<i>Durkan, Bernard J.</i>	<i>Mathews, Peter.</i>
<i>English, Damien.</i>	<i>Murphy, Paul.</i>
<i>Farrell, Alan.</i>	<i>Naughten, Denis.</i>
<i>Feighan, Frank.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Ferris, Anne.</i>	<i>Ó Fearghail, Seán.</i>
<i>Fitzgerald, Frances.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Fitzpatrick, Peter.</i>	<i>O'Brien, Jonathan.</i>
<i>Gilmore, Eamon.</i>	<i>O'Sullivan, Maureen.</i>
<i>Griffin, Brendan.</i>	<i>Pringle, Thomas.</i>
<i>Harrington, Noel.</i>	<i>Ross, Shane.</i>
<i>Heydon, Martin.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Kevin.</i>	<i>Stanley, Brian.</i>
<i>Keating, Derek.</i>	<i>Tóibín, Peadar.</i>
<i>Kehoe, Paul.</i>	<i>Troy, Robert.</i>
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McNamara, Michael.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	

<i>White, Alex.</i>	
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Tellers: Tá, Deputies Joe Carey and Emmet Stagg; Níl, Deputies Mary Lou McDonald and Pádraig Mac Lochlainn.

Question declared carried.

**An Leas-Cheann Comhairle:** Is the proposal for dealing with No. 1a, Industrial Relations (Amendment) Bill - Amendments from the Seanad, agreed to? Agreed. Is the proposal for dealing with No. 1b, Teaching Council (Amendment) Bill 2015 - Amendments from the Seanad, agreed to? Agreed. Is the proposal for dealing with No. 16, motion re appointment of a member of the Garda Síochána Ombudsman Commission, agreed to? Agreed. Is the proposal that the Dáil, on its rising today, shall adjourn until 2 p.m. on Tuesday, 22 September 2015, agreed to? Agreed.

Members who wish to have conversations should conduct them outside the Chamber.

### **Referendum (Amendment) Bill 2015: First Stage**

**Deputy Pádraig Mac Lochlainn:** I move:

That leave be granted to introduce a Bill entitled an Act to amend the Referendum Act 1994 to provide for a time frame within which the Courts must ordinarily hear and make a finding on a referendum petition and related matters.

On 22 May the people of Ireland expressed their democratic will and voted overwhelmingly in favour of marriage equality. However, it appears that the will of the people may be subject to indefinite delay as the courts deal with a petition challenging the outcome of the referendum. While it is the right of a citizen to initiate such a petition, this is not the first time a petition challenging the outcome of a referendum has resulted in a lengthy delay for citizens in being afforded the protection of their newly recognised rights. The children's rights referendum was passed on 10 November 2012, but the High Court only reached a decision on 24 April this year on the petition lodged, a delay of two and a half years. A further example is the delay experienced following the divorce referendum when a petition challenging the result caused a delay of six months. Delays in implementing the democratic will of the people, as expressed in a referendum, are not acceptable.

The current legislation only stipulates that the courts must deal with petitions as a matter of priority. This is not adequate, as the courts are not adhering to this provision. We all know that the system is clogged, but when constitutional rights and newly decided referenda decisions are impacted on, extraordinary measures must be available and priority status accorded. The Bill seeks to amend the Referendum Act 1994 to provide that the High Court would ordinarily make a finding on such a petition within 90 days of it being heard. It further seeks to provide that where such a finding is challenged by way of appeal, the Supreme Court would endeavour

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to make a finding on a petition no later than 90 days from the date on which the appeal was lodged. This would give the courts a clear timeframe within which to deal with any petition, while retaining the necessary flexibility required by the administration of justice.

The intention of the Bill is to send a clear message to citizens, including our friends in the LGBT community, that we have not forgotten about them. When the people speak, the State must listen. There is nothing that can trump the democratic will of the people. The arms of the State must, at all times, protect it above all else. We cannot allow a situation where legal delays impact on a citizen's hard fought for rights. That is why we are asking the Government to support the Bill to bring such delays to an end.

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

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** 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 Pádraig Mac Lochlainn:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### **Banded Hours Contract Bill 2015: First Stage**

**Deputy Peadar Tóibín:** I move:

That leave be granted to introduce a Bill entitled an Act to provide for banded hour contracts, the right for a worker to request increased hours and a corresponding obligation on an employer to consider such a request, to permit refusal only on objectively justified grounds and an obligation on employers to provide information to workers on the overall working hours available in the employment.

This Bill seeks to provide that a worker or his or her trade union representative, or a representative acting on his or her behalf, is entitled, after six months of continuous employment with his or her employer, to make a request in writing of the employer to be moved to an increased weekly band of hours, as set out in the legislation. Under the existing legislation, Protection of Employees (Part-Time Work) Act, there is no obligation on an employer to consider such a request.

The Bill provides that the employer must comply or set out that it is not economically feasible. The employer must demonstrate that the business is experiencing severe financial difficulties such that there would be a substantial risk that the workers would be made redundant if the hours were granted, the sustainability of the business would be adversely affected or the business could not sustain the increased level of hours. In the event that a worker disagrees with the employer's refusal on the grounds set out in the legislation, the complaints procedure would be through the Workplace Relations Commission. The Bill also includes an obligation on the employer to inform all employees on the overall availability of working hours by dis-

playing this information in a prominent position in the place of employment.

People may ask why this legislation is necessary. The Mandate trade union has successfully negotiated banded hours contracts with a number of large employers. These employers have engaged constructively with the State's industrial relations mechanisms. However, some extremely profitable employers will not do so. Mandate's "Decency for Dunnes Stores Workers" campaign and the accompanying dispute sets out in stark terms why this legislation is necessary. As Dunnes Stores and other employers take a very different approach to the rights of their employees, we, as legislators, have an obligation to provide alternative ways to facilitate the relationship between employers and their staff or the trade unions that represent the employees. We are looking for a level of equilibrium whereby decent employers can function within society and also whereby workers can seek to have their hours increased in a very gentle fashion over time. Under this legislation it would take about two and a half years for a worker to have his or her working hours increased to the maximum amount.

A survey published by the Mandate trade union earlier this year found that three quarters of Dunnes Stores staff were on part-time contracts and yet 98% wanted increased hours. This is not about flexibility around the edges of a functioning business. This is a business built on a system of low-hours contracts. It is simply unjustifiable for employers to keep the bulk of their staff on part-time flexible contracts as it pushes these people into poverty and into a position where they cannot plan for their families. It creates undue hardship as mothers struggle to deal with child care arrangements and families cannot be sure of what they will earn from one end of the month to the other.

Anyone who has run a business will say that the Dunnes Stores model has nothing to do with seasonal staffing needs and everything to do with leverage over employees, in other words being able to say to an employee, "Shape up or we'll cut your hours. Change your behaviour, attitude and everything about you or we'll change your hours." It is exploitation, pure and simple. The model undermines good businesses because it gives a competitive advantage to those who exploit. Decent terms and conditions result in good business because they create a productive workforce and allow that workforce to spend and engage in the real economy.

As legislators, we have a responsibility to the wider economy and of course society to intervene in such practices. It is beyond time for the Labour Party to take an active role in ensuring that basic employment rights are upheld. It is important to note that the recently introduced industrial relations legislation merely restates what was there before while offering some level of compliance by the State with recent judgments of the European Court of Human Rights on collective bargaining. The Labour Party has not championed the rights of workers during its recent term in office. I hope, as the general election approaches, it might rectify this.

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

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** 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 Peadar Tóibín:** I move: "That the Bill be taken in Private Members' time."

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Question put and agreed to.

### **Coroners (Amendment) Bill 2015 [‘Jake’s Amendment’]: First Stage**

**Deputy Pádraig Mac Lochlainn:** I move:

That leave be granted to introduce a Bill entitled an Act to amend the Act of 1962 to provide for a verdict of Iatrogenic Suicide and related matters.

This Bill is to be known as “Jake’s Amendment”. On 20 March 2013, shortly after being prescribed the antidepressant, Prozac, 14 year old Jake McGill Lynch ended his own life using a firearm. Jake, who was diagnosed with Asperger’s syndrome, was given the antidepressant drug despite research stating the drug has no benefit for children with Asperger’s syndrome and despite the emerging evidence of harm.

In the midst of their grief, Jake’s parents have come to understand that their personal tragedy is one that has been shared by thousands of families whose loved ones have died as a result of antidepressant-induced suicide. I welcome Jake’s parents, John and Stefani, to the Visitors Gallery today. They have worked tirelessly to bring attention to this issue and to campaign for a change to the law. Their request is simple. They want the Coroners Act to be amended in order that a coroner can return a verdict of iatrogenic - medically induced - suicide where such is the case. It is an issue that must be highlighted. A verdict of suicide, returned in accordance with the provisions of the 1962 Act, must be differentiated from a verdict of iatrogenic suicide. Iatrogenic suicide is the ending of one’s own life where the effect of medical treatment undertaken by the deceased, including any prescribed medication, is the primary cause of such an action.

We understand that the publishing of this Bill is symbolic. It is obvious that the Coroners Act 1962 is no longer fit for purpose and should be repealed and replaced with an amended version of the Coroners Bill 2007 as a matter of priority. The amended version of the 2007 Bill should contain a comprehensive list of verdicts open for a coroner or a jury, as the case may be, to return. When it is finally amended, this list should provide for a verdict of iatrogenic suicide to be made.

I hope the Government will support this Bill.

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

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** 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 Pádraig Mac Lochlainn:** I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.

**Civil Debt (Procedures) Bill 2015: Report Stage (Resumed) and Final Stage**

Debate resumed on amendment No. 10:

In page 6, between lines 32 and 33 to insert the following:

“relevant total amount” means in relation to a relevant order, the total amount specified in the order as being payable under the order to the judgment creditor concerned;”.

-(Minister for Justice and Equality)

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** The definition of judgment debt already covers the costs associated with getting a judgment against the debt in the first place. The Bill as drafted does not make it sufficiently clear that the costs which relate to an application for an attachment of earnings order or a deduction from payments order can be included in the order the court makes under section 10 or section 16. The Parliamentary Counsel has examined the text again and has advised that the approach in these amendments is clearer. Costs are usually claimed in respect of the recovery of debts. The costs schedules are set out in the rules of court as per normal practice.

**Deputy Paul Murphy:** I object to the increased clarity about how the costs will be awarded against the so-called debtor in this circumstance, for example, a person who has chosen not to pay his or her water charges over a period of years. We do not think we will get there but that is our reason for objecting.

I also object to the fact the Bill will be guillotined in a couple of minutes. All the Opposition amendments were ruled out of order. We have had no discussion on most of this important legislation which only completed Second Stage last Friday. This is not the way to do any sort of democratic politics. It is in line with the incredible Garda presence yesterday for quite a small protest outside Leinster House. It shows the attempt to just ram things through. It is a bullying approach that will not work, as illustrated by the figures. However, it should be registered that none of it has anything in common with the idea of a democratic revolution and respecting democratic rules in this Dáil or outside it.

**An Leas-Cheann Comhairle:** As it is now 1.30 p.m. I am required to put the following question in accordance with an order of the Dáil on this day: “That the amendments set down by the Minister for Justice and Equality and not disposed of, including those in respect of which recommittal would in the normal course be required, are hereby made to the Bill, Report Stage is hereby completed and the Bill is hereby passed.”

Question put:

<i>The Dáil divided: Tá, 62; Níl, 35.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Barry, Tom.</i>	<i>Aylward, Bobby.</i>
<i>Butler, Ray.</i>	<i>Boyd Barrett, Richard.</i>
<i>Buttimer, Jerry.</i>	<i>Broughan, Thomas P.</i>
<i>Byrne, Catherine.</i>	<i>Calleary, Dara.</i>
<i>Byrne, Eric.</i>	<i>Collins, Joan.</i>

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<i>Carey, Joe.</i>	<i>Collins, Niall.</i>
<i>Coffey, Paudie.</i>	<i>Colreavy, Michael.</i>
<i>Conaghan, Michael.</i>	<i>Coppinger, Ruth.</i>
<i>Connaughton, Paul J.</i>	<i>Creighton, Lucinda.</i>
<i>Coonan, Noel.</i>	<i>Ellis, Dessie.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Fitzmaurice, Michael.</i>
<i>Costello, Joe.</i>	<i>Fleming, Tom.</i>
<i>Creed, Michael.</i>	<i>Halligan, John.</i>
<i>Deasy, John.</i>	<i>Healy, Seamus.</i>
<i>Deenihan, Jimmy.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deering, Pat.</i>	<i>McConalogue, Charlie.</i>
<i>Doherty, Regina.</i>	<i>McDonald, Mary Lou.</i>
<i>Dowds, Robert.</i>	<i>McGrath, Finian.</i>
<i>Doyle, Andrew.</i>	<i>McGrath, Mattie.</i>
<i>Durkan, Bernard J.</i>	<i>McLellan, Sandra.</i>
<i>English, Damien.</i>	<i>Martin, Micheál.</i>
<i>Farrell, Alan.</i>	<i>Murphy, Paul.</i>
<i>Feighan, Frank.</i>	<i>Naughten, Denis.</i>
<i>Ferris, Anne.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Fitzgerald, Frances.</i>	<i>Ó Fearghail, Seán.</i>
<i>Fitzpatrick, Peter.</i>	<i>O'Brien, Jonathan.</i>
<i>Gilmore, Eamon.</i>	<i>O'Sullivan, Maureen.</i>
<i>Griffin, Brendan.</i>	<i>Pringle, Thomas.</i>
<i>Harrington, Noel.</i>	<i>Ross, Shane.</i>
<i>Heydon, Martin.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Kevin.</i>	<i>Stanley, Brian.</i>
<i>Keating, Derek.</i>	<i>Timmins, Billy.</i>
<i>Kehoe, Paul.</i>	<i>Tóibín, Peadar.</i>
<i>Kenny, Seán.</i>	<i>Troy, Robert.</i>
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McNamara, Michael.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	

<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Pádraig Mac Lochlainn and Paul Murphy.

Question declared carried.

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** In accordance Standing Order 140, I would be obliged if the Leas-Cheann Comhairle would direct the Clerk to make the following minor drafting corrections to the text of the Bill: on page 9, line 21, to remove “or” at the end of the line - this was inserted by amendment 24 today; on page 14, line 2, to insert a comma after “or” to now read “or, as the case may be . . .”; and on page 20, line 30, the removal of a closing bracket that appears after the word “certificate” - this text was inserted by amendment No. 70 on Report Stage. These changes are being made in the interests of textual clarity and do not affect any substantive amendments.

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

### **Industrial Relations (Amendment) Bill 2015: From the Seanad**

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

Seanad amendment No. 1:

Section 4: In page 6, to delete line 14 and substitute the following:

“(b) paragraphs (d), (e) and (f) of subsection (1) of section 23 of the Act of 1990;”.

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Damien English):** This is a technical amendment. It removes references in section 23(1) of the Industrial Relations Act 1990 to an officer of a vocational education committee and an officer of a school attendance board. These amendments arise from an amendment agreed on Report Stage in this House, which amends a reference in section 23(1) from “a member of staff of an

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education and training board” to “a teacher employed by an education and training board”.

**Deputy Peadar Tóibín:** Nílimid chun dul in aghaidh na leasuithe seo ar chor ar bith. Tá géarchéim ag titim amach ag an móimint san earnáil tógála agus in earnálacha eile sa tír seo agus caithfidh dul ar aghaidh leis an mBille agus na leasuithe seo chomh luath agus is féidir.

Seanad amendment agreed to.

**Acting Chairman (Deputy Seán Kenny):** Amendments Nos. 2 and 3 are cognate and may be discussed together.

Seanad amendment No. 2:

Section 43: In page 32, to delete lines 22 to 29 and substitute the following:

“(a) (i) the production of animals, including the production of meat and other animal produce intended for human consumption,

(ii) the sorting and packing of meat and other animal produce, and

(iii) the production, sorting, and packing of crops, including fruit and vegetables, intended for human or animal consumption,

on farm land (within the meaning of section 664 of the Taxes Consolidation Act 1997), and

(b) horticulture, including market gardening, garden nurseries and nursery grounds;”.

**Deputy Damien English:** Sections 43 and 46 were introduced on Report Stage in this House. Section 43 provides for an amendment to the definition of “Agriculture” in the Industrial Relations Act 1976, for the purposes of giving effect to the Labour Court recommendation on the scope of the agriculture JLC, arising from the 2013 review undertaken by the court of all existing joint labour committees.

In addition, section 46 amends the original establishment order for the agriculture JLC to reflect the new definition in section 43. However, there is a possibility that the new definition of “agriculture” may inadvertently be construed as including meat processing plants within the scope of the agriculture JLC. However, it was the clear intention of the Labour Court recommendation that the definition the scope the agriculture JLC and any ERO emerging from that committee would just cover workers on a farming establishment. Accordingly, an amendment to the definition of “agriculture” in section 43 is necessary to remove any doubt in this regard. A corresponding amendment to section 46, which itself amends the original establishment order for the agriculture JLC, is also required.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 46: In page 33, to delete lines 26 to 33 and substitute the following:

“(a) (i) the production of animals, including the production of meat and other animal produce intended for human consumption,

(ii) the sorting and packing of meat and other animal produce, and

(iii) the production, sorting, and packing of crops, including fruit and vegetables, intended for human or animal consumption,

on farm land (within the meaning of section 664 of the Taxes Consolidation Act 1997), and

(b) horticulture, including market gardening, garden nurseries and nursery grounds;”.”.

Seanad amendment agreed to.

**Deputy Dara Calleary:** In the earlier debate on the Bill, I did not get a chance to pay tribute to the officials. A huge amount of legislation on workplace relations has gone through in recent months. I know that enormous work went on in the Department, both by the officials and, to be fair, by the Minister of State, Deputy Nash. I am grateful to the officials in the workplace relations unit for the huge amount of work they have done in recent months.

**Deputy Peadar Tóibín:** Gabhaim mo bhuíochas le foireann an Aire sa Roinn maidir leis an méid oibre atá déanta acu sa Bhille seo. Tá céim chun tosaigh déanta ag an Rialtas anseo. Bhí easpa struchtúir ann ó thaobh na hoibrithe sna hearnálacha sin agus le linn trí no ceithre bhliain anuas tá titim le feiceáil ina dtuarastal agus sna conditions atá acu. Caithfidimid an struchtúr a chur isteach chomh luath agus is féidir chun go mbeidh ardú ann sa tuarastal agus ó thaobh na conditions freisin.

Theip ar an Rialtas an deis a bhí acu chun rudaí a dhéanamh níos fearr do na daoine sin. Is mór an trua nach bhfuil an Rialtas láidir go leor nuair a bhaineann sé le collective bargaining agus nuair atáimid ag caint faoin Coimisiún um Pá Íseal agus go leor rudaí eile a bhaineann le cúrsaí oibrithe sa tír seo. Ní cheapaim go mbeidh an deis céanna arís ag an Rialtas le fada. Is trua nár thóg siad an deis seo nuair a bhí an seans acu.

**Deputy Joe Costello:** Gabhaim mo chomhghairdeas leis an Aire agus leis an Aire Stáit, an Teachta Nash, maidir leis an mBille seo. This is one of the most far-reaching pieces of legislation we have seen in the House in many a long year. There is now collective bargaining, whereas in the past a company could have decided not to deal with a trade union. This issue dates back to 1913, prior to the foundation of the State, when Jim Larkin led the Lockout. Employers now have to engage with workers.

It is also extremely important that once again we have registered employment agreements which had been struck down by the Supreme Court. They affect some of the most vulnerable in society. This was a major consideration for the trade union movement when negotiating on the issue of Aer Lingus.

Although the Low Pay Commission is not referred to in the Bill, it is very much part of the package. The legislation has gone through and the first report is due, I believe, in a week's time or thereabouts. We can now talk about raising the minimum wage and having a living wage. We can look at matters in that context.

This package of proposals is a huge step forward in industrial relations. It will ensure proper pay and conditions and decent standards of work to a much greater degree than in the past. I pay full tribute to all those involved in producing the Bill, including the civil servants and the Ministers of State, Deputies Damien English and Gerald Nash. It is welcome that it was prioritised in the programme for Government.

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Seanad amendments reported.

**Acting Chairman (Deputy Seán Kenny):** Agreement to the Seanad amendments is reported to the House. A message will be sent to Seanad Éireann acquainting it accordingly.

### **Teaching Council (Amendment) Bill 2015: From the Seanad**

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

**Acting Chairman (Deputy Seán Kenny):** Seanad amendments Nos. 1, 2, 11 to 14, inclusive, 23, 24 and 38 are related and will be discussed together.

Seanad amendment No. 1:

Section 2: In page 3, between lines 16 and 17, to insert the following:

“ ‘Act of 2015’ means the *Teaching Council (Amendment) Act 2015*;”.

**Minister of State at the Department of Education and Skills (Deputy Damien English):** These are minor technical amendments to ensure consistency of language throughout the Bill when referring to the Act of 2015. They replace references to the Bill when enacted as the Teaching Council (Amendment) Act 2015 with the “Act of 2015”.

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 2: In page 3, lines 24 and 25, to delete “*Teaching Council (Amendment) Act 2015*” and substitute “*Act of 2015*”.

Seanad amendment agreed to.

**Acting Chairman (Deputy Seán Kenny):** Seanad amendments Nos. 3, 41 and 45 to 49, inclusive, are related and will be discussed together.

Seanad amendment No. 3:

Section 2: In page 4, between lines 14 and 15, to insert the following:

“(ii) by the substitution of the following definition for the definition of “panel”:

“ ‘panel’ means a panel of the Disciplinary Committee established under section 43(3);”.

**Deputy Damien English:** Seanad Amendment No. 41 provides for the holding of an inquiry under section 43 by a panel of the disciplinary committee where the investigating committee has determined that there is a *prima facie* case to answer, following a complaint to the council about a registered teacher. This is a redraft of section 43 to make clear the steps and processes involved in an inquiry and the responsibilities of the disciplinary committee and panels. The various avenues for conducting or completing inquiries are also set out.

In summary, the disciplinary committee will write to the teacher informing him or her of the

nature of the complaint, including evidence supporting it, and an opportunity for him or her to request that the matter be investigated by way of an examination of documents. If a hearing is to be held, the teacher will be informed that he or she, or his or her representative, may be present to defend himself or herself at the hearing and that he or she may request that some or all of the hearing be held in private. The inquiry will be carried out by a panel of the disciplinary committee, consisting of three to five persons, the majority of whom will be registered teachers. At the request of the teacher, the panel may agree to hold the inquiry by way of consideration of documents and written submissions only, that is, in place of a hearing.

Having considered the complaint, the panel may request the teacher to do one or more of the following and before a hearing takes place: to undertake not to repeat the conduct; to undertake to attend a specified professional development course or such other course as the panel considers appropriate; to undertake to comply with such requirements as may be specified for the purposes of improving his or her competence and performance; to consent to seek the assistance of such services relating to health and welfare as may be specified; or to consent to being censured.

Where a registered teacher gives the type of undertaking I have just outlined, the inquiry will be completed. However, where a registered teacher does not give an undertaking in these matters, the inquiry will continue as if the request had not been made by the panel.

A hearing, if required, will be held in public by default, unless the teacher or a witness, about whom personal matters may be disclosed at the inquiry, requests that all or part of the hearing be held in private and the panel is satisfied that it would be appropriate in the circumstances to do so. At the hearing the director, or any other person with leave of the panel, will present evidence in support of the complaint. Witnesses will give testimony on oath and there will be the right to cross-examine witnesses and call evidence. The panel will be able to receive evidence given orally, by affidavit or other means such as video link. It will have the powers, rights and privileges vested in the High Court in respect of enforcing the attendance of witnesses and their examination on oath or otherwise and can compel the production of documents. A witness will have the same immunities and privileges as if he or she were a witness before the High Court.

For the purposes of the inquiry, a panel may, in accordance with the provisions of the new section 43A, consider information in a vetting disclosure and any submission made on that disclosure. I will outline the provisions of section 43A when dealing with amendment No. 42.

