Vol. 900
No. 1

Wednesday,
9 December 2015

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

DÁIL ÉIREANN

Dé Céadaoin, 9 Nollaig 2015

Wednesday, 9 December 2015

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.30 a.m.

Paidir.
Prayer.

Ceisteanna - Questions

Priority Questions

School Enrolments

1. **Deputy Charlie McConalogue** asked the Minister for Education and Skills the discussions she has had in relation to the inclusion of provisions excluding denominational schools from using a child's religion in selection criteria for school admissions in the forthcoming Education (Admission to Schools) Bill; and if she will make a statement on the matter. [44117/15]

Deputy Charlie McConalogue: The question seeks an update from the Minister on the discussions she has had with her coalition partners on the need for a change to the current situation with regard to school admissions policy, particularly the criterion of religion. I note from the coverage in today's newspapers that the Minister intends to drop the Education (Admission to Schools) Bill and not to implement it before the election. I hope she will give a clear update on her position in that regard.

Minister for Education and Skills (Deputy Jan O'Sullivan): Under the Equal Status Act, schools are not permitted to discriminate in admission on any of the grounds set out in the Act. However, the Act contains an exemption which permits schools in which the objective is to provide education that promotes certain religious values to admit a student of a particular religion in preference to others.

The Deputy will be aware of the many positive elements of the admissions Bill, which will put an end to the charging of fees to parents who apply for a school place, tear down the soft barriers erected in front of some children with special needs, and bring openness and transparency to all school admissions.

The issue of the need to amend the Equal Status Act was not a feature of the consultation paper published in advance of the Education (Admission to Schools) Bill. When the Oireachtas committee considered this matter, it simply noted that "there is a potential tension between Articles 42 (Education) and 44 (Religion) of Bunreacht na hÉireann, and this poses a particular difficulty when legislating in this policy area." No amendment to the Equal Status Act has been included in the published Bill.

I have subsequently made clear my view that this is a matter that does need to be reviewed and addressed, and it will need to be a priority for the next Government so that it can be dealt with in advance of the next school year.

Deputy Charlie McConalogue: I find it objectionable that we can read in today's newspapers a clearer explanation from the Minister as to the current status of the school admissions Bill than she has outlined in her reply to my question. Could she confirm whether it is her intention not to proceed with the Bill and instead to kick it to touch until after the next general election, as per her comments across a number of newspapers this morning? Could the Minister also outline the reason for that? Considerable effort has been put in by Members across the House and at committee level, with wide consultation across the education system on the Bill for the past three years. Ample time was available for the Bill to be introduced in the House, yet under the previous Minister for Education and Skills, Deputy Ruairí Quinn, and now under the tenure of the current Minister, Deputy Jan O'Sullivan, all we have seen is delay after delay and the issue is being kicked to touch. Now it would appear that the Minister has no intention whatsoever of introducing the Bill into the Dáil before it is dissolved. Could the Minister please bring clarity to this?

Deputy Jan O'Sullivan: The Bill was published just before the summer, in April. I would like to have had time in the Dáil and Seanad to bring it through the Houses of the Oireachtas. I am not kicking the Bill to touch; if it can still be done, I will do it, but I am being realistic in terms of the Oireachtas calendar, in so far as we only have one more sitting week this year in the Dáil. We will only be back for a matter of weeks rather than any longer period after the Christmas break. I do not know when the election will be called but, realistically, I do not think we will have time to debate the many issues involved and to get such a complex piece of legislation through Committee and Report Stages in both Houses of the Oireachtas. I was being realistic about the Oireachtas calendar in a speech I made last night at the launch of *Education Matters*, a journal produced yearly on education issues. I referred to the matter in last night's speech. I honestly do not believe there will be enough time to bring the entire Bill through both Houses of the Oireachtas.

Deputy Charlie McConalogue: The Minister is being defeatist rather than realistic, because this is something that was very much within the Minister's grasp. It was within her power to ensure the Bill went through the Dáil and Seanad during the past five years. In fact, it is something that the Minister and her predecessor, Deputy Quinn, flagged as one of the key reform measures of the Labour Party tenure in education in the past five years. It would now seem the Bill is not going to be delivered, and instead will be pushed onto the next Dáil to delay it as the Labour Party retreats to the political trenches in advance of the next general election, making big promises as to what it might do if the party returns to power while ignoring the fact that it has been a complete failure in terms of delivering reform in the current five-year period.

School admissions are one of the key issues, along with junior certificate reform and divestment, that the Minister and her predecessor, Deputy Quinn, flagged as priorities for the Labour

Party in government, and on each of those fronts we have seen a total failure to deliver in any meaningful way, or certainly in the way that was outlined or intended. Much debate and consideration has been given to the Education (Admission to Schools) Bill. It is an important issue. I believe it should come before the Dáil. It is totally defeatist and a reflection on the tenure of the Labour Party in government that it is now the Minister's intention to kick the matter to touch and not to deliver on it.

Deputy Jan O'Sullivan: There will be an admissions Bill. There is no doubt about that. It will go through the Oireachtas after the election because it has to; it is something that will be addressed. My predecessor, Deputy Ruairí Quinn, brought the Bill a long way and I brought it to the point of being published. I reject the claim that we have not been working on reform. A significant amount of reform was achieved in education under the previous Minister, Deputy Quinn, with which I have subsequently continued. Junior certificate reform is now being implemented in schools. There is still an issue with one of the unions but it is being implemented.

The process of divestment has been slow. We are all disappointed about that but I have started a series of meetings in this respect. I met Education and Training Boards Ireland, ETBI, yesterday, I have met the Catholic bishops already and I will meet Educate Together and the Church of Ireland next week to work out how we can speed up divestment. These are significant changes. One has to work with the partners in education to make progress, but I reject the Deputy's suggestion that there has not been reform in the education area. The admissions issue in terms of the issue of religion was never going to be dealt with in the current Bill, as published, because it was not agreed in the programme for Government and it is not part of the published Bill. I am certain that admissions legislation will be brought forward after the next election regardless of whoever is in government. I am certain that at some stage in the near future the issue of religion will have to be dealt with, but it was not going to be dealt with in the current Bill. I am simply being realistic with respect to the Oireachtas timetable about bringing through the entire legislation before the next election.

School Patronage

2. **Deputy Jonathan O'Brien** asked the Minister for Education and Skills the status of the programme for divestment of patronage; and if she will make a statement on the matter. [44042/15]

Deputy Jonathan O'Brien: I ask the Minister for an update on the divestment programme to which she has alluded.

Deputy Jan O'Sullivan: The programme for Government gives a commitment to move towards a more pluralist system of patronage for our schools. In this context, the Government established a Forum on Patronage and Pluralism in the Primary Sector. The forum advised on how the education system can provide a sufficiently diverse number and range of primary schools catering for all religions and none and on the practicalities of transferring patronage of primary schools where it is appropriate.

Following surveys of parents in 43 areas, there was sufficient parental demand supporting change in 28 of these areas. To date, eight new primary schools have opened under the patronage divesting process. I have made it very clear that I am frustrated with the slow pace of progress in this area and that I am anxious to work with everyone involved to ensure we deliver

new options for parents in the remaining 20 areas as quickly as possible, and certainly within the next couple of years.

To reinvigorate the patronage divesting process, I recently met the Catholic bishops and yesterday I met representatives from Education and Training Boards Ireland, ETBI. I have also arranged to meet representatives from Educate Together and the Church of Ireland next week. I am working with the main stakeholders to advance alternative choices for 2016 and beyond. I am willing to provide further updates to the Deputy as this work progresses and after I have had a chance to conclude the current series of meetings with the bodies involved.

Count	Roll No.	School Name	Address	Patron	Ethos	Year Opened
1	20430N	Canal Way Educate Together NS	Basin Lane, Dublin 8	Educate Together	Multi-denominational	2013
2	20444B	Trim Educate Together NS	Glebe, Kildalkey Road, Trim, County Meath	Educate Together	Multi-denominational	2014
3	20446F	Tramore Educate Together NS	Pond Road, Tramore, County Waterford	Educate Together	Multi-denominational	2014
4	20445D	Malahide/ Portmarnock Educate Together NS	Malahide Road, Kinsealy, County Dublin	Educate Together	Multi-denominational	2014
5	09040K	Newtownwhite ETNS*	Newtownwhite, Ballysakerry, Ballina, County Mayo	Educate Together	Multi-denominational	2014
6	20456I	Tuam Educate Together NS	Dublin Road, Tuam, County Galway	Educate Together	Multi-denominational	2015
7	20458M	New Ross Educate Together NS	Barrett's Park, New Ross, County Wexford	Educate Together	Multi-denominational	2015
8	20461B	Gaelscoil na Laochra	Biorra, Contae Uíbh Fhailí	An Foras Pátrúnachta	Multi-denominational	2015

*This school resulted in the transfer of existing school from the Church of Ireland.

Deputy Jonathan O'Brien: By the Minister's own admission, this has been a very frustrating process and we would all share that frustration because there is a need to move to a more

pluralist education system. I very much welcome the engagement the Minister is having with the various stakeholders in this process. While eight primary schools have been delivered to date in this respect, I believe the Minister would recognise that they do not go anywhere near meeting the demand that exists. Will she indicate what she is hoping to achieve from those negotiations? Are we seeking to put in place a five-year plan for the next Government to move forward on this issue? Unless we continue to knock on the doors of the stakeholders, so to speak we will continue to be frustrated.

Deputy Jan O'Sullivan: The main purpose of the meetings is to find out the obstacles hindering divestment. There is a willingness in this respect at a macro level. Having listened to what Archbishop Martin said again this week, there is certainly such a willingness in the archdiocese of Dublin. Also, from my meetings with the people I have met so far, there is a willingness at that macro level. What I am being told, however, is that there are difficulties at local level. We wanted to get a sense of the issues that are making the process as slow as it is.

There will be a focus on the areas where there has been a survey of parents and where there is a wish to have divestment, namely, the areas that have not so far been successful in terms of divestment, to examine if there are practical issues we can address and then examine, on a broader basis, other parts of the country where there are opportunities possibly to divest. This involves reorganisation where, for example, there are a number of Catholic schools in a particular area and there is not an alternative, and it involves examining what we as a Department can do to assist in the process of identifying a way in which this can be done. People have a loyalty to their local school and that is often the issue. It is a matter of finding a way in which we can work with all the different patron bodies concerned to speed up the process.

Deputy Jonathan O'Brien: I agree that people have a loyalty to their local school. Unfortunately, in some cases, students are unable to attend that local school because of section 7(3)(*c*) of the Equal Status Act. I noted that the Minister indicated in the media this morning that she will remove rule 68 in January. That would be a very welcome move. Obviously, divestment will not address the issue of religious discrimination in schools. I would question why she would remove rule 68 without also addressing section 7(3)(*c*) of the Equal Status Act. If a student cannot get into a school, that is a big problem, but once a student gets into a school we need to ensure rule 68 is removed, which provides that religion is the most important subject in the curriculum. We are putting the cart before the horse. We need to address both issues at the one time.

