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DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

# DÁIL ÉIREANN

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(OFFICIAL REPORT—*Unrevised*)

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# DÁIL ÉIREANN

*Dé hAoine, 27 Samhain 2015*

*Friday, 27 November 2015*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10 a.m.

***Paidir.***  
***Prayer.***

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## **Protection of the Environment (Criminal Activity) Bill 2015: Second Stage [Private Members]**

**Deputy Brendan Smith:** I move: “That the Bill be now read a Second Time.”

Last March I introduced this Bill, Protection of the Environment (Criminal Activity) Bill 2015, to provide for the establishment of a cross-Border statutory agency to investigate and report on fuel smuggling, other illicit trade and criminal activity in counties adjacent to the Border between Northern Ireland and this jurisdiction. The Bill proposes the establishment of a cross-Border multi-agency task force to tackle fuel smuggling. If enacted, the Bill would tackle the scourge of criminality in the Border region. It creates a cross-Border crime agency drawing together police, revenue and environmental agencies to root out fuel laundering, cigarette smuggling and other illicit trade.

This Bill offers a comprehensive and swift method to fulfil the broad outline set out in the document A Fresh Start: The Stormont House Agreement and Implementation Plan. The Government should support this Bill to ensure our obligations under this new agreement are holistically and rapidly met. This will help to generate real and vital momentum behind the agreement. In addition, the legislation includes an integral environmental component to deal with the devastating physical impact of fuel laundering. This is an essential ingredient in the legislation.

Fuel laundering, cigarette smuggling and other illicit trade form part of a broader corrosive wave of criminality in the Border region and, indeed, further afield. Unfortunately, in recent years two members of An Garda Síochána have been killed in County Louth. The murder of the Garda detective Adrian Donohoe has yet to yield any criminal prosecutions due to the wall of silence imposed by criminal gangs in the area.

In addition to the grim social impact, fuel smuggling and green diesel laundering represent a serious environmental threat. The chemicals used to extract green diesel dye generate serious environmental damage that affects both jurisdictions. The material produced as a consequence of removing green dye from diesel is highly toxic and has the potential to damage public drink-

ing water supplies. The fuel laundering industry also spawns broader criminality such as illicit cigarette smuggling and trade in other counterfeit products.

For some years we have been aware of the large volumes of laundered diesel and, in more recent times, stretched petrol that are being traded even further afield than the Border region. The many negative aspects of these activities include a substantial loss of revenue to the State and a similar loss in Northern Ireland. It was estimated some time ago, and it was probably a conservative estimate, that more than €260 million is lost to the State annually as a result of illegal fuel smuggling. We also must consider the genuine grievance of small traders, because their business is being eroded by illicit trade. Individual motorists also incur substantial costs when, in good faith, they purchase a product without knowing it has been contaminated, resulting in high repair costs for engines and other vehicle parts.

On many Border roads we have seen fuel spillages which create hazards for motorists and have caused serious accidents over the years. Local authorities incur substantial expenditure every year cleaning up these spillages, which is a further drain on the scarce resources of county councils. They do not have the money to spend on cleaning up the results of this illegal trade. We must also consider the overall damage to the environment caused by fuel laundering. We have seen in person, or in photographs, cubes of sludge dumped by roadsides and in ditches. This sludge is a by-product of the bleaching agents and sulphuric acid used in laundering diesel. The outcome of this process is that toxic waste is dumped in our countryside, posing serious dangers to our waterways, public drinking water supplies and public health in general. Indeed, this activity threatens the provenance, authenticity and good name, which was established over many decades, of our agricultural production system, a system that is vital not only to the rural economy but also to the overall economy.

This Bill builds upon the work of the British-Irish Parliamentary Assembly report which recommended a multi-agency cross-Border task force to tackle this criminality at its root. That important and worthwhile report recommended the imposition of more serious penalties, including lengthier custodial sentences, on the individuals and gangs involved in these criminal activities. A number of weeks ago we received a report from the Police Service of Northern Ireland, PSNI, and MI5 on paramilitarism which was commissioned by the Secretary of State for Northern Ireland, Ms Theresa Villiers, in August 2015 following the murder of Mr. McGuigan in Belfast. That report found that the so-called republican and loyalist paramilitary groups continue to exist across Northern Ireland. It is a source of regret for all of us that those gangsters and criminals are controlling some communities.

The report's findings regarding the IRA were particularly striking, as it agreed with the PSNI investigation that the IRA still exists and was involved in the murder of Mr. McGuigan. The report further found that the IRA is still involved in criminality such as the activities that are eroding law and order in the Border region. This underlines the pressing need to address this criminality through a concerted task force. The efforts to date have not been sufficiently successful, so they must be reinforced. The fuel smuggling industry is inextricably linked to the legacy of the IRA, its structure and its membership. The brutal murder of Paul Quinn in my constituency in 2007, a young man who had every bone in his body broken by a highly organised gang clad in non-traceable suits, is a testament to its continued and unwelcome presence on the ground. Fuel smuggling in the Border areas has traditionally been inextricably linked to paramilitarism masquerading as republicanism. It was traditionally used as a fund-raiser and more recently led to the so-called diesel mansion phenomenon of prominent people, so-called republicans, cashing in on the illegal trade, building huge houses in the area and living parallel

lifestyles.

The parents of Paul Quinn are in no doubt that the IRA killed their son as a show of strength in the area after he fell out with a member of a local so-called republican family. The smear campaign directed against the late Paul Quinn was despicable. It was reprehensible when a Sinn Féin public representative from the area, Mr. Conor Murphy, denounced Paul Quinn as a criminal in an effort to blacken his name. Unfortunately the Quinn family has been met with a wall of silence, as fear and intimidation have prevented any prosecutions for this awful, indescribable murder. Local political activists led intimidation at community meetings. It is just not good enough in the Ireland of today to hear parties appealing for people with information to come forward when those who do come forward do not answer any questions or provide any meaningful information. That is not coming forward in any true sense. This is a grave illustration of the impact of allowing criminality to fester and thrive. It emphasises the obligations we have to grab the bull by the horns and not to turn a blind eye to criminality led by paramilitary organisations of any guise, whether so-called loyalist or republican. These organisations have no place in our society and can have no place in the Ireland of the future.

This Bill proposes the establishment of a cross-Border multi-agency task force to spearhead efforts to rid us of this criminality, from whatever source. It must be rooted out of society. The proposals before this House should form part of the measures to be discussed in the upcoming trilateral meeting in December arising from the recent agreement, A Fresh Start: the Stormont Agreement and Implementation Plan. That agreement, which was signed in early November, sets out a cross-Border task force as one of its components in tackling paramilitary criminality. The details are due to be thrashed out in a trilateral ministerial meeting next month between the relevant Ministers, North and South and the British authorities. However, unlike the agreement outline, this Bill includes a strong environmental facet to recognise the physical impact on the landscape and water supply in the Border region. This Bill should form the basis of the Government's engagement with the trilateral discussions in the coming weeks. It was reported in the print media yesterday that a Government spokesperson stated that this legislation is redundant. It is not redundant, however, because the proposals in A Fresh Start agreement outline do not refer to the environmental aspects of the work we propose the cross-Border body should undertake.

Deputy Phelan is a Minister of State in the Department of the Environment, Community and Local Government as well as the Department of Agriculture, Food and the Marine and I presume she is here to respond on behalf of the former Department. What is proposed by both Governments and the two main parties in the executive, Sinn Féin and the DUP, does not contain any reference to the very important environmental work that must be done to address the damage that is being done on a daily basis to our environment, North and South, by ongoing criminal activity. Moving forward quickly is vital to injecting momentum into the agreement or else A Fresh Start will descend into a false start, like the Haass talks and the Stormont House agreement. All of us want to see progress in the implementation of the agreement, A Fresh Start. That includes quick progress on the measures that have been agreed in principle. We also need progress in the areas on which there was no agreement, including the very important issues of dealing with the past and with the concerns, worries and needs of survivors and families of victims.

Again I take the opportunity in this House to welcome the agreed statement of principles in the recent agreement to challenge all paramilitary activity and associated criminal activity and the commitment to disband all paramilitary organisations and their structures. That work needs

to be prioritised and progressed and communities throughout the North of Ireland need to see a positive outcome to that work. The illegal fuel and tobacco trade and other illicit trade has been casting an evil shadow across communities along the Border. Many of those involved are not only career criminals, they also have links to paramilitary and dissident groups which threaten to destabilise the society that was secured through decades of political and community engagement. That work was undertaken by very many committed and diligent people from different political backgrounds and traditions. This illicit trade impacts on communities North and South of the Border and acts as a gateway into an underground criminal network. We also need to see tougher penalties, including longer custodial sentences, for people convicted of illegal smuggling or engaging in illegal trade. Greater sanctions must be implemented to make it much more difficult for these criminals to operate. Such illegal trade, associated criminality and the ill-gotten gains therefrom can no longer have any place in Irish society, North and South.