On completion of an inquiry, the panel may make no finding and dismiss the complaint. Otherwise, it will produce a report setting out the nature of the complaint, the evidence considered, the measures where a teacher has given an undertaking, where appropriate, and the panel's findings. In addition, where the complaint relates to the conviction of a teacher for an offence triable on indictment, the panel must report whether the findings affect his or her fitness to teach. It will also report any other matter it considers appropriate.

Under the Bill, the Teaching Council may make a complaint under section 42 where it has received a vetting disclosure giving rise to a *bona fide* concern that a teacher may harm a child or vulnerable person, cause a child or vulnerable person to be harmed, put a child or vulnerable person at risk of harm, attempt to harm a child or vulnerable person, or incite another person to harm a child or vulnerable person. In such circumstances, where the panel is satisfied that there is a risk, in its report it will specify the nature of the information disclosed in the vetting disclosure, the evidence, its assessment of the risk and its conclusion in respect of that risk. Where it is not satisfied that there is a risk, it may dismiss the complaint.

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Where a complaint is dismissed, the complainant, the teacher concerned, such other persons as he or she may request and his or her employer will be informed. At the request of the teacher, the panel will publish a notice to that effect.

The amendment involves the deletion of section 17 of the Bill which also provided for amendments to the provisions for an inquiry. However, amendment No. 41 is more comprehensive than section 17 in the original Bill.

Amendment No. 45 amends section 44 of the Act and provides that it is the panel, rather than the full disciplinary committee, which, having completed its report, will determine what measures, if any, are to be taken to sanction a teacher. The original Bill provided for the full disciplinary committee to have this function.

*2 o'clock*

The amendment ensures consistency between sections 43 and 44 and this approach has been taken on foot of legal advice received by the Department.

Amendment No. 3 is a technical amendment consequent to amendment No. 41, which replaces subsection (43). Amendments Nos. 46 to 49, inclusive, replace the term “disciplinary committee” with “panel”. The purpose of the amendments is to ensure consistency of language in section 44 of the principal Act, as amended, which provides that it is the panel and not the disciplinary committee which determines what measures, if any, are to be taken to sanction a teacher following the panel’s report.

Seanad amendment agreed to.

Seanad amendment No. 4:

Section 3: In page 4, to delete lines 25 to 30 and substitute the following:

“(a) in subsection (2)—

(i) by the insertion of the following paragraph after paragraph (b):

“(ba) obtain or receive vetting disclosures for the purposes set out in this Act, for the purpose of its role as a relevant organisation or for the purpose of its role as a relevant organisation representing another relevant organisation for the purposes of the vetting procedures under the Act of 2012;”

and

(ii) by the substitution of the following paragraph for paragraph (n):

“(n) act as a competent authority within the meaning of Regulation 2(1) of the Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations 2008 (S.I. No. 139 of 2008);”

**Deputy Damien English:** This is a technical amendment to update the 2001 Act’s reference to the EU directive on the mutual recognition of qualifications to the relevant directive that is now in place.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 3: In page 5, to delete lines 3 to 5 and substitute the following:

“(a) in paragraph (c)—

(i) by the substitution of the following subparagraph for subparagraph (iii):

“(iii) Marino Institute of Education;”,

and

(ii) by the substitution of the following subparagraph for subparagraph (iv):

“(iv) National University of Ireland, Maynooth;”,

**Deputy Damien English:** This is a technical amendment updating the name of the Marino Institute of Education into the 2001 Act.

Seanad amendment agreed to.

**Acting Chairman (Deputy Seán Kenny):** Amendments Nos. 6, 8 and 51 are related and will be discussed together.

Seanad amendment No. 6:

Section 5: In page 5, between lines 19 and 20, to insert the following:

**“Amendment of section 24 of Principal Act**

**5.** Section 24 of the Principal Act is amended—

(a) by the insertion of the following subsection after subsection (2):

“(2A) The Disciplinary Committee shall, for the purpose of carrying out its function under section 43(1), sit in divisions of itself (each division in this Act referred to as a ‘panel’) established under subsection (3) of that section.”,

and

(b) in subsection (6), by the substitution of “(other than the Executive Committee or Investigating Committee)” for “(other than the Executive Committee, Investigating Committee or Disciplinary Committee)”.

**Deputy Damien English:** Amendment No. 6 is to enable the disciplinary committee, for the purpose of carrying out a fitness to teach inquiry, to sit in divisions of itself and where each division is to be referred to as a “panel”. The 2001 Act already provided that panels would conduct inquiries on behalf of the disciplinary committee and the revised wording strengthens references in the Act to the role of the panels.

Section 28 of the principal Act provides for membership of the disciplinary committee. Amendment No. 8 removes the provisions in that section that the director will be secretary to the disciplinary committee and that the chairperson of the Teaching Council will be a member and chairperson of the disciplinary committee. These changes are proposed on foot of legal

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advice received by the Department on the separation of duties in terms of governance roles and the conduct of disciplinary inquiries. The legal advice indicates that it is more appropriate that the chair of the council would not be a member of the disciplinary committee.

Amendment No. 8 also proposes that the council selects eight, rather than seven, of its members who are registered teachers elected to the council or nominated by trade unions to make up the disciplinary committee. The number is being increased to make up for the removal of the chairperson as a member of the committee.

Amendment No. 51 amends section 44(2)(a) of the Bill, as amended in the Dáil, and provides that the disciplinary committee, rather than the director, advises relevant parties of the decision of a disciplinary panel following an inquiry. This is consistent with the removal of the requirement for the director to act as secretary to the committee.

Seanad amendment agreed to.

**Acting Chairman (Deputy Seán Kenny):** Amendments Nos. 7, 30, 33, 34, 36, 39 and 40 are related and will be discussed together.

Seanad amendment No. 7:

Section 5: In page 5, between lines 19 and 20, to insert the following:

**“Amendment of section 27 of Principal Act**

6. Section 27 of the Principal Act is amended by the repeal of subsection (4).”.

**Deputy Damien English:** Amendments Nos. 7, 30, 33, 34, 36, 39 and 40, as proposed, serve to remove references to the director as secretary to the investigating committee. There is no legal need for the director to act as secretary to the investigating committee. Removing this requirement will afford the Teaching Council more flexibility in how it manages its operation of the fitness to teach processes, including in relation to the allocation of staff to support the work of the investigating committee. This also frees up the director to be the presenting officer for cases, which is a more appropriate role.

Seanad amendment agreed to.

Seanad amendment No. 8:

Section 5: In page 5, between lines 19 and 20, to insert the following:

**“Amendment of section 28 of Principal Act**

7. Section 28 of the Principal Act is amended—

(a) in subsection (2)—

(i) by the deletion of paragraph (a), and

(ii) in paragraph (b), by the substitution of “8 members” for “7 members”,

and

(b) by the repeal of subsection (3) and subsection (4).”.

Seanad amendment agreed to.

Seanad amendment No. 9:

Section 5: In page 5, to delete lines 23 to 32 and substitute the following:

“(i) by the substitution of “in respect of each person who is registered or is entitled to be registered” for “in respect of each person entitled to be registered”,

(ii) by the substitution of the following subparagraph for subparagraph (iv):

“(iv) whether the registration is subject to conditions under section 31 (amended by *section 7 of the Act of 2015*), section 33 (amended by *section 11\* of the Act of 2015*) or section 44 (amended by *section 18 of the Act of 2015*);”,

(iii) by the substitution of the following subparagraph for subparagraph (vii):

“(vii) name and address of employer if known to the Council;”,

(iv) by the substitution of the following subparagraph for subparagraph (x):

“(x) the findings of any disciplinary proceedings under Part 5, including any measures confirmed by a panel under section 44(1A), and the period for which such information shall remain on the register;”,

and

(v) by the insertion of the following subparagraph after subparagraph (x):

“(xi) the information disclosed by the most recent vetting disclosure in the possession of the Council in respect of the person;”,

**Deputy Damien English:** Section 29 of the principal Act provides for the establishment and maintenance of the register of teachers. The purpose of this amendment is to update section 29 in relation to entering on the register details of each person who is registered or is entitled to be registered, as opposed to only each person entitled to be registered, to make clear that the provision relates to teachers who are applying for renewal of registration as well as initial registration.

It also makes consistent the reference in the Act in relation to whether the registration is subject to conditions under various sections, such as conditions that may be applied at initial registration stage and so on.

The amendment to the Bill provides that where the council prescribes the information to be included in the register, such information shall, in addition to the information set out in the Bill and the Act currently, include the name and address of employer if known to the council; the findings of any disciplinary proceedings under Part 5, including any measures confirmed by a panel under section 44(1A); and the period for which such information shall remain on the register. These updates are important so that the register can provide comprehensive information on a teacher’s registration status.

Seanad amendment agreed to.

**Acting Chairman (Deputy Seán Kenny):** Amendments Nos. 10, 15 to 18, inclusive and

20 to 22, inclusive, are related and will be discussed together.

Seanad amendment No. 10:

Section 6: In page 6, line 10, to delete “Act of 1998” and substitute “Act of 1998, subsection (22) of section 33 (amended by *section 11* of the *Act of 2015*)”.

**Deputy Damien English:** The amendments are technical and consequential amendments arising from amendment No. 16. Amendment No. 16 substitutes the existing section 33 of the 2001 Act, which relates to renewal of registration. The Bill as initiated made a number of amendments to section 33 of the 2001 Act. Further amendments to section 33 were made on both Dáil Committee Stage, Seanad Committee Stage and on Seanad Report Stage. The substituted section 33 incorporates all amendments made to section 33 to date under the Bill. It sets out the entire provisions of the amended section 33, making it more coherent and easier to follow.

The Bill as initiated amended section 33 to provide, *inter alia*, for revised text in relation to the powers of the Teaching Council to make regulations for the purpose of renewal of registration and to also make provision for retrospective vetting and re-vetting arrangements for registered teachers in the context of renewal of their registration.

Further amendments to section 33 were made on Dáil Committee Stage. These included amendments clarifying the requirements on the council in relation to notifying a teacher in writing where it intends to seek a vetting disclosure for the purposes of his or her renewal of registration, clarifying the requirements in relation to the council making a decision to refuse renewal of registration on foot of its assessment of a vetting disclosure, providing for a certificate of registration to be issued to teachers, and making clear that where registration is renewed subject to conditions, a timeline may be set within which such conditions must be met.

In addition, on Seanad Committee Stage, amendments were made to section 33 to clarify further the Bill’s wording in relation to the requirements on a teacher in relation to complying with a vetting request within the required timeframe.

Seanad Report Stage amendments, including minor technical and wording changes arising from proofing the Bill, have now also been incorporated in the substituted section 33. In that regard, on Seanad Report Stage provision has been made that in exceptional circumstances where, notwithstanding that a registered teacher has co-operated with a vetting requirement in the context of the annual renewal of his or her registration, a vetting disclosure has not been received from the vetting bureau prior to the expiry of the teacher’s registration, or it has been received but there has been insufficient time for the council to obtain and consider any submissions required in respect of that disclosure, the person shall remain on the register until such time as a decision on that person’s renewal is made by the council having regard to the disclosure received and any submissions submitted by the person as appropriate.

This is subject to the council making a decision in respect of that person’s registration within 21 days after the receipt of the disclosure concerned or where the disclosure contains information of relevance to that person’s registration, the council having invited submissions from the person within 21 days of receipt of that disclosure and making a decision in respect of that person’s registration within 21 days of receipt of such submissions.

Subsection 15 of the substituted section 33 also now provides that where a person has not

complied with a vetting request for renewal of registration purposes, before the council makes a decision in relation to that person's renewal, the teacher will be offered an opportunity to make submissions to the council as to why he or she did not comply and that the council will consider such submissions before making a decision in respect of that person's registration.

Where the council is not satisfied that there are reasonable grounds for the person not complying with the vetting request, the council shall refuse to register that person. The council may, however, renew the person's registration where the teacher has satisfied the council that there were reasonable grounds for not complying with the vetting request, and having considered any further submissions from the teacher. These provisions ensure a teacher who has a valid and genuine reason for not complying within the required timeframe with a vetting request, perhaps due to incapacity or other exceptional circumstances, is not unfairly removed from the register.

The substituted section 33 also clarifies that where a teacher appeals the council's decision to the High Court, the teacher will remain on the register during the period of appeal. The only exception to this will be where the Teaching Council, where it considers it to be in the public interest, has successfully applied to the High Court for an order to suspend the teacher from the register under section 47. In such cases, the High Court will, where the teacher is employed in a recognised school, determine whether or not the teacher continues to be remunerated out of moneys provided by the Oireachtas.

Section 33, as amended, now provides also that, following a High Court decision on an appeal, a teacher or the Teaching Council can make a further appeal to the Court of Appeal on a specified question of law. In such a case, the relevant court shall also, where the teacher is employed in a recognised school, determine whether the teacher continues to be remunerated out of moneys provided by the Oireachtas. Seanad amendment No. 10 updates section 30 of the 2001 Act to cross reference the new subsection 22 of section 33 arising from amendment number 16. Seanad amendment No. 15 is a consequential amendment to section 9 of the Bill, also arising from amendment No. 16. Section 9 of the Bill inserted a new section 31A into the principal Act placing a requirement on a person to provide his or her consent to vetting at initial registration or where he or she is requested by the council to do so, for the purposes of renewal of his or her registration. Under Seanad amendment No. 16, those provisions in respect of a teacher's compliance with a vetting request for renewal of registration purposes are being expanded and incorporated into section 33 and are therefore being removed from section 9. Seanad amendments Nos. 17, 18, and 20 to 22, inclusive, are also technical amendments necessary to re-number existing references in the Bill to section 33 on foot of amendment No. 16.

Seanad amendment agreed to.

Seanad amendment No. 11:

Section 6: In page 6, line 11, to delete "*Teaching Council (Amendment) Act 2015*" and substitute "*Act of 2015*".

Seanad amendment agreed to.

Seanad amendment No. 12:

Section 6: In page 6, lines 12 and 13, to delete "*Teaching Council (Amendment) Act 2015*" and substitute "*Act of 2015*".

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Seanad amendment agreed to.

Seanad amendment No. 13:

Section 7: In page 7, lines 15 and 16, to delete “*Teaching Council (Amendment) Act 2015*” and substitute “*Act of 2015*”.

Seanad amendment agreed to.

Seanad amendment No. 14:

Section 7: In page 7, lines 39 and 40, to delete “*Teaching Council (Amendment) Act 2015*” and substitute “*Act of 2015*”.

Seanad amendment agreed to.

Seanad amendment No. 15:

Section 9: In page 8, to delete lines 23 to 27 and substitute the following:

“**31A.** Where a person applies for registration under section 31”.

Seanad amendment agreed to.

Seanad amendment No. 16:

Section 11: In page 9, to delete lines 1 to 40, to delete pages 10 to 12, and in page 13, to delete lines 1 to 21 and substitute the following:

**“Renewal of registration**

**11.** The Principal Act is amended by the substitution of the following section for section 33 (amended by section 9 of the Education (Amendment) Act 2012):

**“Renewal of registration**

**33.** (1) Subject to subsection (13), registration shall be valid for 12 months from the date of registration.

(2) The Council may make regulations for the purposes of renewal of registration of registered teachers which shall provide for, but not necessarily be limited to, all or any of the following:

(a) the form and manner in which an application for renewal shall be made;

(b) the documentary and other evidence which the Council may request for the purposes of determining an application for renewal of registration;

(c) the documentary and other evidence which the Council may request to enable the Council to satisfy itself, for the purposes of subsection (8), that a registered teacher is a fit and proper person to have his or her registration renewed;

(d) any other requirements to be met for renewal of registration which may include requirements relating to—

(i) satisfactory completion of programmes of continuing education and training accredited under section 39,

(ii) teaching experience, or

(iii) medical fitness.

(3) A registered teacher may apply for renewal of his or her registration under this section for a further period of 12 months.

(4) (a) Subject to paragraph (b), an application for renewal of registration shall be made before the expiration of the period of validity of registration and the application shall be accompanied by the renewal fee.

(b) Where, in accordance with subsection (5), the Council notifies a registered teacher that it intends to seek a vetting disclosure in respect of him or her for the purposes of renewing his or her registration, the teacher shall comply with that notice within the period referred to in paragraph (d) of that subsection.

(5) (a) The Council may seek a vetting disclosure in respect of a registered teacher for the purposes of renewing the registration of the teacher in accordance with this section.

(b) The Council shall notify a registered teacher in writing where the Council intends to seek a vetting disclosure in respect of the registered teacher under paragraph (a) and the notice shall—

(i) request the registered teacher to provide the Council with a declaration of consent (within the meaning of the Act of 2012) and any other information specified in the notice which is required by the Council to enable it to obtain a vetting disclosure in respect of that teacher,

(ii) specify the time period within which the registered teacher shall comply with a request under subparagraph (i) and the form and manner in which the information requested under that subparagraph shall be furnished,

(iii) advise the registered teacher that the Council intends to consider the vetting disclosure for the purpose of determining if he or she is a fit and proper person, in accordance with subsection (8), to have his or her registration renewed upon his or her next renewal under this section,

(iv) advise the registered teacher that the Council may refuse to renew the registration of that teacher under this section if he or she fails to comply with the request under subparagraph (i) within the time period specified under subparagraph (ii) and the Council has not been in a position to make a determination that he or she is a fit and proper person to have his or her registration renewed, and

(v) advise the registered teacher that the Council may, having regard to the information contained in the vetting disclosure, where it is satisfied that it is in the public interest to do so, apply to the High Court under section 47 for an order that during the period specified in the order his or her registration shall be suspended.

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(c) A notice issued under paragraph (b) shall be issued—

(i) not earlier than 10 months prior to the date of expiration of the period of validity of registration of that teacher, or

(ii) within such lesser period as the Minister may direct in respect of all notifications made to registered teachers under that paragraph.

(d) A notice from the Council under paragraph (b) shall specify the period within which the notice shall be complied with, which period shall be the same in respect of all registered teachers to whom a notice is issued in accordance with this subsection.

(6) In considering whether to seek a vetting disclosure under subsection (5) in respect of a registered teacher, the Council shall have regard to—

(a) whether a GCVU disclosure has previously been received by the Council in respect of that teacher,

(b) where a GCVU disclosure has previously been received by the Council in respect of that teacher, the period of time which has elapsed since the last GCVU disclosure was received by the Council in respect of that teacher,

(c) whether a vetting disclosure has previously been received by the Council in respect of that teacher,

(d) where a vetting disclosure has previously been received by the Council in respect of that teacher, the period of time which has elapsed since the last vetting disclosure was received by the Council in respect of that teacher, and

(e) where the Council has previously considered a vetting disclosure in respect of a teacher for the purposes of registration or renewal of registration under this Act, any periods prescribed under section 20 of the Act of 2012.

(7) Where the Council seeks a vetting disclosure under subsection (5) in respect of a registered teacher and the disclosure contains specified information which relates to conduct of the teacher which occurred prior to the coming into operation of *section 11\** of the *Act of 2015*, the Council may not consider that information for the purposes of subsection (8) unless the conduct concerned would have constituted a criminal offence at the time the conduct occurred.

(8) Where the Council receives a vetting disclosure under this section in respect of a registered teacher the Council shall, for the purpose of satisfying itself that the registered teacher is a fit and proper person to have his or her registration renewed, consider—

(a) subject to subsection (7), the information contained in the disclosure,

(b) any submissions made by the registered teacher under subsection (9), and

(c) any documentary and other evidence submitted by that registered teacher to the Council in accordance with requirements (if any) prescribed under subsection (2)(c).

(9) Subject to subsection (14)(b), where a vetting disclosure received by the Council

under this section in respect of a registered teacher contains information referred to in section 14(4)(a) of the Act of 2012 and the Council considers the information in that disclosure is of relevance to its consideration as to whether the teacher is a fit and proper person to have his or her registration renewed under this section, the Council shall notify that teacher accordingly and invite him or her to make submissions in writing to it in relation to that disclosure within such period as is specified in the notice.

(10) The Council may seek evidence from the registered teacher, or any other relevant person, to verify any of the information submitted by the registered teacher for the purposes of renewal of registration in accordance with this section.

(11) The term of a renewal of registration shall take effect from the expiration of the previous registration.

(12) On receipt of an application for renewal of registration and the prescribed fee, the Council shall, as soon as practicable, send to the registered teacher a receipt stating that the fee has been received.

(13) Where, in exceptional circumstances, notwithstanding that a registered teacher has complied with a notice under subsection (5)(b) within the time specified in the notice, the Council has—

(a) not received a vetting disclosure in respect of that teacher before the expiration of the period of validity of that teacher's registration, or

(b) received a vetting disclosure to which subsection (9) applies but does not have sufficient time before the expiration of the period of validity of that teacher's registration to seek submissions referred to in that subsection,

that teacher's name shall not be removed from the register until the Council makes a decision under subsection (16) in accordance with subsection (14).

(14) (a) Where a vetting disclosure referred to in paragraph (a) of subsection (13) is received and the disclosure does not contain information referred to in subsection (9), the Council shall make a decision under subsection (16) within 21 days of receipt of that disclosure.

(b) Where—

(i) a vetting disclosure referred to in paragraph (a) of subsection (13) is received and the disclosure contains information referred to in subsection (9), or

(ii) paragraph (b) of subsection (13) applies,

the Council shall within 21 days of receipt of that disclosure, notify the registered teacher in accordance with subsection (9) and the period specified in the notice referred to in that subsection shall be 21 days and the Council shall make a decision under subsection (16) within 21 days after the expiration of the period for the making of submissions by that teacher.

(15) (a) Where a registered teacher fails to comply with a request under subparagraph (i) of a notice under subsection (5)(b) within the time specified in that notice, the

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Council shall notify the teacher in writing that the Council may refuse to renew that teacher's registration in accordance with subsection (16)(a)(iii) and that teacher may, within such time period as may be specified in the notice, make submissions in writing to the Council in relation to that failure.

(b) The Council shall consider submissions (if any) made by a teacher under paragraph (a) and where the Council is satisfied that there are reasonable grounds for the teacher's failure to comply with that notice, the Council shall notify the teacher in writing that the Council may refuse to register the teacher in accordance with section 16(a)(iii) and that the teacher may make submissions and include with such submissions any information which he or she considers relevant to the Council's determination under subsection (16)(a)(iii).

(16) The Council—

(a) may refuse to renew the registration of a person where—

(i) he or she does not satisfy the requirements for renewal of registration prescribed under subsection (2),

(ii) at the time the Council makes its decision, the person—

(I) stands removed from the register under Part 5 and is not eligible to apply to be restored to the register under section 31, or

(II) stands suspended from the register under Part 5 and the period of suspension has not expired,

or

(iii) the registered teacher fails to comply with the notice under subsection (5) (b) within the time specified in the notice, and having considered the submissions and information (if any) submitted under subsection (15)(b), the Council has not been in a position to determine if that registered teacher is a fit and proper person to have his or her registration renewed,

(b) shall refuse to renew the registration of the registered teacher where—

(i) the Council receives a vetting disclosure in respect of a registered teacher under this section and is not satisfied, in accordance with subsection (8), that the registered teacher is a fit and proper person to have his or her registration renewed, or

(ii) the Council is not satisfied that the teacher has provided reasonable grounds for his or her failure to comply with a request under subparagraph (i) of a notice under subsection (5) (b),

or

(c) may renew the registration of a registered teacher subject to such conditions (if any) as the Council considers appropriate and such conditions shall be complied with within such period as may be specified by the Council.

(17) A receipt issued by the Council under subsection (12), and a certificate issued by it under subsection (24), shall, without proof of the signature of the person purporting to sign the receipt or certificate or that such person was the proper person so to sign, be evidence in any legal proceedings that, as the case may be, the payment was made or the registration was renewed for the period specified in the certificate, unless the contrary is shown.

(18) Where the Council makes a decision under subsection (16)—

(a) to refuse to renew the registration of a person, or

(b) to renew the registration of a person subject to conditions, the Council shall, within 21 days of making the decision, inform the person, by notice in writing, of the decision, the reason for the decision and the rights of the person under subsection (19).