Deputy Jan O'Sullivan: I do not disagree that we need to address the Equal Status Act and that it needs to be amended. We are examining in what way it could be amended to protect, for example, minority religions in terms of wanting to have their particular schools protected. If one is, for example, a member of the Jewish faith, a member of the Church of Ireland or a Muslim for that matter, if a school has to take in all the local children where the school is situated, it will not have that ethos protected. There has to be a way in which the legislation can be amended to take account of that and at the same time give some priority to children who live in close proximity to a school. Again, I am being direct in saying that I will not be doing that during the life of the current Government but I believe it is something that has to be addressed in the very near future.

Teachers' Remuneration

3. **Deputy Finian McGrath** asked the Minister for Education and Skills her plans to reverse the pay cuts imposed by her Government and the previous Administration on new entrant teachers; and if she will make a statement on the matter. [44041/15]

Deputy Finian McGrath: Does the Minister plan to reverse the pay cuts imposed by her Government and the previous Administration on new entrant teachers? I raise this question because this is a grave injustice to many young teachers and new entrants to the teaching profession. Not only is it bad for teachers, it is also very bad for education, staff relations, all our schools and the education service. We need to reverse these cuts and end this injustice.

Deputy Jan O'Sullivan: Since the beginning of the financial crisis, there has been a need to enact a number of measures to reduce public expenditure. These measures were implemented at a time of very difficult financial and budgetary circumstances for the State. Since first entering Government, we have been committed to achieving such reductions through negotiation. The Haddington Road agreement, to which teacher unions are parties, saw negotiated decreases to public sector pay. That agreement also began the process of addressing the salary imbalance between new and longer-serving teachers. This process has continued under the Lansdowne Road agreement.

The issue of equalised pay scales was not one which could be resolved in the talks. However, the Lansdowne Road agreement will, through salary increases and a reduction in the pension related deduction, begin the process of restoring the reductions to public service pay which were implemented over recent years. These flat-rate increases will be proportionately more favourable to new entrants to teaching, who are lower on the pay scale, than to longer serving teachers. We look forward to seeing the further restoration of public service pay levels as our economy continues to recover strongly.

Deputy Finian McGrath: Let us address the core issue. Does the Minister support unequal pay? How can she support the fact that two teachers doing exactly the same job are paid vastly different salaries because one was appointed a day before the other? The new entry pay for teachers is a major concern, particularly for primary schoolteachers. The issue of equal pay is broader in that it is not only an equality issue but a broader trade union issue. If we take account of the details, the pay cuts for 2011 entrants and the removal of allowances from entrants from 2012 were never discussed, never mind agreed, with the teachers' unions. The 10% cut for 2011 entrants, along with starting on the first rather than the second point on the scale, were imposed in the budget by the previous Government. The cuts to allowances were unilaterally imposed by the current Government. Will the Minister condemn and oppose these unilateral actions? I believe the teachers have taken a claim to the equality tribunal that the salary cuts amount to discrimination on age grounds. I ask the Minister to look at this again as it is a broader issue than just a grave injustice. There is also an equality issue involved.

Deputy Jan O'Sullivan: The pay agreements are part of the way in which these things function in Ireland. The Haddington Road agreement was signed up to by all the teaching unions. The Lansdowne Road agreement was signed up to by the INTO although the other two unions have issues with it. As I said in my opening remarks, the emphasis in the Lansdowne Road agreement is on restoring salaries to lower paid workers first, which obviously benefits those who have come in on the lower scales.

It is not practical to imagine that no change to entry salaries for public servants would ever be envisaged. Entry salaries are a matter of consideration depending on where the economy is at a particular time. It is not something we can say will never happen; it does happen. What we have tried to do, and are doing in Lansdowne Road in particular, is to put the emphasis on lower paid workers in general, including the newer teachers who are on the lower scale.

Deputy Finian McGrath: I hope negotiations lead to ending this inequality and injustice. The former president of the INTO, Anne Fay, told a rally of thousands of teachers in 2012 that the Government could not defend separate salary scales for teachers doing the same work. She also said that the Government decided to introduce discriminatory and inequitable pay scales for new teachers, and that the teachers' unions opposed that decision and will overturn it no matter how long it takes. She described the pay cuts for new teachers as an affront to the core trade union principle of equal pay for equal work. It is very important that we get on and deal with this issue. I urge the Minister to revisit it and phase out the cuts over time. I believe the INTO is very flexible on that aspect of the matter.

Deputy Jan O'Sullivan: I have no doubt that the INTO and the other teaching unions will represent their members very effectively in these kinds of negotiations, as they always do. We do have negotiations that are agreed and are being implemented by the Government. There was a time when percentage increases always happened, as a result of which we had very big gaps between the better-paid and lower-paid people. We have now started using flat-rate increases, which I believe is an improvement in terms of equality as it ensures that the gap narrows.

The issues raised by Deputy McGrath are constantly subjects of negotiation and will, I am sure, remain so into the future.

Childhood Obesity

4. **Deputy Charlie McConalogue** asked the Minister for Education and Skills her views on the challenge by schools (details supplied) in County Wicklow to the locating of a fast-food restaurant close to their premises on public health grounds, and the progress in implementing the Framework for Improved Health and Wellbeing 2013 to 2025. [44118/15]

Deputy Charlie McConalogue: I ask the Minister for her views on the challenge by a school in Greystones, County Wicklow, to the location of a McDonald's restaurant close to its premises on public health grounds, and for an update on progress in implementing the framework for improved health and well-being by her Department.

Minister of State at the Department of Education and Skills (Deputy Damien English): The manner in which the challenge was taken in this case is a matter for the schools involved. We would like to commend the school on prioritising the health of its students in deciding on school policy in this matter. Schools and the wider education sector have a vital role to play in contributing to the Government's Healthy Ireland agenda set out in the framework for improved health and well-being for 2013-2025.

Healthy Ireland was published by the Department of Health in 2013, and is one of the most ambitious programmes we have ever seen focused on improving the health of the nation. Healthy Ireland contains a number of goals for the education sector. The Department of Education and Skills is a key partner in the delivery of this agenda, and this work is a personal priority

for me and the Minister. Through primary and post-primary education, students are equipped with the key skills and knowledge to enable them to make healthier life choices. Schools' efforts should be complemented by students' families and their community.

Our Department issued guidance to post-primary schools this September on promoting healthy lifestyles, including healthy eating policies. Similar guidance will be provided to primary schools early in 2016. We want to see more active flags in schools, more schools growing their own food, and more schools adopting healthy eating policies. We will continue to engage with the education stakeholders to find ways of achieving these goals.

Deputy Charlie McConalogue: I thank the Minister of State for his response. The context for this, as I outlined in my question, is a secondary school in Greystones which brought a legal challenge to a planning application for a McDonald's which was to be located less than 100 m from the entrance to the school and would have been the closest food outlet to three schools. As the Minister of State would recognise, this is a national issue rather than being confined to the local matter in Greystones of which we are all aware.

There is a disconnect between what parents and communities want in terms of the appalling health status of our young people, what the Government hopes to achieve through Healthy Ireland, and the reality of what young people are actually eating at school. Ireland is in the throes of an obesity epidemic with as many as one in five teenagers obese or overweight, yet there is currently no national standard to ensure that healthy, tasty and nutritious foods are provided at second level. The guidelines at primary level are also weak. There is no strategy, plan or guideline from the Department of Education and Skills to ensure that schoolchildren are not used as captive consumers for fast food and sugary food outlets. The Greystones saga illustrates this point.

Will the Minister of State agree to set up in interdepartmental group to design planning guidelines for "no-fry zones" close to schools? Will he agree to a ban on vending machines in schools selling sugary products? Will he put a more ambitious plan in place to bolster nutrition inside our schools?

Deputy Damien English: On vending machines and healthy eating, the Department issued guidance for post-primary schools about measures to promote healthy lifestyles. The guidance was drafted in consultation with the Department of Health and the HSE. It encompasses measures to promote healthy eating, healthy vending, PE and physical activity. We have to allow each school, along with parents and pupils, to come up with its own policies in this area. In conjunction with the Department of Health, we give as good guidance and direction as we can through these initiatives. There is local decision making involved as well.

In respect of planning matters, as the Deputy has said the issue is not limited to Greystones. I have seen a similar situation in my own town of Navan and in many other towns. It is a local planning matter, however, and has to remain as such. Naturally, the Department is constantly watching the issue to see if there is a need to develop guidance on it. It is a planning issue and is dealt with successfully in most cases. Some companies are taking a different attitude now and are not proceeding with planning applications. Hopefully they might learn from that as well. It is important that parents feel they have a role so they can make their own decision locally in conjunction with their school. From what I can see, I am glad to say that most schools are taking a very active role and have dealt with the issue appropriately.

Deputy Charlie McConalogue: I thank the Minister of State. He and the Minister, as Department of Education and Skills leads, should be more proactive in taking a national policy approach to this, rather than confining the issue to whatever local authorities may decide in each individual area. There is an obesity epidemic and a real challenge in ensuring healthy food options are available to students within the vicinity of schools. There is also the challenge of ensuring that we have healthy food options within schools themselves.

What, if any, plans, does the Department have to improve the situation in schools? Will the Minister of State look again at the need for a national policy approach to ensuring that there is guidance and strong principles laid out as to how food outlet development should be carried out close to schools? One very simple measure which could be taken would be to get rid of vending machines that are selling sugary drinks and food from schools.

The bulk of the food is sold from vending machines in all our schools yet the Department refuses to do away with it and issue a guideline and a requirement that schools not serve that food and replace the vending machines with nutritious food. That is one simple measure the Department has not taken and I get no indication that it is willing to do that. Will the Minister of State reconsider that approach?

Deputy Damien English: The health promoting schools, HPS, initiative is a Europe-wide programme aimed to strengthen a school's capacity to be a healthy setting for learning and working by focusing on whole-school level and all the conditions that affect health and well-being. As part of the HPS initiative, health promotion officers and members of the well-being pillar of professional health and service for teachers collaborate on a regional basis to ensure schools are supported in meeting the health needs of their students. That is the Department's role, to provide the supports, guidance and policies. It is not to lecture to every school about what it has to do in every situation. That is not necessarily our role. We try to encourage responsible thinking and development and put the supports in place to do that.

10 o'clock

That is a planning matter. That is a local decision. In most of these towns there are premises that serve food of all kinds. It is not a straightforward question of dealing with new applications. In many school settings there are already premises in the vicinity which makes it a little more difficult when it comes to planning. It has worked out properly in most cases. Planning authorities generally do a sound job when it comes to making these decisions. That is their job. It is not the job of the Department of Education and Skills to have a role in the planning matters of every town and village in the country.

Deputy Jonathan O'Brien: It is also an issue for local development plans.

Special Educational Needs Staff

5. **Deputy Jonathan O'Brien** asked the Minister for Education and Skills the status of the pilot scheme for allocating special needs resources; and if she will make a statement on the matter. [44043/15]

Deputy Jonathan O'Brien: Will the Minister for Education and Skills give an update on the status of the pilot project?