I appeal to the Minister of State to accept this legislation which my party has worked on, in a collective way, for a considerable amount of time in good faith. The Fianna Fáil parliamentary party worked hard on this legislation because we believe it has the potential to put in place mechanisms to deal, without further delay, with this criminal activity. I sincerely hope that it can form an important part of the work that has been committed to in the recent agreement, A Fresh Start. This legislation is not redundant and must be put to work by the Government with the support of all parties in this House.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** I thank Deputy Smith for bringing forward this Bill and affording the House an opportunity to discuss these matters. At the outset, I want to acknowledge the Deputy's keen interest in this matter. I am aware that Deputy Smith, in bringing forward this Bill, is representing concerns expressed by many voices across a number of sectors and I acknowledge the genuine good intent with which Deputy Smith has proposed this legislation.

The scale of the diesel laundering waste problem in the Border area and the criminality which underpins it, which endangers both human health and the environment and poses a particular threat to our watercourses, is a cause of major concern to the people of these counties, their public representatives and the Government. While, unfortunately, we are not in a position to accept this Bill, I can assure Deputy Smith that his proposals are being fully taken into account in the comprehensive approach which the Government is taking in this area.

By way of background, enforcement relating to illegal diesel laundering activities is primarily a matter for the Revenue Commissioners from the point of view of avoiding loss of revenue to the Exchequer. The Department of the Environment, Community and Local Government assists local authorities in carrying out their role as competent authorities under waste legislation, which is to take the necessary measures on behalf of the State to ensure that any waste generated and left abandoned by the diesel launderers is disposed of without endangering human health. The illegal depositing of waste material arising from diesel laundering activities presents the local authorities with major difficulties as the task of cleaning up the material needs to be dealt with to avoid threats to the environment, as the Deputy has said.

The laundering process requires the use of chemicals such as sulphuric acid and bleaching agents and results in a waste by-product, a tar-like chemical compound or sludge with the potential for environmental pollution, particularly to watercourses. Approximately 2,000 incidents of diesel laundering waste dumping have been dealt with by local authorities to date and my Department has reimbursed the costs of approximately €7 million since 2008 associated

with such disposal. The overwhelming majority of the clean-up operations have taken place in the Border counties of Louth and Monaghan.

I want to take this opportunity to outline to the House the measures taken to date. Given the links between illegal diesel laundering and organised criminality, the Revenue Commissioners are fully supported in this area by An Garda Síochána. Searches are regularly undertaken by members of An Garda Síochána, at the behest of the Revenue Customs Service as part of intelligence-led operations led by customs, which have resulted in a number of significant seizures of diesel and the closing of diesel laundering plants, particularly in Border areas.

Addressing organised crime remains a key ongoing priority for An Garda Síochána and this priority is clearly reflected in the policing plan for 2015. An Garda Síochána continues to tackle vigorously organised crime through a range of targeted activities. This involves targeting serious criminals and organised criminal groups on a number of fronts and across all geographical locations, including through the use of focused intelligence-led operations by specialist units such as the organised crime unit, the Garda Bureau of Fraud Investigation, the National Bureau of Criminal Investigation and the work of the Criminal Assets Bureau.

Fuel laundering continues to be a serious concern for authorities in both Ireland and Northern Ireland. Recognising this shared concern, a cross-Border fuel fraud enforcement group comprising representatives from the Police Service of Northern Ireland, HM Revenue and Customs, the UK National Crime Agency, the Revenue Commissioners, An Garda Síochána and the Irish Criminal Assets Bureau has been established to target these activities on an all-island basis. Arising from the work of this task force, a number of groups involved in the laundering and distribution of illegal fuels operating in both jurisdictions have been identified and are being specifically targeted for investigation by all law enforcement agencies concerned.

In addition, and in a concerted and enhanced effort to tackle cross-jurisdictional organised crime, a joint agency task force will be established under the Stormont Agreement and implementation plan, A Fresh Start. The task force will include a strategic oversight group that will identify strategic priorities for combating cross-jurisdictional organised crime. The oversight group will provide a report on the work of the task force to the six-monthly ministerial meetings under the intergovernmental agreement on co-operation on criminal justice matters. The task force will also include an operations co-ordination group comprising senior operational management personnel from the relevant law enforcement agencies, which will co-ordinate joint operations and direct relevant resources in that context. This will complement structural reforms of the delivery of waste enforcement functions in Ireland that are in the process of being rolled out.

Following a review of the system of waste enforcement in Ireland, Cork County Council, Dublin City Council, and Leitrim and Donegal County Councils, jointly, were recently announced as the new waste enforcement regional lead authorities, WERLAs. Their work will be overseen by a national steering committee which will determine national waste enforcement priorities. The committee is being drawn from representatives from a range of enforcement and regulatory authorities in order to provide strategic support to the WERLAs to deal with serious criminal offenders such as those involved in cross-Border issues or major illegal dumping in the State; strategic national waste enforcement issues; intelligence-led and co-ordinated multi-agency enforcement; and securing targeted, timely and effective enforcement outcomes. The national steering committee will co-ordinate and support the work of the lead authorities, while providing a focus on organised criminal activity in the waste area.

National waste policy recognises that there is a need for a more co-ordinated strategic response to this growing threat. The establishment of the WERLAs working with a national waste enforcement steering committee will enhance the capacity of local authorities to organise strategic operations involving targets associated with waste crime and will facilitate more co-ordinated inter-agency operations taking place on a regional basis.

I now want to address the Bill put forward by Deputy Smith, which has proposed the establishment of a fuel smuggling forum to investigate and report on fuel smuggling and other criminal activities in Border counties. While the title of the Bill refers to the protection of the environment, its provisions fall well outside the framework of environmental legislation and straddle the regulatory remits of a number of other Departments and agencies. Moreover, the Bill does not take account of the many actions to tackle fuel laundering which have already been taken and which are ongoing, as I have previously outlined, such as the establishment of a cross-Border fuel fraud enforcement group, the national waste enforcement group and, in particular, the measures announced since Deputy Smith's Bill was published to tackle paramilitarism, criminality and organised crime contained in the Stormont agreement and implementation plan, A Fresh Start.

Under this agreement, established between the Irish and British Governments and the Executive in Northern Ireland on 17 November 2015, a joint inter-agency task force will be set up to build on and enhance current North-South inter-agency co-operation in tackling cross-Border organised crime. The task force will be led by the police and revenue authorities North and South. It will engage other relevant law enforcement agencies in establishing strategic priorities and in co-ordinating operations to target cross-jurisdictional organised crime while respecting the statutory powers and responsibilities of each agency with respect to its functions and resources. The task force will provide a report on its activities through the framework of the intergovernmental agreement on co-operation on criminal justice matters, while the statutory reporting functions of the agencies involved will be unaffected.

This new structure will also provide an opportunity to engage the particular functions and expertise of the Environmental Protection Agency or the local authorities in relevant circumstances where investigations involving environmental crime are in question. The approach adopted in the Stormont agreement will achieve outcomes sought in Deputy Smith's Bill by enhancing inter-agency coordination without impinging on the powers properly accorded to and exercised by the law enforcement agencies involved.

I agree with Deputy Smith that a complete solution to this problem must necessarily involve effective and co-ordinated enforcement of the law from Revenue, waste management and criminal justice perspectives. It is my view that this multi-agency approach whereby all of the agencies, working within their particular remit, bring their particular skills, expertise and powers to the task at hand represents the best approach to tackling such irresponsible and dangerous environmental crime. It is my genuine desire to be in a position to accept Private Members' Bills that are introduced in this House. However, for the reasons that have been outlined and in particular the North-South developments since its publication, I hope the Deputy will appreciate why this Bill cannot be supported at this time.

**Deputy Brian Stanley:** I welcome the opportunity to speak on this important Bill. Sinn Féin has long been anxious to stamp out criminal activity in the Border region and throughout the 32 counties of Ireland. It is good to see Fianna Fáil trying to play catch-up on that but, unfortunately, the Bill before us is something of a shambles. First, it is a clear attempt to score

political points against Sinn Féin in the run-up to the general election. Second, it portrays an ignorance of, or wilful ignoring of, the fact that Sinn Féin, as a party to the Stormont House Agreement, into which the Government put a great deal of work, is involved in serious and on-going efforts to tackle the fuel smuggling and criminality which is ostensibly the subject of this legislation. It is disappointing to hear a Fianna Fáil Member acting as a mouthpiece for MI5, an organisation that was involved in running death squads in the occupied Six Counties for years.

**Deputy Brendan Smith:** Deputy Stanley's party knows all about acting as a mouthpiece.

**Deputy Brian Stanley:** The Government is also party to the Stormont House Agreement and I trust it will act on that basis and reject this crude political kite-flying exercise. In fairness to the Government, it has engaged meaningfully on the issue of fuel smuggling and is aware of the facts pertaining to my party's position. It is a bit hypocritical of the Fianna Fáil Party to take the approach it is taking in this legislation given that its members on the British-Irish Parliamentary Assembly are aware of, and are supposed to be supportive of, the measures being taken by the Northern Executive in co-operation with the authorities in both states.

The Stormont House Agreement was negotiated by the two Governments, Sinn Féin and the Unionist parties in the executive and Assembly. This is the executive that Deputy Micheál Martin, leader of the Fianna Fáil Party, wanted to collapse three months ago.