(19) A person may, within 21 days of the date of service of a notice under subsection (18), apply to the High Court for annulment of the decision concerned and the Court, on hearing the application, may—

(a) confirm the decision of the Council,

(b) annul the decision of the Council and as the Court considers appropriate—

(i) direct the Council to renew the registration of the person with or without conditions, as the case may be, or

(ii) direct the Council to make a further decision,

(c) vary the decision of the Council, or

(d) give such other directions to the Council as the Court considers appropriate, and the Court may make such order as to costs as it considers appropriate.

(20) Subject to any order that may be made by the High Court under section 47 suspending the registration of a teacher, where a teacher brings an application under subsection (19) within the time period specified in that subsection, that teacher shall remain on the register until the High Council makes a decision under that section.

(21) By leave of the High Court or the Court of Appeal, an appeal by the Council or the teacher concerned from a decision of the High Court under subsection (19) shall lie to the Court of Appeal on a point of law.

(22) Where—

(a) the decision of the High Court under subsection (19) results in a registered teacher being removed from the register,

(b) the High Court or the Court of Appeal grants leave to a teacher under subsection (21) to appeal a decision of the High Court to the Court of Appeal on a point of law,

(c) at the date of the grant of leave the teacher is employed as a teacher in a recog-

nised school, and

(d) that teacher is remunerated in respect of his or her employment out of moneys provided by the Oireachtas,

the High Court or the Court of Appeal, as the case may be, shall at the same time as it grants such leave to appeal direct whether that teacher shall continue to be remunerated pursuant to his or her contract of employment out of moneys provided by the Oireachtas pending the determination of that appeal.

(23) A direction of the High Court or the Court of Appeal under subsection (22) that a teacher shall continue to be remunerated shall be subject to such terms and be for such period as the High Court or the Court of Appeal considers appropriate.

(24) When renewal of registration has been completed the Council shall issue to the registered teacher a certificate of registration in such form and manner and containing such information as the Council may prescribe.”.”.

Seanad amendment agreed to.

Seanad amendment No. 17:

Section 12: In page 13, line 27, to delete “section 33(7)(c)” and substitute “section 33(16)(c)”.

Seanad amendment agreed to.

Seanad amendment No. 18:

Section 12: In page 13, line 37, to delete “section 33(10)(b)” and substitute “section 33(19)(b)”.

Seanad amendment agreed to.

Seanad amendment No. 19:

Section 13: In page 13, between lines 37 and 38, to insert the following:

**“Sharing of information in a vetting disclosure obtained under section 33**

**13.** The Principal Act is amended by the insertion of the following section after section 33A (inserted by *section 12*):

**“Sharing of information in a vetting disclosure obtained under section 33**

**33B.** (1) Subject to this section, the Council may provide the employer of a registered teacher with information contained in a vetting disclosure received by the Council for the purposes of the renewal of teacher’s registration under section 33 where—

(a) the Council considers that the information in that disclosure is of such a nature as to give rise to a *bona fide* concern that the teacher may—

(i) harm any child or vulnerable person,

- (ii) cause any child or vulnerable person to be harmed,
  - (iii) put any child or vulnerable person at risk of harm,
  - (iv) attempt to harm any child or vulnerable person, or
  - (v) incite another person to harm any child or vulnerable person,
- and

(b) the identity of the employer of that teacher is known to the Council.

(2) Where the Council proposes to provide the employer of a registered teacher with information contained in a vetting disclosure under subsection (1), it shall notify the teacher in writing accordingly and invite him or her to make submissions in writing to it in relation to that proposal within such period as is specified in the notice.

(3) The Council shall consider submissions (if any) made by a registered teacher under subsection (2) before making a decision under subsection (1) to provide the employer of that teacher with the information contained in a vetting disclosure referred to in subsection (1).”.”.

**Deputy Damien English:** The purpose of this provision is to enable the Teaching Council, where it has received a vetting disclosure in respect of a registered teacher for the purposes of the renewal of his or her registration and information in that disclosure gives rise to a bona fide child protection concern, to provide that information to the employer of the teacher, where that employer is known to the council. The amendment provides that before making a decision to provide such information to an employer, the council shall notify the teacher in writing and invite him or her to make submissions within a specified period and that any submissions received shall be considered by the council.

Seanad amendment agreed to.

Seanad amendment No. 20:

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

“under subsection (16) of section 33 (amended by *section 11\** of the *Teaching Council (Amendment) Act 2015*) of the Principal Act.”.

Seanad amendment agreed to.

Seanad amendment No. 21:

Section 14: In page 14, lines 21 and 22, to delete “subsection (4A)” and substitute “subsection (5)”.

Seanad amendment agreed to.

Seanad amendment No. 22:

Section 14: In page 14, line 23, to delete “subsection (4A)” and substitute “subsection (5)”.

Seanad amendment agreed to.

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Seanad amendment No. 23:

Section 14: In page 14, lines 28 and 29, to delete “*Teaching Council (Amendment) Act 2015*” and substitute “*Act of 2015*”.

Seanad amendment agreed to.

Seanad amendment No. 24:

Section 15: In page 15, lines 1 and 2, to delete “*Teaching Council (Amendment) Act 2015*” and substitute “*Act of 2015*”.

Seanad amendment agreed to.

Seanad amendment No. 25:

Section 16: In page 15, to delete lines 29 to 32 and substitute the following:

“(g) that he or she has been convicted in the State of an offence triable on indictment or convicted outside the State of an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment;

(h) that he or she has failed to comply with an undertaking or to take any action specified in a consent given in response to a request under section 43(6).”.

**Deputy Damien English:** The purpose of this provision is to provide for non-compliance with an undertaking given by a registered teacher following an inquiry by the disciplinary committee under section 43 of the Act, as an additional reason for complaint under section 42, inquiry by investigating committee. If a teacher has agreed to measures as part of an inquiry it makes sense that non-compliance with the measures can be followed up. This is the same structure as applies for other regulators. Section 42(1)(g), dealing with conviction for an offence, is already in the Bill.

Seanad amendment agreed to.

**Acting Chairman (Deputy Terence Flanagan):** Amendments Nos. 26 to 29, inclusive, 31, 32 and 37 are related and may be discussed together.

Seanad amendment No. 26:

Section 16: In page 16, between lines 26 and 27, to insert the following:

“(1E) The Council may make a complaint to the Investigating Committee under subsection (1)(g) in respect of a registered teacher on the basis of information contained in a vetting disclosure received by the Council on behalf of another relevant organisation the Council represents for the purpose of vetting procedures under the Act of 2012.”.

**Deputy Damien English:** Section 16 of the Bill amends section 42 of the 2001 Act. That section sets out the grounds on which complaints about registered teachers may be made and the role and processes to be followed by the director and the investigating committee in respect of such complaints. Subsection (1D) of section 42 as amended by the Bill provides that the council may make a complaint to the investigating committee where a vetting disclosure, obtained in its conduit role for school employers, gives rise to a bona fide child protection con-

cern. Amendment No. 26 inserts a new subsection (1E) into section 42 which makes clear that the council may also make a complaint to the investigating committee, under the existing provisions of section 42(1)(g), where a disclosure obtained in its conduit role contains information in relation to a criminal conviction. Under the Bill as it stands, section 42(1)(g) provides that a complaint may be made in respect of a registered teacher on the grounds “that he or she has been convicted in the State of an offence triable on indictment or convicted outside the State of an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment”. Amendment No. 26 makes clear that such a complaint may be made by the council where a vetting disclosure obtained in its conduit role for school employers contains information about a conviction of this nature.

Amendments Nos. 27 and 28 are technical amendments to revise numbering following inclusion of amendment No. 26. Amendments Nos. 29, 32 and 37 are also linked to amendment No. 26. Amendment No. 29 makes clear that where the council, in accordance with the relevant provisions of the Bill, makes a complaint in respect of information contained in a vetting disclosure that it has obtained in its conduit role, the council shall provide the director with a copy of the vetting disclosure concerned and shall indicate the information within that disclosure which grounds the complaint. Amendment No. 31 is a technical amendment creating the link necessary for the provisions of amendment No. 32 to be inserted in the Bill. Amendment No. 32 makes clear that the director may, in the case of such complaints and for the purpose of considering whether to refuse or to refer such a complaint to the investigating committee, consider the information in the disclosure in so far as it relates to the complaint in question.

Amendment No. 37 replaces subsection (7) of section 43, as amended by this Bill, with revised wording to incorporate additional provisions that set out more comprehensively the requirements on the investigating committee when dealing with such complaints. This new subsection (7) has been amended to provide that in addition to providing the teacher concerned with a copy of the complaint and other information and documentation accompanying the complaint, the investigating committee shall provide a copy of the vetting disclosure to the teacher concerned where the complaint has been made by the council in relation to information in that disclosure and for the teacher to be invited to make submissions in respect of that vetting disclosure. This amendment also makes clear that the investigating committee may consider the information in a disclosure insofar as that information relates to the complaint made by the council and any submissions made in relation to that disclosure.

Seanad amendment agreed to.

Seanad amendment No. 27:

Section 16: In page 16, line 27, to delete “(IE) A complaint made” and substitute “(1F) A complaint made”.

Seanad amendment agreed to.

Seanad amendment No. 28:

Section 16: In page 16, line 29, to delete “(1F) A complaint made” and substitute “(1G) A complaint made”.

Seanad amendment agreed to.

Seanad amendment No. 29:

Section 16: In page 16, line 38, to delete “complaint.” and substitute the following:

“complaint, including—

(i) in the case of a complaint made under subsection (1D), a copy of the vetting disclosure referred to in that subsection and confirmation of the information contained in that disclosure which grounds the complaint under that subsection, and

(ii) in the case of a complaint made under subsection (1)(g) to which subsection (1E) applies, a copy of the vetting disclosure referred to in subsection (1E) and confirmation of the information contained in the disclosure which grounds the complaint under subsection (1)(g).”.

Seanad amendment agreed to.

Seanad amendment No. 30:

Section 16: In page 17, to delete lines 1 to 3 and substitute the following:

“(i) to substitute the following for paragraph (a):

“(a) Subject to paragraph (b), the Director shall refer all complaints made under subsection (1) or subsection (1D) to the Investigating Committee.”.

Seanad amendment agreed to.

Seanad amendment No. 31:

Section 16: In page 17, line 8, to delete “occurs,” and substitute the following:

“occurs,

and”.

Seanad amendment agreed to.

Seanad amendment No. 32:

Section 16: In page 17, between lines 8 and 9, to insert the following:

“(iii) by the insertion of the following paragraph after paragraph (b):

“(c) For the purposes of considering whether to refuse to refer a complaint under paragraph (b), the Director may—

(i) in the case of a complaint made under subsection (1D), consider the information contained in the vetting disclosure in so far as the information grounds the complaint under, and in accordance with, that subsection, and

(ii) in the case of a complaint made under subsection (1)(g) to which subsection (1E) applies, consider the information contained in the vetting disclosure in so far as the information grounds the complaint under subsection (1)(g).”.

Seanad amendment agreed to.

Seanad amendment No. 33:

Section 16: In page 17, line 28, to delete “the Director” and substitute “the Investigating Committee”.

Seanad amendment agreed to.

Seanad amendment No. 34:

Section 16: In page 18, line 4, to delete “the Director” and substitute “the Investigating Committee”.

Seanad amendment agreed to.

Seanad amendment No. 35:

Section 16: In page 18, to delete lines 28 to 31 and substitute the following:

“(ii) in paragraph (b)—

(I) by the substitution of “a complaint” for “an application or appeal”,

(II) by the substitution of “the complaint” for “the application or appeal” in each place it occurs, and

(III) by the deletion of subparagraph (iii).”.

**Deputy Damien English:** Amendment No. 35 is a technical amendment required on foot of amendments on Dáil Committee Stage to take account of changes in terminology. In this regard, the Bill refers to a “complaint” under section 42 whereas the 2001 Act referred to an “application” or “appeal”. It also deletes the provision at section 42(5)(b)(iii) of the Act that the investigating committee shall refuse to consider a complaint where there is insufficient evidence to warrant an investigation. The purpose of this change is to guard against the danger that a complaint must be refused, even if of a serious nature, where there is little evidence available or where it is not straightforward to determine if it is sufficient. It would not be desirable for a situation to develop where there was a danger that a complaint might have to be abandoned before an informed decision could be made on whether it merited an inquiry.

Seanad amendment agreed to.

Seanad amendment No. 36:

Section 16: In page 18, to delete lines 32 to 34 and substitute the following:

“(h) by the substitution of the following subsection for subsection (6):

“(6) Where the Investigating Committee refuses under paragraph (b) of subsection (5) to consider a complaint referred to in paragraph (a) of that subsection, the Investigating Committee shall, within 21 days of such refusal, by notice in writing inform the complainant of its decision to refuse and the reasons for that decision.”.

Seanad amendment agreed to.

Seanad amendment No. 37:

Section 16: In page 18, to delete lines 35 and 36 and substitute the following:

“(i) by the substitution of the following subsection for subsection (7):

“(7) (a) Where the Investigating Committee decides to hold an inquiry, the Investigating Committee shall, within 21 days of making the decision, provide the registered teacher with—

(i) a copy of the complaint and any documents and information accompanying the complaint including, in the case of a complaint made under subsection (1D) or a complaint made under subsection (1)(g) to which subsection (1E) applies, a copy of the vetting disclosure referred to in subsection (1D) or (1E), as the case may be, and confirmation of the information contained in that disclosure which grounds the complaint under subsection (1D) or subsection (1)(g), as the case may be, and

(ii) a notice stating that the registered teacher may make submissions in writing to the Investigating Committee within such time period as is specified in the notice, including submissions in relation to a vetting disclosure (if any) provided in accordance with subparagraph (i).

(b) The Investigating Committee shall consider submissions (if any) made by the registered teacher concerned pursuant to paragraph (a)(ii).

(c) The Investigating Committee may consider—

(i) in the case of a complaint made under subsection (1D), the information contained in the vetting disclosure in so far as that information grounds the complaint under, and in accordance with, that subsection, and

(ii) in the case of a complaint made under subsection (1)(g) to which subsection (1E) applies, the information contained in the vetting disclosure in so far as the information grounds the complaint under subsection (1)(g).”.

Seanad amendment agreed to.

Seanad amendment No. 38:

Section 16: In page 19, lines 26 and 27, to delete “*Teaching Council (Amendment) Act 2015*” and substitute “*Act of 2015*”.

Seanad amendment agreed to.

Seanad amendment No. 39:

Section 16: In page 21, to delete line 10 and substitute “Committee.”.

Seanad amendment agreed to.

Seanad amendment No. 40:

Section 16: In page 21, to delete lines 11 to 15 and substitute the following:

“(n) in subsection (10)—

(i) by the substitution of “The Investigating Committee shall, within 21 days of making a decision under subsection (9)” for “The Director shall, within 21

days of receiving the decision made under subsection (9)”, and

(ii) in paragraph (a), by the substitution of “the complainant” for “the applicant”, and”.

Seanad amendment agreed to.

Seanad amendment No. 41:

Section 17: In page 21, to delete lines 24 to 39, and in page 22, to delete lines 1 to 34 and substitute the following:

**“Amendment of section 43 of Principal Act**

**17.** The Principal Act is amended by the substitution of the following section for section 43:

**“Inquiry by Disciplinary Committee**

**43.** (1) The Disciplinary Committee shall hold an inquiry into the fitness to teach of a registered teacher in respect of a complaint referred to it by the Investigating Committee under section 42(9)(a).

(2) As soon as is practicable after a complaint is referred to it under section 42(9)(a), the Disciplinary Committee shall cause a notice in writing to be given to—

(a) the registered teacher the subject of the complaint of the following:

(i) the referral of the complaint to the Disciplinary Committee;

(ii) the nature of the matter that is to be the subject of the inquiry, including the particulars of any evidence in support of the complaint;

(iii) the opportunity for the registered teacher to request that the inquiry be held by examination of documents in accordance with subsection (4);

(iv) if a hearing is being held as part of an inquiry, the opportunity for the registered teacher, or the registered teacher’s representative, to be present and to defend the registered teacher at the hearing;

(v) if a hearing is being held as part of an inquiry, the opportunity for the registered teacher to request that some or all of the hearing be held otherwise than in public if the registered teacher can show reasonable and sufficient cause;

and

(b) if a hearing is being held as part of an inquiry, any witnesses who may be required to give evidence at the hearing (including, where appropriate, the complainant) of the

opportunity of the witness to request that some or all of the hearing be held otherwise than in public if the witness can show reasonable and sufficient cause.

(3) For the purpose of an inquiry under this section, the chairperson of the Disciplinary Committee shall appoint, from among the members of the Disciplinary Committee, a panel consisting of not less than 3 and not more than 5 persons, of whom a majority shall be registered teachers and Schedule 3 shall apply.

(4) Subject to such rules as may be made under Schedule 3, a panel may, at the request of, or with the consent of, the registered teacher concerned hold an inquiry under this section by an examination of documents and written submissions from the complainant and the registered teacher, including any documents and written submissions considered by the Investigating Committee in relation to the complaint, in place of a hearing.

(5) For the purposes of an inquiry under this section by an examination of documents, the panel shall provide the registered teacher with a notice stating that the registered teacher may make submissions in relation to the inquiry in writing to the panel within such time as may be specified in the notice.

(6) A panel may, at any time after its appointment under subsection (3) and having considered the complaint the subject of the inquiry, request the registered teacher who is the subject of the complaint to do one or more of the following:

- (a) if appropriate, undertake not to repeat the conduct the subject of the complaint;
- (b) undertake to attend a specified professional development course, or such other course as the panel considers appropriate;
- (c) undertake to comply with such requirements as may be specified for the purposes of improving his or her competence and performance as a registered teacher;
- (d) consent to seek the assistance of such services relating to health and welfare as may be specified;
- (e) consent to being censured.

(7) Where a registered teacher gives an undertaking or consent in relation to all matters which are the subject of a request from a panel under subsection (6), the inquiry into the complaint shall be considered to be completed.

(8) Where a registered teacher refuses to give an undertaking or consent in relation to all matters which are the subject of a request from a panel under subsection (6), the panel shall continue with the inquiry as if the request had not been made.

(9) Where a hearing is being held before a panel as part of an inquiry, the hearing shall be held in public unless—

- (a) following a notification under section 43(2), the registered teacher or a witness who will be required to give evidence at the inquiry or about whom personal matters may be disclosed at the inquiry requests the panel to hold all or part of the hearing otherwise than in public, and
- (b) the panel is satisfied that it would be appropriate in the circumstances to hold the

hearing or part of the hearing otherwise than in public.

(10) The panel shall give notice in writing to the registered teacher the subject of a complaint referred to the Disciplinary Committee of the date, time and place of any hearing of the complaint in sufficient time for the registered teacher to prepare for the hearing.

(11) At the hearing of a complaint before a panel—

(a) the Director, or any other person with leave of the panel, shall present the evidence in support of the complaint,

(b) the testimony of witnesses attending the hearing shall be given on oath, and

(c) there shall be a full right to cross-examine witnesses and call evidence in defence and reply.

(12) Any member of the panel may administer oaths for the purposes of an inquiry.

(13) Subject to any rules in force under Schedule 3, and to the necessity of observing fair procedures, the panel may receive evidence given—

(a) orally before the committee,

(b) by affidavit, or

(c) as otherwise allowed by those rules, including by means of a live video link, a video recording, a sound recording or any other mode of transmission.

(14) A panel shall, for the purpose of an inquiry under this section, have the powers, rights and privileges vested in the High Court or a judge thereof in respect of—

(a) the enforcement of the attendance of witnesses and their examination on oath or otherwise, and

(b) the compelling of the production of documents, and a summons signed by the chairperson of the panel or by such other member of the panel as may be authorised by the panel for that purpose may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(15) For the purposes of an inquiry under this section, a panel may, in relation to a vetting disclosure, consider the information and submissions referred to in section 43A.

(16) A witness before a panel shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(17) Following the completion of an inquiry by a panel, the panel shall—

(a) where it makes no finding against the registered teacher in respect of a complaint under any of paragraphs (a) to (h) of subsection (1) of section 42, dismiss the complaint,

(b) where an inquiry is completed under subsection (7) or where the panel makes a finding or findings against the registered teacher in respect of a complaint under any of paragraphs (a) to (h) of subsection (1) of section 42, make a report of the inquiry and

shall specify in the report—

(i) the nature of the complaint,

(ii) the evidence before the panel,

(iii) where an inquiry is completed under subsection (7), the measures included in the undertaking or consent,

(iv) where it makes a finding or findings against the registered teacher in respect of a complaint under any of paragraphs (a) to (h) of subsection (1) of section 42, the panel's finding or findings,

(v) where any finding in respect of the registered teacher is in the terms of section 42(1)(g), its consideration of whether that finding affects the fitness to teach of the registered teacher, and

(vi) any other matter in relation to the registered teacher which the panel considers appropriate,

(c) where it is satisfied, in respect of a complaint made under subsection (1D) of section 42, having regard to the protection of children and vulnerable persons, that there is a risk that the teacher may harm any child or vulnerable person, cause any child or vulnerable person to be harmed, put any child or vulnerable person at risk of harm, attempt to harm any child or vulnerable person, or incite another person to harm any child or vulnerable person, make a report of the inquiry and shall specify in the report—

(i) the nature of the information disclosed in the vetting disclosure giving rise to the complaint under that subsection,

(ii) the evidence laid before the panel,

(iii) its assessment of the risk concerned, and

(iv) its conclusion in respect of that risk,

or

(d) where it is not satisfied, in respect of a complaint made under subsection (1D) of section 42, having regard to the protection of children and vulnerable persons, that there is a risk that the teacher may harm any child or vulnerable person, cause any child or vulnerable person to be harmed, put any child or vulnerable person at risk of harm, attempt to harm any child or vulnerable person, or incite another person to harm any child or vulnerable person, dismiss the complaint.

(18) Where the panel dismisses a complaint under subsection (17), the panel shall, as soon as practicable, by notice in writing, inform—

(a) the complainant,

(b) the registered teacher concerned and such other persons as the teacher may request, and

(c) where the teacher is employed as a teacher, his or her employer,

and shall, at the request of the registered teacher concerned, publish a notice to that effect in such form and manner as may be determined by the Council.

(19) In this section, ‘document’ includes—

- (a) a book, record or other printed material,
- (b) a photograph,
- (c) any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and
- (d) any audio or video recording.”.”.

Seanad amendment agreed to.

Seanad amendment No. 42:

Section 18: In page 22, between lines 34 and 35, to insert the following:

**“Use of information in vetting disclosures in inquiry under section 43**

**18.** The Principal Act is amended by the insertion of the following section after section 43:

**“Use of information in vetting disclosures in inquiry under section 43**

**43A.** (1) For the purposes of an inquiry under section 43, a panel may consider—

(a) the information (in so far as that information relates to the conduct which is the subject of the inquiry) contained in a vetting disclosure obtained by the Investigating Committee under subsection (7A) of section 42 subject to subsection (7C) of that section in like manner as subsection (7C) applies to the Investigating Committee, and

(b) submissions (if any) made by the registered teacher concerned under subsection (7A)(b) of section 42 to the Investigating Committee.

(2) Where the Investigating Committee did not seek a vetting disclosure in respect of a registered teacher under section 42(7A) in relation to a complaint and a panel considers that the complaint referred to the Disciplinary Committee by the Investigating Committee under section 42(9)(a) is of such a nature as to reasonably give rise to a *bona fide* concern that that teacher may—

- (a) harm any child or vulnerable person,
- (b) cause any child or vulnerable person to be harmed,
- (c) put any child or vulnerable person at risk of harm,
- (d) attempt to harm any child or vulnerable person, or
- (e) incite another person to harm any child or vulnerable person,

the panel may request the Council to apply to the National Vetting Bureau for a vetting disclosure in respect of that registered teacher.

(3) Where a panel receives a vetting disclosure under subsection (2) in respect of a registered teacher, it shall provide the registered teacher concerned with a copy of the disclosure and invite that teacher to make submissions in writing to the panel in relation to the disclosure within such time period as is specified in the notice.

(4) A panel shall consider submissions (if any) made by the registered teacher concerned under subsection (3).