Minister for Education and Skills (Deputy Jan O'Sullivan): The National Council for Special Education, NCSE, published advice in 2013 which identified that the current model for allocating resource teachers to schools is potentially inequitable and recommended the development of a new allocation model. A new model based on the profiled needs of each school rather than on the diagnosed disability of individual children has been developed. This new model will reduce the inequities in the current system and also ensure we are not unnecessarily labelling children from a young age. Work on this model is almost complete.

I have established a pilot of the new model which is under way in 47 schools and will run for the duration of the current school year. The pilot will test the practical impacts of the new model prior to full implementation. Significant guidance has been prepared and provided to schools involved. During the pilot all participating schools will complete an assessment questionnaire to gather information on their experiences. All participating schools attended a pilot information day on 15 September and a further information day took place on Friday last.

Deputy Jonathan O'Brien: Will the Minister confirm that there was no limit to the resources for the model in the NCSE pilot project? I have been in contact with several principals who are concerned about the new model. The model apparently can be reviewed only every two years. There is a concern that some schools bringing in junior infants, who have special educational needs may not get the additional resources because of the two-year period.

Deputy Jan O'Sullivan: There was no reduction in the resource hours given to the schools. There were extra supporting materials for the schools and the testing of the pupil planning process and the outcome of reporting. There were not unlimited resources. They have received their resource allocation for 2015-2016 and schools that might gain under the new model presumably would have got extra resources.

This is a pilot and the purpose is to learn from it. If the message the Deputy raises comes back from schools about the two-year review, it will be heeded. We want to learn as much as we can about how the new model works this year. That is why the sample schools are a mix of different social backgrounds, etc. We want to see if practical issues come up in the pilots and apply the lessons from those.

Deputy Jonathan O'Brien: Until we get the results of the pilot we will not know the potential pitfalls of the new model. Everyone agrees the old model is broken, is not fit for purpose and a new one is needed. I understood that when the NCSE was tasked with the job of coming up with a new model, there was no limitation on resources. Whatever model it thought best for allocating resources would be put forward. That may include additional resources being put in place by the Department. Will the Minister confirm that?

Deputy Jan O'Sullivan: There would have to be some limit on resources. We could not give an unlimited number of resource hours to a school, whether in a pilot or a new model. My understanding is that a school would not have reduced resources but there would not be unlimited resources. If I can clarify that further at a later stage for the Deputy, I will do so. There will be enough resources to ensure the new model can operate in an effective way in the schools concerned.

School Accommodation Provision

6. **Deputy Mick Wallace** asked the Minister for Education and Skills the measures she is taking to address the ongoing lack of secondary school places in Wexford town, which is forcing many parents to send their children 25 kilometres each way to schools in Enniscorthy in County Wexford; and if she will make a statement on the matter. [43783/15]

Deputy Mick Wallace: There are not enough places for children in and around Wexford town for children to attend school close to their homes. The waiting list has reached crisis level. What does the Minister plan to do about it? The national programme is not really tackling the severe problem in Wexford town. Are there any further plans on the cards to deal with it?

Minister for Education and Skills (Deputy Jan O'Sullivan): As the Deputy will be aware, I announced in November last the need for the establishment of four new primary schools and nine post-primary schools to cater for increased demographics across a number of locations in 2017 and 2018. The demographic projections for the Wexford town area do not indicate that a new post primary school is required.

As part of the Department's school capital investment programme, a number of building projects in Wexford schools are being progressed, including Loreto secondary school and Wexford CBS, that will provide for increased capacity in the area. In addition, an application for additional accommodation was received last week from Selskar College, which is being considered.

My Department is also monitoring the position in the area taking into account the latest pupil enrolment data and the impact of planned expansion of school capacity. My colleague, the Minister for Public Expenditure and Reform, Deputy Howlin, last week met representatives of the five second level schools in Wexford town to discuss the pressures they face. It was agreed that the principals will share with the Department of Education and Skills the details of those who are enrolled for next year in order that we can identify whether these are cases where the same children are enrolled in multiple schools or if there are other factors which are creating unanticipated pressure on Wexford schools.

Deputy Mick Wallace: At present, four of the five schools in Wexford town have a waiting list of between 160 and 180 students. This is projected to get worse in the coming years. Loreto has capacity for 720 and that will increase with the new school to 900, an extra 180 places, but it alone has a waiting list of approximately 320 places. That will take six years to complete. We are not even close to addressing the problem. It is beyond me how Wexford fares so poorly in so many areas. Many issues start with education. It is not without reason that unemployment in Wexford is over 22%, that we have one of the highest teenage pregnancy rates in the country, that we have high rates of problems with literacy and that we have one of the highest suicide rates. Education must be a vital factor in this but right now, Wexford is being poorly served in educational terms.

Deputy Jan O'Sullivan: As I stated at the outset, building projects have been approved for Loreto secondary school and Wexford CBS, which will provide increased capacity. As a result of the information that came to us last week through that meeting attended by the Minister for

Public Expenditure and Reform, Deputy Howlin, my Department is making contact with each post-primary school to request details of their enrolment lists for September 2016. That will allow us find out if there is an accommodation shortfall and we will then work with schools to address that. All over the country, people may be on waiting lists for two or three different schools.

There are five secondary schools in Wexford town. These include the Education and Training Board school of Selskar College, St. Peter's College, Loreto Presentation and the Christian Brothers. We will collate the information on the pressures that all those schools are under to see if there is an issue to be addressed. The projection for the Wexford area indicates there will be an increase in pupil numbers between 2015 and 2021 within the school feeder area of approximately 200 students, with numbers going from 3,298 to 3,495. If we get any further information, that will be factored into any intervention required.

Deputy Mick Wallace: It appears the figures on the ground are different. I am surprised the Minister, Deputy Howlin, did not bring back a starker picture because of what we hear from parents in the area.

Deputy Jan O'Sullivan: He gave us a full picture.

Deputy Mick Wallace: It is good that work on Loreto is starting. It is interesting that one cannot open a regional newspaper now without seeing somebody from the Government parties turning a sod. What was the Government at for five years?

Deputy Damien English: What does the Deputy want?

Deputy Mick Wallace: All of a sudden there is a surge to do something.

Deputy Damien English: It is called a recovery. There are more jobs and money about.

Deputy Mick Wallace: I do not understand how for five years-----

Deputy Jan O'Sullivan: Schools were being built in the past five years.

Deputy Mick Wallace: -----the Government did so little in this area.

Deputy Jan O'Sullivan: That is not right.

Deputy Mick Wallace: It is a bit like the idea that people should vote for the Labour Party and it will repeal the eighth amendment to the Constitution. What has the party done in the past five years and why did it not repeal the amendment then?

Deputy Jan O'Sullivan: We did a lot. We had the marriage equality referendum, for example.

Deputy Mick Wallace: It is beyond me how the party operates.

Deputy Jan O'Sullivan: Much work was done in the school building area over the past five years, despite the state of the economy. There should be fair credit given to my predecessor, Deputy Quinn, and the Government for ensuring that we did not leave children without school places and that we made projections and built schools. I am using the figures that we have for the Wexford area but, by all means, the Deputy should tell us if we find there has been a surge of which we have not been aware. We use the likes of child benefit figures to find out how many

children are being born in an area in order to plan ahead. I assure the Deputy that the Minister, Deputy Howlin, made it very clear that these waiting lists exist but we want to collate the figures to get the exact number of young people who will seek places in post-primary schools in Wexford. We will address the issue in co-ordination with the schools.

School Accommodation Provision

7. **Deputy Mick Wallace** asked the Minister for Education and Skills her views on the construction of an additional secondary school in south Wexford, given the long waiting lists for schools in the region; and if she will make a statement on the matter. [43784/15]

Deputy Mick Wallace: This question is related to the previous question. Rather than repeating what I have said, I will discuss another dimension of the issue, although I realise it is not raised directly in the question. Many of these projects are operated under the public private partnership, PPP, system. I have put questions to the different Departments, including the Department of Education and Skills, asking for information on value for money with regard to the use of PPPs for school projects. It is nearly impossible to get information about this. The European Union does not allow us to borrow money on the markets to invest in infrastructure like schools so we are driven into the hands of PPPs. Does the Minister agree that the European Union should address this and the Government should challenge it on the issue?

Deputy Jan O'Sullivan: As I advised the Deputy earlier, on 17 November I announced that four primary schools and nine post-primary schools will open in 2017 and 2018 as a result of the outcome of the latest demographic exercises conducted by my Department. My officials use a geographical information system to identify where the pressure for additional school places will arise. The system uses data from the Central Statistics Office, Ordnance Survey Ireland and the Department of Social Protection in addition to information from the Department's own databases.

The demographic exercise does not indicate a requirement at this point for a new post-primary school for the south Wexford region but my officials are monitoring the position and will keep the demographic data for the area under ongoing review, taking into account updated enrolment data and the impact of planned expansion of capacity in schools in the region. My colleague, the Minister for Public Expenditure and Reform, Deputy Howlin, last week met representatives of the five second level schools in Wexford town to discuss the pressures they currently face. It was agreed that the principals will share the details of those who are enrolled for next year with the Department so we can identify whether these are cases where the same children are enrolled in multiple schools or if there are other factors which are creating unanticipated pressure on Wexford schools.

With regard to the Deputy's opening remarks, PPPs have been used in a relatively small number of cases and the outcome has been very satisfactory from the perspective of the schools involved. That is certainly the case in what is reported to me. By and large, the vast majority of schools built in Ireland are funded through the public purse. Even in the worst of times we have been able to make provision for schools and extensions where they were needed.

Deputy Mick Wallace: Will the Minister indicate if any of the four projects currently planned for Wexford are PPPs? I wrote to at least six Departments seeking information on PPPs, including the Minister's Department. The stock answer is: "In making the decision, I

have considered the public interest and, on balance, I am satisfied that the public interest would not be better served in this instance by the release of information." In other words, it is in the public interest to give people the mushroom treatment; that is plenty of darkness and loads of manure. I do not understand the idea of a freedom of information request if the public cannot access the information.

The Minister mentioned primary schools and it is interesting that the Irish National Teachers' Organisation recently stated "90% of children in Wexford primary schools are being educated in classes larger than the EU average". My God, how frightening a figure is that? Another statistic indicates that three from ten pupils in primary schools in Wexford are in classes of 30 or more. Is that not a crisis level?

I understand that the Minister might not have the information on PPPs now but it would be great if she could revert to me on the projects planned in Wexford. It would be great to know how many of them are likely to be PPPs, if any. What is the overall cost to the State?

Deputy Jan O'Sullivan: In general, the percentage of schools built through PPPs is very low but we can get the Deputy the specific information for Wexford. These are generally done in bundles and the projects are put out to tender. It is a tendering process like any other, so the information is available.

We managed to reduce the pupil-teacher ratio in the most recent budget. We have very large classes and that is something I wanted to address but we did not have the money to do it up to this year. We have reduced the pupil-teacher ratio in primary schools by one point and we have also reduced it in post-primary schools by a percentage of a point. I have indicated that part of this process should be used to improve the offering of guidance in post-primary schools and to address some of the middle management issues identified by schools. Schools would have lost some people below the principal level who take responsibility in schools, and the indication is there is a real problem in that respect. We will use some of the funding to address that issue. We all want to see class sizes reduced as soon as the finance permits. We have brought it to a point in primary schools this year.