**Deputy Brendan Smith:** That is a misrepresentation.

**Deputy Brian Stanley:** The agreement was reached with no help from Fianna Fáil. It includes a provision for a joint agency or task force involving both An Garda Síochána and the PSNI, as well as Revenue and other agencies and officials on either side of the Border. Sinn Féin has been calling for such a body for a long time. To the extent that Deputy Smith's Bill makes any positive suggestions at all, it is simply to replicate what is already in train. I welcome the Deputy to catch-up land.

As I said, these measures are supported by both the Northern Executive and the Government. Let us be clear about what we are at here. Dumping waste from diesel laundering or being involved in diesel laundering is a criminal activity, in whatever county it takes place. People in the midlands, in the south of the country and probably in Deputy Smith's constituency are involved in it. Criminals are not republicans. In fact, one cannot be a criminal and be a republican. Let us be clear on that point. Despite the insinuations being made by some people in Fianna Fáil and some journalists, the fact is that republicans in Border areas, as Deputy Smith knows, have been prime targets of the criminals involved in these activities. In February of this year, Frank McCabe, a member of Sinn Féin, suffered serious injuries as a result of a bomb placed outside his home in Crossmaglen by some of those involved in the fuel-smuggling trade. Sinn Féin MP, Conor Murphy, has received death threats from those same criminals. Other party members have been attacked and had their cars burnt out and their homes attacked. The reason they are being targeted is that they stood up to these gangs, spoke out about them and called on members of the community to co-operate with the authorities to stamp out the activities in which they are engaging. That is why Sinn Féin members are at the receiving end of criminal retaliations. Such activity has nothing to do with and can have nothing to do with the republican movement.

It should be noted, moreover, that the same people who have attacked Sinn Féin members have close connections with the criminals who murdered Detective Garda Adrian Donohoe in



north Louth in 2013. They have not yet been brought to justice for that crime. To suggest, as some have done, that Sinn Féin would have any truck with those people is a gross insult to our members throughout the country. Furthermore, it portrays a completely distorted view of what is happening with regard to cross-Border crime. Of course, we should not be surprised to see that type of opportunism from some in Fianna Fáil and from the same journalists who have made ludicrous claims over the years about my party.

I have it on good authority that since April and the introduction of a new diesel additive, there has been little to no diesel-laundering activity in the Ring of Gullion area of south Armagh and only one case of diesel dumping. As a result of practical measures such as the use of this diesel additive, laundering is now near the bottom of the list of factors impacting the management of the environment in the area. That result is down to the meaningful and effective measures implemented by the authorities on both sides of the Border. These realities highlight the opportunistic nature of the Bill that Deputy Smith has brought forward. Wherever there is a land border, agencies on both sides must adopt a joined-up approach in tackling criminal activities. As the Minister outlined, we will now have a cross-Border task force, thanks to the hard work of members of the Executive, the two Governments and their officials to reach agreement in that regard. The parties of the Executive, both Unionists and republicans, are committed to the initiative. As I already noted, Deputy Martin wanted to collapse the Executive only a few months ago. When it comes to a choice between progress and point scoring, Fianna Fáil just cannot resist the latter, particularly a few months out from an election.

What is needed now is more integration between the various agencies north and south of the Border, along the lines of the Loughs Agency model, with direct access to the relevant Ministries in the Twenty-six Counties. At the moment, the protocol is to go through Newry and Mourne District Council, which must then contact Louth County Council, with the latter, in turn, having to contact the relevant Ministry. That is not an efficient way of doing things, and I hope the new task force will facilitate more direct lines of communication. It is in everybody's interests that this should work. There is a myth put about that nearly all criminal activity in this State happens in the Border area. In fact, there is criminal activity in every constituency, including in Deputy Smith's and in my own. The impression must not go out from here today that huge portions of the population in the Border area are involved in criminal activity.

Stopping any type of criminal activity requires citizens to come forward with information. In this instance, it also requires co-operation on the part of both Governments and by the police forces on both sides of the Border. The new task force is a great initiative that will help us to tackle some of the issues we have discussed. As an environmentalist, I am very concerned about the environmental impacts of fuel laundering. The Minister of State indicated that the cost to the State is €7 million, which we all would agree could have been better spent. The cost is one thing and the damage to the environment is another. We cannot have a situation in which the environment is put in peril. As I understand it, the dumping of diesel-laundering waste has greatly reduced, which is very welcome, but we must stamp it out completely.

I will conclude on a positive note, in contrast to the scurrilous insinuations made by Fianna Fáil and the likes of Jim Cusack regarding the people of the Border area. The Ring of Gullion has just received orders for 80,000 trees as part of the One Million Trees in One Day project, which benefits from all-island funding and co-operation. It is these types of initiative that Fianna Fáil should be backing, instead of demonising the people of the region. We look forward to continuing to work and give leadership on these issues and to encouraging people to engage with the relevant agencies with a view to protecting the environment and stamping out criminal-

ity. We all can agree on that aim because it is in everybody's interest. It is the real republican way forward.

**Deputy John Halligan:** Deputy Smith's Bill warrants serious debate in the House. There is no doubt that we need more serious penalties for illicit Border trade activities. Organised crime remains a major challenge to law enforcement agencies. Garda sources have said that paramilitary involvement in organised crime extends to money laundering, smuggling, counterfeiting, human trafficking and cattle rustling. There is no doubt also that the issue is severely impacting on the lives of citizens and the profitability of small businesses, which not many speakers have mentioned so far, on both sides of the Border.

I am not convinced that an extra layer of bureaucracy will be enough to tackle this problem. Policing sources on both sides have indicated there is already a high level of co-operation between both jurisdictions. The Minister of State has indicated that she is not going to accept this Bill. Irrespective of whatever Bill and amendments to it is brought forward, we certainly need legislation that will provide for the putting in place of serious penalties. It will not be good enough simply to rubber-stamp whatever legislation is brought in and then move on, while we are pursuing policies which are encouraging this illegal trade, particularly of cigarettes. It is one thing to pay lip service to co-operation between both jurisdictions in tackling criminality but it is quite another to put in place the resources necessary for this to happen. There is no doubt that cuts in Garda funding have had a detrimental effect on policing in Border areas. Organised crime gangs were effectively given *carte blanche* to exploit the cut in Garda numbers in those areas, and many Deputies from Border areas will say that is the case. How much in additional Garda resources are to be allocated to the new task force? I trust the personnel required will not be taken from existing Garda numbers which, as we all know, are stretched to breaking.

Some of the Government's economic policies are also a significant factor in the escalation of cross-Border smuggling. The purchase, for instance, of tax-paid cigarette sales in this country has dropped from €5.65 billion in 2006 to €3.2 billion in 2014. This Government adopted the previous policy of Fianna Fáil of increasing the cost of cigarettes in successive budgets, which has led to a cumulative budget shortfall of more than €0.25 billion. That is a massive amount of money that could have been spent on hospitals and schools.

As the price of a pack of cigarettes rose, so too has tobacco smuggling and trade in non-Irish duty paid cigarettes. In 2007, the percentage of cigarettes coming from untaxed trade was 6.7%. In 2014, it was as high as 23%. Revenue in a major report in 2011 concluded that "Further tax price rises will reduce smoking somewhat but they will also greatly encourage more untaxed consumption". I am just pointing that out: I do not smoke cigarettes and I backed the Government in increasing the price of cigarettes, but those are just the facts and figures.

I acknowledge that the illegal smuggling of cigarettes across the Border has been identified as a particularly problematic area that needs addressing by the new task force. The Cross-Border Organised Crime Threat Assessment 2014 emphasises that tobacco fraud was a "serious concern" for authorities in both jurisdictions. People who are involved in this activity are known to be extremely rich, having secured money from this illicit trade on which they do not pay tax. They are breaking the law not only by selling cigarettes illegally but by not paying tax on their earnings. That issue must be addressed.

In 2014 illegal cigarettes valued at €25.5 million and another €4.2 million worth of tobacco were seized. I am only speaking about the illicit trade in tobacco as I do not have time to speak

about other illegal activities such as cattle rustling, human trafficking and so on. The value of such seizures shows the loss to the Exchequer in revenue and the amount of money being made by criminals in this trade, of which there is no question. All the experts in this area say that this trade will increase in future years.

The reason it will increase, and this is the dilemma we face, is that if we increase the price of tobacco, increasingly more people will get an opportunity to seek out the illicit trade. Wholesalers in my constituency know when these illegal cigarettes are being sold. When I told a chap who works in a shop that I was speaking on this Bill this morning he told me that he knows when the illegal cigarettes are coming into Waterford: he said all tobacco sales in the shop go down substantially for the few weeks that they are being sold. That means there are guys out on the street selling illegal cigarettes. This illicit trade filters all the way down to cities, towns and villages throughout Ireland. It is a serious issue and it has an impact on the Irish economy. It allows some of the people involved in this illicit trade to make a great deal of money at the expense of people's health and at the expense of the loss in revenue to the Exchequer.