(5) Subject to subsection (6), a panel may, for the purpose of its inquiry, consider the information contained in a vetting disclosure obtained under subsection (2) in so far as the information relates to the conduct which is the subject of the complaint.

(6) Where a vetting disclosure obtained by the Council under subsection (2) in respect of a registered teacher contains specified information and that specified information relates to conduct of the teacher which occurred prior to the coming into operation of *section 16* of the *Act of 2015*, the panel may not consider that information for the purposes of subsection (5) unless the conduct concerned would have constituted a criminal offence at the time the conduct occurred.

(7) For the purposes of an inquiry under section 43 in relation to a complaint made under subsection (1D) of section 42, a panel may consider—

(a) the information contained in a vetting disclosure referred to in that subsection in so far as the information grounds the complaint under, and in accordance with, that subsection, and

(b) submissions (if any) made by the registered teacher concerned under subsection (7)(a)(ii) of section 42 in so far as the submissions relate to that vetting disclosure.

(8) For the purposes of an inquiry under section 43 in relation to a complaint made under subsection (1)(g) to which subsection (1E) applies, a panel may consider—

(a) the information contained in a vetting disclosure referred to in subsection (1E) in so far as the information grounds the complaint under subsection (1)(g), and

(b) submissions (if any) made by the registered teacher concerned under subsection (7)(a)(ii) of section 42 in so far as the submissions relate to that vetting disclosure.”.”.

**Deputy Damien English:** This is largely a technical amendment to transfer the provisions in subsections (1) to (6), inclusive, from Schedule 3 to the 2001 Act, as amended by the Bill, into a new section 43A. The new section 43A separately sets out the relevant provisions of the Bill relating to the use and assessment of vetting disclosure by a panel undertaking an inquiry under section 43.

In addition to the provisions which were previously in Schedule 3, additional provisions in subsections (7) and (8) of the new section make it clear that a panel may also consider information in a vetting disclosure where the council has made a complaint, under the relevant provisions of section 42, in respect of that information and that the panel can consider information in that disclosure only in so far as it grounds that complaint and relates to the conduct which is the subject of the complaint. It also allows the panel to consider any submission the teacher may have made on that vetting disclosure.

Seanad amendment agreed to.

Seanad amendment No. 43:

Section 18: In page 22, between lines 34 and 35, to insert the following:

**“Offences - panel inquiry**

**19.** The Principal Act is amended by the insertion of the following section after section 43A:

**“Offences - panel inquiry**

**43B.** (1) A person commits an offence where he or she—

(a) on being summoned to attend before a panel for the purpose of an inquiry under section 43, fails to attend,

(b) in attendance as a witness before a panel under section 43, refuses—

(i) to take an oath lawfully required by the panel to be taken,

(ii) to produce any document in his or her power or control lawfully required by the panel to be produced by him or her, or

(iii) to answer any question to which the panel may lawfully require an answer,  
or

(c) in attendance before a panel, does anything which, if the panel were a court of law having power to commit for contempt, would be contempt of court.

(2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a class C fine.”.”.

**Deputy Damien English:** This amendment provides that a person commits an offence in the course of an inquiry when he or she fails to attend having been summoned, refuses to take an oath, refuses to produce any document in his or her power or control lawfully required by the panel or refuses to answer a question. In addition, it is an offence if a person does anything which, if the panel were a court of law, would be contempt of court. The amendment provides that a person who commits an offence will be liable on summary conviction to a class C fine. These matters were already included as offences in the 2001 Act, but references need to be updated to reflect that it is the panel which is conducting the inquiry and making decisions. The inclusion of the words “a class C fine” in place of a fine of “£1,905” updates the provision in accordance with the more current legislative approach.

Seanad amendment agreed to.

Seanad amendment No. 44:

Section 18: In page 22, between lines 34 and 35, to insert the following:

**“Withdrawal of complaint**

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20. The Principal Act is amended by the insertion of the following section after section 43B:

**“Withdrawal of complaint**

43C. Where a complaint is withdrawn by the complainant—

(a) while it is being considered by the Investigating Committee, the Committee may, with the agreement of the Council—

(i) decide that no further action is to be taken in relation to the matter the subject of the complaint, or

(ii) proceed as if the complaint had not been withdrawn,

or

(b) while it is being considered by a panel, the panel may, with the agreement of the Council—

(i) decide that no further action is to be taken in relation to the matter the subject of the complaint, or

(ii) proceed as if the complaint had not been withdrawn.”.”.

**Deputy Damien English:** This amendment provides that where a complaint is withdrawn by the complainant while it is being considered by the investigating committee or where it has progressed to a panel inquiry, the committee or the panel may, with the agreement of the council, decide either that no further action is to be taken or proceed as if the complaint had not been withdrawn. This is to prevent a situation where the investigating committee or the panel are obliged to proceed with a complaint, even if it has been withdrawn and the committee or panel sees no reason to proceed. Of course, the committee or panel may also decide to proceed if that is deemed to be appropriate.

Seanad amendment agreed to.

Seanad amendment No. 45:

Section 18: In page 22, to delete lines 38 and 39, and in page 23, to delete line 1 and substitute the following:

““(1) Subject to subsection (1A), the panel may, having completed its report under paragraph (b) or paragraph (c) (as the case may be) of subsection (17) of section 43, make a decision—”.

Seanad amendment agreed to.

Seanad amendment No. 46:

Section 18: In page 23, lines 5 and 6, to delete “Disciplinary Committee” and substitute “panel”.

Seanad amendment agreed to.

Seanad amendment No. 47:

Section 18: In page 23, line 8, to delete “Disciplinary Committee” and substitute “panel”.

Seanad amendment agreed to.

Seanad amendment No. 48:

Section 18: In page 23, line 15, to delete “Disciplinary Committee” and substitute “panel”.

Seanad amendment agreed to.

Seanad amendment No. 49:

Section 18: In page 23, line 19, to delete “Disciplinary Committee” and substitute “panel”.

Seanad amendment agreed to.

**Acting Chairman (Deputy Terence Flanagan):** Amendments Nos 50 and 53 are related and will be discussed together.

Seanad amendment No. 50:

Section 18: In page 23, between lines 20 and 21, to insert the following:

“(b) by the insertion of the following new subsection after subsection (1):

“(1A) If the report referred to in subsection (1) contains the measures included in a consent or undertaking in accordance with section 43(17)

(b)(iii), then the panel shall make a decision to confirm those measures.””.

**Deputy Damien English:** I have already outlined amendment No. 41 which provides, *inter alia*, that a panel may request a teacher to give certain undertakings or consent to certain measures. Amendment No. 50 is necessary to provide that in such circumstances the panel will make a decision to confirm these measures.

Amendment No. 53 ensures such decisions which are arrived at on foot of voluntary agreement by the teacher are not subject to an application by the Teaching Council to the High Court for confirmation of the decision.

Seanad amendment agreed to.

Seanad amendment No 51:

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

“(c) in subsection (2)—

(i) by the substitution of “The Disciplinary Committee shall” for “The Director shall”, and

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(ii) in paragraph (a), by the substitution of “the complainant” for “the applicant”.”.

Seanad amendment agreed to.

Seanad amendment No. 52:

Section 18: In page 23, to delete lines 22 to 27 and substitute the following:

“(c) in subsection (3)—

(i) by the substitution of “A registered teacher may, within 21 days of the date of service of a notice under subsection (2), apply to the High Court for annulment of the decision (other than a decision to advise, admonish or censure under subsection (1)(d) or a decision under subsection (1A))” for “A registered teacher may, within 21 days of the date of service of a notice under subsection (2), apply to the High Court for annulment of the decision”, and

(ii) in paragraph (c), by the deletion of “of the Disciplinary Committee”,.”.

**Deputy Damien English:** This is an additional amendment to section 44(3) of the principal Act which deals with the removal, suspension or retention of a teacher on the register following an inquiry. The amendment provides that measures entered into by a teacher voluntarily are not appealable to the High Court. It deletes the words “of the Disciplinary Committee” from the phrase “vary the decision of the Disciplinary Committee”. It is considered that these words are unnecessary in the context of the purpose of the section.

Seanad amendment agreed to.

Seanad amendment No. 53:

Section 18: In page 23, lines 29 and 30, to delete “(other than a decision to advise, admonish or censure under subsection (1)(d))” and substitute the following:

“(other than a decision to advise, admonish or censure under subsection (1)(d) or a decision under subsection (1A))”.

Seanad amendment agreed to.

Seanad amendment No. 54:

Section 20: In page 24, between lines 24 and 25, to insert the following:

**“Notification to Minister, employer and other body of certain matters relating to sanctions**

**20.** The Principal Act is amended by the insertion of the following section after section 46:

**“Notification to Minister, employer and other body of certain matters relating to sanctions**

**46A.** (1) Where it comes to the Council’s attention that, under the law of a state other than the State, a decision corresponding to a decision referred to in any of paragraphs (a) to (d) of section 44(1) has been taken in relation to a registered teacher, the Council shall, as

soon as practicable, give notice in writing to the Minister and where the registered teacher is employed as a teacher, to his or her employer (if known), of the decision.

(2) Where—

(a) a decision takes effect under this Part in relation to a registered teacher to remove the teacher from the register, suspend the teacher from the register, retain the teacher on the register subject to conditions or to advise, censure or admonish the teacher, and

(b) the Council has reason to believe that—

(i) the teacher is registered in another jurisdiction, and

(ii) the decision referred to in paragraph (a) may not have come to the attention of a body duly authorised to perform functions in that jurisdiction that correspond to the functions of the Council, the Council shall give notice in writing to the body of the decision referred to in paragraph (a).”.”.

**Deputy Damien English:** Amendment No. 54 inserts a new section into the Act and provides that, where it comes to the Teaching Council’s attention that a decision to sanction a registered teacher has been made in another state, the council will, as soon as practicable, inform the Minister and the teacher’s employer, where relevant. The amendment further provides for the Teaching Council, where it has reached a decision to sanction a teacher, to inform the appropriate body in another jurisdiction of that decision, where it has reason to believe the teacher is registered in that jurisdiction and that the body may not be aware of the decision.

Seanad amendment agreed to.

Seanad amendment No. 55:

Section 20: In page 24, between lines 24 and 25, to insert the following:

**“Information Council may publish in public interest**

**21.** The Principal Act is amended by the insertion of the following section after section 46A:

**“Information Council may publish in the public interest**

**46B.** The Council, if satisfied that it is in the public interest to do so shall—

(a) advise the public when—

(i) a decision takes effect under this Part in relation to a registered teacher to remove the teacher from the register, suspend the teacher from the register, retain the teacher on the register subject to conditions or to advise, censure or admonish the teacher, or

(ii) a decision referred to in section 46A(1) comes to the attention of the Council,  
and

(b) following consultation with the Disciplinary Committee, publish (with or without any information which would enable any party to an inquiry to be identified)—

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- (i) the findings of a panel under section 43(17)(b), and
- (ii) the decision of a panel under section 44(1).”.”.

**Deputy Damien English:** Section 46B was introduced as an amendment on Committee Stage in the Seanad to provide for the publication of certain information on the outcomes of fitness to teach inquiries. It was further amended on Report Stage in the Seanad to set out in a clearer manner the provisions in relation to the circumstances in which the council would inform the public of such information. It provides that the council shall, where satisfied that it is in the public interest to do so, advise the public when, on foot of a fitness to teach inquiry, a decision takes effect to remove a teacher from the register, suspend a teacher from the register, retain the teacher on the register subject to conditions, or advise, admonish or censure a teacher, or, where a similar decision taken in another state comes to the attention of the council. It also provides that the council shall, where satisfied that it is in the public interest to do so and following consultation with the disciplinary committee, publish decisions made by a panel following a fitness to teach inquiry and, where there has been a finding against the teacher, publish that finding.

Seanad amendment agreed to.

Seanad amendment No. 56:

Section 21: In page 25, between lines 3 and 4, to insert the following:

**“Amendment to section 60 of Principal Act**

**21.** The Principal Act is amended by the substitution of the following section for section 60:

**“Non-admissibility of certain evidence**

**60.** A statement or admission made by a person to a panel in relation to a complaint brought under Part 5 shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under section 43B).”.”.

**Deputy Damien English:** Amendment No. 56 replaces the current section 60 of the principal Act and concerns the non-admissibility of a statement or admission made by a person to a panel in relation to a complaint in other proceedings. It does not apply, however, where a person commits an offence in respect of a panel inquiry. The proposed amendment follows the form of non-admissibility provisions in more recent legislation than the original Teaching Council Act.

Seanad amendment agreed to.

Seanad amendment No. 57:

Section 21: In page 25, to delete lines 4 to 40, and in page 26, to delete lines 1 to 22 and substitute the following:

**“Amendment to Schedule 3 to Principal Act**

**22.** The Principal Act is amended by the substitution of the following Schedule for Schedule 3:

“SCHEDULE 3

Section 43

PANEL

1. Notwithstanding any vacancies in the membership of the Disciplinary Committee, a panel may be appointed from among the members of that Committee.
2. The procedures of a panel shall be laid down from time to time in rules made by the Council with the consent of the Minister.
3. The Disciplinary Committee shall appoint the chairperson of a panel from among the members of the panel.
4. The Council shall make available to the panel such services, including staff, as the panel may reasonably require.”.

**Deputy Damien English:** This is the amendment for which the Deputy was looking. Amendment No. 57 concerns the appointment of a panel to conduct an inquiry under section 43. The amendment proposes the replacement of Schedule 3 of the principal Act. Much of the detail of Schedule 3 is now dealt with in the proposed amendment to section 43. Accordingly, this is essentially a structural amendment and all of its provisions already exist in the principal Act. Acceptance of this amendment involves the deletion of section 21, which included the provisions for the panel that are now included in the proposed amendment.

**Deputy Jonathan O’Brien:** Does this amendment relate to public hearings?

**Deputy Damien English:** It reads: “Notwithstanding any vacancies in the membership of the Disciplinary Committee, a panel may be appointed from among the members of that Committee.” It does not relate to public hearings.

Seanad amendment agreed to.

Seanad amendments reported.

**Acting Chairman (Deputy Terence Flanagan):** A message will be sent to Seanad Éireann acquainting it accordingly. I thank the Minister of State and Deputies.

### **Appointment of Chairperson of the Garda Síochána Ombudsman Commission: Motion**

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I move:

That Dáil Éireann, noting that, in order to fill a vacancy caused by the resignation of Mr. Simon O’Brien as the chairperson of the Garda Síochána Ombudsman Commission, the Government on 30th June, 2015 nominated Judge Mary Ellen Ring for appointment by the President to be a member of the Ombudsman Commission and to be its chairperson, recommends, pursuant to section 65(1)(b) of the Garda Síochána Act 2005, that she be appointed by the President to be a member and to be chairperson of the Ombudsman Commission.

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The Garda Síochána Ombudsman Commission, GSOC, plays an important role in developing and maintaining public confidence in An Garda Síochána. An Garda Síochána provides an excellent policing service for the people. As a society, we look to it to create and maintain an environment in which we can go about our daily lives free from threats of criminality. Where such criminality arises, we look to An Garda Síochána to investigate and bring the perpetrators to justice. To this end, the Garda has been given certain powers. These must be exercised in a lawful and proportionate manner. Where there is a question about whether it has used those powers properly, it must be held to account. This is a fundamental principle of the exercise of any power, namely, accountability.

It is vital we fully address any allegation of Garda misconduct or wrongdoing in the interests of maintaining public confidence in the Garda and protecting the professional standards of the overwhelming majority of dedicated and conscientious members of the force. To ensure the public can have full confidence in the Garda, a system of oversight is provided by GSOC. This commission is a vital part of our policing infrastructure. It was set up under the Garda Síochána Act 2005 to provide an independent system for receiving complaints and dealing with allegations of Garda misconduct. Its purpose is to promote public confidence in the process for resolving these complaints or allegations.

Deputies will be aware that I recently laid the 2014 annual report of GSOC before the Houses. It was a challenging year for GSOC and the subject of a great deal of political and media commentary and some controversy. Notwithstanding that, the year was a busy one for GSOC. It received 11% more complaints and concluded 8% more cases than in 2013. The report stated there was a marked improvement in efficiency and in dialogue and co-operation with the Garda. This suggests the protocols that were put in place in 2013 have been helpful in terms of the working relationship between GSOC and the Garda Commissioner and Garda.

Reform in the criminal justice area is a priority for the Government. The Garda Síochána (Amendment) Act 2015 has expanded the remit and powers of GSOC, including by bringing the Garda Commissioner within the scope of its investigative powers. The Act also expanded the time within which persons can bring complaints to the commission. Further changes are contained in the Bill to establish the policing authority, which has passed all Stages in the Seanad and will be before the Dáil as soon as I can get some time in the House.

Turning to the Government's nominee for chairperson of GSOC, Ms Justice Mary Ellen Ring was appointed a judge of the High Court by the President on 9 July 2015. Her swearing-in ceremony before the Supreme Court took place on 13 July. Ms Justice Ring's extensive experience as a practising barrister and a judge of the Circuit Court make her well qualified for the position of chairperson of the ombudsman commission. She has also served in positions on the National Crime Council, was chair of the Irish Women Lawyers Association, IWLA, and has been a member of the Irish Penal Reform Trust and the Irish Council for Civil Liberties, ICCL. Ms Justice Ring will work alongside the other members of the ombudsman commission, Ms Carmel Foley and Mr. Kieran Fitzgerald, and GSOC's professional and administrative staff. The combination of skills and experience the three commissioners have will ensure strong and effective leadership within GSOC and Ms Justice Ring will make an excellent chairperson.

I thank the committee for its work yesterday on this matter. I explained to it that Ms Justice Ring would serve out the remainder of Mr. Simon O'Brien's term until December of next year, at which point the position will be advertised again. Of course, she would be eligible. I commend the motion to the House.

**Deputy Pádraig Mac Lochlainn:** I apologise that I could not attend the Joint Committee on Justice, Defence and Equality yesterday. I was attending an excellent round-table event concerning the hope the State would recognise Traveller ethnicity, which was organised by the Minister's colleague, the Minister of State, Deputy Aodhán Ó Ríordáin.

**Deputy Frances Fitzgerald:** Yes. I understand.

**Deputy Pádraig Mac Lochlainn:** The Minister will be aware that the Joint Committee on Justice, Defence and Equality was tasked with examining the Garda Síochána Act 2005 and considering ways of strengthening GSOC, having a policing authority, ensuring the accountability of the Garda and setting up new structures. One of our recommendations was to replace the current three-person commission with one ombudsman, as is the case in the North and other jurisdictions. We need to move to such a structure where the buck would stop with one person.

In a number of controversies in recent years, there was speculation about how the system of three people making a collective decision worked. Consider the various ombudsmen we have, from the Ombudsman, Mr. Peter Tyndall, to the sectoral ombudsmen. Each comprises just one person and the buck stops with him or her, although each has senior advisers. I am disappointed the Minister has not accepted this model. I have no issue with the ability of Ms Justice Ring. I am sure she will make an excellent chairperson. My issue is that I would like one person to be the ombudsman and to speak on behalf of that organisation.

The other issue I wish to raise is the powers given to the ombudsman. The House saw some amendments to the legislation earlier this year that strengthened the ombudsman's powers, but I would like to see them strengthened further. Something about which I am concerned and which I will revisit when we deal with the Garda authority legislation is the matter of the independent adjudicator. The Minister will recall that Conor Brady, formerly GSOC member, at a conference organised by the Irish Human Rights and Equality Commission and the Law Society of Ireland, suggested that where An Garda Síochána could not give information to the Ombudsman - soon to be the Garda authority - for security reasons, there be an independent adjudicator, a member of the Judiciary rather than the Minister, to decide if the grounds for withholding information are legitimate. Perhaps we might revisit this through the Garda authority legislation as it makes its way through the Houses.

Resources for GSOC will be critical. It has been tasked with looking at the area of penalty points and will have more and more responsibilities. There are over 300 cases alleging Garda malpractice and I imagine more work will fall on GSOC. One of the concerns the public has is the length of time GSOC can take to carry out investigations, which impacts on its credibility and the confidence of the public. It needs the requisite resources and the Minister should engage with the commissioners around this issue to make sure they have the resources required to deliver investigations within a reasonable period of time.

I ask the Minister to look again at the need for just one Garda ombudsman, similar to the ombudsman for every other sector on these islands. In line with the all-party recommendation of the Joint Committee on Justice, Defence and Equality, I also ask her to look at the issue of resourcing GSOC adequately and to look at the issue of security. She should put in place an independent adjudicator to make it clear to the public that full accountability and oversight exist as required across the whole spectrum.

**Deputy Clare Daly:** I will share time. I will speak for four minutes and Deputy Mick Wal-

lace for one.

I am very glad that the appointment to GSOC has finally been made and that we are not going into the recess without it. The gap has been far too long between the retirement of Mr. Simon O'Brien and this appointment and I feel the commissioners have suffered in his absence. The time when he was at the helm of the GSOC was one of the most innovative times for putting that organisation on the map. I do not know much about Ms Justice Mary Ellen Ring apart from what is in the public domain. It might be viewed as an unusual choice because she has a high profile but she is renowned for her independence, an incredibly important asset in this cesspit - I could say "challenge" to be more polite. Independence is what is required and I understand from people who know her that she is very able, an independent thinker and more likely to be a watchdog than a lapdog. That is what we need inside this organisation so I wish her well in her new post. In some ways I feel a little bit sorry for her for what she is getting into, as I do for the other commissioners, because I believe GSOC is at a crisis point. It has not been armed with the legislative powers to do the necessary job of exercising oversight over An Garda Síochána.

Ms Justice Ring will benefit from her expertise on both sides of the criminal justice system as she will not need to be educated on what can happen when gardaí take a stance or as to the ways in which gardaí sometimes operate. She is, however, heading up an organisation which is suffering from a lack of resources and power, particularly given the fact that this organisation has also been charged with the function of confidential recipient and is the receiver of complaints about the gardaí, not just from the public but from gardaí themselves about other gardaí. The recently published annual report shows that only four gardaí have gone to GSOC and it has been very tardy in its approach to dealing with those people. This is very regrettable and Ms Justice Ring's first job should be to give her backing and support to those gardaí who have the courage to blow the whistle on the inside.

Looking at the figures in the GSOC annual report, of all the initial contacts with GSOC, only 28% actually became complaints at the end of the day. GSOC states that in 2014 there was only one case out of thousands in respect of which a criminal investigation was concluded and referred to the Director for Public Prosecutions and where the Director for Public Prosecutions recommended a prosecution. This could not possibly be the case and we have a huge problem with these statistics. They show that only 26 files were sent to the Director for Public Prosecutions, while the overwhelming majority of the cases that end up in GSOC are referred back to the gardaí for examination, rather than be independently evaluated by GSOC. These issues will come back to haunt us. We are on the record stressing the necessity to strengthen the legislative powers of GSOC but the new commissioner is going to have to bat hard on those things because she has an uphill battle. I wish her well and if there is anything we can do to assist we will be happy to do so.

**Deputy Mick Wallace:** I, too, welcome the appointment of the new commissioner. If she carries her independent streak to the new job it will certainly be beneficial. Like Deputy Clare Daly, I am worried about the potential of GSOC to hold gardaí to account and we have not been impressed with the changes made. The body struggles with the task, not necessarily through any fault of its own but because there does not seem to be a massive appetite for serious oversight in the form of a monitoring body with an investigative remit. This is very much required and it would make a significant difference.

I am not sure that bringing the confidential recipient element into GSOC will work despite

the fact that the Minister is giving an extra €1 million to make it happen. Many gardaí who have a serious complaint are reluctant to go there and I do not believe GSOC has the wherewithal to deal with it or has been given the necessary resources. The Minister's task is a difficult one as the Department of Justice and Equality is a very powerful, conservative body and I am sure it is not easy to change its stripes. Given everything that has been said and done in the past couple of years, people now expect change and there is an appetite among the public for something different from the police force. A strong, resourceful and fearless GSOC is crucial if we are to have a Garda force that is accountable to the people whom it is supposed to serve and that governs with the consent of the people rather than just as a police force that implements the rule of law.

Question put and agreed to.