Deputy Mick Wallace: The Minister has stated the Government did not have the money to do it until now. I know PPP payments are current expenditure rather than capital. The Government can borrow money at 1.7% and it could do so for school building rather than being pushed into the arms of the PPPs - their cost can be up to 15%. It is surely a no-brainer. It will save a lot of money in the long term and is such a good investment for the country. Money has probably never been as cheap in our lifetime as the 1.7% rate at which the State can borrow. It is fantastic, except that the State is not allowed to borrow at 1.7% to invest in as serious a matter as infrastructure because of the EU rules. The truth is that, although we are not getting this information from freedom of information requests, PPPs spread over a 25 year period are costing up to 15%. Is this not something worth challenging the EU on? Investment in infrastructure is a winner all round and money has never been as cheap. It has never made so much sense to invest in infrastructure, if we could do it through a normal scheme rather than pushing it into the arms of the PPPs.

Deputy Jan O'Sullivan: We will invest €2.8 billion by way of public funding In the school building capital programme for the next six years and a very small percentage by way of PPP after that. The Deputy is telling the story of how successful we have been in terms of restoring the economy in that we have got our borrowing rates down that low and we have restored the

economy to health.

Deputy Mick Wallace: The Minister is misinterpreting me.

Deputy Jan O'Sullivan: We are taking in a considerable amount more than we expected in terms of taxation of various kinds. The Government believes we should be investing in public infrastructure, particularly in schools but also in other areas of public infrastructure. As the economy recovers, there will be more public money to invest. We are funding the schools primarily through public investment, which is as it should be.

Special Educational Needs Service Provision

8. **Deputy Catherine Murphy** asked the Minister for Education and Skills if she is aware of the multiple extra costs placed on the parents of children with dyslexia in seeking to ensure their children have access to the same standard of education as other children; that, notwithstanding the State supports in place, additional costs include a diagnosis every two to three years, membership of the Dyslexia Association and room hire and teacher remuneration to provide extra out-of-hours instruction; if she will propose new measures to address these issues; and if she will make a statement on the matter. [43872/15]

Deputy Catherine Murphy: I understand there is some funding under the general allocation model to the Dyslexia Association of Ireland, which provides workshops and special classes for children that are privately funded. It costs about €750 per year per child for those classes, and the bulk of that is the cost of renting classrooms from schools that are publicly funded.

Deputy Jan O'Sullivan: All mainstream schools have been allocated additional teaching resources to cater for children with specific learning disabilities, including dyslexia, either under the general allocation model at primary school level or though high incidence and learning support allocations for post-primary schools.

Schools have access to psychological assessments through the National Educational Psychological Service or through the scheme for commissioning psychological assessments.

Funding is provided to schools for the purchase of specialised equipment and an information pack on dyslexia is available to schools. Provision for continuing professional development for teachers with additional training needs in the area of dyslexia is made through the Special Education Support Service.

Funding is provided to the Dyslexia Association of Ireland which supports its information service and workshops and programmes for some children from disadvantaged backgrounds.

Membership fees are a matter between the organisation and its membership.

Deputy Catherine Murphy: I know all that. Let me describe one situation. In north Kildare for the past 15 years an excellent workshop has been run by the Dyslexia Association of Ireland. The principal in the school was very supportive and the classroom was rented at a nominal rate because the heating and security was provided for other things that were happening. A new principal came in and, instead of it being €500 a year, it became €5,000 a year to rent the classroom. This is a publicly funded school that increased the cost for children with dyslexia.

It is not just a question of support regarding dyslexia, where there is a benefit to the children, but also a question of self-esteem and all that goes with that. Parents already have expenses such as, for example, often having to get a diagnosis themselves. This is not a dancing class we are talking about or some sort of added extra. It is an educational support in a publicly funded school and the issue needs to be addressed. The schools themselves need to see some sort of value in this and not have a situation where almost a commercial rate is sought when an educational support is being provided. That is the point I am trying to make.

Deputy Jan O'Sullivan: The Deputy is talking about a situation she is very well aware of in a particular school. In general, schools should, where they can, provide facilities at a cost that is not too prohibitive and they should certainly consider the kind of organisation to which they are providing the use of the school. However, I do not know the individual circumstances of the particular school.

The Dyslexia Association of Ireland does excellent work in general, although I am not aware of its specific work in County Kildare. Our role in the Department of Education and Skills is to ensure children with dyslexia have the supports they need in the school system but we also support the Dyslexia Association of Ireland to some extent in terms of the very good work it does as a voluntary organisation. I will try to get more information with regard to the individual case the Deputy raises. In general, our job is to ensure children with special learning needs, such as dyslexia or otherwise, are appropriately supported in the school setting.

Deputy Catherine Murphy: I am sure there is a more general point to this. When the Dyslexia Association of Ireland sought to replace that classroom, it had a job doing it but, in the end, it got somewhere for €2,500 a year. If the Minister is talking to the Dyslexia Association of Ireland about this, I ask her to get some sort of understanding about such situations in general and not specifically in regard to this school, which I am just using as an example. I am appalled that there would not be an instinctive response from educators that this is an educational plus and is not some sort of an added extra. There should be some sort of tiered arrangement. I would have thought the Department would have a role in terms of giving some sort of guidance to schools about that type of approach. This is an educational advantage in regard to dyslexia but also in terms of the children's self-esteem.

Deputy Jan O'Sullivan: I would be happy to meet the Dyslexia Association of Ireland, although, to the best of my knowledge, I have not had a request for a meeting. I am not clear from what the Deputy has said whether the classroom is used during or after school hours.

Deputy Catherine Murphy: After.

Deputy Jan O'Sullivan: In general, we would encourage schools to ensure school premises are used for different kinds of appropriate uses, and I certainly think this is appropriate. I would be happy to find out more about exactly what the issue is and to see if we can help to resolve it.

Deputy Jonathan O'Brien: I completely concur with Deputy Murphy on this issue. In Cork city, the annual fee for the workshops is €800 and, as it is €750 in north Kildare, I imagine that is an average price throughout the State. One of the reasons the price is so high is that schools are charging astronomical fees to cater for children with dyslexia, many of whom would be pupils of those very schools. This is something the Minister should take up with the Dyslexia Association of Ireland in order to see exactly what the position is State-wide.

Deputy Jan O'Sullivan: The primary focus from the Department's perspective is to ensure

we provide in-school supports for children with learning needs, and that would be my main driving force in terms of working on the new model. In addition, the issue of diagnosis should not be an obstacle to getting the supports children need. I would be happy to look at this issue. The Deputies have pointed to two different parts of the country and I would not like to think there is a prohibitive cost to what parents perceive to be supports they need.

Special Educational Needs Service Provision

9. **Deputy Charlie McConalogue** asked the Minister for Education and Skills if she will address concerns regarding the new system of allocation of resource and learning supports that is being piloted in 2015; and if she will address the long waiting times for special needs assessment by the National Educational Psychological Service. [43884/15]

Deputy Jan O'Sullivan: The National Council for Special Education identified that the current model for allocating resource teachers to schools is potentially inequitable because access to professional assessments is not always readily available to those who cannot afford to access them privately. The council also advised that the current model leads to unnecessary labelling of children from a young age. For the first time, NEPS support is now available to every primary and second-level school in Ireland. NEPS does not maintain waiting lists for assessment but, in consultation with schools, prioritises children who have failed to make adequate progress despite an appropriate continuum of support being delivered for those children. The proposed new model, which is currently being piloted, will remove the formal requirement for such assessments. The pilot will test the new model and allow for any concerns to be fully addressed prior to its implementation. Significant guidance has been prepared and provided to the schools involved. During the pilot, all participating schools will complete an assessment questionnaire to gather information on their experiences. All participating schools attended a pilot information day on 15 September and a further information day took place on Friday last.

Deputy Charlie McConalogue: As the Minister knows, there is real concern in schools across the country as to what system will face them next September and what allocation model will be used to decide on the number of resource hours that individual schools will get. The schools will make their applications in February or March 2016 for the following September, yet there is a total lack of clarity as to the level of resources they will receive. In her reply, the Minister indicated that the current system is inequitable due to a lack of resources in NEPS to ensure that educational assessments can be provided. Given that the current system is very much predicated on the assessed needs of individual children, can the Minister explain how schools can be certain that children with a requirement for additional supports will get appropriate supports in the absence of NEPS assessments? Would it not be a better alternative approach to ensure that NEPS has sufficient resources so that schools can have assessments carried out on those children they feel require them and can then be assured that additional hours will be provided specifically for those children?

Deputy Jan O'Sullivan: The new model was proposed because the system was perceived to be unfair in so far as people felt they had to pay for private diagnoses. The National Educational Psychological Service was not designed to spend all its time on diagnosis. It is meant to be a support service. Nevertheless, a huge amount of time is being taken up on the process of diagnosis. One can certainly question the labelling of children at a young age in order to provide them with the supports they need. That is why the new model was proposed. The pilot

scheme that is under way this year is designed to find out about the kind of questions Deputy McConalogue has just asked with regard to ensuring schools get the level of support they need and that the model will work for schools. I will not comment on it at this stage as I have not yet received any reports as to how the model is working. We will have to consider it carefully in terms of what will be put in place for the future.

Deputy Charlie McConalogue: Can the Minister give any indication as to what the planned model for the allocation of resources will be this coming September? There are only two or three months left before schools start applying for resource hours for next September and time is running short in terms of providing clarity. It is important that the Minister provide some indication this morning as to whether it is her plan that the new model will be adopted this coming September. The importance of assessment is not only with regard to diagnosis; it also guides schools in terms of the supports a child may need and ensures, where a diagnosis is made, that resources are put in place. There is real concern that in the absence of that, schools will not get a fair allocation based on the number of students they have with particular needs. Can the Minister comment, as I asked her to in my previous question, on how, under the new model that is being piloted, schools with students with particular needs can be assured that they will get proportionate teaching resources to support those children?

Deputy Jan O'Sullivan: I will ensure that information is provided to schools in time. I realise there is a time issue in this case but, as of now, I have not had an opportunity to engage with the pilot programme in any meaningful way and, as such, I do not want to pre-empt what information might emerge. In terms of the issue with regard to the needs of individual children, the concept of an individual learning plan exists in the system and each child should have his or her own particular learning plan in the school. That is part of the system. We will have to ensure that schools have the appropriate support they need. That is the whole purpose of the new model. We have evidence that where parents cannot afford to get assessments currently, their children are not being provided with the supports they need. That is something that we want to address in the new model.

Third Level Funding

10. **Deputy Thomas P. Broughan** asked the Minister for Education and Skills if she will provide improved funding for third level education. [43782/15]

Deputy Thomas P. Broughan: One of the characteristics of the outgoing Government is that in real terms and *per capita* it has seriously cut funding for third level education. That is one of its legacies. The Government has also increased third level fees significantly. Does the Minister expect the expert group on future funding to report shortly? Will its report include recommendations on student loans and is that something the Minister supports, given the dire constraints that seem to be operating in our third level sector financially?