Only two years ago a report by the British revenue and customs service suggested that prosecutions against cross-Border organised crime gangs were being "inhibited and delayed" because of problems with the exchange of evidence between authorities on both sides of the Border. That is a serious issue if it is the case. Matters may have dramatically changed in the meantime, as the Minister of State indicated in her speech, which I must read later. However, if there are such problems, they need to be addressed. In particular, concerns were expressed about the speed at which evidence was being exchanged between the two jurisdictions. I was surprised to hear that. I was of the opinion that we were working very closely, which I believe we are. If there are problems related to the speed at which evidence is being exchanged between the two jurisdictions, that is something we should be able to deal with fairly quickly. Addressing that should not be complicated. The point was made that the Garda and the PSNI had an excellent working relationship when it came to co-operating informally on intelligence-gathering and investigations. Problems arose, however, when it came to validating evidence to be used in criminal trials. It was difficult to get evidence asserted and brought together for trials. I do not know why that is an issue but my contacts and the people I have spoken to have said that it has been a problem to get clearcut and decisive evidence for trials. I was surprised to hear that.

I am a little disappointed that there is nothing in the Bill to address the serious delays in the prosecution of offenders, which apparently takes a long time. I fully acknowledge that problems may occur on either side of the Border. There is a great deal of red tape that must be gone through before a request is answered and that is impeding the successful conclusion of criminal proceedings, despite the best efforts of the authorities. We need to enhance this process if this task force is to have any effectiveness.

We should talk to the authorities on both sides, particularly since we have a process of formal detailed co-operation. There seems to be some difficulty when it comes to prosecutions with respect to the gathering, presenting and bringing of evidence before the courts which is holding up the process. While this illicit trade is increasing, how must it appear to the criminals if they find that even if they are caught it will be very difficult to prosecute them and that it could take a year or two years to do so? That gives criminals who are caught an opportunity to flee the State or, alternatively, they will have plenty of money to hire the best barristers because of the money they are making from this illegal trade.

This Bill is worthwhile as is the debate on it. It is a pity that there was some argument between Sinn Féin and Fianna Fáil about the purpose of it, about what was said and what was not said, what the Bill was about and the real reasons for bringing it forward. However, I must take it on face value that the Bill has been brought forward for good general purpose, namely, that we need to tackle this very serious problem of criminal activity and illegal Border trade.

**Deputy Michael Colreavy:** While reading this Bill, I found myself wondering what was the purpose of its introduction in the House today. The purpose may have been to throw a little muck or, more appropriately, sludge about the place in the hope that some of it would land on or stick to Sinn Féin. However, a benign interpretation might be that a fair amount of work went into this Bill and were it not for the Stormont initiative on fuel smuggling, there would be a place for its provisions. Consequently, for the purposes of today's debate, I will take the benign interpretation that there would have been a place for this Bill had it not been for the Stormont initiative on tackling fuel smuggling and the joint agency set up to put it into effect. However, I am surprised that once that initiative was taken at Stormont, the movers of the Bill did not examine what had been written to consider the possibility it should be changed.

One talks about borders such as the Border between the Six Counties and the Twenty-six Counties, but there are many borders in this country, as there are in every country. There is a border between good and evil and between the wealthy and the poor. There is a border between the powerful and powerless and between the privileged and the ordinary citizen. There is criminality in Dublin, Galway, Cork, Sligo and every part of this country. It is not confined to a geographical area between the Twenty-six Counties and the Six Counties. Criminality is everywhere and fuel laundering has been ongoing. Together with other criminality, it was facilitated because there was a disjoint between the police services in the Six Counties and the Twenty-six Counties. I am glad Deputy Smith referred to so-called republicans, because no republican - and no genuine loyalist, for that matter - would launder fuel that left citizens who got a fill of petrol with immobilised vehicles. This is not done from any sense of patriotism but because they are crooks and criminals whose objective is to amass as much money as they can for themselves. Sinn Féin is to the forefront in empowering communities to face this activity and to not bow to those criminal elements.

Enforcement can be a problem. When the Revenue Commissioners appeared before an Oireachtas joint committee last year - I cannot remember in which month - a figure was given that 130 filling station forecourts had been closed. Incidentally, in all of this, how do I know that what I put into my central heating tank at home is not polluted or poisonous? I know because I have dealt with the same trusted dealer through the years and I know that whatever is going into the tank certainly will not be deliberately contaminated. When I saw the figure indicating that 130 petrol filling stations had been closed, I thought this constituted good enforcement that would discourage people from putting this poison into their engines. However, when I asked further questions as to how many were closed on foot of selling contaminated fuel, the answer was zero - not a single station. They were closed because of non-compliance with the regulations. Many were closed because they had not submitted returns by due dates - that is, the administration was wrong. It is a case of letting stations sell contaminated fuel without being closed but, having missed a date by which returns must be made, 130 of them were closed. Enforcement is a problem.

The area of difference between the Bill and what has been decided through the Stormont initiative - that is, the joint agency - is that there is a focus on the environment in the former. However, environmental legislation is in place that can and should be used if those involved in

fuel laundering are damaging the environment. I hope Members will have the same concerns in respect of potential pollution of the environment when they eventually make the decision in respect of hydraulic fracturing. I am glad Fianna Fáil has now agreed it was wrong to invite expressions of interest from companies to engage in hydraulic fracturing, and that it now accepts that there are examples from around the world in which the environment, the air, and people's health have been badly damaged by hydraulic fracturing, or fracking, and there is no place for it in a small, beautiful island like Ireland. I support the intention behind the Bill to preserve our green, clean environment, because it is what we do best; we do green.

I reiterate that a benign interpretation of the Bill is that the drafting started before the Stormont initiative on fuel smuggling was agreed. It is as though people decided that, as they had put a lot of work into it, it should proceed. However, I believe that because the Stormont initiative will do most of what is provided for in this Bill and the existing environmental protection legislation covers the rest of it, events have overtaken the Bill.

**Deputy Eamonn Maloney:** First, there is much merit in the argument Deputy Smith has put forward this morning and, in particular, the point that there is more than one facet to this problem, as the Deputy and the Minister of State have acknowledged in their contributions.

*11 o'clock* There is a strong environmental issue related to fuel laundering, and in tandem with that, of course, is the fact that it is illegal, fraudulent activity that is cheating the State and so on. When one pulls together all these things, it highlights the seriousness of the problem. I do not know whether anyone else has made this point, but it is not as though fuel laundering is a new phenomenon. It is a long-standing and highly lucrative activity for criminals, be they criminals who have a political slant or those who have none.

I do not see much difference in the two, however.

While not necessarily placing the blame on those of us who are here this morning as legislators, it is regrettable that steps were not taken in the past to bring a halt to this. As has been pointed out, one of the great discrepancies relating to this activity is that the penalties involved are not sufficiently severe. One of the most effective ways of dealing with those who engage in fuel-laundering and those who knowingly buy laundered fuel is through penalising them. It is similar to the illegal drug trade. People get very excited about it, having a variety of adjectives to describe drug barons, as well as what they would do with them. Drug pushers exist, however, because they have customers. I am always reminded about a point made by a speaker from an audience on a forum I attended on illegal drugs. On why dealers make so much money out of cocaine, he said they do so because, on a Friday and Saturday night, they have middle-class customers who buy the stuff in abundance. We cannot attempt to do something as legislators without taking into consideration both sides in this process, namely, those who produce and those who knowingly buy this material. There are many who buy laundered fuel.

Historically, as the Minister of State touched on, this problem could never have been solved using just one police force by virtue of the fact that it exists almost exclusively in Border counties. It requires both authorities to operate in tandem, which was presented in the Minister of State's argument. All of us agree that it would be the most effective way of tackling this problem. The Minister of State acknowledged that she would take some of the Bill's points into consideration. In my time in this House, this is the first time this problem has been highlighted in legislation, which is no bad thing. I hope there are some grounds for progressing this legislation.

I know a great deal of this legislation is, quite rightly, focused on the environmental aspect of the problem. The Minister of State gave the figure for cleaning up fuel-launderships operations at €7 million. I would have thought the more up-to-date figure is substantially more than that. Whether it is €7 million or €10 million, one could open many hospital wards and employ many nurses with that amount. This is taxpayers' money. Local authority workers have to clean this up when they should not have to. Hopefully, for the first time, we can find a mechanism and structure for confronting and dealing with this problem.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** I thank all Deputies for their contributions, in particular Deputy Smith for raising the issue and bringing forward this Bill.

The reason the Minister for the Environment, Community and Local Government is not in a position to accept the Bill is not because he disagrees with Deputy Smith's objective. The Minister has previously written to the European Commissioner for the Environment, Mr. Karmenu Vella, and to his counterpart in the Northern Ireland Executive, Mr. Mark Durkan, to highlight the problems faced by Border counties exposed to the consequences of environmental crime, as well as the extent of expenditure incurred in clean-up operations. The €7 million involved could be spent much better elsewhere, a point made by other speakers. He has also raised the issue politically at meetings of the North-South Ministerial Council.