### **Harbours Bill 2015: Order for Second Stage**

Bill entitled an Act to allow for the transfer of shareholdings in certain port companies to local authorities, for the transfer of certain port companies to local authority control and for the dissolution of certain port companies, to amend and extend the Harbours Acts 1996 to 2015, to repeal the Harbours Acts 1946 and 1947 and to amend the Merchant Shipping Act 1992 and the Fishery Harbour Centres Act 1968 and to provide for connected matters.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring):** I move: "That Second Stage be now taken."

Question put and agreed to.

### **Harbours Bill 2015: Second Stage**

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring):** I move: "That the Bill be now read a Second Time."

On behalf of the Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe, I am pleased to introduce to the House the Harbours Bill 2015. The Bill results from the review of ports policy which began in 2010 and culminated in the publication of a new national ports policy in 2013. The primary purpose of the Bill is to provide the necessary legal basis to allow for the later transfer by ministerial order of the five designated ports of regional significance to local authority-led governance structures. Every Deputy is aware of just how important our ports are to our island nation. The Competition Authority estimates that ports handle around 84% of all our merchandise trade in volume and about 62% in terms of value. The ports are, simply, critical to our ability to trade with the rest of the world.

Our ports face challenges to ensure they are capable of meeting the modern needs of the economy and the nation. These challenges are nothing new as throughout history the fortunes of individual ports have ebbed and flowed in response to changes within ports and the ship-

ping industry. Currently, there are nine State commercial port companies operating under the Harbours Act 1996. Their status is that of a State-owned private company the shareholders of which are the Minister for Transport, Tourism and Sport and the Minister for Public Expenditure and Reform. The companies are guided by a board of directors appointed by the ministerial shareholders and managed by a chief executive officer answerable to the board of the company. Additionally, we also have Rosslare Europort which differs from the other ports as it does not operate under the Harbours Acts but is instead a business unit of Iarnród Éireann. Within the nine State port companies there is enormous variety. As an example, in 2014, Dublin Port handled 21 million tonnes and 7,000 vessels, while at the other end of the scale Wicklow Port handled 94,000 tonnes and 56 vessels. It is clear that different ports perform different functions and service different markets. National ports policy recognised these differences through providing a clear outline of the Government's strategic vision for the sector by categorising it in three tiers.

The tier 1 ports of national significance are Dublin, Cork and Shannon Foynes. Collectively, these three ports handle over 80% of all tonnage handled in Irish ports in any given year. All three have ambitious development master plans and earlier this year the Minister, Deputy Paschal Donohoe, launched the first phase of the Shannon Foynes development, its east jetty project, while both Cork and Dublin ports have just recently received planning permission from An Bord Pleanála for their projects in Ringaskiddy and the Alexandra Basin. The expected total outlay on all these projects is over €350 million and all will be delivered without any Exchequer contribution. The Minister was delighted to learn recently that all of the projects had qualified for EU funding through the trans-European transport network, TEN-T, programme and its related Connecting Europe Facility, CEF, funding stream.

The tier 2 ports of national significance are Rosslare Europort and Waterford Port. These ports together handle approximately 7% of total tonnage. Importantly, both offer competition to the bigger ports in the economically significant unitised LoLo and RoRo trades. Both are well positioned in terms of their ability to service direct routes to the Continent and are well connected to the national rail and road networks.

The ports of regional significance are the remaining five State port companies. They are Drogheda, Dún Laoghaire, Galway, New Ross and Wicklow ports and any other port which handles commercial freight. These are the ports which are central to the Bill. Collectively, they handle approximately 4.5% of total tonnage, which represents a decrease of over 30% in their collective market share when compared to 2000. Within them there are individual, very different stories, with some quite dramatic decreases in commercial tonnage in Dún Laoghaire, New Ross and Wicklow, with much more modest decreases or even steady State developments in Galway and Drogheda. The Government recognises that there are those with particular interests who may question the need to make any change to the *status quo*. However, at a national strategic level, we need to be clear on which ports are fundamentally important for national competitiveness and regionally significant.

The approach adopted by the Government is broadly accepted by all as common sense. The Oireachtas Joint Committee on Transport, in its review of the Bill, stated its overall purpose was broadly supported by the committee. In respect of the ports of regional significance, national ports policy recognises that the five ports continue to play an important role for their regional hinterland. However, this role is not one that requires central government oversight.

*3 o'clock*

In line with the Government's reforms in the area of local government generally, responsibility for the oversight of these regionally significant ports should be devolved to the most appropriate level of government, that is, the local authorities. This devolution of responsibility will allow the ports to continue to develop as required by their regional economy and in tandem with their regional community. The change in perspective will enrich and enhance their future development. It better aligns the needs of the local authority, the regional economy and the port. For some of the ports, the requirement that a separate statutory company should oversee and manage the port may no longer be appropriate. The Department of Transport, Tourism and Sport has funding available for local authorities for a due diligence exercise in respect of all five companies. The results of these exercises will inform the eventual model of transfer chosen for each port. The Bill is flexible enough to allow for either the continuation of the existing company and a transfer of the ministerial shareholding to the local authority or for dissolution of the existing company and a physical transfer of all assets, liabilities and employees to the local authority.

The main provisions are found in Parts 2, 3 and 5 of the Bill. Part 2 deals with the first of the two possible transfer methods, that is, a transfer of shareholding in the existing company. Section 8 provides the actual power to transfer the shareholding to a port company. Any order under the section will be made by the Minister for Transport, Tourism and Sport with the consent of the Minister for Public Expenditure and Reform, as the other current shareholder, and the Minister for the Environment, Community and Local Government.

Section 9 provides a potentially interesting new dynamic for the commercial ports sector. It allows for the local authority chief executive, subject to the consent of the elected members of the council and the Minister for Transport, Tourism and Sport, to consider a divestment of shares in a transferred port company to the private sector. However, it ensures continued public ownership of the port through limiting any such disposal to 49% only of the shares in the company. This represents a new potential method of sourcing funds for future development for the transferred port companies. It is not currently a feature of the sector.

Section 10 provides for a general ministerial power of direction to the transferred port companies in respect of the national ports policy. The section requires the Minister for Transport, Tourism and Sport to consult the Minister for the Environment, Community and Local Government and the chief executive of the local authority concerned prior to issuing any such direction. The requirement for consultation addresses a concern identified by the Oireachtas joint committee with regard to its potential unilateral use and possible interference in a particular company's operations. The section restricts the use of the direction to general policy issues only; it cannot be used to direct a company to act in a particular manner in a particular instance.

Sections 11 to 27, inclusive, lay out the administration of the transferred companies under the new local authority shareholding arrangements. The Harbours Act will continue to apply to any company that transfers under the transfer of shareholding model. However, as the Acts contain several explicit provisions relating to the ministerial shareholding, the sections require amendment to reflect the fact that the shareholding has transferred. The exercise of these shareholder functions will primarily be a matter for the local authority chief executive, but the Bill also provides for a number of important oversight functions for the elected members.

Section 11 lists 17 sections of the Harbours Acts that will no longer apply to a transferred company. These sections are those requiring an active role for the shareholders in consenting to something. Obviously, since the shareholding has changed, these sections can no longer

apply and amended versions are instead included within sections 13 to 27, inclusive. Many of these sections are routine in nature such as section 14 which requires any change to a transferred company's memorandum and articles of association be approved by the relevant local authority chief executive. Therefore, I will focus my remarks instead on a number of the more substantive sections, as well as on the role of elected members generally in the oversight of the transferred companies.

In instances where the transfer of shareholding model is chosen as the transfer method, the company structure remains in place as it applies today. One important consideration in the model is to ensure the appropriate balance between the commercial freedom of the company and democratic oversight. The Bill achieves this balance through providing for a number of specific oversight functions for elected members of the council. First, section 23 requires the chairperson and the chief executive of a transferred company to appear before the elected council, if invited, to account for the administration of that company. Second, there is a provision within section 22 for any proposed chairperson of a transferred company to appear before the elected members prior to formal appointment. This mirrors the current practice of prospective chairpersons appearing before the Oireachtas joint committee, a practice which the Government introduced and which has proved its worth in allowing elected representatives to quiz prospective chairpersons on their vision and ambition for the company in question.

Section 19 requires the annual audited accounts of the transferred company, accompanied by a report on the year generally, to be laid before the elected members. While it is a matter for the relevant local authority, there are obvious potential links between the submission of the accounts and the power of elected members to require a chairperson and the chief executive to appear before the council under section 23. I have already stated the consent of the elected council will also be required where any disposal of shares in the transferred company to the private sector is envisaged.

In the case of board appointments to the transferred companies, the Minister for Transport, Tourism and Sport is clear in his view that the improvements to the board appointments process generally must apply to any transferred company also. Therefore, section 22 mirrors the improvements introduced in section 39 for those companies remaining under ministerial shareholding. Directors will be selected through the State board appointments process which the Minister for Public Expenditure and Reform launched in February. The Bill requires that certain skill sets be present on the board, including maritime transport, financial, legal and commercial skills. It also indicates a further set of skill sets that might be considered for board level representation such as infrastructure planning or environmental management.

The local authority chief executive will formally appoint the persons recommended by the Public Appointments Service. The maximum length of total service of any director will be limited to ten years. This will allow for the development of board level experience, as well as provide the required fresh thinking, which is a necessary feature of any board. The central oversight of the Department of Public Expenditure and Reform of board fees will be maintained. As is the case today, the chief executive of a transferred company will be appointed by the board of the particular company after consultation with the local authority chief executive. The central oversight of the Department of Public Expenditure and Reform of terms and conditions of chief executives will be maintained.

These are the key issues addressed in Part 2, but the Bill also provides for a second transfer method within Part 3. This model is called "transfer and dissolution of companies" and out-

lined in sections 28 to 33, inclusive. Essentially, the sections are based on existing precedents generally and provide for the break-up of the company as a corporate body and its complete integration within normal local authority structures. The port would be administered as any other functional area of a local authority. All employees would transfer to the service of the local authority, as would all property, assets and liabilities of the company. The Bill provides for the continuation of harbour and pilotage limits.

Part 5 runs from section 37 to section 49 and generally comprises technical amendments to the existing Harbours Acts that are being made on foot of submissions made during consultation or experience gained in the years since the last amendments were made. There are, however, three important elements of this Part of the Bill that further improve the overall corporate governance culture within the ports sector. Section 39 amends the board appointments process through, for example, introducing mandatory skill sets and introducing an overall term limit of ten years.

Section 40 introduces a new statutory provision regarding the accountability of a chairperson and the CEO of a port company to elected representatives. The section requires the chairperson and the CEO to appear before the Oireachtas joint committee if invited to do so and account for the administration of the port company.

Section 42 extends the current prohibition on Members of the Oireachtas and MEPs serving on the boards of port companies to include councillors. This will apply equally to those companies the shareholding of which remains with the Minister and the shareholding of which transfers to a local authority shareholding model. National ports policy is clear that the boards of port companies must comprise individuals with the necessary skills required in any commercial company. The Bill is legislating for that very fact in sections 22 and 39. There have been instances where councillors serving on port company boards have had to absent themselves from discussions at board meetings and also from council discussions on topics owing to potential conflicts of interest. When people elect their local representative, they obviously do not want to see his or her contribution to local democracy restricted in such a manner.

As Deputies can see, the Bill is an important step in the development of the commercial ports sector and an important contribution to the further devolution of responsibility from central to local government. The changes it introduces will enhance the ports' role as centres of their regional economies, deepen the economic development role envisaged for local authorities and improve the corporate governance and democratic accountability of the sector overall. The ports sector is an unsung hero of the economy. Without it, we simply could not trade with the world and many of the everyday items we take for granted would not be available. The amendments the Bill proposes on board structures will enhance the corporate performance of ports and ensure they will continue to fulfil their vital role as facilitators of the economy.

The Minister, Deputy Paschal Donohoe, and I look forward to hearing the views of Deputies on this important Bill and sector. We hope the objectives of the Bill will enjoy the support of the House, just as the Bill enjoyed the broad support of the Oireachtas Joint Committee on Transport and Communications during its scrutiny. I commend the Bill to the House.

**Deputy Timmy Dooley:** I welcome the opportunity to contribute on this Bill. In recognition of what the Minister of State, Deputy Michael Ring, has said, I believe it was helpful to bring the heads of legislation before the relevant committee. This gives us an opportunity to feed into the overall development of legislation, thereby expediting the legislative process and

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requiring less time on the floor of the House. It is a good use of the committee structure. In this case, we have had an opportunity to discuss many of the provisions and we expressed our views.

As the Minister of State said, the Bill will legislate for the key recommendations of the national ports policy, including the recommendation on ports of regional significance. The policy introduces categorisation of regional significance in Drogheda, New Ross and Wicklow ports and Galway and Dún Laoghaire harbour companies. The policy recommends the transfer of responsibility for these ports of regional significance to local authorities, and the Bill legislates for this transfer.

As the Bill is not prescriptive, there is not much to quibble about with the Minister of State. It just provides the legal framework for the transfer of the harbour companies. The actual transfer process is to occur at a later date under what we understand to be statutory instruments. I have some concerns about this. I often feel successive governments have overused statutory instruments. A lot of very important detail, which is what we should be discussing, must be dealt with. Therefore, I hope that in advance of publishing the statutory instruments, the Minister will facilitate discussion at a meeting of the joint committee, perhaps with the heads of a statutory instrument in draft form, in necessary, thereby providing us with an opportunity to feed into the process. As with any other matter of this nature involving a transfer of responsibility and assets from central government to local authorities, the devil will surely be in the detail.

Fianna Fáil will support this Bill through Second Stage. In principle, we support the transfer of responsibility for the regional ports and harbours to local authorities but the Minister needs to describe the transfer process in more detail in the House at a later stage. I would like a draft statutory instrument to be made available to the joint committee.

From my conversations with councillors and local authorities in the areas concerned, I believe there needs to be more consultation with councillors. The transfer process, while important, needs to be dealt with and councillors' concerns need to be taken on board at an early stage. Currently local authorities are being left in the dark over the assets and liabilities their local areas and local taxpayers are to become responsible for.

If, as the Minister of State has sold it, the spirit of this Bill is to enhance local control and local democracy, he and the Minister will have to engage more fully with the local authorities and outline the measures they have talked about. The Minister has not engaged with local councillors or local residents on what the transfer of harbours to their control will involve, particularly from a financial perspective. It is important that consultation take place with residents because they see that the local property tax revenue is to be spent on local facilities, assets and infrastructure. Some concern was expressed to me by county councillors over the fact that, at some time in the future, they might have to explain to property-tax payers in their areas that the tax will have to be increased to meet some of the liabilities associated with such facilities and assets. This may not be the intention of the Government or Department so it is important to have consultation. In order to support this Bill on later Stages, the Minister needs to talk to local councils, and not just their executives, and he needs to involve the public through consultation.

As it stands, the Bill, in addition to the national ports policy, does not have any detail on the transfer of recurrent expenditures, liabilities and illiquid assets from central government or the harbour companies to the local authorities. It is on this matter that there is the most disquiet, as represented to me through local councillors. The Minister needs to clarify, in particular,

that any assets being transferred will have a sufficient revenue stream to cover any known and potential capital costs associated with them. He needs to ensure local authorities and taxpayers will not wind up being saddled with debt as a result of financial mismanagement of harbour company projects and the absence of oversight by the Department.

There are a number of concerns about this Bill and the transfer of harbour assets and harbour or port companies to local authorities and a number of issues with both models of transfer, as they are currently designed in the Bill, that the Minister needs to address. Chief among the concerns of local authorities are the commercial viability of harbours and piers and, more particularly, the questions of what exact associated costs will have to be incurred by local authorities and how they will be met. The harbour assets to be transferred to local authorities are not liquid and not all harbours are revenue generating. As it stands, the balance sheets and books of several of the harbour companies are in the red. There are very significant capital costs that will be associated with maintaining harbours and it is unlikely that harbour companies will be able to generate enough revenue to cover large-scale capital costs of harbour maintenance, such as harbour dredging and the maintenance of harbour walls.

Any chief executive of a local authority or any councillor with whom the Minister of State engages – he keeps in close contact with them – will be well able to tell him there is no spare pot of cash that can be applied to any of the assets being transferred into local authority control. It is important that a detailed schedule of the liabilities, future liabilities and current issues is made available up-front in advance of the transfer, that the transfer is based on some kind of agreement and that if agreement cannot be reached, there is some arbitration process that sees that there is an assurance that the local authority will not have to carry the significant costs that are talked about. We want the Minister to clarify what will happen if or when harbours being transferred to the local authorities from the Department cannot make their own way financially and cannot generate enough revenue to be self-sustaining. Since the exit of Stena Line, Dún Laoghaire Harbour has become largely a leisure harbour. It has very limited potential use as a transport hub and its future is really largely as a leisure harbour. It is now facing significant competition from Dublin Port, which it intends to enhance its facilities for that leisure market. This is a similar situation for all the harbours being transferred. The Minister has to recognise that there is no benefit to the local authorities in controlling harbours if they generate no revenue to cover their costs. Indeed, a worrying situation could arise whereby if they cannot generate revenue, local authorities and local taxpayers could be saddled with very significant debts as a result of this transfer. This is especially the case if revenue-generating activities of the harbour-port companies are not successful. It could be the case if projects undertaken by harbour companies to generate revenue, such as the urban beach in Dún Laoghaire, are unsuccessful. Many of these projects are shots in the dark and could wind up carrying very significant costs to the taxpayer, especially if they are not undertaken with due diligence.

Corporate governance and financial oversight of harbour companies are important aspects that need to be considered in some detail. If a harbour is transferred to a local authority under transfer option 1 - the transfer using ministerial shareholder in the harbour company to the local authority - the local authority will take over responsibility for approving corporate plans for the harbour companies. At present, a harbour-port company requires ministerial approval to undertake largescale projects. Upon transfer, it will be the local authorities that become the sole shareholder in the port company and ministerial approval will no longer apply. Instead, those issues will be addressed within the company's memorandum and articles of association, with the oversight functions being specified as agreed between the company and its new shareholder,

ie the local authority.

Currently, there are very significant questions over corporate governance in Dún Laoghaire Harbour Company. For example, a letter from the Department in July last year that was given to us under FOI highlights concerns at the approach adopted by Dún Laoghaire Harbour Company in recent years in respect of not meeting corporate governance standards. Among the nine State commercial port companies, issues have consistently been brought to the Department's attention in respect of actions taken, or not taken, by Dún Laoghaire Harbour Company. There is justified concern among councillors who feel that the Government is attempting to pass the buck, hand them the hot potato and leave them in the unenviable position of trying to deal with a situation that was not within their control. They must now deal with a rather difficult and fractured situation over which they really have no control. The councillors I have spoken to would like to see all outstanding issues addressed or the appropriate contingency plans put in place to deal with any potential fallout that might arise from what are effectively ongoing concerns and issues, particularly in the area of corporate governance. There are a number of concerns about Dún Laoghaire Harbour Company. In particular, its board has repeatedly failed to seek ministerial consent for activities prior to their commencement such as the development of construction projects to generate revenue from the harbour area, examples being the urban beach and pool. FOI requests highlight continued concerns over the short and medium-term sustainability of the harbour company as a whole and cast doubt on the financial viability of its corporate plan for generating revenue. These concerns surround the sustainability of the company's corporate plan and involve potentially very large sums of money, including a €50 million diaspora centre, a cruise liner berth with a price tag of €15 million and a €2.5 million urban beach. In all cases in the past, our FOI requests have revealed that the Department has pointed out that revenue returns projected for these projects appear to be extremely optimistic. That is the basis of the concerns of members of the local authority.

There is a number of concerns about the oversight role over harbour companies that the local authorities will have to take on following the passage of this Bill. Given the potential corporate governance issues that have come up in the past, it is essential that there is proper financial oversight of the harbour companies. We have concerns over whether local authorities have the resources and expertise to undertake the required oversight of corporate plans for revenue generation that are submitted by the harbour companies. The Minister simply cannot rush ahead in transferring these harbours without ensuring that local authorities have the resources, expertise and mandate to provide a robust oversight of these harbour companies. There is a real risk that they will not have the necessary resources, expertise and mandate and that corporate plans will not receive the adequate level of scrutiny and oversight they would receive via the Department of Transport, Tourism and Sport. One would expect the Department to have the kind of expertise available to it that, in many cases, local authorities will not. There is an added cost involved in availing of such expertise. It is unlikely that local authorities will upskill internally because this would be an exceptionally costly option and a long-term commitment so we are back to the age-old issue of hiring external consultants, be they in engineering, financial management or financial planning. This brings its own costs and could have a potentially devastating effect on the balance sheets of local authorities, which may ultimately fall upon local taxpayers. This is why I spoke at the outset about some level of engagement with local communities as the Government seems to be more concerned with ensuring there is a greater level of taxes paid locally for services delivered locally through the property tax. The Minister has not addressed these concerns. We need to know the level of oversight the Department will retain over large projects that are undertaken by harbour companies, such as Dún Laoghaire Harbour Company.

I would welcome any views based on what I have said and if they could be taken back to the Minister. Perhaps they can be addressed as we move to the next stages. The issue I am particularly concerned with is not just the framework but the detail of the transfer to be done through secondary legislation. I would like us to get a commitment that the committee's involvement in that will be central and that it will be done either through the issuance to the committee of a draft of such instrument or through what might be referred to as the heads. I do not mind what it is called as long as we get some level of input into it.

**Deputy Seamus Kirk:** I am glad to have the opportunity to speak about this important legislation as it applies in my constituency. Drogheda Port Company is named here as a port of regional significance. It is clearly intended that it will be catered for under this framework legislation. As Deputy Dooley, our spokesperson, has clearly intimated, the exact detail of how the changes will be implemented will come at a later stage. I would have thought that particularly on Second Stage, there was a need for some spelling out of how the envisaged structures would be put in place.

Due to its location and its close proximity to Dublin, perhaps the expansion and development of Drogheda Port has not materialised at the pace one would like to see. I have a few questions. There are really two local authorities in respect of Drogheda Port - Louth on one side of the river and Meath on the other. Will the port be transferred to one or the other or will it be a joint venture between the two counties? What sort of discussions have taken place with the management of the respective local authorities about the transfer? Are the local authorities happy about accepting responsibility as envisaged in this legislation? Are they unhappy about it? Are some local authorities in such a difficult financial position that the addition of responsibility for ports to their financial demands would create further woes for them down the road? It seems that this is an issue that needs to be teased out.

Anyone who has been in the political arena for some time will realise that water infrastructure is expensive. I refer to the Drogheda situation where the capital expenditure was quite substantial for the repair of a harbour wall. Under the new arrangements, who will foot the bill for this type of work? Will it be the new port company structure or the local authority? Will the Department supply grant aid and support?

I refer to the silting up of the shipping lane. Every three or four years it is necessary to bring in the dredger at significant cost to ensure the shipping lane is clear of silt. If the harbour silts up, the weight and volume of ships that can use the port is considerably reduced.

It is a matter of looking at the new concepts and deciding whether they are self-sustaining. In the medium and longer term, will the ports be able to generate the revenue that will ensure their sustainability? Will subvention be required from the local authority or from some other source? This is a question that needs to be answered at this time.

A further query arises with regard to the Drogheda situation. If it is decided to proceed with a new port development along the east coast, bearing in mind the movement of population into the province of Leinster, in particular, in the greater Dublin area or in counties Meath, Louth or Kildare, could a change in population require increased port capacity development along the east coast? In that case, Drogheda would be an obvious place for that development. If such a development were to be undertaken, who would finance such a large project? Would it be the responsibility of the local authority or of the local authority combined with the relevant oversight Department? I acknowledge that the secondary provisions in the Bill will cater for much

of this work but it might be useful at this time to inform the House what would happen in those circumstances.

I refer to the business planning model for the various regionally significant ports. If particular models or variations of business models have been assembled, these would be very useful for the enlightenment of the discussions between the Department and the local authorities who will be taking responsibility for the ports. I presume the issue of corporate governance will be dealt with in the statutory instruments and secondary provisions. How will suitably qualified people be chosen for appointment to the board? Will qualifications and suitability for board membership be decided on the basis of commercial experience in the port or on the basis of some previous experience, knowledge and involvement as a member of a local authority? These are the questions that need to be answered. It would be very useful to have some indicative answers at this point. Perhaps the Minister of State would address these issues in his concluding statement.