Deputy Jan O'Sullivan: I thank the Deputy. The Government recognises the importance of the higher education sector to Ireland's future economic and social development. It also acknowledges that the sector must be resourced sufficiently and in a sustainable manner to ensure it can deliver on our national ambitions. The reality of the economic situation and the public expenditure corrections that had to be made in recent years presented challenges across all areas of public expenditure, including higher education. The sector has responded well to these challenges and has continued to provide opportunities for increasing numbers of students

to undertake a higher education qualification. However, in recognition of funding pressures, an expert group chaired by Peter Cassells has been established to examine funding arrangements for higher education and to identify a range of approaches which, combined, will achieve a sustainable funding base. I understand the group is in the final stages of its deliberations and I expect to receive its report shortly.

Deputy Thomas P. Broughan: If the report recommends income-contingent student loans on the Australian model or another model, is that something the Minister would support in the context of the next few weeks, the general election and so on? The Minister's budget for the sector for 2016 is €1.45 billion for current expenditure, with a miserable €20 million on the capital side. Is it not the case that funding has been deliberately constrained and that this sector has done the most badly among all economic and social sectors in terms of funding from the Government? We have seen the rankings of Irish universities tumbling down the QS and *Times Educational Supplement* lists. Our highest-ranking university is Trinity College, Dublin, at No. 78. UCD, my own alma mater, is heading down to the 150 mark. Before the Minister and her predecessor, Deputy Quinn, took office, these colleges were in the 20s and 30s and very highly rated. Has that not been part of her legacy?

The Government has done absolutely nothing in the area I represent. Dublin 10 and Dublin 17 have the lowest take-up of third level education of all electoral areas in the State, at less than 20%, as well as having the lowest provision for third level education. The Government has done absolutely nothing to change that or to encourage additional people to go to third level. Is it not the case that, unfortunately, the Government's administration of third level been a disaster and another aspect of the fallout of the austerity years? We need a fundamental change. By the way, my own approach is to base funding on progressive taxation and progressive income tax.

Deputy Jan O'Sullivan: The indications are that a range of options will be proposed by the Cassells group. We will consider all of them. I will not pre-empt that before I even see the report. Certainly, all options will be considered.

Regarding the Deputy's general points, I agree that we must broaden access, but a high percentage of our young people go on to higher education compared with other countries. However, that is not evenly distributed, particularly in Dublin city.

Deputy Jonathan O'Brien: Some 6.7% in Dublin North Central.

Deputy Jan O'Sullivan: We want to improve that level. Next week, I will publish a plan for access to higher education. It went through the Cabinet yesterday. It will include specific plans and targets for broadening the opportunity for access to higher education. Of course, higher education is not the only option. We will also introduce 25 new apprenticeships, which the Minister of State, Deputy English, and I announced earlier this year. We want people to consider options besides higher education.

Third level has faced difficult financial times. It has done well in some respects, for example, Horizon 2020, but the situation has been challenging and we are conscious that this issue must be addressed. The report will come to me in the near future.

Deputy Thomas P. Broughan: With her party, is the Minister planning to provide additional resources through a progressive taxation system or will she go down the two roads of income-contingent student loans, which would be a further burden on young people who are facing high rents, mortgages, finding jobs in a tough economy and so on, and increased fees?

Alternatively, will she begin to resource properly a sector that has been one of the victims of the austerity years to restore it to the level that it seemed to be reaching before the Government entered office and the previous Government embarked on its crazy austerity programme? The fall from grace in the international rankings of our top universities is deplorable. Our international reputation has been damaged during the period of this Administration.

Deputy Jan O'Sullivan: I assure the Deputy that we did not cut any budget because that was what we wanted. We faced extraordinarily difficult political decisions.

Deputy Thomas P. Broughan: The Government had choices.

An Leas-Cheann Comhairle: Just the Minister, please.

Deputy Jan O'Sullivan: We did not have choices-----

Deputy Thomas P. Broughan: The Government did.

Deputy Jan O'Sullivan: -----in terms of the overall amount of money available to us. What one takes in in taxation and what one must borrow are issues that one must deal with when in government. We dealt with them and have begun the recovery. My strong view, which has been supported by my colleagues in government in so far as we have attained an increase in the education budget in the past two years, is that public services, in particular education, need to be funded. We must ensure that good public expenditure on issues like education is a priority. It will be prioritised, but I will not pre-empt the report's proposal. We will consider the options that it suggests. I expect to have the report shortly.

An Leas-Cheann Comhairle: As the Deputies who have tabled Questions Nos. 11 and 12 are not present, we will move on to the next question.

Deputy Jonathan O'Brien: I will await the written answer to Question No. 13 and let Deputy Broughan ask his question. It is an important issue.

An Leas-Cheann Comhairle: That is fine.

Questions Nos. 11 to 13, inclusive, replied to with Written Answers.

State Examinations Reviews

14. **Deputy Thomas P. Broughan** asked the Minister for Education and Skills if she will update Dáil Éireann on the roll-out of the junior certificate reforms in 2016; and if she will make a statement on the matter. [43781/15]

Deputy Thomas P. Broughan: According to the last report, only one quarter of schools will be in a position to engage in the roll-out of the junior certificate reforms - English, science and business subjects - from next spring. Where does the situation stand, given that the Minister does not have the confidence of a major trade union, ASTI? What is she doing about this?

Deputy Jan O'Sullivan: In September 2014, implementation of the junior cycle commenced with a new specification in English and the availability of a number of short courses. Talks with the two main teacher unions continued during 2014 and 2015 and the 2015 junior cycle framework was published in August 2015. Agreement was reached with the leadership

of the two unions in May 2015 on revised reform proposals and supporting implementation resources in July 2015. Following a ballot of members in September, these proposals were accepted by members of TUI and rejected by members of ASTI.

A comprehensive professional development programme to support junior cycle is being rolled out. This includes seminars for school leaders, whole-school continuing professional development, CPD, subject-specific seminars, teacher-led CPD and school visits. In September 2016, new specifications for business and science will be introduced for implementation in schools. Only English is going ahead this year. TUI members are participating in the CPD programme following the outcome of their union ballot. The ASTI has recently engaged in a consultative process with its members on the junior cycle proposals following the outcome of their ballot.

Deputy Thomas P. Broughan: This is a major policy of the Government, but the Government is ending and nothing has been achieved. There is still a great sense of uncertainty. Second level is a critical time in a child's development. How will it be handled, given the importance of the learning programme in teenage years? Will the Minister take any initiative in the coming months either to advance the programme or address the grave concerns that have been put to her by the ASTI and its members in recent years?

Deputy Jan O'Sullivan: Implementation has commenced in respect of English. All of the other education partners have supported the changes. We held detailed negotiations with the unions. A relatively small percentage of ASTI members voted. They have rejected the proposals despite the fact that their leaders signed up to them. We are continuing to engage with the leaders, who are engaging with their members to determine whether any issue needs to be clarified. We are available to provide that clarification.

I am determined and reject the suggestion that we have not succeeded in making progress. We have done so. Implementation has commenced in the schools and will continue. It will change the way that teaching and learning happen in the classroom. It will be of great benefit, in particular to students who are in danger of being alienated from school because of the old system in which the written exam was the be all and end all. There will still be a written exam, but there will also be a practical assessment in the classroom.

I intend to provide whatever clarification the ASTI needs and hope it will be able to participate in the programme in the near future.

Written Answers follow Adjournment.

Legal Services Regulation Bill 2011: From the Seanad

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

Acting Chairman (Deputy Liam Twomey): There is a typographical error in the numbered list of amendments. Amendment No. 55 on the principal list of amendments, dated 4 December, refers to the deletion of "lines 21 and 34" on page 38, whereas the amendment made in the Seanad proposed to delete all of these lines. The text of amendment No. 55 should state: "In page 38, to delete lines 21 to 34, and in page 39, to delete lines 1 to 24."

Minister for Justice and Equality (Deputy Frances Fitzgerald): I would be obliged if,

in accordance with Standing Order 140, the Ceann Comhairle directed the Clerk to make the following minor drafting corrections to the text of the Bill: on page 83, line 36, the words "a partner of or an employee in" should be replaced with the words "a partner in or an employee of". It is a tiny textual change. On page 99, line 32, the word "section" should be replaced with the word "paragraph". These corrections are being made in the interest of textural clarity and do not affect any substantive amendment.

Acting Chairman (Deputy Liam Twomey): Amendments Nos. 1, 2, 167 to 174, inclusive, 181 to 183, inclusive, 187 to 189, inclusive, 196 to 206, inclusive, and 265 are related and may be discussed together.

Seanad amendment No. 1:

Section 1: In page 9, line 19, to delete "*sections 85* and *87*" and substitute "*section 85*".

Deputy Frances Fitzgerald: Part 8 of the Bill deals with new business models provided for under the Bill. These are legal partnerships, which will come into effect in the second six months of next year, multidisciplinary practices, limited liability partnerships, LLPs, which are allowed for and dealt with in the Bill, and employment opportunities for barristers. The Bill as already amended in the Dáil provides for a system of regulatory oversight of such businesses by the new legal services regulatory authority. It will be recalled that amendments made to the Bill in the Dáil introduced a new research phase that must occur before multidisciplinary practices may come into existence. The essence of this aspect of the Bill's reform is that solicitors and barristers will be entitled to choose between any of a range of legal service delivery models, be they traditional solicitor or barrister models or the innovations I have just mentioned.

With regard to LLPs, I propose to introduce an option for solicitors' firms and legal partnerships to operate with the benefits of limited liability within an LLP business model, with the protection for the consumer in the form of both professional indemnity insurance and ongoing regulatory oversight by the authority.

The amendments include strong regulatory power for the legal services regulatory authority in regard to LLPs and the maintenance of a publicly available register of these. The new provisions define the circumstances in which the limited liability status is to be lost and provide for a claw-back of payments taken by partners when the liabilities of the business exceed the assets. Information is to be provided to clients and creditors in relation to the LLP, and the regulatory authority will have an enforcement power up to and including applications to the High Court to make directions on either the suspension or ceasing of authorisation to operate as an LLP.

The circumstances of the major regulatory overhaul being introduced in the Bill, together with the need to ensure new business models for legal services are given a fair wind in terms of gaining a foothold in the market, justify the introduction of LLPs in this jurisdiction. This can be justified in the face of any claims by other professional partnerships that they cannot access LLP status. Also, in order to eliminate any issues relating to non-legal partners in multidisciplinary practices being able to assume limited liability through MDPs, which they could not access within their own professions, it has been decided, for the time being and pending the research and public consultation to be conducted by the new authority regarding MDPs, not to include MDPs at this point in the LLP provisions.

I ask the House to support this group of amendments today. Amendment No. 1 is an amendment to section 1 of the Act which deals with the commencements of various sections and parts

of the Act. It deletes the reference in section 87 in regard to multidisciplinary practices. As the House will know, it had originally been the intention to commence automatically the operation of multidisciplinary practices within a year of the consultation in this regard but it is now intended that the Minister for Justice and Equality will have the discretion to commence the operation of multidisciplinary practices at any time after the relevant consultation. This is in recognition of the fact that the consultation may bring to light some of the issues that will need to be catered for legislatively or organisationally before commencement. Therefore, an automatic commencement is not appropriate.