I agree we must do all we can within existing legislation to deal with this serious issue and examine the further legislative changes which can be made to ensure the various regulatory authorities have the power required to deal with this criminality. That is the reason that tackling cross-jurisdictional organised crime is a fundamental component of the Stormont Agreement. The establishment of a cross-Border task force, led by the appropriate law enforcement agencies, North and South, has the potential to harness the particular skills, expertise and the powers of other enforcement organisations, including those with a remit to protect the environment.

In this context, a trilateral cross-Border ministerial meeting will take place in December, involving the Government, the UK Government, and the Northern Ireland Executive, which will agree the new measures required to enhance law enforcement co-operation aimed at tackling organised crime and criminality, including that linked to paramilitarism.

It is because of these developments, as well as on the grounds of the other actions already taken on the matters covered by the legislation, and its provisions which would confer on the Environmental Protection Agency the criminal investigative functions properly reserved for other statutory enforcement authorities, including An Garda Síochána and the Revenue Commissioners, that the Minister, regrettably, cannot accept this Bill. However, the Government is committed to deal with what is a very serious environmental crime, affecting the people, especially of the Border region, a commitment shared by all Members.

**Deputy Brendan Smith:** I thank the Minister of State for her contribution and the other speakers who participated in this important debate.

On Deputy Maloney's question as to why this issue was not tackled previously, in recent years, fuel smuggling and laundering has become more sophisticated and extensive. Those involved have scientists working for them, using technology which is ahead of the State's services. Unfortunately, when we had the Troubles on our doorstep, those of us from Ulster know, like Deputy Maloney and myself, that there was probably less smuggling when there were

permanent vehicle checkpoints on the Border, be they British Army or RUC. In recent years, it has become a large, well-resourced and sophisticated industry. Deputy Michael Colreavy, whose contribution was fair and positive in stark contrast to his party colleague who spoke earlier, would have heard, like those of us who grew up in the Border counties, of small-scale smuggling, such as bringing food products across the Border during the war and so forth. From the stories I read in local histories, it was very small-scale stuff involving single operators. It did not involve the big, sophisticated operators who are engaged in this criminal activity today. That is the difference. In the past, we did not have the co-operation between North and South that we have today. The co-operation between statutory agencies, Departments and at ministerial level has grown exponentially since the signing of the Good Friday Agreement. There is room for more of that growth.

Deputy Colreavy asked why this legislation is being proposed now. I proposed it on 5 March 2015 but we have waited a long time to get the legislation to Second Stage. It has not become redundant. I welcome the Minister of State's acknowledgement that many of the issues we have been raising for quite some time have been taken into account in the talks in Stormont House. It was rather comical, to put it mildly and in parliamentary terms, for Deputy Stanley to say that Fianna Fáil was late to highlight the dangers of criminality and smuggling along the Border. I will not waste time by dealing in detail with his comments. The Deputy had a hysterical outburst and put on record statements that were totally incorrect. The only thing he did not say about the Stormont House Agreement was something the Tánaiste mentioned in the House last week when she asked the Sinn Féin Party if it was very glad it had agreed to hand back to Westminster powers with regard to welfare that had been delegated to Northern Ireland. Deputy Stanley should answer that question instead of making some of the erroneous statements he put on the record this morning.

I welcome the measures that have been proposed following the Fresh Start agreement but the reality is that they are proposals. They are not measures and have not been agreed in detail for implementation yet. There can be agreements but unfortunately it takes a long time for agreements to be implemented down to the finer detail. Our legislation offers the Government the opportunity to use it as a vehicle to introduce some of those measures that we hope can be agreed between North and South and between the Irish and British Governments.

Deputy Durkan, Deputy Moynihan and I were here when the Criminal Assets Bureau was established. That put a particular focus on dealing with that criminal activity. Deputy Maloney and Deputy Colreavy referred earlier to the fact that many of these powers are already in place and vested in different Departments and statutory agencies. We all know that far too often agencies and Departments work in silos. They do not work together and the necessary focus is not put on issues. One should consider the success of the Criminal Assets Bureau. It was given a specific remit and had different personnel from different statutory organisations. Its work was very effective. The agency we propose would put a particular focus on the many aspects associated with smuggling and associated criminality. That should not be delayed. Deputy Stanley tried to suggest that Fianna Fáil said there were more people along the Border engaged in criminality than elsewhere in the country. We said no such thing. Sadly, a small number of well-resourced criminals are active in the Border region. That is different from saying there are a larger number of criminals proportionately in the Border region than anywhere else. I reject and utterly resent Deputy Stanley's totally false insinuation in this respect.

I proposed that the County Cavan joint policing committee ask officers from the Revenue Commissioners to attend. Local officers from the Cavan-Monaghan division attended and gave

us a great rundown on the activities and particular challenges they face in dealing with stations that closed and re-opened. There has been some easing off in diesel laundering as a result of the new dye that has been introduced. That happened in the past when the State devised new mechanisms that were subsequently bypassed by the sophistication of the operators. About a week ago, a close friend of mine, a young lady in Cavan who is the mother of two children and works in the public service, filled her relatively new car with diesel. Soon after, the car stopped and she has to fork out €1,200, which she does not have, to repair the engine. That diesel is still in the system and those gangsters and criminals are still getting their ill-gotten gains and able to maintain their lifestyles. They pose particular difficulties for the local communities.

Deputy Maloney made the valid point about people knowingly buying illicit product. There is a fuel chain. The people who have diesel laundering plants have outlets and recipients on their forecourts, but any individual motorist travelling around the country could stop and fill up with that petrol or diesel. They are not knowingly buying illegal product. Unfortunately, they are buying product that will destroy the engine of their vehicle. That has happened often. It is not an easy situation and I pay tribute to members of the Garda Síochána and Customs and Excise who have dealt with these thugs over the years and have had a very challenging job in dealing with these issues. I have said on the record of the House that the authorities north of the Border have not been as diligent as ours. We will accomplish that when we have an agency that includes representatives from our statutory agencies working alongside the representatives of those north of the Border. That is essential.

I refer again to the Minister of State's role in the Department of the Environment, Community and Local Government which she has highlighted today. It is not provided for in the Stormont House Agreement proposals made in early November 2015. As Deputies Maloney and Colreavy have said, the damage to the environment has to be a major consideration for us. Sludge and carcinogenic products are being dumped in fields and drains that feed into major tributaries and river systems that supply public drinking water. I emphasise that we cannot, as a country, afford to have sludge or other by-products dumped on countryside lanes or in fields. The farming community and the taxpayer have put a huge effort into building up a very credible agrifood industry. That has been done through huge effort by farmers and at cost to the farmer and taxpayer. We should all be very proud of the very high standards that have been set. We cannot allow gangsters and criminals to be given the opportunity to dump material in our countryside. That can put the authenticity, provenance and good name of our food production systems in question. The legislative measure we propose gives the Government the opportunity to amend and improve it. It will allow it to put in place a mechanism which draws together the necessary personnel to ensure agencies do not work in silos and that there is a concentration in one agency to deal with this issue which has so many aspects to it.

I thank those who contributed to the debate.

Question put.

**Acting Chairman (Deputy Bernard J. Durkan):** In accordance with Standing Order 117(1A), the division is postponed until immediately after the Order of Business on Tuesday next, 1 December 2015.



## **Report on the Regulation and Inspection of Gas Installers: Motion**

**Deputy John O'Mahony:** I move:

That Dáil Éireann shall consider the Report of the Joint Committee on Transport and Communications entitled "Report on the Regulation and Inspection of Gas Installers Operating in Ireland," copies of which were laid before Dáil Éireann on 8 July 2015.

**Acting Chairman (Deputy Bernard J. Durkan):** We know the Minister, Deputy Alex White, has travelled from Brussels, so we thank him for being here.

**Deputy John O'Mahony:** I welcome the fact that the Report on the Regulation and Inspection of Gas Installers Operating in Ireland, which our committee published in July, is being debated this morning. I thank the Minister for attending to hear this debate and I acknowledge that he has just arrived back from a Council of Ministers meeting in Brussels.

As Chairman of the Joint Committee on Transport and Communications, I am glad to outline the reasons we undertook the body of work. I will summarise the presentations of the main stakeholders and the rationale for the recommendations we made on the conclusion of our research and investigations. I thank my colleagues Deputy Michael Moynihan and Deputy Michael Colreavy, who were also on the working group. As we all know, committees operate on a cross-party basis.

The main purpose of this report is to consider the current system for the regulation, monitoring and inspection of installers of gas boilers. The committee members and I became aware, through representations, that although there is regulation, there is evidence to suggest that some individuals presenting themselves as gas installers are operating outside the law. Therefore, the committee formed the view that this matter warranted serious consideration. Owing to the strong potential for fatal accidents with a fuel as combustible as gas, we became very conscious of the dangers inherent in poor gas installation and servicing. We recall the high-profile tragic death in Kinsale a few years ago that resulted from carbon monoxide poisoning following a gas leak. I spoke to members of the bereaved family and noted that they wanted to see action in this area. It would be some consolation on their tragic loss.