**Deputy Dessie Ellis:** I thank the Minister of State for his opening remarks. This is a very important Bill. Harbours are an important part of many coastal communities in our country. They provide for recreation and commerce and they are a major asset in attracting tourism, especially for an island economy such as ours. Many cities and towns depend almost completely on their harbours for their economy. This is not the case in most Irish harbour towns but it does underline the value of a harbour to local economies. If best utilised, they can be an engine for growth and a sustainable source of good employment. Access to the sea brings many opportunities to a town or city, but it also brings the challenge to maintain that opportunity and to grow it. In too many cases, harbours have been allowed to go to rack and ruin and so too has the local economy. A harbour policy must have at its core a drive to maximise the potential of our harbours, to support and encourage growth and job creation and to do so in a sustainable and environmentally sound way which incorporates all the local community in decision-making. In this regard, the Bill may be taking a step in the right direction but, unfortunately, it falls short at an important hurdle, thus rendering the Bill's provisions much less powerful and positive.

The Bill empowers only local authority chief executive officers and provides little or no democratic oversight of the harbours by local councillors who are the people elected to make the decisions for their community. The CEO is unelected and, in too many cases, is utterly unaccountable. He or she often has his or her own agenda which can run contrary to the mandate of the council given by the local community in democratic elections.

Studies by the OECD and general experience have shown that councils are efficient and effective at managing and overseeing local services. This is because they have the local know-how and expertise to make it work and to complete the job in hand. They also have the support of the public. They have inbuilt mechanisms for engagement with the public as well as being accountable. This does not always work perfectly, but certainly our local authorities and our councillors are much more accountable than those in the corporate world who only care for the bottom line and their shareholders. I strongly believe that democratic oversight is an important ingredient in finding success in the management of our harbours but also in ensuring success benefits the wider community which will last for generations. However, this Bill does not aid this aim and it requires significant amendment to place democratic structure central to the management and direction of our harbours.

The Bill seeks to move the control of five harbours, at Drogheda, Dún Laoghaire, Galway, New Ross and Wicklow, into new governance structures. This Government is claiming the

control will now be handed to the local authority but, in reality, control will rest with new bodies established by the chief executive officers of local authorities and will have little, if any, democratic oversight. The legislation will give the CEO a number of powers without any accountability to the councillors of the local authority. The CEOs of the relevant local authorities will nominate two new directors to each harbour without consultation. The decision will most likely be rubber-stamped by the Minister without any consideration by the relevant Oireachtas committee.

The Bill empowers the CEO, with council consent, to dispose of the shares in the harbour company. I welcome that there is council consent required, but the disposal of such lands, which might be important to the wider ports strategy, must be handled very carefully. The CEOs will be able to alter unilaterally the memorandum and articles of association of the harbour company. This could have far-reaching effects on the harbour company involved and requires no consultation with or consent of the council. This is too great a power to have in just one person's hands. A decision to change memoranda or articles of a company should not be taken without serious consideration, but allowing it to be one person's decision makes this all the more likely. The CEO will be empowered to authorise unilaterally commercial activities by the harbour company. Commerce is an important part of what harbours can bring to a community but it should not be above the interests of the wider community. Such decisions require consultation and democratic oversight through the seeking of council consent. In many cases such decisions may be relatively minor but that should be for the elected representatives of the community to decide.

The board can sell off assets without any democratic oversight by local authorities. This is completely wrong and given the somewhat cold way that CEOs can approach the accounts of the local authority, it could lead to very damaging sell-offs completely against the wishes of the community. CEOs will be able to approve of harbour borrowings unilaterally. This is again another unchecked power for CEOs which allows them to make very serious decisions without consulting local representatives. Consultation is crucial in these cases so that all issues may be taken into account.

CEOs will have sole oversight of accounts of harbour companies. Local authority representatives should be allowed to debate the accounts and have oversight of the audits of the harbour company. Similarly the chairperson of the harbours board must submit a report annually to the CEO but not to the local authority members to consider, debate or question. CEOs will have the sole right to commission a performance review of the board of the harbour. Councillors elected by the community should have this power given their role in ensuring the provision of quality services and value for public money. Only the CEO will be able to approve new superannuation schemes with no democratic consultation or otherwise needed. The CEO will be able to issue directions on the policy of the harbour company but this cannot be done by the elected councillors.

The Bill will transfer all employees of harbour companies to the local authorities but remuneration cannot be less favourable, so a local authority has no ability to reduce pay to highest earners in a harbour company. Concern was previously raised that commercial bodies which receive State support are able to pay high-ranking employees very large wages without any input from the State which funds them. This move should empower local authorities to consider the wage bill of high earners within the harbour company should savings need to be made.

The Bill proposes to make the harbour structure more democratic and accountable. Unless

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these concerns are addressed I am doubtful if we can fully support a Bill which gives such a range of powers to the CEO of the local authority but with no oversight or need for consultation. We will seek to secure a number of amendments on Committee Stage. It is welcome that the Joint Committee on Transport and Communications has supported the Bill. Bringing it before that committee for initial scrutiny was a very positive step. The Bill also provides for the possible future transfer of Bantry Bay Port and Dundalk Port to local authorities.

The Minister's plans for gender balance on the committee are very important. It is important that the chairman designate of the board must come before the Oireachtas committee, as stated in the Bill. The make-up of the board is also very important and the Minister of State has outlined some issues there. I believe that the local authority members should be represented on the board.

With the transfer of ports and assets, I hope there will be no job losses. Will the Minister continue in the same role as we have seen in the past where people are nominated to the board and the Minister makes the decision as to who will be the CEO or puts forward a number of names and then we go to the committee but *de facto* it is already a done deal? It is a very poor way of doing things. It would make more sense for a number of names to be put forward with the committee having some decision-making powers in that.

Addressing local concerns are very important. On the cost of these transfers to the local authorities, will there be a write-down of debt? Will they come with no baggage when they are transferred over to the local authority? Will there be investment or will the local authorities be left to deal with it, with no expectation of money coming forward to help with improvement projects?

I look forward to debating the Bill further and we will table a number of amendments on Committee Stage.

**An Leas-Cheann Comhairle:** The next slot is shared by Deputy Boyd Barrett and others.

**Deputy Richard Boyd Barrett:** I do not believe Deputy Pringle will be attending the debate. I am not yet sure if Deputy Coppinger will be attending but I will fill up the half an hour if necessary.

I am very happy that we are speaking about harbours. Many issues need to be looked at. My particular knowledge in this area relates to Dún Laoghaire Harbour, but I suspect that the issues that arise for Dún Laoghaire have implications for how the harbours of regional significance that are designated in the Bill should be governed.

As well as making some general comments, I intend to focus much of my contribution on specific concerns about what the Bill means in broad policy terms for Dún Laoghaire Harbour and also some very serious issues of what I believe to be corporate misgovernance in Dún Laoghaire Harbour over recent years which the provisions of the Bill simply will not address. Even though it may present itself as attempting to address these things, I do not believe it will succeed in doing so.

I will try to be positive initially. As a general principle it is good that these ports should come under the control of local authorities. That is a positive development and something for which we, in Dún Laoghaire, have campaigned actively for reasons I will outline. Dún Laoghaire Harbour Company has been a law unto itself. Nominally under the remit of the

Department of Transport, Tourism and Sport in reality on a day-to-day basis it is run by a semi-State quango that is not accountable to anybody. It is certainly not accountable to the public in Dún Laoghaire, nor to the local elected representatives.

In so far as I have submitted parliamentary questions asking about what is going on in a range of areas in Dún Laoghaire Harbour, the fairly standard response I get from the Minister is that it is an operational matter for Dún Laoghaire Harbour Company and all questions are referred to it. That is bizarre and unacceptable. If I ask the Minister questions about what I believe to be very serious matters of misgovernance and poor policy in the harbour company and he refers them to the people that I hold responsible for that misgovernance and bad policy, it is a bit of a joke.

To move from that to having at least the possibility of genuine local democratic control of a harbour, in this case Dún Laoghaire Harbour but it could be any of these harbours of regional significance, is a move in the right direction. The problem is that the Bill offers two options for how that might happen. Option one is that the harbour become a corporate subsidiary of the council but with the existing company structures staying intact. Option two - the one I believe we should take - is dissolving the existing company structures and bringing the harbour directly under the control of the council. It would become a department of the council and, by extension, the councillors, the elected representatives, would have real control over the policies pursued by the harbour and all governance issues to do with its management and operation. If we go for option two and not option one, the elected representatives, not the unelected executives, would have real power over the key issues of policy and governance.

The Dún Laoghaire council executive and the existing executives of Dún Laoghaire Harbour Company favour the corporate subsidiary model. In so far as I can get soundings from the Minister for Transport, Tourism and Sport, although he has sort of said it is up to the council, the opinion on the Government side seems to be leaning towards that model. I totally disagree with this for general and specific reasons.

The general reason is that it would hasten the ongoing and creeping privatisation of the harbour. Those in other harbours can speak for themselves. I do not know what the situation is in other harbours of regional significance in the same detail. In Dún Laoghaire Harbour the corporate subsidiary model, whether, as is the case now, under the nominal control of the Department or, as the Bill would allow for, under the nominal control of the council while retaining the existing corporate subsidiary company structures means that it would continue to be a law unto itself and have a narrow for-profit mandate which would push it in the direction of privatisation. A harbour, certainly in the case of Dún Laoghaire, has to be seen as an integral part of the town and the region as a whole. The idea that it should be isolated from the town and the region and have its viability and future development determined not by how it contributes to the town and the region but by the financial imperative to turn a profit or wash its own face economically fails to recognise that it should not be treated as an isolated entity. It has to be seen as a vital piece of infrastructure for the town and the region. If it is isolated by its structure, the pressure is on to commercialise it to make short-term profits or maintain short-term commercial viability.

Connected to this, if it were to be done in that way, the decisions on how to govern and operate it and maintain its viability would be taken by a group of people not accountable to anybody. I do not think what is being proposed will make them much more accountable. There is some tokenistic stuff in the Bill about chief executive officers, CEOs, being brought in front of the Oireachtas Joint Committee on Transport and Communications or the local councils, but the

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real power would still rest with the company executives and they would make the decisions, perhaps in conjunction with the CEOs of the councils. The problem is that this has been happening. This option would not change it one iota.

Let me give some examples. One big issue in Dún Laoghaire has been the Dún Laoghaire Baths which are situated just beyond the boundary of Dún Laoghaire Harbour. The people have been campaigning for 25 years to have the baths rebuilt on the same site, in the area controlled by the council. Initially, it proposed madcap plans to build apartments, which proposals were shot down because of mass protests. The people demanded not only that we should not have apartments but that we have a swimming pool. Although the proposals for apartments have been knocked off the agenda, we are not getting our swimming pool. The council claims it does not have the money to give us one at the site of the baths. Strangely, however, Dun Laoghaire Harbour Company is proposing to pay out €3 million for a floating swimming pool on a barge which it is going to buy from Germany to be put inside Dún Laoghaire Harbour. It is bizarre. The people will not have the pool where they asked for it; instead Dún Laoghaire Harbour Company will spend €3 million in giving us a barge. Half of that money will be contributed by the council, but it will all be under the control of a corporate subsidiary. What the people have asked for has been dismissed; instead this corporate subsidiary, in a cabal with senior executives in the council, has decided not to give them the pool where they asked for it but will provide this thing inside the harbour which potentially will be damaging for the harbour because it is talking about building new structures on the East Pier. Even Owen Keegan, when he was the manager of Dún Laoghaire-Rathdown Council, said it probably would not be economically viable. Most think it is insane to put a barge which was intended to be used on a canal in Germany inside the East Pier of Dún Laoghaire Harbour. It is madness and will not work, but the harbour company is doing it because of its desperate attempt to sustain the financial viability of the harbour. This is a madcap gamble and wasting our money, but we have no control over it. If we did not have separate governance for the harbour and the areas controlled by the council which are within a stone's throw of each other, we would make a rational decision. The decision would not be based on the short-term financial crisis facing Dún Laoghaire Harbour Company but on what the people asked for and the harbour would be seen as part of the town. Wrong, stupid and inappropriate decisions would not be made just because the harbour company had short-term financial issues. It would all be part of an integrated whole.

The other serious example relates to the controversial issue of the cruise berth. The corporate subsidiary allows for our new friend - off-balance sheet financing. The harbour company proposes to borrow €18 million to build a giant cruise berth inside Dún Laoghaire Harbour to bring in giant cruise ships. I have no problem with cruise ships coming into Dún Laoghaire Harbour; small ones already come in. The big ones anchor outside the pier. There is no problem and passengers come in on little boats. Borrowing €18 million, however, to build a giant cruise berth, where the decision to borrow the money is taken by a corporate subsidiary, over which we have no real control, is financial madness.

*4 o'clock*

It will lead to very serious damage and destruction to Dún Laoghaire harbour and will lead to the privatisation of the harbour.

What do I mean by that? First, Dublin Port has just got planning permission for a giant cruise berth, so it is competing for the same business and it already has most of the cruise berth business. For the Dún Laoghaire Harbour Company proposal to be viable, it would have to take

most of the business that is now going to Dublin Port from it and bring it to the Dún Laoghaire. That is madness for a start. Dún Laoghaire Harbour Company is going to spend €18 million in trying to bring in this business and take it from Dublin, when Dublin Port has just got planning permission for a cruise berth and is itself planning to bring in all the business. Something has to give. One or other will not be financially viable, and it will almost certainly be Dún Laoghaire.

How is Dún Laoghaire going to finance this and what collateral will it put up to borrow this €18 million on a madcap gamble that will almost certainly not work? The answer is that it is going to build apartments. In a masterplan which is widely derided and opposed by the people of Dún Laoghaire, Dún Laoghaire Harbour Company spent some €140,000 on consultants for a masterplan to build hundreds of apartments inside Dún Laoghaire harbour, something that is utterly opposed and that would effectively privatise sections of the harbour. In the document relating to the cruise berth, the harbour company states that the financing of the berth is contingent on the apartments. Therefore, to get the cruise berth, we have to get the apartments, which will privatise that section of the harbour. They will become exclusive, millionaire apartments and the area where they were built will then be off limits to the public in a public amenity harbour. Furthermore, if the scheme collapses who pays for it? The company will have to privatise further or else the council, where the elected representatives have no say in these matters or these borrowings, might have to pick up the tab. In fact, it will have to pick up the tab, possibly through increased property taxes, even though it will have no control over it. It is madness but the corporate subsidiary model allows this to happen, in fact it actively encourages it to happen.

Another example brings us into the area of governance issues. In recent years the harbour company executives set up a new company, the Irish International Diaspora Centre. Under the Harbours Act, if a harbour company sets up a new company, it is supposed to get permission from the Minister. The harbour company did not get permission from the Minister yet it set up a new company to develop the diaspora project. Let me make it clear that I am in favour of such a project. What we need in Dún Laoghaire harbour is a diaspora museum, not apartments or a cruise berth. This would be a very good, sensible investment. However, the setting up of this company was done without reference to anybody in a situation where ministerial consent was required but was never obtained.

In questions about this to the Minister, I asked how the executives could set up a company that does not have ministerial consent. The Minister said he told them it needed ministerial consent but it seems they just ignored it, and the Minister did nothing about that. That company has some €200,000 in what appears to be two salaries, yet it has never traded and has no share capital, so where is the money coming from? The money is coming from the harbour company. However, the harbour company is supposed to be required to have ministerial consent to set up a company. In this case, this company has not got that consent, but people who are in this company were being paid salaries. Apparently, that company has since been wound up. Where is the oversight? Who paid that €200,000 for a company that has now been wound up, with the result that no diaspora museum is going to appear? This is unbelievable but it is allowed to happen under the corporate subsidiary model.

We then get into the really serious corporate governance issues. Since getting elected to the Dáil in 2011, I have asked between 75 and 100 parliamentary questions about these matters and matters to do with expenses, salaries and unexplained payments to executives and I have got the run-around for several years. I will give some examples. A former director wrongfully claimed €40,000 in expenses for flights from Dubai to attend meetings in Dún Laoghaire Harbour Company. We were told many years back, when I raised this question, that this €40,000

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would be chased down but it was not. In successive questions about this, I was told by the Minister that legal proceedings were being taken to pursue the money. That was to fob us off. In further questions, I kept asking what was happening. I asked whether the legal proceedings had started, whether I could have the number of the court case and so on. Then the Minister told me that there are no court proceedings. We were told by the Minister, on foot of what he was told by the CEO of the harbour company, that there were legal proceedings but when I ask for the details of those legal proceedings or the case number of the court proceedings, I find there are none. Either the Minister was misled or he misled us. Then it turns out that legal proceedings are not court proceedings, and that there are some other legal proceedings, which are not court proceedings, to pursue this €40,000, which we were told several years ago was going to be recovered and which everybody acknowledged should never have been paid out. Nobody is pursuing it. There are no proceedings.

This is allowed to happen by a Government that says it is serious about governance, corruption and all that sort of thing. Why was there no effort? Instead, we just got statements like, "I am referring it to the harbour company". It is the harbour company against which we are making the allegations. Of the people who are on the audit committee that allowed this to happen, one has been appointed the new chairperson of the harbour company, although it is that committee that passed all of this.

The other thing it passed was an extraordinary payment two years ago of €20,000 to the current CEO. At the time, in an answer to a question I put, he said he got this €20,000 in lieu of holiday pay. That is against the law, in particular, the Organisation of Working Time Act. I put this to the Minister, who said that, yes, he accepted that the payment should not have been made. He contacted the harbour company and it came back and said it was an exceptional circumstance. That was it. It was just let go. The most recent reply was that it was an exceptional circumstance. According to the Organisation of Working Time Act, however, the CEO paid himself money that is not allowed under the law, and the Minister has been aware of this and is not doing anything about it. If this Bill is passed and if the favoured model of the corporate subsidiary happens, that same CEO will still be the CEO under the new model, and the same kind of thing can continue. We will get the same kind of response when we put questions about corporate misgovernance and unexplained payments that may be in breach of the law or illegal, and that possibly should be the subject of criminal investigation. We will get the run-around. All questions are referred back to the very same people against whom the allegations are being made. This is totally unacceptable.

There is then the universal issue. This CEO is getting paid €136,000 a year, plus some €20,000 for a car, plus, in that case, unexplained payments. This company has 12 front-line employees, yet he is getting more than a senior Minister. When we add in his pension contributions, the total amount is about €188,000 a year for a company with 12 employees that is being run into the ground. This is totally unacceptable and it needs to be investigated. When one takes the combined total of directors fees of €12,000 for each director per year, other executive salaries, the CEO's executive salary, pension contributions, extra payments and so on, we estimate the total is about €600,000 a year, and this will continue in a company which is in a financial crisis. If we dissolve the existing company structures, that is €600,000 saved a year.

The front-line workers who actually do a job can be transferred over to the council under existing conditions, which is absolutely right and proper. However, those who are feeding out of the honeypot and milking it dry, who have helped run the harbour company into the ground and are accountable to nobody, will continue. That is utterly unacceptable.

These matters need to be looked into. Serious vigour is needed in pursuing them. As the Bill is currently framed, however, in the option that it provides for the governance of these harbour companies, it will be allowed to continue. That cannot happen. It is an utter waste of money, in this case more than €500,000 a year. Mad decisions are being taken and will lead to the privatisation of the harbour. There is no sense of how we might develop the harbour in a democratic way with real public oversight in order that it would contribute to Dún Laoghaire town, which desperately needs help and is in real trouble in terms of small businesses and so on, or to the wider region. The harbour authority is being allowed act as a law unto itself with the connivance of some of the senior, unaccountable, unelected officials in Dún Laoghaire-Rathdown County Council.

I will be coming back to all this on Committee Stage, when I will be proposing amendments. Perhaps the Minister of State would take these issues on board and delete that option. The harbour should be brought directly under the control of the elected representatives on the council. We should get rid of this parasitic group of hacks and cronies who have run Dún Laoghaire Harbour into the ground and engaged in serious misgovernance.

**Deputy Ruth Coppinger:** I am speaking on behalf of the Anti-Austerity Alliance. In theory, the idea of bringing ports under the remit of local authorities is a positive step as port authorities have proved unaccountable to local communities in many cases. They have not taken the impact of the port on the community and local small businesses into account. However, the devil is in the detail. In reality, these authorities are not going to be accountable to local councillors. Ministerial orders will still apply.

Section 9 allows councils to sell 49% of their shareholdings. Such sales would be subject to a decision of the council, in the context of the underfunding of local authorities. We all know this underfunding is cited whenever any of our councillors try to extract anything on behalf of local residents. Limits are also being put on the ability to borrow. This could give rise to situations in which the selling of shares is cited as the only means to raise capital for further investment. Even the Competition Authority has said that the Government should retain public ownership of the ports infrastructure, yet the Government is providing for 49% of harbours to be privatised. It starts with 49%, just like Aer Lingus, and ends up being the full shebang. That is exactly what can happen. Is this really a cloak for divestment, allowing the Government to sell off these harbours? The dangers of privatisation are very obvious. I have a 2013 statement from the Irish Congress of Trade Unions welcoming the fact the Government is retaining the harbours in public ownership. Was this clause introduced at some stage after the initial consultation?

These regional ports are not very significant in the overall context of the national economy but they are very important to local areas and communities. It would be wrong for private hands to take control of them. Private shareholders will not take into account the impact of their decisions on communities. We know this. Their bottom line is profit. We are likely to see an emphasis on property development on port land and a focus on commercially beneficial aspects, to the neglect of things like sports facilities, heritage, wildlife and the environment. We have already seen this occur, as Deputy Boyd Barrett has illustrated in the case of Dún Laoghaire.

There are also safety issues. The harbours are being passed over to local councils but I do not see the Government allocating funding as well. Perhaps the Minister of State can clarify that. I have no doubt that safety could potentially be compromised.

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I also wish to ask about workers' rights. In the legislation, although there is provision for the recognition of existing terms and conditions, there is nothing said about protecting new entrants into these occupations. There will be significant pressure in the context of privatisation. We know this will mean cheap labour and casual work without the same terms and conditions. We only have to look at the likes of Irish Ferries and what happened there. I call on workers in the ports, local authorities and local communities to mobilise and lobby their representatives to ensure privatisation of the ports is opposed. I am by no means opposed to the harbours being in the hands of local councils, but that should not be with the potential for 49% of them to be sold.

**Deputy Fergus O'Dowd:** I am sharing time with Deputy Andrew Doyle. I welcome the Bill. It is very important and will lead to significant changes in our ports.

I take the point Deputy Boyd Barrett outlined and confirm that, when I was spokesperson on transport, I had serious concerns about the port in Foynes. While I am not familiar with the issues Deputy Boyd Barrett raised, I was and remain deeply concerned about the question of governance. At that time - it is a matter of record - there was a company set up by the chief executive to supply services to the port. It happened that the chief executive and his wife were directors of the company. I was deeply concerned about that and about the transfer of a significant piece of land - described to me as a ransom piece - owned by the harbour authority into the private ownership of a company. I brought those matters to the attention of the transport committee and the Minister of the day.

As I am no longer a member of that committee, my involvement with the issue has ceased. However, I agree with Deputy Boyd Barrett that there are serious issues which need to be clarified definitively when this legislation is passed. The Minister and his staff will be aware of these issues. They could arise at other ports and need to be dealt with to bring transparency, accountability and clarity in terms of the business model that must be followed by our ports. I welcome the opportunity to have this debate in that context.

Drogheda, where I live, has huge potential to develop its port Europe-wide. Perhaps the Minister of State might address the issue of Bremore port, either in his reply or at some point prior to Committee Stage. How can we further support Drogheda Port Authority in developing a new port at Bremore? I know the Minister of the day, Mr. Noel Dempsey, was in favour of it. The Harbours Acts were amended and local government made a commitment in planning to develop a new outer bypass of Dublin, which would go from Gormanstown or Drogheda right around through Naas and Newbridge down to Wicklow. Former Deputy Liz McManus represented Wicklow at the time and was also in favour of that proposal. Now that our economy is recovering and we are in a different mode, I hope we can debate these issues on Committee Stage. They should inform our opinions as we decide what is going to happen.