Amendment No. 2 sets out the date of coming into operation of the new legal partnerships model being introduced in the Bill. This is to be within six months of the completion of the relevant public consultation. This will allow for the new legal partnerships, which are barrister-barrister or barrister-solicitor partnerships, to be introduced within one year of the establishment of the new regulatory authority. I hope to see the first of these coming into existence before the end of 2016.

Amendment No. 87 inserts a definition of "limited liability partnership" into the existing section 84 as a reference point for the new Chapter 3 introducing LLPs, which is proposed to be inserted by amendment No. 196. It defines "limited liability partnership" as applicable only to a partnership of solicitors - for example, an existing solicitors' firm - or to the new legal partnerships, namely, the barrister-barrister or barrister-solicitor partnerships, being set up under the provisions of the new legislation.

Amendments Nos. 168 and 170 relate to sections 85 and 87 of the Bill as passed by the Dáil, which are very similar. They currently provide that no professional code that is a code of practice drawn up by a legal professional body such as the Law Society of Ireland or the Bar Council shall prevent a legal practitioner from providing legal services within a legal partnership or a multidisciplinary practice. Deputies will be aware that a legal partnership is a partnership between either solicitors and barristers or between barristers only. It is a new creature of this Bill that has been prohibited up to now under professional rules. Multidisciplinary practices are firms that will be able to provide both legal and other services together under one roof. These are currently prohibited under professional rules, and the Bill provides for their introduction, subject to the outcome of research and a formal public consultation process under Part 8.

I was advised by the Attorney General, whose advice I will paraphrase in general terms only, that the approach in the Bill, as published, which seeks to interfere directly with the professional codes of the legal professional bodies, is at high risk of, and vulnerable to, legal challenge on the grounds of undue interference with the professional bodies' constitutional rights of association. The original sections would, in effect, dictate to the legal professional bodies the parties they may include and exclude from their membership. It is this, in particular, that opens up the provisions to the possibility of successful legal challenge. In fact, it raises constitutional issues. This is the advice I was given and which I brought to the Cabinet. The Cabinet supported the approach I was taking in the Bill.

In the interest of having the new regulatory and complaints structures up and running early and of introducing consumer choice through getting new legal partnerships up and running now, I introduced these amendments in the Seanad. I have chosen to provide that, as a matter of law, barristers and solicitors may provide their services through one of the new business models. They will have a statutory right to do so. Irrespective of the stance taken by any professional body, this right will exist as a matter of law.

The second part of the new section sets down a marker that such bodies may not in any way restrict their members from doing business with those who choose to operate through the new models. This is to ensure that progress will be as seamless as possible as far as consumers are concerned, whether they are dealing with legal practitioners who operate out of the Law Library through legal partnerships or multidisciplinary partnerships. It also makes clear that there can be no under-the-radar actions by the professional bodies which could have the effect of undermining the fair wind we are seeking to put behind the start-up of legal partnerships. It sets down a marker that the new authority will carefully monitor developments in the marketplace and will, if it finds any evidence that the start-up of new business models is being held back in any way, make recommendations to the Minister for further legislative change based on the evidence collected.

11 o'clock

One of the amendments I introduced in the Seanad provides for a review of the legislation after 18 months. I also introduced amendments to make certain that the Consumer and Competition Authority is involved in this review and consumer interests will be taken into account. This will mean that, as a result of the innovations in the Bill, consumers will no longer be forced to deal with solicitors' firms, with only secondary, indirect access to Law Library barristers. Instead, competition in the market will be opened up, with consumers being able to immediately access mixed-discipline legal partnerships, limited liability partnerships, ordinary solicitors' firms and traditional Law Library barristers, both directly on non-contentious matters - an issue we discussed in the Seanad - and indirectly on contentious matters.

Another of the amendments provides that employers will be able to immediately hire barristers to work for them and represent them in court. The Bill also lays the groundwork for consumers to access legal and other services via multidisciplinary practices, as well as accessing barristers directly on contentious matters, subject to the relevant consultations. We must be conscious that the legal services regulatory authority is a new body. The previous Minister, Deputy Shatter, made certain decisions on which matters were to remain with the Law Society. If all matters were to be transferred to the new authority, it would be a much larger organisation with many more staff. What we have provided is a regulatory oversight mechanism, the legal services regulatory authority, which we are asking to do a large body of work. It must be feasible for the authority to do this work, which means we must provide it with a reasonable work programme that can be managed in the timeframes provided. A new body will not be able to deal with every single issue. In its first phase, which commences on 1 January 2016, the authority must get up and running and establish its own practices. Its board, chief executive officer and chairperson will have a significant task in establishing this new, independent regulatory authority.

I do not propose to discuss in detail all the amendments in the group. However, if Deputies have any questions concerning amendments, I will be pleased to provide more detail. Amendment No. 172 proposes to ensure that where a notice of commencement or cessation is made by a legal partnership to the legal services regulatory authority under the relevant provisions of Part 8, it may be subject to a fee by the authority. As Deputies are aware, the authority will be in a position to set fees.

Amendment No. 173 replaces the existing section 89 with regard to the requirement for a legal partnership to have indemnity insurance. The Bill makes amendments to the Solicitors Acts, which involved highly detailed work over a long period. We were not in a position to complete this work until the shape of the Bill, if one likes, had been settled. Detailed work was done on the amendments that make changes to the Solicitors Acts. These were necessary

because we are establishing a new legal services regulatory authority. Deputies will note that the amendments do not introduce policy changes but reflect the need to represent the policy we are discussing in the Solicitors Acts. I have no doubt a consolidated solicitors Bill will be introduced in the near future.

We have defined the functions and obligations of the managing legal practitioner, MLP, in a multidisciplinary practice. Section 92(4) imposes an obligation on the managing legal practitioner to take all reasonable action to rectify a matter where he or she believes the practice is operating in breach of requirements under the legislation. The amendment seeks to impose a time limit on this obligation by requiring him or her to take rectification action within 14 days. The purpose of the change is to tighten up the oversight that the managing legal practitioner will have in practice and strengthen his or her hand in ensuring the rectification of any problem. We have therefore addressed the various issues that would affect multidisciplinary practices and provided detail on a range of obligations that will be in place, subject to the timeframe we have provided for their introduction.

Amendment No. 188 makes new provisions regarding the obligations of a managing legal practitioner. It sets out the stages for rectifying a particular problem and is straightforward. The amendments also oblige multidisciplinary practices to take out professional indemnity insurance. A significant number of sections address the issue of professional indemnity insurance and its import.

Amendment No. 197 inserts a new section that makes the core provision limiting the liability of partners in a limited liability partnership, LLP. It proposes to limit the personal liability of individual partners of a firm for its debts, obligations and liabilities. This is in line with precedent in several other comparable common law jurisdictions in which partnership law has been changed to allow for limited liability partnerships. The limited liability granted to a partner falls in a number of circumstances - namely, where there is fraud or dishonesty leading to a criminal conviction or where a finding of misconduct is made. The term "misconduct" is defined later in the Bill. The limitation of liability does not affect liability incurred for purposes not connected with the business and cannot be used, for example, for avoiding any tax liability. In addition, the limited liability is prospective only and does not cover any act or omission that occurred prior to the assumption of limited liability. Section 107 also provides that the original Partnership Act 1890 concept will apply to the new limited liability partnerships, maintaining them as partnerships and not any new type of quasi-corporate entity, for example.

Amendment No. 198 ensures the availability of the property of the partnership to meet obligations and liabilities of the partnership and protects creditors from any attempts to take money out of the business with the intention to defraud creditors - for example, in the event of a bankruptcy. Subsequent amendments make detailed provisions on authorisation and registration, appropriate fees and the various procedures that would operate in the event of the ending of a limited liability partnership.

The following amendments go into detail on the various provisions of authorisation and registration, actions subject to appropriate fees and the various procedures that would operate in the event of a limited liability partnership ending. Obviously, we also have to give the authority power to make regulations for oversight of new LLPs, including the regulation of the provision of information by them to creditors and clients of the authority.

There are a number of other details relating to the various obligations on an LLP that is

registered with the authority. For example, amendment No. 265 deals with the point I made about barristers in employment. Section 151 provides, as a matter of law, that employee barristers will be able to act on behalf of their employer in court. Many people might have assumed that was the position at present, but it is not. The section also provides that the legal profession representative bodies will not be able to prevent their members from working with such employee barristers. The essence of the proposed new section has not changed. Instead, it has been reworked to ensure it is clear, as a matter of law, that barrister employees may provide legal services as practising barristers to their employers. The approach to amending the section is similar to that already set out in the amendments to sections 85 and 87. It creates a legal right for barristers to provide legal services through the new legal partnerships or multidisciplinary practices.

I hope I have given Deputies the type of detail they want on the amendments that come under the first grouping. If there are any questions on a particular amendment, I can address them.

Deputy Alan Shatter: I would like to start off by saying I am delighted that the Bill is back in the Dáil from the Seanad. I want to say that a large number of amendments being incorporated in the Bill were envisaged in my time as Minister. I am delighted they are in it. A vast amount of work was undertaken on the Bill during my time and has been undertaken during the current Minister's time to get to the spot we are in now.

This Bill was published with enormous haste in early autumn 2011 because of the pressures the Government was under from the troika to publish legislation to address the need for reform in the area of legal services and to address issues and anti-competitive practices. It was always intended and understood that there would be a detailed engagement and consultative process and that the Bill would be developed. There was substantial development during my time and there has been further development during the time of the current Minister, Deputy Fitzgerald. I want to be absolutely clear that I welcome the very many amendments to the Bill which will ensure that it should work properly. The objectives set out for the legislation should be substantially fulfilled.

I am conscious that the amendments before the House deal with a broad range of parts of the Bill and I have no wish to speak at undue length. However, I believe it is important to note where we were in 2011. We were in a place where none of the reforms contained in this Bill was on the agenda. We were in a place where the two representative bodies of the legal profession were going to retain powers to deal with complaints and disciplinary matters. There was to be no legal services regulatory authority and no oversight of the nature provided here. There was to be no new legal costs adjudicatory process. Moreover, there were none of the other reforms contained in the Bill. The legislation then under consideration simply provided for the creation of a legal services ombudsman to deal with complaints that arose from clients of the legal profession if the professions were not properly dealing internally with issues.

It is noteworthy that during the course of Committee Stage, which I have detailed memory of, the Deputies opposite substantially tabled amendments so as to retain the 2011 *status quo*. That was the main objective. I believe this is an important reform in our legal system. To a great extent it is dragging the legal professions and our legal system out of the 19th century into the 21st century. It should be of great assistance and benefit to the individuals that we must focus on, in particular, the public and those who need legal services. However, I also believe it will ultimately prove to be to the benefit of both solicitors and barristers in ensuring greater transparency in the addressing of issues and by removing some of the blockages that exist in the

provision of legal services by them.