One of the main stakeholders that made presentations to us was the Association of Plumbing and Heating Contractors Ireland, APHCI, which outlined its growing concerns regarding the industry. It believes that lives are at risk because of the failure of the regulatory system. The problem it sees is that the Register of Gas Installers of Ireland, RGII, polices and scrutinises those installers who are registered but does not proactively seek out or flush out the illegal operators. That is the kernel of the problem. The APHCI contends that some 100,000 illegal boilers have been installed up to the publication of our report in July of this year since the current regulatory system was introduced in Ireland in June 2009. It believes the market is awash with illegal operators and that there is a loss of revenue to the State as a consequence, in addition to the danger of explosions and all that follows, including death. The association contends legitimate operators are being driven out of the business. It claimed that approximately 30,000 gas boilers are sold in the State each year but only 12,000 are certified. Obviously, there is a problem. On 13 February 2015, the number of registered gas installers in the Republic was 2,775. By comparison, the number in Northern Ireland was 2,000. Since the Republic is much larger, there is a problem. The implication is that there are many illegal operators in the Republic. The Commission for Energy Regulation, CER, stated in 2009 that there were 4,984 gas installers at

that time. Over 2,000 did not register, which tells its own story.

Under legislation, the APHCI noted that CER has responsibility for putting in place what is supposed to be a comprehensive system of safety. In June 2009, it set up RGII, whose remit is to regulate registered gas installers. With regard to the investigation of complaints made to it, it is not responsible for identifying illegal work or installers. This is a fundamental flaw in the system, according to the APHCI. It believes that no one takes responsibility for proactively identifying illegal works and operators. The system is not like that in Northern Ireland, where the inspector actively seeks to identify people who are carrying out illegal works. Therein lies the difference.

According to the APHCI, CER acknowledged that there was a problem in 2014 and that action was needed. However, the association contends that nothing has happened. The CER, whose viewpoint I want to outline, contends the regulatory system is working effectively. However, there is obviously disagreement. The association says there are few prosecutions and that fines range only from €250 to €500. In many cases, the Probation Act is applied.

The CER, which also made a presentation to us, highlighted a number of points. First, the gas installers who are on the register are on it because they have been deemed competent to be on it. They are insured and subject to audit and inspection by the RGII. That is the assurance gas users can take from using a registered gas installer. Nevertheless, the CER operates on the basis of continuous improvement and reviews. The schemes it runs are subject to continual review in order to determine where improvements can be made.

A key building block of the scheme, according to a representative of the CER, is its reliance on the public to act as the police, as it were, on the ground. It is important for the success of the scheme that the general public be made aware of why it is in place, its benefits and what people can do to protect their families and homes. The CER, in conjunction with RGII and other stakeholders, participates in several publicity campaigns on a yearly basis. These are designed to focus on the key message, which it tries to get across to the general public in an accessible manner. Essentially, the message is to use a registered gas installer to carry out work at home, as it is a legal requirement.

It also advertises through public engagement how people can contact it if they suspect work has been carried out in their home which is substandard or carried out by unregistered workers. Whenever it has a successful prosecution, it will advertise that fact as it will act as a further deterrent against illegal activities.

The recommendations speak for themselves. All the members of the working group and all the members in the committee were unanimous on Recommendation A which states:

It is clear from the evidence presented to the Committee that, despite the regulatory regime in place in Ireland since 2009 requiring the registration of gas boiler installers, illegal activity continues to take place and many boilers are being installed by individuals operating outside of the law. However, there was no consensus amongst the stakeholders as to the extent of the problem, and there are considerable shortcomings in terms of knowledge in this area. The Joint Committee therefore recommends that an independent expert or consultant be appointed to conduct a thorough investigation of this sector in order to arrive at a truer picture of the extent of illegal activity taking place. Part of this individual's remit could also be to make recommendations as to how best to address problems identified in his

or her findings, in light of international best practice.

The second recommendation states:

The Joint Committee recommends that consideration be given to a legislative change providing that gas boilers only be sold to registered gas installers, or to consumers who provide evidence of having engaged a registered individual to carry out the necessary installation. A legislative requirement might also be considered in order to make it mandatory for merchants to publicly display material at points of sale to reinforce the message to the public of the benefits of using a registered gas installer.

In my opinion, if that were to happen, it would eliminate the problem at source. The third recommendation states:

The Joint Committee would urge Insurance Ireland to engage with the Commission for Energy Regulation in relation to the APHCI suggestion that the provision of home insurance be made conditional upon persons seeking insurance cover providing evidence, where applicable, of gas boilers being installed and serviced by registered gas installers.

The next recommendation states:

The current scheme for the registration of gas installers deals only with the competence of those installing in domestic settings and does not require individuals to be registered in the case of commercial premises.

At our launch of the report, a spokesperson for the Commission for Energy Regulation stated it was already taking in hand that recommendation. I am not sure what progress has been made on that since. The recommendation continues:

The Joint Committee is of the view that the Registered Gas Installer Scheme ought to be extended to include Non-Domestic Gas Works.

The final recommendation states:

The cost of subscriptions payable by APHCI members to the RGII at €175 (€50 for a trainee) per annum should be reviewed to establish if it is an impediment to illegal installers registering. The cost of certificates for the servicing of appliances (type 3), boiler replacement (type 2) and new boiler fit (type 1) should also be reviewed to ensure they are equitable, while the wording on the certificates might be improved.

This report was launched in July last and in my concluding remarks later, I will provide an update of what has and has not happened since.

**Minister for Communications, Energy and Natural Resources (Deputy Alex White):**

I am pleased to accept this opportunity to respond to the Chairman of the joint committee on its report dated July 2015 regarding the regulation and inspection of gas installers operating in Ireland.

I welcome this report which makes a valuable contribution to the debate on gas safety and its regulation and I thank the Chairman of the committee, Deputy O'Mahony, and the members of the committee for their important and valuable work in this area and for the careful and assiduous nature with which they conducted this assessment and report.

The report deals with a matter which, while it is of national importance, nevertheless is not one for which I, as Minister, have direct responsibility. The Commission for Energy Regulation, CER, as Ireland's independent energy regulator, has the statutory responsibility for gas safety regulation. In this regard, much of the substance of the report falls directly within the CER's remit. Deputies will understand that my remarks must necessarily have regard to the statutory independence of the regulator in the conduct of its regulatory functions, including in respect of gas safety, and its accountability to the Oireachtas committee. For the purposes of this debate I will, therefore, only describe the actions the regulator has signalled it is taking on the various issues in the report. I am sure Deputies would agree that in the light of CER's independent regulatory role in gas safety, its views on the recommendations would be most relevant and helpful in the continuing debate on this valuable report.

I read the report of the joint committee with great interest. I need hardly say, of course, that the safety of domestic natural gas consumers, and the public in general, is of paramount importance. I wholeheartedly agree that it is necessary that we, as legislators and public representatives, must ensure that safety is placed high on the agenda, in so far as it is within our remit to do so.

In that context, it is now almost ten years since the Energy (Miscellaneous Provisions) Act 2006 gave enhanced powers to the CER to include the regulation of the activities of natural gas undertakings and natural gas installers, with respect to safety; the promotion of natural gas safety; consultation with the National Standards Authority of Ireland regarding gas safety standards; and the establishment and implementation of a natural gas safety framework.

I am happy to place on record that I have every confidence that the CER continues to discharge its role in respect of gas safety in an exemplary manner through the ongoing operation of its gas safety regulatory framework. This framework was initially published in October 2007. As I have said, the CER is, of course, legally wholly independent in the performance of its functions and therefore none of its individual decisions is under consideration here.

I turn now to the recommendations in the report. The first recommendation of the joint committee was that an independent expert should be appointed to investigate the sector. At the committee's hearing, on 18 February 2015, the CER placed on record that it acknowledges that illegal activity is taking place. From a legal point of view, it is doing everything within its power to tackle the number of illegal operators. It also placed on record that it is happy at any time to engage with anyone who has further ideas to tackle illegal operators. The CER demonstrated to the committee how it is seeking to address the problem through a variety of means. These include investigations of all reported illegal activity, prosecutions when appropriate and promoting public awareness of both the benefits of using a registered gas installer, RGI, and the actual legal requirements in this regard.

The appointment of a consultant to carry out research into the extent of illegal activity would be a matter entirely within the operational remit of the CER. As Minister, I have no function in that regard. However, in this particular context I would like to remind Deputies that at the committee's hearing the CER stated that informal surveys of this nature have been carried out. It also stated that it has been engaging with the Central Statistics Office to attempt to assess the extent of the numbers involved.

In regard to the second recommendation of the joint committee which, briefly, was that there should be legislative compulsion to underpin a revised safety framework, any such legislation

would of course come within the remit of my Department. Such legislative change would need a thorough examination under a number of headings, for example, feasibility, practicality, costs and impacts. There would be obvious crossovers with existing legislation in the consumer area, such as the Sale of Goods and Supply of Services Act 1980. These practicalities would need to be looked at by other relevant Departments were that course to be taken. Deputies may recall that, at the hearing on 18 February 2015, the CER stated that it had already engaged with merchants to propose the introduction of a voluntary scheme to restrict the sale of gas boilers to registered gas installers. It also stated that it had asked merchants to display publicity material at sales counters to reinforce the message to the public of the benefits of using a registered gas installer.