Drogheda and other ports on the east coast have great potential. There is huge growth in offshore energy, which could be a bonus in terms of new port facilities. I know of one local company that is anxious to get involved. It manufactures and exports products that can be used in wind energy, particularly at sea. I hope the business plan for the ports will take that sector into account.

We are faced with a dilemma which was raised by the Deputies opposite and which I raise again. I want the control of local authorities in terms of overall governance to be part of this Bill, and so does the Minister. There is no doubt about that, but we also want them to be free and unfettered in terms of their business and their ability to create new businesses and jobs

and to develop and improve port infrastructure. The Bill allows option A and option B to be considered. The Minister of State can correct me if I am wrong, but as I understand it the local authority will be informed by its research as to which option will be chosen. That is a reserved function of the county manager. I have discussed the issue with the county manager in Louth. I am strongly of the opinion that the local authority should have a hands-on approach to the development of Drogheda Port. The governance issues which are part of the legislation should be firmly and absolutely in place, but at the same time there is a need for the business model to be separate from the dead hand of people who know nothing about such matters, and who have no need to know anything about the business issues but have an entitlement and belief in the governance and improvement of the port. One might consider that an ambiguous statement, but I am clearly in favour of greater authority for Louth County Council in the running of Drogheda Port but for it to be free in its business plan.

I understand in the context of Drogheda that if the local authority were to control the port that the dividends would go to it, which could make a significant difference to the income of the local authority. I refer to such matters because the infrastructure of ports is changing. In Drogheda, for instance, the historic and traditional infrastructure on the quays of the town are no longer used by ships. We have music and other festivals, including a fantastic sea festival. An entire new business can be run from the old port in Drogheda. The leisure industry can have a significant positive effect if we organise it properly. The local authority can have an ideal influence on the development of models and activity in those areas whether the new port is at Bremore or at Tom Roe's Point, and that the business model can be developed.

Significant issues arise in terms of development of the old inner town port, for want of a better description. We could have fantastic private development on the quays which would result in new business and commercial activities, including shopping. That would make a significant difference to the town. In many areas access to quay areas is poor due to the level of dereliction and lack of activity. The absorption of the port and town quays into the county council would give a significant strategic advantage to the local authority and its planners. It would avoid time delays in the acquisition of properties and haggling over prices. Pending such development, it would be very important for the county council to own the town quays. It does not make sense that the port authority gets a significant amount of its present income from parking charges on the quays. I do not see why that income should not go to the local authority to be ring-fenced specifically for the development of new activities centred on the old port.

The absorption of the port into the county council as an administrative unit would allow state aid by the EU in future and allow grants and cross-Border financing, for instance for training walls to keep the River Boyne navigable and to reduce the dredging costs which currently amount to hundreds of thousands of euro per annum. Under state aid rules, remaining as a corporate entity would lead to any grants being disallowed. There are considerable advantages to the absorption of the port into the county council.

The port has many properties in its portfolio. It has a fine site of several acres on the Meath side where its head office is located. The modern jetty could be used and would represent a huge advantage to inward foreign investment on the site. The new synergy between the port and the county council will make a significant difference. I am conscious that I am sharing time with my colleague, Deputy Andrew Doyle, so I will conclude. In summary, we need change, transparency, accountability in terms of the funds which are paid to chief executives and other officials of port authorities right around the country. The range of payments should be available. They may well be published in their annual reports but in view of what Deputy Boyd

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Barrett said it would be important to have transparency on such issues in all ports so that we know exactly what we are doing and where we are going. The legislation is very important. I welcome the debate and look forward to Committee Stage. I commend the Bill.

**Deputy Andrew Doyle:** I thank my colleague, Deputy Fergus O'Dowd, for allowing me to share his time. I welcome the Bill's provisions and key principles. As an island nation, ports are essential infrastructure that should stay in public ownership. Ports should be competitive and profitable. As a country we import and export many goods. We export food and pharmaceutical products in bulk. There is every reason for port companies to be viable and to stay in public ownership.

The ports we are talking about, namely, Drogheda, Dún Laoghaire, Wicklow and New Ross, are all located on the eastern seaboard. This week we opened a very significant piece of new road infrastructure on the M11, called euroroute, eventually to link Larne with Rosslare including all the ports along the way that form part of the necklace of ports. The ports can all be contributors to the Irish economy. Deputy Boyd Barrett referred in particular to cruise liners and tourism. Wicklow Port Company is a small semi-State entity that has been a profitable company, notwithstanding what Deputy Boyd Barrett said about the Dún Laoghaire Harbour Company. The company in Wicklow Port has continued to be prudent. It has invested money in the provision of key infrastructure such as a pier and has managed to keep some reserves. I recall when the then Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, visited, the harbour master was very concerned about his humble port headquarters. I assured him that the Minister would rather come to a port company with humble headquarters and a healthy bank balance than one where the opposite was the case.

It is wise to have the two options. We should not rule either one in or out. If a port company is to be transferred as it is to a local authority the company should then be answerable to the executive and the members of the council and the audited accounts should be available and published. Decisions taken by the company should be subject to the council in the same way that agencies of the State come before relevant committees of the Dáil. Port companies should present their annual report either to the full council chamber or to a select sub-committee.

If the desired option is to dissolve the port company and transfer it to the local authority a proper committee should be set up. The rules pertaining to revenues and profits of the port should be decided by the members. Section 9 provides for ministerial consent to the divesting of equity to the private sector. That should be a function of the members. There should be a double-lock provision in that a majority of members of the council would have to recommend the course of action first and then the decision would have to go to the Minister for approval. We should be reassured that it cannot be privatised willy-nilly. Private equity may be necessary. It would not be the preferred option if, as I said, the port companies can trade profitably. Whether the new configuration means that they will be maintained as a company or absorbed into the council, they should continue to be able to avail of grant aid from the Department of Transport, Tourism and Sport or the Department of the Environment, Community and Local Government for investment in capital infrastructure that may be beyond their ability to provide, given their trading operations. Allowing it would make them profitable. Whether by way of a deferred loan or grant aid, they should be entitled to source such money without being in breach of state aid rules.

It is welcome that the provision is being made. We have a local government reform programme in place and are trying to restructure the way administration takes place and how we

govern. There has been significant local government reform, much of which has returned responsibility, control, management and accountability to local authorities to let them run their affairs. The only way they can do this is with power and money and revenue is key.

All of the significant ports are very important to their local economies. There is very vibrant activity in Wicklow Port. It is very important that their future be secured and that they become integral to the local authorities. I welcome the provisions included in the Bill and I am very pleased that it has come to this point. It was a moot point for the previous Government. Where harbour commissioners were transferred back to the local authorities, as happened, for example, in Arklow, there have been ongoing changes. Wicklow Port Company is still small and does not merit being a semi-State body, as we understand it. However, there is no reason it cannot be part of a local authority and have a commercial and self-financing focus.

**Deputy Éamon Ó Cuív:** I am delighted the Minister of State is present. I can only imagine, if he were on this side of the House, how he would be on his high horse about the neglect of the west and a policy designed to keep it in its place and small.

**Deputy Michael Ring:** The Deputy is talking nonsense, as always.

**Deputy Éamon Ó Cuív:** May I continue, without interruption?

**An Ceann Comhairle:** Yes.

**Deputy Éamon Ó Cuív:** I can hear the Minister of State's voice rising to castigate the Government for a policy that would leave us with no national port between Foynes and Derry. Given the length of the coastline, one must ask how we could leave the area without a national port. As Google Maps, a fantastic facility, shows, Foynes is closer to Cork than to Galway. Therefore, the argument that it is close to Galway does not hold water. One need only consider the distance between Cork and Waterford, Waterford and Rosslare and Rosslare to Dublin to discover we will have a necklace of national ports stretching from the Border between the State and the North of Ireland, north of Dundalk, around the coast as far as Foynes. However, north of Foynes, along the northern bank of the River Shannon and the extremely long coastline of counties Clare, Galway, Mayo, Sligo, Leitrim and Donegal, there will be no national port.

I can imagine the Minister of State fulminating and saying it was a disgrace and should not be allowed to happen. His advisers will say the reason the port in Galway is not in the list is that it does not deal with the required tonnage. That is like telling the people of Inis Meáin that they had no track record in fishing as they did not have a pier and had to fish using currachs. As the Minister of State knows, the port in Galway is tidal and relies on the use of gates which can be accessed only in very limited tidal conditions.

The discrimination against the port in Galway in the Bill is very serious. Its effect will be to stymie the comprehensive development plan developed for the port. If successful, it would make Galway a very important port for the import and export of natural resources. Oil is already brought in, while waste, lime and timber are exported. Many other cargoes could be brought in and out if and when there is a suitable pier that would facilitate the bringing in of significant cargoes in all tidal conditions on ships of a suitable sized. Only ships of a limited size can enter the docks, with the Minister of State is more than familiar.

When I was Minister, I was instrumental in establishing a group that developed a vision plan for the port in Galway. We saw its potential as a commercial port in bringing in and out com-

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mercial cargoes, as well as one of the most attractive ports for the cruise liner business. Unlike most other cities, when the new harbour is built in Galway, it will be possible to bring ships within walking distance of the city centre, making it an incredibly attractive place for tourists. The heart of the city is very close to the port. The tourist area is adjacent to the port and will remain so if and when the new pier is built. As part of the creative plan, it was envisaged that the existing port would be used for marine leisure activities, for which it is ideal. Following the successful hosting of the Volvo Ocean Race, there is great potential to host and a demand for such events in Galway city. We also developed the concept of redeveloping the existing portlands in the inner harbour area which would form the basis of extending and turning the city centre towards the sea, providing recreational, commercial and residential accommodation, along with shops, restaurants and high-quality offices. Rather than extending the city outwards, we aimed to consolidate the city centre, an area which is very eco-friendly and easy to walk around.

In one fell swoop, this Bill seeks to undermine all of this. It will make Galway a port of regional significance. In public service jargon that means it is not considered important, it is not worth investment or European grants and will not be considered part of the TEN-T process. The Bill is about locking the gate but not telling us this in such blunt terms. It is saying it does not believe the west should be developed and all development should take place on the east coast. The Minister of State, in his heart and soul, knows that is what is going on. I know he is not the day-to-day transport Minister but it must be an embarrassment to him to know that this is basically the underlying thrust of this Bill. Essentially, those that remain national ports will get resources and those which do not get nominated will get nothing.

This is perpetuating the future by the past. What holds us back west of the Shannon is underdevelopment in the past. The Galway Port company has shown, however, through objective analysis the port can develop in the future. However, because the tonnage is not there because of the past it will not be taken seriously. If we continue on that path, there never will be balanced regional development on this island. The west coast will always lag behind because historically, well before Independence, it was the poorer part of the island in terms of infrastructure and business.

Surely the Minister of State's vision is bigger than that. When 15,000 tonnes were being put through the timber mill at Corr na Móna, I always remember being told by the forestry Department that we would never get 30,000 tonnes of timber for it. The big mills were to stay big and the small mills were to stay small. Amazingly, in 2015, that same mill is putting 400,000 tonnes of timber through it. We did not accept we had to be the poor relation. In fairness to P.J. Fahy, he did not take no from the powers that be for an answer. As a result, he has created a significant number of jobs. It is now the largest mill in the country. We were told there was not a tenth of the timber it consumes in a year available because the conventional theory of time was that the mills had to be in other places in the country, not in a place like Connemara.

In fairness, the Minister of State has fought that attitude for most of his life. He has not been willing to lie down and accept the west must always play second fiddle when it comes to roads, ports or airports. I know the attitude of the Department of Transport, Tourism and Sport. It is treating Knock Airport in the same cavalier fashion. I cannot understand why Knock Airport is not given the same status as Shannon and Cork airports. With a Taoiseach and Minister of State with responsibility for tourism coming from Mayo, one would have thought such designation would have been possible. We know the designations create the future. If one is designated to the also-ran league, then one remains in it. Designated to the big boys' league, however, and

one tends to get the investment into the future.

I hope between Second Stage and Committee Stage, the Minister of State, coming from the west, will get over his initial annoyance at me and challenge, as I had to do on many an occasion when I was a Minister, the *status quo*. The Minister of State knows it is not rhetoric with me. He knows that when I went to Corr na Móna as a young person, well before I was in politics, my whole motivation in the 18 years in the co-op there was not to accept the *status quo*, not to accept the west was an also-ran, not to accept emigration or that we could not create jobs. The businesses we spawned, under different management, have been highly successful and did defeat the odds.

The Minister of State also remembers Monsignor Horan. The same kind of thinking that informs this Bill, namely that we do not need a tier-1 or tier-2 port from the Foynes on the south side of the Shannon Estuary up to Derry, was the same type of thinking against which Monsignor Horan fought. I would say the Minister of State cheered him on at the time for kicking over the traces and not listening to the gurus in the Departments of Finance and Transport. One of the best pieces of television I ever saw was the famous interview by Jim Fahy with Monsignor Horan at the end of the massive, long runway at Knock Airport. The wind was blowing and one could see miles of runway behind Monsignor Horan. In his roguish way, pretending that he was the innocent parish priest, which the Minister of State knows he was not, he put his hands up to his mouth and roared into the microphone: "Do not tell them in Dublin. They do not know this is happening." Was he not proven right about making a stand?

It is a great privilege for the Minister of State to be in office. As I pointed out this morning, we have three more Question Times before it is all over, even if the Government goes to 9 March. The Minister of State is coming towards the end. We all want to leave a legacy. The Minister of State knows that, when I was Minister, I supported Knock in every way I could. I am proud of it. I suggest that the Minister of State return to the Department. If the Galway Port Company can provide the plans - it has them and is awaiting permission in the coming weeks following an oral hearing of An Bord Pleanála under the critical infrastructure Act that I attended some time ago - and convince him that, between Galway, Mayo, Roscommon and so on, there is enough business to keep the port going in Galway, including the business of incoming cruise liners, he should tell his senior Minister that he will leave a legacy for the west in the Department because he sees the big picture for the west, namely, what is good for Galway is good for Mayo and *vice versa*. The Minister of State should suggest and succeed in getting a simple amendment to this Bill, namely, the removal of the reference to Galway as a port of regional significance, the inclusion of a reference to it as at least a tier 2 port and the provision to the west coast, Connacht - the Cinderella province - and that part of Ulster that is in the Republic what they deserve. If he is big enough to do this and see the justice of the case, his legacy will stand on its merits.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring):** I thank Deputies for their contributions. As they acknowledged, the Bill has been before the Oireachtas joint committee, a process that has been of considerable help. Deputies have raised a number of issues that I will bring to the attention of the Minister, Deputy Donohoe, but I will reflect on a couple of them now.

The transfer order to be made under the Bill will be a short and straightforward one nominating the day of transfer. The detail is in the Bill. I have heard Deputies' opinions about the Oireachtas joint committee engagement. They were pleased with it.

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Due diligence is under way. This will provide a complete picture of the financial position. In terms of consultation, there have been detailed discussions with the companies and council executives. As regards capital expenditure, Government policy is clear that no funding is available for a commercial company, irrespective of the shareholder. Regarding the corporate governance of a transferred company, the Bill spells out the role of the elected members, the local authority chief executive and the company.

Deputy Ellis referred to the need for democratic oversight and highlighted the OECD reports on the matter. He also referred to the commercial importance of the ports. Therein lies the balance when a company transfers. We will try to balance commercial needs with democratic oversight. The Bill provides a number of important new powers to elected members. Under the other transfer model, everything is run like any other council function. All accounts must be submitted to elected members who may call in chairpersons and CEOs to discuss administration generally.

Deputies queried the lateral model of transfer in respect of particular ports. The Minister and I welcome their views on what model is most appropriate. I assure them that we are in listening mode. Regarding public ownership of our ports, there is no question of the national ports policy moving away from the current model. However, that does not rule out increased private investment if elected members so decide.

Deputy O'Dowd raised a number of important and positive points about ports' potential. I thank him for his comments on Drogheda. Deputy Doyle rightly referred to the importance of our ports. The Minister and I share his views.

I wish to address Deputy Ó Cuív's question on why Drogheda and Galway were not considered as ports of national significance.

**Deputy Éamon Ó Cuív:** There are a sufficient number of ports on the east coast. I do not know why we did not get it.

**Deputy Michael Ring:** I cannot let the opportunity go. The Deputy discussed Knock airport. Before responding further to the Bill, I wish to remind the Deputy about when he and I fought bitterly on "Morning Ireland", local radio and Galway Bay FM many years ago regarding Galway Airport. I was in opposition and he was a Minister. I told him not to waste taxpayers' money on Galway Airport when we already had a regional airport in Knock and another airport in Shannon, but he continued putting money into it. Where is it today? Closed.

**Deputy Éamon Ó Cuív:** That is because we did not put money into it.

**Deputy Michael Ring:** That Government did.

**Deputy Éamon Ó Cuív:** We did not.

**Deputy Michael Ring:** I asked the Deputy not to do so. I asked him to support Knock. I asked him to support Shannon. I wanted the regional airport to be Knock airport. I am a Minister of State at the Department of Transport, Tourism and Sport and I do not deal with harbours. I am taking this Bill on behalf of my colleague. I assure the Deputy that a great deal of work is happening behind the scenes at Knock airport. This Government has been very supportive of it. The Deputy knows the situation better than anyone, as he was in government for 14 years.

**An Ceann Comhairle:** We are discussing different matters now.

**Deputy Michael Ring:** I will finish on the harbours. Deputy Ó Cuív spoke about Shannon, Cork and Knock, but we both know that Knock is in private ownership. Shannon is now in private ownership, but it was in Government ownership, as was Cork. The Deputy cannot have it both ways.

**An Ceann Comhairle:** The Minister of State has had his say. Will he get back to the Harbours Bill, please?

**Deputy Éamon Ó Cuív:** Shannon is in State ownership.

**Deputy Michael Ring:** I will finish. I have always respected the Deputy's point of view. His Government did some very good things, which I will not take away from him, but it also did some very bad things. For the past four and a half years, we have been cleaning up the mess that it left behind. I commend the Bill to the House.

Question put and agreed to.

### **Harbours Bill 2015: Referral to Select Committee**

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring):** I move:

That the Bill be referred to the Select Sub-Committee on Transport, Tourism and Sport pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) of the Standing Orders relative to Public Business.

Question put and agreed to.

### **Topical Issue Debate**

**An Ceann Comhairle:** Before moving on to Topical Issues, I wish to say on my own behalf in particular that we are reaching the end of a very long term. I pay tribute to all our staff, who are in need of a well-deserved break. I refer to those in my office, the Acting Clerk of the Dáil and Mr. Errity who looks after the pounds, shillings and pence, the clerks who assist us in the Chamber, including those in front of us recording the proceedings, the Captain of the Guard, the Superintendent and the usher staff who serve us so well, those in the restaurants and bars who feed us and make sure we are not thirsty, and all the staff throughout the Houses, especially in the Library Service, which is second to none.

*5 o'clock*

Last but not least I wish all Members a well-deserved break. If at times I was a bit cross or sharp with people it is never permanent and I hope people understand my shortcomings. I hope everybody has a pleasant break for the summer months. I thank Deputy Ó Cuív and the Minister of State, Deputy Ring, for the last item before we reach Topical Issues.

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## Human Rights Issues

**Deputy Joanna Tuffy:** I first raised the case of Asia Bibi in 2011 and I have raised it a number of times in the years since then. She has been imprisoned for the past five years since she was accused of the offence of blasphemy in Pakistan. I raise it today because I have read newspaper reports recently that she has been suffering ill health and I understand her solicitors made representations on her behalf that she be transferred to a prison in Lahore so that she can be nearer to her family and can get medical treatment. If she is suffering from ill health I wish her a speedy recovery and I hope whatever assistance is needed is provided. I hope that matter will be raised by the Irish Government with the Pakistan Government on her behalf.

This is a very important case on account of the humanitarian issues involved. I understand that Ms Bibi is the first woman sentenced to death for blasphemy in Pakistan. Over 1,000 people have been accused of this offence since 1987 so it is a big issue in Pakistan. She has appealed her case and has been awaiting the verdict on an appeal to the Supreme Court for a long time now so it would be appropriate for the Government to make strong representations to the Pakistan Government and to request that her case be treated with compassionate consideration. At the very least, we should press for the matter to be brought to court as soon as possible. We should seek for her to be released in the meantime and that her case be given as much humanitarian treatment as possible.

The Irish ambassador-designate to Pakistan, who is based in Turkey, visited Islamabad last year and made representations relating to this case and to the blasphemy laws. The European Union High Representative has also raised the blasphemy laws with the Government of Pakistan so I ask the Minister of State to give an update on our Government's actions in this case.

**Minister of State at the Department of Foreign Affairs and Trade (Deputy Jimmy Deenihan):** The plight of Asia Bibi, who is detained in Pakistan on charges of blasphemy, remains of great concern to the Government. Officials in the Department of Foreign Affairs and Trade avail of every possible opportunity to raise Ms Bibi's conviction. Ireland does not have a resident embassy in Pakistan but the embassy in Ankara, Turkey, is accredited to Pakistan. Our embassy in Ankara continues to monitor the situation in Pakistan generally, and the embassy remains in regular contact with the EU delegation in Islamabad.

During official visits to Islamabad, the Irish ambassador has conveyed our concerns at this conviction on a number of occasions. In the course of a series of meetings there in November 2014, the then ambassador met with a senior official in the Foreign Ministry of Pakistan and raised this case, noting that it is a matter of grave concern in Ireland. Officials in my Department have also raised this case, and our concerns regarding the blasphemy laws and persecution of Christians generally, with the Embassy of Pakistan here in Dublin, and they will continue to do so.

The European Union also continues to raise this conviction with the Pakistan authorities, including through the EU delegation in Islamabad. In the course of a statement made on behalf of the EU High Representative at a plenary session of the European Parliament in Strasbourg in October 2014, it was noted that the EU, particularly its delegation in Islamabad, would continue both to follow the case of Ms Bibi closely and to advocate for the verdict to be overturned. While not trying to intervene in an ongoing court case, the statement also noted that the EU would use any opportunity to raise this case and the wider issues of the death penalty and blasphemy law with Pakistan. The EU Special Representative for Human Rights, Mr. Stavros

Lambrinidis, visited Pakistan in October 2014 for an indepth dialogue with the Pakistan authorities on key human rights issues.

Ireland strongly condemns all forms of persecution on the basis of religion or belief, irrespective of where they occur or who the victims are. We attach great importance to combatting all forms of discrimination based on religion or belief and incitement to religious hatred. We firmly believe in tolerance, non-discrimination, freedom of expression, freedom of thought, conscience, religion and belief. Ireland is deeply concerned by the persecution of Christians. I assure the House that Ireland will continue to support actively freedom of religion or belief across our foreign policy. In the case of Ms Bibi, officials in Dublin and Ankara will continue to monitor her case closely and to raise it as appropriate with the Government of Pakistan.

**Deputy Joanna Tuffy:** The Minister referred to how the Irish ambassador had conveyed Ireland's concerns over the conviction of Asia Bibi on a number of occasions, including last November when he visited Islamabad. If there is an opportunity to do this again will he raise the issue again, as well as the broader case of the blasphemy laws? I understand there was a proposal from the Pakistan Government for a new law to target false accusations of blasphemy because there have been reports that accusations have been made against individuals, particularly those from minority villages, as is the case with Asia Bibi. Can Government welcome the proposal for a new law to target false accusations of blasphemy and look for an update on its progress? I understand it is just a proposal from the Pakistan Government at this stage.

Given that there have been reports about Ms Bibi's health, can that aspect of her case be raised as well, particularly from the point of view of humanitarian and medical treatment? Can the Minister continue to raise the matter with diplomats in the Embassy of Pakistan?