I wish to focus in particular on one set of amendments before the House today. One of the objectives of the legislation was to end anti-competitive practices that had built up over the years in the manner in which our legal professions on this island developed. The anti-competitive practices applied to both wings of the profession, but to a greater extent to the Bar than solicitors. The objective of the legislation was not, as some within the legal profession perceived it, to do anyone down. The objective was to enact legislation that was in the public interest and which would ensure that qualified lawyers could provide legal services through myriad business models. That was the objective. The business models we have at present allow for solicitors to operate as sole traders or as partners, while barristers essentially operate as sole traders. However, what barristers do is a little more complicated, because if anyone wishes to be represented in the higher courts by a senior counsel, the senior counsel will always require a junior counsel. Frequently, a senior counsel will ask for a second senior counsel. It is not as if barristers do not act in co-operation with other members of the Bar. In fact, they do. Depending on the complexity of litigation or advice sought, it can be very much in the interests of a client that he is represented by more than one lawyer. Of course we know that in the advocacy area a more frequent approach is for a solicitor to deal with many of the behind the scenes and background work while one or more barristers will represent the client in court and engage in advocacy, cross-examination, questioning of witnesses and the making of legal submissions.

At present solicitors can do everything barristers can do. They do all of the administrative and background work - the usual work that solicitors do. In addition, thanks to the former Deputy, Dessie O'Malley, who was Minister for Justice in 1971, solicitors can act as advocates in every branch of our courts. A solicitor who is a sole trader or a partner in a firm can be an advocate in the High Court, Supreme Court or the European Court of Justice if he chooses.

I have a distinct recollection in 1971 that the Bar library predicted that the heavens would fall in if solicitors were allowed to act as advocates in the higher courts. Over the years, some solicitors have done so - I happen to be one of those who did. However, many who choose to be solicitors do so because they do not want to act as advocates, or, if they do, then only in the lower courts.

Then in 1994 or 1995 there was a Courts Act in this Chamber brought in by the then Minister, Ms Nora Owen. I sought to amend that legislation to allow solicitors to be appointed as judges in the higher courts. The Bar Council predicted that if solicitors were appointed in the higher courts, the heavens would fall in and justice would collapse. Moreover, because those involved thought the Law Society had put me up to proposing that - it had not - they then fell out with the Law Society for two years and would not talk to it. That particular political dilemma was dealt with by a committee being formed. Four years later, the committee recommended that solicitors should be appointed to the higher courts. Since then, legislation was enacted and the heavens have not fallen in.

In 1989, the Judicial Separation and Family Law Reform Act was passed. It allowed or permitted barristers not to wear wigs in family cases. Some members of the Bar library thought the heavens would fall in if they were not wearing wigs. Surprisingly, that worked out okay. Then we had legislation which gave it as an option to all members of the Bar, regardless of what cases they were dealing with, not to wear wigs. Happily, by then the move created less excitement than previous reforms.

I appreciate the position the Minister finds herself in. Again, I have no wish to be misunderstood. Outside this House people are making a federal case of this. Fully 85% of the reforms I set out to achieve are going to be achieved in this Bill. My only objective in seeking to achieve them, as Minister, was to benefit the public interest and consumers and provide better consumer protection, but also to provide other job opportunities for members of the legal profession who are well qualified to provide assistance to the general public when they require it. I am delighted that 85% of what I set out to do is being achieved. My concern is that we are in trouble with the alternative business models for delivering legal services. I followed closely the amendments made in the Seanad. The Minister is correct in saying that the Bill still retains a possibility of legal partnerships. Legal partnerships between solicitors have been possible for donkey's years; that is not the issue. Under the Bill, a legal partnership is a partnership between barristers and solicitors or between barristers. In England there is a chambers operation, whereby barristers operate out of chambers. In other parts of the world there is no particular difficulty with lawyers acting as partners. The Bill envisages the possibility of partnerships between solicitors and barristers. Why would that benefit a client? It would mean that a client who seeks legal assistance may be able to access a barrister more quickly. There would be less duplication of work. He or she would deal with one entity, a particular partnership firm that can deal with all aspects of his or her legal case. It will be speedier. The client will not be waiting, having met with his or her solicitor, for the solicitor to send written instructions to the Bar library and then waiting for weeks for some opinion to come back before he or she can go on to have a meeting with a barrister in which everything that was told to the solicitor must be repeated. It will avoid duplication. That type of legal partnership should reduce legal costs for consumers as well as allowing for a more efficient means of providing legal services.

I refer to barrister partnerships. At the moment, barristers substantially operate out of the Law Library. As the Minister rightly said, about 100 barristers are not members of the Bar. Some of them operate out of offices around the country. The restrictive practices of the Bar mean that barristers who are not members of the Bar are not even allowed to advertise the fact that they are operating out of offices somewhere outside Dublin. They cannot pool their income. They can certainly share the payment of rent, but they cannot actually operate as partners at the current time because they would be in trouble with the Bar Council. The legislation sought to ensure that there would be no barrier to the creation of legal partnerships between barristers or between barristers and solicitors. This would offer alternative business models through which legal services could be delivered. In doing so, the Bill contained the provision the Minister mentioned which, to put it in simple terms, would effectively outlaw any code of practice within either profession that would prevent the creation of these new legal partnerships and their operation. The same provisions are relevant to multidisciplinary practices.

Before I get on to multidisciplinary practices, I welcome the fact that the Minister, having amended the Bill in the Seanad, is now amending it again. It is quite clear in the Bill that there is a reasonable prospect, once it is enacted, of legal partnerships between barristers or between barristers and solicitors coming into operation within 12 months. That is only a possibility. It may be that some barristers who are not members of the Bar library may enter into those arrangements, but the overwhelming majority of barristers are members of the Bar library, and the code of practice that is in place prevents them from entering into these sorts of partnership. The original legislation sought to outlaw a code of practice which inhibited the creation of these legal partnerships. This is a genuine and real problem. The idea was to ensure that the approach of the Bar or the solicitors' profession did not act as a barrier to these new business models.

The Minister has received certain advices, on which I am going to comment in the moment, but they are of equal relevance to multidisciplinary practices. In the area of multidisciplinary practices, I am particularly disappointed that the provisions contained in the Bill that sought to guarantee that within a specified time - I recollect it was approximately 12 months after enactment - multidisciplinary practices would become a possibility have been removed. The 12-month period was intended to allow for the making of relevant codes of practice and for addressing any issues that arise uniquely in regard to multidisciplinary practices. The reason for the provision of such a period was that in the Solicitors (Amendment) Act 1994 there was a section that envisaged the creation of multidisciplinary practices, which was to be brought into force by way of a ministerial order, but it never was.

Multidisciplinary practices exist in some other jurisdictions. They are not that complex an animal. A group of lawyers who want to practice in the business area can operate with solicitors alone or with solicitors and barristers together, and can include within their business model, for example, an accountant or somebody who is experienced in forensic accountancy. This is not a thing of great complexity and it genuinely should not be. It is being made to look more complex than it is.

In so far as people are shouting that this could interfere with the independence of the legal profession, of course it does not, because under this Bill lawyers have an express obligation, from day one, to act independently and properly advise their clients. Of course in major cases of a commercial nature or of a family law nature in our courts, lawyers have absolutely no difficulty in the world in working with accountants, forensic accountants and others. Indeed, the model in particular firms often means that they regularly consult with the same firm of accountants. A particular accountant can almost become an unofficial leg of a particular firm.

There is no logical reason for not having multidisciplinary practices, which provide a sort of one-stop shop for the benefit of consumers and for the provision of a comprehensive service. It is not just relevant in the business area; it would also be relevant in an area that I am very familiar with - that is, family law. A family law practice might have within it an experienced mediator and a family counsellor, and could provide assistance to a client who is very stressed in the course of dealing with a family difficulty. These are not big, threatening legal entities. This is about allowing people to provide legal services through a different model, but to the benefit of whom? The public and the consumer. That is what all of this is about.

I do regret that the timeframe stated in the Bill for the existence of multidisciplinary practices has been removed. I do not think, frankly, it would have mattered if the 12-month period became 18 months or even, if the Minister felt it required more time, two years. There needs to be an inevitability that it will happen, because this model is working elsewhere. Contrary to the perception that has been given, there was an amount of research and consultation that I personally engaged in, as well as some of my officials, in the context of what we originally proposed.

In regard to multidisciplinary practices, the same provision is in the Bill as originally published - that is, it prohibited any body such as the Law Society or the Bar Council from doing anything that would act as a barrier to an individual's participation in such a practice. In so far as a code of conduct outlawed, in some shape or form, a barrister from participating in a multidisciplinary practice, that would cease to have any effect.

What is the effect of these codes of practice? The effect of the code of practice in the context of the Bar is that a barrister who is a member of the Bar library can be excluded from it or

effectively excommunicated from the Bar library. The problem with the Bill is that we are going to have the possibility of legal partnerships, but only a small minority of barristers will be free to enter into them. Every other member of the Bar who is also a member of the Bar library will be under the threat of excommunication from the Bar library if they dare to participate in a legal partnership.

We have a possibility that some Minister, at some stage in the future, might bring into force multidisciplinary practices and allow for them to occur. Again, the same pertains. Any member of the Bar library who wants to enter into a multidisciplinary practice is at risk of being excluded from the Bar library under its code of practice. I think this is a huge problem. It is allowing restrictive practices that inhibit people from earning a livelihood and providing a service through a different business model.

I want to ask the Minister a specific question in regard to barrister employees. There are a large number of barristers, particularly young barristers, who can barely earn a crust. They are well qualified and very bright. Some of them do not get work because they do not have relations in the legal profession. Much of the work they get is dependent on the goodwill of their seniors in the Bar library or whomever they can connect with. I am pleased the Minister has retained in the Bill a provision that allows barristers who are employed in firms to represent their clients in court, but it may well be that the barrister who wants to do this is employed in a firm involved in a very complex legal action, and that barrister may have a great deal of expertise in that area, but what will be the position if that barrister wants to appear in court and is of the view that this is a particularly complex case that requires the assistance of some other member of the Bar library? The barrister might want to bring in a senior counsel who has some particular expertise. Will the Bar code of practice prevent a situation being created in which the barrister employee acts jointly as advocate with a barrister from the Bar library?

I appreciate in relation to legal partnerships and multidisciplinary practices that there is a provision in the legislation that says, and I am paraphrasing, that codes of practice cannot prevent - I think this is the intention - a member of the Bar from taking instructions to represent someone who is initially represented by a legal partnership or a multidisciplinary practice. I am not clear, and perhaps the Minister will clarify this amidst all the amendments we have, what the position will be should a barrister employee who wants to act as advocate want the assistance of another barrister from the Bar library in so acting.

Among the Bar's restrictive practices that are going to be allowed to continue for its members is that while we could have as many barristers acting as advocates on behalf of a client in a court as was deemed necessary, there was a Bar perspective that disapproved of what is known as "mixed doubles", which is a solicitor and barrister jointly acting as advocates in a court. At a time when there is a great deal of legal expertise in niche areas, there is often a discrete number of lawyers with expertise in a particular area and there may well be a case in which a solicitor and barrister should jointly act as advocates. They may not want to form partnerships. It might be a once off. It seemed to me that the legislation as originally drafted prevented difficulties being created around that. I do not know where that stands at the moment.