The third recommendation of the joint committee was that Insurance Ireland should engage with the CER so that insurance cover could be made conditional on boilers being installed and serviced by RGIs. I remind Deputies that at the committee hearing, the CER stated that it had already engaged with Insurance Ireland about such a proposal. Furtherance of this issue is of course a matter entirely between CER and Insurance Ireland.

The fourth recommendation of the joint committee was that the registered gas installer, RGI, scheme be extended to include non-domestic gas works. It is a matter of public record that in August 2014 the CER held a public consultation process on whether an extension of the present regulatory scheme to the non-domestic sphere was warranted and would bring benefits. As a result of this process, it decided to propose the introduction of non-domestic gas works into the regulatory model. The CER published its final decision paper in this matter on 12 October. The next stage will focus on implementation, including the development of legislation, engagement with relevant training bodies, and a publicity campaign.

The final recommendation of the joint committee was that the annual subscription to the RGI scheme be reviewed in order to establish whether it is an impediment to illegal installers registering. Such a matter is an operational one entirely within the statutory remit of the CER, in which I as Minister have no function. However, Deputies may be aware that the CER has, following a recent public procurement process, appointed a gas safety supervisory body, SSB, to regulate gas installers in Ireland. From January 2016, the RGII, Register of Gas Installers of Ireland Limited, will again be the safety supervisory body and will operate under the RGI brand. These arrangements will be in place until the end of 2022. Deputies will recall that RGII was first appointed as the gas SSB for the period from 2009 to the end of 2015. The new body has committed to not increasing the costs of certification during the term of its appointment. The CER will, however, continue to review the costs of certificates on an annual basis.

In conclusion, and respecting the regulatory independence of the CER and its accountability to the Oireachtas committee, I have described some of the steps that it has already taken in areas relevant to the report and about which it has informed industry stakeholders, energy consumers and the committee over the past number of months. It can clearly be seen that the CER is strongly committed to the issue of gas safety. It stated at the committee hearing in February that it operates on the basis of continuous improvement, and that its gas safety regime is subject to continual review in order to determine where improvements can be made. The CER stated that it remains committed to working with all stakeholders to continuously improve the gas installer regulatory model in Ireland. For my part, as Minister with responsibility for energy policy, I reiterate that I am fully confident in the manner in which the CER is discharging its statutory role in relation to safety. I thank members of the committee again for their work in preparing the report and bringing the matter to finality.

**Deputy Michael Moynihan:** I welcome the discussion on this report and I also welcome the members of the APHCI in the Visitors Gallery, who have done tremendous work in bringing this matter to the floor of Dáil Éireann. I have met with them a number of times over the past year or two. Last January we met in the Fitzgerald Hotel in a meeting attended by more than 200 plumbers. The frustration they outlined on the floor of the meeting was clear for all to see. They have been harping on about this issue for a long time, and I am glad the Oireachtas committee took up the case, because this issue had been dismissed by various people, including the Commission for Energy Regulation, with which we engaged in 2013 and 2014 to try to resolve the many issues. Various State bodies and organisations were in charge of policing the market.

There was frustration among APHCI members and plumbers right throughout the country at what was, and possibly still is, happening with regard to unsupervised and unregulated people installing gas boilers, which is a very dangerous issue. I thank the chairman of the Joint Committee on Transport and Communications for allowing us to drive this through the committee with a full and frank discussion which related to all stakeholders. One of the best debates we had was a joint debate between the Commission for Energy Regulation and the APHCI, which dealt with what was outstanding and what were the key issues. One side laid its cards on the table and the other side came in the following day.

It is very important that an independent expert look at the issue, but one thing that was highlighted throughout the process was the question of whether the Commission for Energy Regulation had enough legislative powers to police this market. That is the crux of the issue, because everybody was passing the issues from one to the other, whether they were related to regulation, registration or anything else. The Act goes back almost ten years to 2006, and the Minister spoke about it, but we must ask if it is strong enough to deal with situations in which something goes wrong with the installation of a gas boiler or there is an accident or a tragedy. As politicians, we would all be clamouring for answers as to what should be done in such an event.

The Minister said other Departments had responsibility for certain aspects of the matter, but every piece of legislation that comes before Dáil Éireann affects every Department. It is vitally important that the Commission for Energy Regulation and the other Departments have the proper legislative tools to deal with these issues. It is important that this is moved on and not left simply as a recommendation of a joint committee. In my private discussions with the APHCI and the Commission for Energy Regulation during the summer of 2013 and 2014, it became clear that there was a shortcoming in what it could do. It will be necessary to have an interdepartmental input into legislation, but every other piece of legislation goes through the same process. As legislators, we are able to ensure the matter is followed through, and I ask the Minister to ensure that this happens.

There were other recommendations, such as those relating to home insurance, and we need to ensure that there are safeguards. Everybody needs to ensure they deal with professional people. The people who install gas boilers are extremely qualified and professional people. If people who are not properly trained and not competent install gas boilers, it is to the detriment of society in the long run, so all steps have to be taken. Would an insurance company insure a non-qualified driver on the roads? It is as simple as that. The insurance industry must look at this. As I have said, at all times those involved from the APHCI have been absolutely professional in the amount of work they have done to bring this to our attention, as public representatives, and to bring it to the committee. It is a voluntary organisation. The amount of work they have done behind the scenes with the committee and the work they continue to do is

remarkable. They have to be applauded in that regard. Sometimes, representative groups do not undertake the hard work, but these people did the hard work, although they all have their own jobs to do as well.

The point on insurance is something we have to consider. This is a solid report. The APHCI is very happy with the report and with the amount of publicity and time it is getting not only in the committee but in Dáil Éireann. We must ensure the recommendations are followed through. There is no point in letting it sit. Again, I call on the Minister to look at the insurance issue.

We can look at everything in the report and all the recommendations. What has happened since the report was produced? I know the Chairman is going to brief the Dáil shortly in respect of what has happened. The Oireachtas must be completely satisfied that the Commission for Energy Regulation is empowered with the proper tools to ensure that gas boilers and installations, whether they are domestic, commercial or industrial, are fitted to the highest possible standard and that there is a regulatory framework and a policing authority to ensure this is the case. It cannot be passed from Billy to Jack and from Jack to Billy. That will only lead to further frustrations. We have to be satisfied. We have examined the matter and the recommendation is clear.

Judging by what the Minister has said, this proposal would have an impact on a number of other headings. That is the way with all legislation, but I believe the Minister has accepted in his remarks that the Commission for Energy Regulation can only do the job that the Oireachtas empowers it to do. The commission may have shortcomings in other areas in respect of energy prices and so forth, but that is a debate for another day. Let us suppose I took only one of the recommendations and tried to ensure its implementation. I would ensure that when the representatives of the Commission for Energy Regulation sit down in front of the APHCI people at any future meetings, the commission is able to make the case that it has the framework to police what the APHCI is looking for. The APHCI is looking for something that is for the betterment and the security of society. Therefore, as legislators, we must ensure that the commission is empowered in that regard.

Again, I thank those involved in the APHCI for the work they have done and the time they gave me to discuss all aspects of this issue. I thank the plumbers who met in the Louis Fitzgerald Hotel in January. More than 200 plumbers met on a Tuesday afternoon when they had 101 different things to do. The concerns they raised and the passion with which they spoke on the issues are to be commended. I commend them on the amount of work they have done in the past two or three years since this issue first arose. They have continued to apply pressure to try to get it onto the floor of the Dáil. Now, we have to take it on to the next level. I call on the Minister to ensure that proper legislation is put in place to empower the regulatory bodies and ensure they have the power to implement this for the betterment of society.

**Deputy Michael Colreavy:** I offer a big welcome to the APHCI members. It is good to see them in the Visitors Gallery. When I took on the brief of spokesman for communications, energy and natural resources, this was not a topic on my to-do list. Then one day I got a telephone call from a plumber in Lucan. He told me he was ringing because I was a member of the Oireachtas Joint Committee on Transport and Communications. He told me he had serious concerns about the installation of boilers in Dublin and probably nationwide. I talked through the issue with him. He offered to take me to a housing estate to show me what he was talking about. I met that good man. He was able to point out to me, a layman, what was wrong. We were only looking at the installations externally; we did not look inside. To his trained eye,

there were obvious deficits in the plumbing carried out. He was able to describe not only the deficits in the plumbing but also the risk they presented. The risk applies not only to the people in the house but people walking past the house in that housing estate. He said he could take me to many estates around Dublin where we would find the same problems.

The committee and the association heard that there have been in the region of 100,000 installations - I will not use the word "illegal" as that is the wrong word - by unregistered contractors in this country since 2009. There is some dispute over the figures. It may be a little more or a little less. It is frightening that we do not know for sure. This is not something that makes the headlines. We will not see a "Prime Time" programme about it until there is a disaster. God forbid that there will be a major incident. However, if there is a major incident, the spotlight will shine on us, because we are the people who can make the difference.