**Deputy Jimmy Deenihan:** I have listened with concern to the Deputy's comments. I want to assure the Deputy that the case of Ms Bibi remains of concern to the Government. As I have previously stated, officials in the Department of Foreign Affairs and Trade, and at the Embassy of Ireland in Ankara, have made representations on Ms Bibi's case to the Pakistan authorities. The EU has also been active on this issue. In light of this debate I will request the Department of Foreign Affairs and Trade to seek a meeting with the chargé d'affaires of the embassy of Pakistan in Dublin at the earliest opportunity to convey again our concerns about Ms Bibi's case. Our embassy in Ankara will continue to monitor closely Ms Bibi's case in Pakistan and will continue to report back and make representations as appropriate.

Ireland strongly condemns all forms of persecution on the basis of religion or belief, irrespective of where they occur or who the victims are. Ireland consistently presses for effective action to counter the persecution of minorities in all relevant international fora, including at the United Nations General Assembly and the UN Human Rights Council and will continue to do so. Ireland will also continue to raise the issue of the persecution of Christians through its official bilateral contacts with the countries in question.

### **Planning Issues**

**Deputy Bernard J. Durkan:** I thank the Ceann Comhairle's office for affording me the opportunity to raise this issue. This relates to the town centre development in Naas, development of which has been suspended for the past seven or eight years much to the detriment of the image of the town. Naas is one of the most progressive provincial towns in the country. It has

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always been a go-getter in terms of business and it is still. The people of Naas promote their town to best national and international standards and the chamber does likewise in association with them. However, one of the obstacles in the promotion of Naas as a place to live, work, shop and do business are the cranes in suspension over it for a long period of time. This was supposed to be an iconic town centre development and it would have been had it taken place but now it has fallen into decay. This has occurred because the various agencies involved do not seem to be in a position to co-ordinate their efforts to get the operation moving again.

I have tabled a number of questions over the past six months or so in this House in an effort to focus attention on the need for the Minister of State to get involved and to encourage the local authority and various other bodies such as NAMA to get involved. They should be brought together in an effort to convince them of the urgent necessity to get the development moving again. It is not something that cannot be done. It can, will and has to be done. Two things will have to happen. The economic recovery, which applies throughout the country, will have to continue and it will. The other concerns the progress being made and confidence in the system to work.

Local people always look at their own town, main street or particular area to see if things are happening in the way they should. This is a classic example. It is right in the middle of the main street in the centre of the town. It is a showpiece for the town of Naas and it will become much more important in the future. There are a couple of other derelict sites around but this one in particular needs to be dealt with at the earliest possible date. Will the Minister of State use his good offices to engage with the various agencies involved with a view to finding out what is required in order to move the project forward? If there are obstacles that cannot be resolved let us know about them now, but we should concentrate on those that can be resolved and get the development moving again.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey):** I thank the Deputy for raising this issue and giving me the opportunity to outline the position regarding the town centre development in Naas. The management of issues in regard to town centres is a matter for the relevant local authority. From inquiries made with Kildare County Council in this case, I am informed that its involvement in the Naas town centre development relates to the compulsory acquisition of two small parcels of land. An issue relating to the amount to be paid by the local authority to the landowners involved has arisen and I understand this will go to arbitration in October or November of this year. The rest of the town centre development is under the control of NAMA, with Kildare County Council precluded from involvement. NAMA reports to the Minister for Finance on its activities.

My role, as Minister of State, is to develop urban policy in general and not to intervene directly in individual town centre developments. As the Deputy will be aware, national urban policy is progressed predominantly by my Department through the local authority sector. The Department's 2002 national spatial strategy provided a strategic spatial planning framework which aimed to achieve a balance of social, economic and physical development and population growth between regions through the co-ordinated development of gateway cities and hub towns. Work is currently under way on the drafting of a successor to the national spatial strategy, with the legislative basis being prepared to place it on a statutory footing. It is envisaged that the successor strategy, to be entitled the National Planning Framework, will be in place by 2016.

A number of measures have been introduced by my Department in terms of specific urban policy initiatives to rejuvenate town centres in general. Local authorities were requested to reduce commercial rates and local charges to assist local businesses. Revised development contribution guidelines and guidelines on retail planning were introduced. The Government is also considering other urban development initiatives and supports as we speak. As the Deputy is aware, the Urban Regeneration and Housing Bill is currently going through the Houses of the Oireachtas and is presently in the Seanad. In terms of wider Government action providing assistance to retail businesses and stimulating economic activity in local communities, a number of measures were taken and have been set out for the Deputy in recent replies to his parliamentary questions.

The management of the stalled development in Naas is a matter for Kildare County Council in the first instance. I understand the frustration felt by the Deputy and many of the people in Naas because this development is stalled. However, with processes under way involving NAMA and arbitration, it would be improper for me at this time to contact the parties as requested. I hope the fact the Deputy has raised this issue on the floor of this House will refocus the minds to try to resolve any outstanding issues on this site.

I feel quite strongly about urban regeneration. We already have infrastructure and services in place in urban areas which have been paid for by the taxpayer. Deputy Durkan is correct in stating it is important that we do not have sites lying vacant in the middle of our towns and cities. I take on board the Deputy's concerns and frustrations but hope he understands, due to the arbitration process currently under way, that I cannot intervene at this time.

**Deputy Bernard J. Durkan:** I thank the Minister of State for his comprehensive reply. What he has said is correct. The main purpose of raising the issue in this House is to focus the attention of those whose attention is supposed to be already focused on these issues with a view to bringing the matter up the scale to some extent and to encourage those involved in the arbitration process. I understand there is only one arbitrator to deal with cases of this kind in the whole country but I hope that is not the case. If it is there will be long waits for a great many people.

It should not be necessary to wait forever for something like this to happen. Seven or eight years is a long time for the people of Naas to look at an obsolete site, for want of a better description, and to see a crane sitting still on a site that is moving nowhere. It gives a bad impression of the area. It gives a bad feeling to the people who live in the area and it is a bad, although unintentional, advertisement for the area. As far as the people of the area are concerned, it is not their intention to advertise negatively the place in which they live. As I said earlier, Naas is one of the most progressive towns in the country and will continue to be so. However, it would be very helpful if all those agencies to which the Minister of State has already referred got involved and got their heads together as a matter of urgency to resolve the outstanding issues quickly as opposed to dragging them out for the longest possible time.

**Deputy Paudie Coffey:** The Government is introducing the Urban Regeneration and Housing Bill which is designed specifically to encourage and stimulate the output of housing supply in our towns and cities. This is logical because existing public services are in place and we need to utilise them to the best of our ability. There are also provisions in the Bill for urban regeneration. The vacant site levy is a new mechanism, and power, for local authorities that identify strategic sites of high potential in town centres and cities.

I recognise what the Deputy is saying. This site has been lying vacant for seven or eight

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years and a number of outstanding issues need to be resolved. In fact, there is a similar site on Michael Street in my city of Waterford. Again, it was a victim of the crash. It is an example of urban blight and decay in the middle of our towns. It is unacceptable. I call on the likes of NAMA or any interested agencies which have a stake in these sites to focus on them again and try to up their efforts to resolve any outstanding issues. It is unacceptable to have such sites in the middle of our town and cities. We all agree that proper planning and development should focus on the core of our towns and cities rather than replicate the mistakes of the past. We have seen the sprawling developments that literally affect the footfall in our towns, villages and cities.

I thank Deputy Durkan for raising the matter. I hope he understands that I cannot intervene in this particular case because of the arbitration issues. The Deputy mentioned there was only one arbitrator in the country. That is something I will get clarified for the Deputy. I would be rather surprised if that were the case. The matter needs to be clarified and I will do that for him.

### **Home Help Service Provision**

**Deputy Catherine Byrne:** I thank the Minister for being in the Chamber to take this Topical Issue matter. I know and understand only too well the needs of older people in our families and communities. As I said last night, our senior citizens have been the backbone of our communities and they deserve our support when they get older. Therefore, I wish to highlight the issue of home help and the need to support further the services in our communities. There is considerable demand for these services throughout the country in every village and town. At present, the services are under great strain. While many of our senior citizens are healthy and able-bodied, some need a little help to get through the day, wash, feed, go to the shops and other small chores. Some have more acute needs but they deserve to be able to live at home, if they so choose, with the support of their local health team and home help services to be near family, friends and neighbours.

Home help is not only about sitting down and having a cup of tea, although that part is sometimes as important as any other part. It is also about enabling elderly people to keep their independence and live in dignity at home for as long as they can. I recognise the value of home help and home carers who can be a lifeline to many elderly people. However, in some areas people are being told that no more hours are available. In my area around Inchicore and Ballyfermot, home help service is at a standstill. Currently, a total of 90 people are on the waiting list and it cannot accommodate anyone else. What happens to these people? Many of them end up back in hospital and that is not really necessary. They would be better off staying at home with a small number of hours of home help.

I have also encountered a problem involving one of my constituents. A private company has been contracted to provide the service to the HSE. The company often sends a different staff member every day. This can be upsetting for an older person who may be unfamiliar with the staff member. The staff member may not be a familiar face or someone the elderly person believes she can trust. This lady has half an hour to get up in the morning, get washed, dressed and fed. The lady in question is rather infirm at the moment.

I realise the Government is aware of the needs of older people and I commend the Minister of State, Deputy Kathleen Lynch, and the Minister for Health on the work they have been doing. I acknowledge the services provided by the HSE as well. At present, more than 10 million

hours of home help services are being provided through the support of 50,000 people. However, we need to invest in home help services to help take the pressure off our hospitals and long-term care services.

Although their hours have been cut, our home help workers continue to meet people in the evenings and go back to ensure the people they work with are all right. Many of the home help people I know personally have started to use money out of their own pocket to upskill themselves and improve the way they care for older people. Many older people want to stay at home for as long as they can. Often they are afraid of going into hospital or nursing homes. That is where the home help service can really be a lifeline and take the pressure off all our front-line services.

I wish to make another point about the fair deal scheme. There is great demand for places, especially in the greater Dublin area. I know one group of family members who recently contacted 27 nursing homes on behalf of their elderly mother but only three of the homes would put the person on the waiting list. This situation is urgent and needs to be addressed.

**Minister for Health (Deputy Leo Varadkar):** I thank the Deputy for raising this issue. I am taking this debate on behalf of my colleague, the Minister of State, Deputy Kathleen Lynch, who is on Government business elsewhere.

While there will always be a need for long-term residential care, older people have consistently said they want to stay in their homes and communities for as long as possible, and the Government is committed to facilitating this. The review of the nursing homes support scheme, to be published next week, will include consideration of the need for continued development of home and community-based services alongside continued support for residential care. The HSE already provides significant levels of home supports. The executive will expend approximately €330 million this year on home-based supports. The HSE's national service plan for 2015 provides a target of 10.3 million hours of home help with a budget of approximately €185 million. This matches the 2014 budget for this area.

In addition to the mainstream home help service, which provides assistance with personal care, such as washing, dressing and essential domestic chores, the home care package scheme provides assistance for those with more complex care needs. As well as helping with the essential tasks of daily living, a home care package may include community nursing, therapy services, aids and appliances and respite care. The 2015 service plan provides for €135 million for home care packages to support 13,600 people at any one time. This represents an increase on 2014, when €130 million was provided to support 13,200 clients. As part of a measure introduced in 2014, a further €10 million has been made available to provide intensive home care packages for up to 190 people at any given time. These people would otherwise have to remain in acute hospital or long-stay residential care settings. This initiative could help to keep up to 250 people with complex care needs at home for longer.

The HSE is progressing a range of measures to improve home care provision overall, standardise services nationally and promote quality and safety. Providers are monitored through service level agreements with the HSE. These are supervised through regular local operational meetings and review of care plans.

The HSE is currently undertaking a full review of home care services with a view to improving services generally. This includes the preparation of national quality guidelines which

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will apply to all home support services, including those procured by the HSE from external providers.

Notwithstanding the significant improvements in the overall economic position that we have seen in recent times, significant pressures continue to apply across the health service and finding the resources to develop home care services in the way I would like continues to be a real challenge. However, there is no doubt that supports delivered in the home and in other community settings will play an ever-increasing part in supporting our older people, and I will ensure home-based services are given adequate priority when it comes to allocating available resources across services for next year.

**Deputy Catherine Byrne:** There is nothing I disagree with in that. I am all about promoting equality and safety. I know the Minister understands the challenges facing us, especially those facing elderly people. Our elderly population is increasing as well. I was at the Joint Committee on Health and Children this morning where we met representatives from the Alzheimer Society of Ireland. The lady who spoke, Caitriona Crowe, is from the south Tipperary dementia pilot project and she explained what they were doing. Among the figures she gave was that there are approximately 54,700 people with dementia throughout the country. The figure is growing all the time.

There is an understanding that if people stay at home, they live longer, they are more comfortable in their home space and more comfortable when surrounded by people they know. Most of the home care teams in my area are made up of people who have worked in the area for a long time and they know the residents. However, we are a far cry from the 90 clients I have in Ballyfermot and Inchicore who are waiting for some home help hours. To me, they are the important people.

It is the small things that matter to most people when their parents get older. The way the home help service has been run down through the years has raised questions and it has been difficult to manage at times. I believe the services are coming to a better understanding of what it is about. I have no problem with anyone having a cup of tea and talking to someone, but not for two hours, something that happened in the past. Thankfully, that does not happen now and we have really committed people.

The Government is pouring vast sums of money into these services across the board. However, I still have 90 clients in the Ballyfermot and Inchicore areas who need these services. That is why I am speaking up today. I believe there is a small group of people in every community throughout the country who need a little extra. It may not involve a significant amount of money when it is calculated, but it matters a great deal to those people who cannot even secure an hour or two of home help in a week.

**Deputy Leo Varadkar:** I cannot dispute what the Deputy is saying. Although there have not been cuts affecting home care or home help packages in the past couple of years and despite a small increase benefiting home care packages, our difficulty is that we have an ageing population that is getting bigger all the time. Our objective is to allow people to stay at home for as long as possible. This is not only their desire and in their interests, but it is also less expensive than residential care. I am conscious of this and will specifically ask my officials and the HSE for a note on what is happening in Ballyfermot and Inchicore to determine whether the problem is particularly bad there by comparison with other areas. I will undertake to examine the position.

I take the Deputy's point on some of the private providers not providing for continuity of care and sending different staff every day, which is not desirable. Irrespective of whether the recipient is old or young, it is best for him or her to see the same staff all the time. We could potentially write into future contracts a requirement that changes not happen all the time. It may be necessary sometimes, however, if staff are sick, for example.

Thanks to the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, an additional €44 million was provided for the fair deal scheme this year. This has reduced the waiting time to four weeks from 11 or 12 last year. Notwithstanding this, in certain parts of the country, including parts of Dublin, the south east and the north east, there is a shortage of nursing homes. As with the housing crisis, there were years in which there was no private or public investment. That is now changing and quite a few nursing homes are under construction or in the planning process. They are very much needed. It is only when they open that people will start to see a freeing up. In Dublin and the north east, in particular, there is a shortage of nursing home spaces, but there is to be a supply.

### **Architectural Heritage**

**Deputy Michael Lowry:** The Rock of Cashel is a complex of secular and religious structures of national and international importance. It is dramatically situated high above the surrounding plain. It dates from the 4th century AD when it was home to the kings of Munster and was associated with the confederate wars of the 17th century. The buildings include a 12th century Romanesque chapel, Cormac's Chapel, a cathedral, a round tower, a choral hall and a castle. Cormac's Chapel, built in 1127, highlights the significant influences that resulted from the tradition of ecclesiastics travelling throughout Europe and beyond. It incorporates German and English architectural influences, in particular, with Scandinavian decorative influences.

Scaffolding was erected in 2009 to allow conservation works at the 12th century Cormac's Chapel to take place. The chapel is one of the earliest and finest churches in Ireland and was built in the Romanesque style. It contains fresco paintings which are extremely rare in Ireland and its murals are an integral part of our art history. When the scaffolding was erected, it was referred to at an urban council meeting by Councillor Tom Wood as "an alarming mass of scaffolding." The OPW responded to his comments by stating, "It would be non-invasive to the building." The scaffolding around Cormac's Chapel has now been erected for over seven years. The OPW's comment is in stark contrast to comments made by it at its presentation to the former town council. At that presentation the council was told by the architects that the scaffolding would not be in place for any longer than four years.

We all understand the need to preserve and restore the fresco paintings in Cormac's Chapel and the importance of the work to conserve the unique Romanesque building. It must be a source of embarrassment that the project is now heading into its eighth year. I have strong reservations and believe the current project will echo what happened in the 1980s, when scaffolding was erected on the Romanesque chapel and remained in place for over 12 years.

The Rock of Cashel has been undergoing restoration works since 1974. The continuing works have effectively turned it into a partial building site since the 1970s. Although the Rock of Cashel has been on a tentative list for World Heritage Site status since 1992, no notable progress has been made in achieving this objective. Between the previous works on the Hall of the Vicars Choral and the unending works on Cormac's Chapel, the Rock of Cashel has effectively

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remained covered in scaffolding for 22 of the past 40 years. One must ask whether the scaffolding has become an impediment to achieving World Heritage Site status. I understand further works are to take place on the Vicars Choral chapel, possibly in 2016. It would make sense to complete the current works before any other project is commenced.

While the unsightly scaffolding is a visual obstacle facing the Rock of Cashel, there is another pressing issue directly linked with the future success of the rock that remains unresolved since 1959. It relates to the reinstating of what is known as the Rock Field as part of the overall Rock of Cashel site. The Rock Field encircles the Rock of Cashel monument. The Cashel Palace which includes the lands and the Rock Field is for sale. I ask the Minister and the OPW to enter into negotiations with the new purchaser of the Cashel Palace to bring about a resolution of this issue. The Rock of Cashel received 273,000 visitors in 2014. We thank and appreciate the management, staff, tour guides and maintenance staff who provide an unparalleled service for all visitors throughout the year.

**Deputy Leo Varadkar:** The cathedral complex on the Rock of Cashel is one of Ireland's most important early mediaeval monuments and one of its components is Cormac's Chapel, situated on the south-east side of the main cathedral. It is not only one of the most significant early Romanesque buildings in the country, but it also contains fragments of an immensely important scheme of wall paintings that are practically unique in Ireland.

In recent years it became apparent that there was a significant problem at Cormac's Chapel. Despite a long programme of conservation treatment, the paintings continued to suffer deterioration as a result of the severely adverse environmental conditions in the building. As a result, a project was begun in 2001 to investigate and control the environmental conditions causing damage to the chapel and, in particular, the mediaeval wall paintings. The results of the initial study showed that the moisture levels in the building fabric and internal microclimate were extremely high as a result of rainwater penetration through the fabric and uncontrolled ventilation with external air. In short, the building was suffering from extreme damp penetration brought about by failure of the roof and the roof drainage system. Enclosure tests involving a reduction in the external ventilation demonstrated that the internal microclimate could effectively be stabilised, but because of the residual water in the building fabric the relative humidity remains extremely high, resulting in significant condensation and large levels of microbiological growth. This is reflected in green algal growth on the internal walls.

The results of all of the technical investigations demonstrated that while some of the conservation approaches had value, overall, the underlying causes of deterioration of the wall paintings were associated with both liquid water and water vapour and this needed to be tackled at source with a comprehensive building fabric intervention. The most serious damage was associated with liquid water, largely due to the failure to effectively remove rainwater from the chapel, with the result that a significant volume of water penetrated the building structure. This is primarily due to the complex design of the building and lack of any systematic rainwater disposal system. The condition of the building fabric, although structurally stable, was found to be extremely vulnerable to penetration of dispersed rainwater.

Roofed and enclosed scaffolding was erected over Cormac's Chapel in January 2010 in order to allow the building structure to dry and provide access to the roof and protection during the repair work. This was a highly complex operation, not only for structural reasons but also because of the very large volumes of rainwater that needed to be removed from the structure. Careful records of rainwater volumes have been kept by the Rock of Cashel works

team throughout the project. In 2012, for example, it amounted to 126,750 litres, and in 2013, 113,200 litres. This provided confirmation of the very high volume of rainfall to which the chapel was subject, in addition to the complexities of successfully removing such a large volume of water from the building structure in the future.

In the period since the cover was erected on the building, extensive and continuous monitoring has taken place. In essence, this reveals that the building is drying out well but extremely slowly. There was an initial sharp decrease in most areas in the first six months and then a slower decrease in subsequent years. However, some areas of the croft appeared to have dried less well. Artificial conservation ventilation undertaken during this period also showed a more significant effect on the internal micro-climate, causing a slow but cumulative reduction in air moisture content. However, this process is highly sensitive as any too-rapid change in micro-climatic conditions would potentially be very damaging to the paintings and the entire building must be monitored on an ongoing basis.

In tandem with the environmental monitoring, the OPW National Monuments Service is currently carrying out consolidation and repair of the sandstone roof. This entails removing the cement bedding mortar and the careful repair and replacement, where necessary, of damaged roof stones. The long-term rainwater disposal system is also being fashioned as part of the work. This will allow the removal of liquid water from the roof of the chapel safely for the future. Due to the complexity of the project, the OPW envisages that the scaffolding will remain in place for approximately the next 18 to 24 months.

In conclusion, I would like to make a few specific points in response to the Deputy's comments. The project could not, as the Deputy states, have run over its time-frame by four years since no definitive projection of project duration was ever made and even the speculation that did exist said that the work would take an absolute minimum of five years from its start on site in 2010. Second, the work at Cormac's Chapel is clearly at the forefront of conservation practice in Ireland. Lessons are being learned on this project which will serve to protect monuments all over the country in the future. This project is not, however, one that can be precisely planned to every last degree. As it is so novel and because the building is reacting so slowly to the ministrations of the technical team, it would have been impossible to speculate definitively in 2010 how long this project would take. Equally, I should reflect that if there is the slightest suspicion that we could damage the monument or these paintings in any way by rushing the project to its conclusion, we should exercise caution and not take that risk.

I also point out that, notwithstanding the fact that the presence of the scaffold on the Rock of Cashel is visually intrusive, it has not adversely impacted on visitor numbers. Visitor numbers have increased from 204,270 in 2010 to 272,503 last year. Additionally, the OPW guide management on site reports that it is not experiencing high levels of complaints in respect of the issue and indeed many visitors express keen interest in it and an appreciation of the effort being made by the Irish State to safeguard its heritage.

**Deputy Michael Lowry:** The conservation architect to the project briefed the urban council in Cashel, particularly Councillor Tom Wood, and gave a commitment that the scaffolding would be in place for a maximum of five years. We are now into the eighth year. There are people in Tipperary who do not remember seeing the Rock of Cashel without scaffolding. That is how long it has been in place.

Nothing proved that the scaffolding is now almost as enduring as the Rock of Cashel itself

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than the visit two years ago by Queen Elizabeth II and Prince Philip. At that time, the people of Tipperary held their breath and thought that the scaffolding would surely come down but it did not. Many visitors on that weekend commented on the scaffolding. Many people who comment on the scaffolding and the fact that there is no accessibility to Cormac's Chapel are visitors from the US, Germany and the UK who feel that they have paid to see something and have left without seeing it entirely.

Whatever the explanations offered by the architectural gurus in the OPW, there is no excuse for the length of time taken to complete this project. If this was a private project or the Rock of Cashel was a private building, somebody would be facing bankruptcy. We need the Minister of State to call a halt, take the scaffolding down and give the Rock of Cashel back to the people of Tipperary and the rest of Ireland. Will the Minister ask the Minister of State to convey to the OPW the need to give these works priority; provide the necessary resources, personnel and skills that are required; and fund and expedite a conclusion to these works? Everybody understands the sensitive nature and the delicacy of the work involved but there are many people who cannot understand why it has been running over for so long and why we do not have a compact programme to conclude it.

**Deputy Leo Varadkar:** I hear what the Deputy is saying. I have remarked on occasion when I have passed through Cashel that the scaffolding seems have been there for a very long time so I was curious to know what the story was. I will undertake to discuss this matter with the Minister of State. I will be seeing him in the next couple of days and I will of course mention the fact that this was raised here. I might ask him to contact the Deputy directly about it.

The Dáil adjourned at 5.45 p.m until 2 p.m. on Tuesday, 22 September 2015.