The committee has done invaluable work under the Chairman, Deputy John O'Mahony. Two things have struck me, and one of them is particularly strange. Let us suppose that there are in the region of 100,000 illegal installations. Only 45 prosecutions have been taken. I find that extraordinary. There is something wrong with either the legislation or the implementation of the legislation. This needs to be changed. A second point struck me. Much of the inspection work focused on the work of the registered contractors - in other words, the men and women who are doing it right. We have been expending considerable energy on people who do the right thing, register as contractors and put the association's stamp on the quality of their work. Yet there have been only 45 prosecutions after approximately 100,000 illegal installations. That makes no sense whatsoever. The focus must be on unregistered installers. That is the area of greatest potential risk. That is the gap we have to fill.

It is not necessary for me to go down through the various points made in the report. That would only represent repetition. I welcome the Minister's response on some of the issues. However, we need to do more in some areas. The joint committee recommended that an independent expert consultant be appointed. That matter is entirely within the remit of the Commission for Energy Regulation. The CER has said that informal surveys have been carried out and are being carried out. Furthermore, the commission has said it is engaging with the Central Statistics Office to assess the numbers involved. It is true that the CER is independent. I believe the CER will look at what we believe is important within this field, as legislators and representatives of the community.

I am sure the CER would welcome and respond to indications from the Government that this is an area in which concerns have been expressed.

The report also recommends legislative compulsion to underpin a revised safety framework. The Minister proposed the introduction of a voluntary scheme to restrict the sale of gas boilers to registered gas installers. I could nearly put money on it that a voluntary scheme would not work and that it would slip into misuse. It will have to be a compulsory scheme. From the Minister's response, there will be some movement in the negotiations between the CER and Insurance Ireland, but we need to remind the CER that we wish this to be implemented. The final recommendation is on the Register of Gas Installers of Ireland, RGII, scheme, and I understand the Minister's response on this.

The work of a committee does not and should not end with the production or launch of a report or with the tabling of a report in the Dáil. The work of a committee is done only when the necessary legislation, structures and practices are in place to fill the gaps to tackle the weak-



nesses identified in its discussions with the various bodies and associations involved. We have a little bit to go. The Minister's response outlines that things are happening, but they probably need a little bit of a nudge along. I hope there will not be an incident to shine the spotlight on us, and I hope people will not be able to say validly we were tardy or slow in our response to address the serious issues identified in the report.

**Minister for Communications, Energy and Natural Resources (Deputy Alex White):** I thank the Deputies for the very helpful contributions they made in the debate and I am pleased to have an opportunity to respond. As I said in my opening remarks, this is an issue of national importance which is recognised by the committee in the work it has done to bring the report forward. The safety of domestic natural gas consumers and the public in general is of paramount importance to all of us. We as legislators and public representatives must ensure safety is placed high on the agenda in so far as it is within our remit to do so. That said, I know Deputies understand the operational matters raised in the course of the report are outside my legal responsibility as Minister. Nevertheless, I repeat I have every confidence in the manner in which the regulator is discharging its responsibilities.

In my earlier reply to the Chairman, I recalled that the CER said at a committee hearing in February last that it operates on the basis of continual improvement and that its gas safety regime is subject to continual review to determine where improvements can be made. It is committed to working with all stakeholders to improve continually the gas installer regulatory model in Ireland.

Deputies will agree that from what has been publicly stated, the CER has engaged fully with the issues raised in the report. To recap, the CER has stated informal surveys of the extent of illegal activity have been carried out. It has engaged with the Central Statistics Office to attempt to assess the extent of the numbers involved, engaged with merchants to propose the introduction of a voluntary scheme to restrict the sale of gas boilers to registered gas installers, asked merchants to display publicity material at sales counters to reinforce the message to the public of the benefits of using a registered gas installer, and engaged with Insurance Ireland on the proposal that insurance cover should be made conditional on boilers being installed and serviced by registered gas installers. This is a matter of public record. Nevertheless, I remind the House that the CER's accountability for carrying out its functions in this area, as for all its remit, is not to me as Minister, but rather it is solely accountable to the committee. Therefore, in light of the CER's independent regulatory role in gas safety, its views and recommendations would be most relevant and helpful in the ongoing debate on the report.

I note that a number of points were made in the very helpful contributions of the Deputies. Deputy Moynihan asked whether there are sufficient powers in the legislation. There is always room for Members of the Oireachtas, particularly the relevant committee, to discuss whether powers set out in legislation are strong enough, but I do not see in the report any general objection to the powers or remit of the CER. The report makes two suggestions on legislative change on quite specific matters. It proposes a legislative change to provide that gas boilers only be sold to registered gas installers or to consumers who provide evidence of having engaged a registered individual. It also suggests that a legislative requirement might be considered to make it mandatory for merchants to display material publicly at points of sale. These are two specific suggestions to which I have responded in my earlier remarks. It is fair to say the report does not draw attention to any general deficit in the legislation in respect of the overall regulatory powers of the CER. With regard to the CER itself, and not only in the context of the recommendation regarding an independent expert, I state strongly to colleagues that the CER has expertise avail-

able to it and draws on it, and the CER is independent. If we look for expertise and independence, they are both to be found in the CER and how it works. These are my observations on what has been said.

I draw the attention of the House to a particular area. I have said that many of these matters are not within my remit as Minister, but the Department is involved in gas safety through its support for the operation of the gas technical standards committee, GTSC, which is a consultative committee of the National Standards Authority of Ireland, NSAI, with which Deputies are undoubtedly familiar. The Department provides financial, technical and administrative support for the GTSC's work. It was formed in 1981 and comprises people from the gas industry, the Government, the education sector and consultancy and various State bodies who have given their time and expertise to progress the work of the GTSC. I acknowledge the work of these many individuals, including many retired individuals, who provide their services to the GTSC *pro bono*. The work of the GTSC in the area of gas safety standards is largely done away from the public gaze but it is, nevertheless, important work. Standards make things work properly and ensure public safety.

I thank the Chairman and members of the joint committee for their very valuable report. The valuable and important work the committee does is manifest in this report. I again encourage the committee to engage directly with the CER and elicit its further views on the recommendations contained in the report.

**Deputy John O'Mahony:** I thank the Minister, Deputies Moynihan and Colreavy and the members of the APHCI who are in the Visitors Gallery. The input of the APHCI members has been very constructive and that was reflected in the committee.

I respect what the Minister said and I agree with him that the CER is the independent body responsible for this area. However, common-sense recommendations have been made by the committee to solve a problem that obviously exists. Even the CER admits there is a problem. If that body needs new tools to deal with it, there should be a way of doing whatever needs to be done, whether that is heads being knocked together or legislation. Ultimately, that is the winning line for everybody - the public, public safety, the industry and for the legislation. If a disaster happened, and some disasters have happened where deaths have occurred, we would all scramble to ask why this or that was not done. Barriers and obstacles would be removed at that stage. My contention is that prevention is always better than cure. That is the main point.

To refer to what has happened since, there has been little or no progress, although some things are moving. I was happy on the day we launched the report that there was to be engagement between the APHCI and the CER on how to move forward. However, that has not happened.

One of the recommendations was that an independent expert or consultant be appointed to conduct a thorough investigation. The CER response to that is that the report does not state that the CER must appoint this independent expert. I can say on behalf of my colleagues that if it needs our authority because the report did not say it, there would be unanimous support for saying "Yes". Somebody must establish it and if the CER can do it, that is fine. The CER has admitted there is a problem, so we must get the facts. The APHCI has offered to share the cost of appointing somebody to examine it, if required. This matter must be advanced.

Regarding the recommendation that consideration be given to legislative change, I under-

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stand the steps that must be taken for legislative change. The CER has written to the Department in support of that recommendation so I hope that the required communication takes place. I hope it gets whatever tools it believes are required in this situation. These matters take time but if the CER supports that recommendation, progress must be made on it.

As regards engaging with Insurance Ireland, there are possibilities in whatever engagement that takes place in respect of the third recommendation. Making the provision of home insurance conditional, as the recommendation states, provides a simple solution. It would be helpful if something happened in this area. The CER has said its representatives have met Insurance Ireland, but what was the outcome of that?

The key issue here is that, at present, the CER is fully targeted at those who are registered. It is different in Northern Ireland where people who are not registered are actively pursued. There must be some type of change in the policy here. Again, if the CER requires extra tools to operate that, something must be put in place to facilitate it.

The report recommends that the cost of subscriptions payable by APHCI members to the RGII should be reviewed. I understand no review was carried out. The RGII has been re-appointed for another seven-year term, so obviously nothing has happened on that recommendation.

In summary, there is a problem here and recommendations have been made to solve it. There are obstacles but we must work together to secure a positive outcome for everybody. The Minister said the CER is accountable to the committee. I do not know who will be members of committees in a few months, but I would have assumed that the CER was responsible to the Minister rather than to us. Certainly, if I am a member or chairman of a committee in this area, I will engage with the CER again to follow up on this. The working group, which includes my two colleagues across the floor, will not let go of it until it is solved to everybody's satisfaction. This is far beyond party politics. It is an issue that must be resolved. All the stakeholders are constructively involved in it and we must continue that process until we get a satisfactory conclusion.

Question put and agreed to.

The Dáil adjourned at 12.20 p.m. until 2 p.m. on Tuesday, 1 December 2015.