I have an abiding memory from a number of years ago. There is this perspective on the part of some members of the Law Library that I have some hostility towards them, which is completely insane because my own law firm for donkey's years has worked with, and instructed, a multitude of barristers and I have worked with many barristers. We have some fantastic lawyers in the Bar library who do a phenomenal job. I know they get criticised for various reasons,

but I am not one of those who has a negative view. We have extraordinarily good solicitors and extraordinarily good barristers. We are very lucky as a country to have a group of very good and talented lawyers, but some of the rules under which they operate are antiquated and peculiar, and I have a distinct recollection of being in a circumstance in a very complex case in which I was the solicitor and we brought in counsel. There was an area relevant to the case in which I had greater expertise than counsel and because it was not the done thing that counsel would make submissions jointly with a solicitor, we contrived a circumstance many years ago. The very erudite and well respected counsel made submissions to the court on areas of the case in which he had the expertise, knowing the case would follow into the following day. The next day he advised the judge he was not available and I had to complete submissions in the area in which I had expertise. He could not be getting into trouble with the Bar Council for just sitting down in court while a mere solicitor made submissions. This is crazy stuff. Are we still going to be in this space after this reform has been enacted?

I want to come back briefly to a couple of additional things I want to say to the Minister. It is a mistake to have removed the provision in the legislation which allows the professional bodies to maintain a code of practice which especially will enable the Bar Council to penalise any member who dares participate in a legal partnership or who dares participate in a multidisciplinary practice. The legal advice is based on the Article of the Constitution which deals with freedom of association. The Article is very clear on the right of citizens to form associations and unions. It recognises the right of citizens to form associations and unions so I presume the Bar Council is saying it has the right of association, which of course it has, and why should it not?

This right, however, is limited. It is delimited in the following way: "Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right." Article 40.6.2° of the Constitution goes on to say, "Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination." There is no political, religious or class discrimination in simply saying the codes of practice should not act as a barrier to individuals providing legal services through different legal models. These legal models exist in other countries. There are advocates, people who are solely advocates in courts, in a myriad of other countries where we do not have the division of the profession between solicitors and barristers, who work in partnerships, who do so in the interests of their clients, who act independently and who properly represent their clients.

The public interest in the area of removing anti-competitive practices is such that there may well be a case to be made under this Article, but there is no certainty of any description that such a case would succeed. Indeed, if the legislation were to be challenged in the context of this issue, well so be it. It would be challenging two or three particular sections in the Act. It would not be to the detriment of the entirety of the legislation. It has to be remembered one of the undeclared rights in the Constitution, articulated by the courts, is the right to earn a livelihood. I believe members of the legal profession, be they solicitors or barristers, have a right to earn a livelihood through alternative business models to provide legal services to consumers in circumstances that benefit consumers, provide greater competition and reduce legal costs. My concern is that this change is unwarranted.

I have been reading in the media that it is not simply the advice of the Attorney General but that a threat was uttered by at least one of the representative bodies that if the legislation went through in the form it was in, which would set aside its code of practice, constitutional proceed-

ings would be brought. During my time as Minister, a range of threats were uttered with regard to the processing of all this legislation. During my time as Minister, threats of other natures were uttered with regard to issues we were dealing with that affected either the Judiciary or the legal profession, because people were unhappy with change and reform. The Minister should tell the House which of the representative bodies threatened court proceedings. I do not think the threat of court proceedings should inhibit this reform. I think it is unfortunate we are in that space.

I have a simple view. When there is a conflict between public interest and vested interest, I favour the public interest. When there is a conflict between the rights of consumers and anti-competitive practices, I favour the rights of consumers. When there is a conflict between trying to contain legal costs and-or maintaining systems which ensure legal costs are maximised, I favour containing legal costs. There are judgments to be made in these areas when vested interest bodies flex their muscles, and I believe, unfortunately, we will have to return to this issue.

It is quite possible there might be some revolution within the professional bodies, particularly within the Bar where members demand the code of practice be changed, but the difficulty with that, especially for junior counsel, is that I am very conscious that members of the Bar library, particularly junior counsel, are very anxious not to upset their seniors. I received myriad communications from individuals who are members of the Bar, who are junior counsel, who were urging that this particular reform be implemented unchanged. They saw it as a possibility of ensuring not only that they could better provide legal services but also that some of them who are on the breadline would earn a reasonable living in doing so. It is very regrettable that this issue is being, to a degree, sidelined. I appreciate the position the Minister is in. She has received advice from the Attorney General. I do not want to be unsympathetic of that. I understand that. However, the advice, as I understand it, is that these provisions may be challenged. To be clear, the advice is not that such a challenge will be successful but simply that there will be a challenge. When we began drawing up this legislation, we were told that if we established a legal services regulatory authority, it would be challenged. We were told there was no question of independent disciplinary tribunals, that such would impact on the independence of the legal profession and the latter should be self-regulating. There was an insinuation that the whole thing would be challenged. Most of the challenges have now fallen away.

There was a constructive and helpful engagement with both of the representative bodies in the development of this Bill during my time. I am sure that has continued under the Minister, Deputy Fitzgerald. However, one gets to a point where a choice must be made between the public interest and the vested interest in particular areas and where the consultative process will not take one any further. The problem with this legislation is that the general public does not necessarily see the detail of it and the benefits for citizens in some of the changes we are trying to introduce. It is the vested interests who most vigorously focus on the changes being made.

I very much welcome the progress of this legislation through the Oireachtas and look forward to its enactment before the end of the year. I hope much of what is contained in it comes into force rapidly. However, in the context of providing for the delivery of legal services through alternative business models, leaving codes of practice in place that inhibit practising lawyers from engaging in those legal models will leave reform stillborn in the area of multidisciplinary practices. In the area of legal partnerships, the only way we will see any substantial difference in the provision of legal services is if there is a rebellion within the Bar whereby its members insist the code of practice is changed or if we come back into this House with legislation at a later date to restore the provision which inhibits any representative body from engaging

in efforts to prevent an individual from participating. Unfortunately, the Minister is incorrect when she says no under-the-radar action by professional bodies to prevent legal partnerships or multidisciplinary practices will be allowed. The fact is the inhibiting factors are not under the radar but clearly visible. It is the code of practice that will inhibit many barristers from participating in these models because they will be uncertain of the impact on their access to clients and on their relationships with colleagues.

The final problem is that there is, in fact, an under-the-radar barrier built into the legislation itself in the context of the make-up of the legal services regulatory authority, the disciplinary bodies and, indeed, the body that is being put in place to facilitate in the future, in a different way, the appointment of senior counsel, eligibility for which is being extended from barristers alone to solicitors and barristers. Some of the individuals on those bodies are lay people and represent a range of other bodies. When it comes to the legal profession, it is only the Law Society and the Bar Council that will be represented. King's Inns will have a representative on one of the bodies. The barrister who leaves the Bar library to enter into a new legal partnership will find he or she is not represented on the legal services regulatory authority, as I understand it. However, if there are disciplinary or complaints issues relating to that barrister, they will be dealt with by a mixture of lay people and representatives of a professional body which disapproves of what the barrister is doing. In the case of judicial appointments, the body that makes recommendations to Ministers is substantially composed of judges and representatives of the Bar Council and the Law Society, as well as three lay people. If a person who left the Bar library to participate in a legal partnership applies to be on the list of recommended individuals to be made a judge, will that person be ruled out simply because he or she has defied a code of practice? These are serious under-the-radar factors that will inhibit well-qualified lawyers from participating in the new legal models. It is in the public interest that they participate. I understand from reports I have been reading that the Competition and Consumer Protection Commission is critical of these particular changes, which I welcome.

I very much welcome the fact that 85% of what I set out to achieve in this legislation will be achieved. I take this opportunity to thank the officials who worked with me when I was Minister, and who, no doubt, are working with the Minister, Deputy Fitzgerald, to fine-tune the legislation. I agree with the Minister on the issue of limited liability practices. That was a piece of work I asked my officials to engage in because it is very important not just to lawyers, but in the context of enabling our major legal practices to compete with legal firms abroad. However, it is unfortunate that the provisions in the Bill that envisage either solicitors, solicitor partnerships or barrister partnerships being able to operate on a public limited company or limited liability company basis will exclude multidisciplinary practices. It was my intention that they be included. Moreover, I have no optimism that we will see a provision to allow for multidisciplinary practices brought into force in the near future. Provisions that are beneficial and necessary to provide for incorporated legal practices should have been extended to include multidisciplinary practices. Equally, that could have been subject to being brought into force by ministerial order.

Deputy Pádraig Mac Lochlainn: I am pleased to have another opportunity, by way of these amendments from the Seanad, to outline my perspective on the progress of this Bill since its introduction. I read with some intrigue the news reports in recent weeks, most of which entirely miss the point of what the legislation is about. Sometimes in these Houses we operate in something of a bubble and get caught up in policy and our own circular conversations. For citizens, the main issue they have with legal services is cost. People who find themselves in

family law proceedings, civil law proceedings or whatever it may be often through no fault of their own are obliged to avail of legal services and then face a huge bill at the end of it. That adds to the stress they are already under. From the outset, this Bill has not done anywhere near enough to address that issue.

We have been a long time waiting for progress on the proposed mediation Bill. The Oireachtas justice committee considered a proposed scheme for that Bill several years ago, before my time as justice spokesperson for Sinn Féin. That legislation is vital and I have repeatedly asked when it will be brought forward. We need to introduce a culture in this State whereby citizens, rather than going down the road of adversarial confrontations in court rooms, go into mediation. The significant majority of family law and civil law matters could be resolved through the efforts of skilled mediators who would be accountable to the Mediators Institute of Ireland or an independent regulator. Proposals drawn up by way of this mediation process would then be presented to a judge. I am sure the Judiciary would be delighted to see such a system being introduced. Unfortunately, however, the mediation Bill has gone nowhere for a long time. It would have done more than the Bill before us today to address the issues that most affect citizens as they interact with legal services. Yet there has been hardly a mention of the mediation Bill in the media. Journalists in this State need to have a look at themselves, because the narrative has been that the previous Minister, Deputy Alan Shatter, introduced this reforming legislation and then, due to the lobbying efforts of the legal representative organisations, the current Minister caved in. It might surprise those watching today that I do not accept that narrative. I have followed this process for a number of years. The previous Minister would acknowledge, as he has today, that the initial legislation was rushed, under the demand of the troika. It was considerably flawed.

Having looked at the submissions made to the justice committee and from the interactions we, as Opposition spokespersons, had with the legal representative groups, their analysis, in the main, was sound and reasoned. They were not objecting to independent regulation of the legal fraternity. That is a very important point: they were not objecting to independent regulation. They felt the Law Society and the Bar Council had complaint handling procedures that were independent, but they accepted that there was an understandable perception among the public that they were not truly independent. The key benefit of this legislation is the introduction of the legal services regulatory authority, which is welcomed by everybody.

I just do not understand the narrative that was presented in the media. Far be it from me to defend the current Minister for Justice and Equality, but I do not accept the narrative. She listened to reasoned arguments and addressed them, and that is what we want the Government to do. The Opposition's job is to hold Government to account. When it comes to legislation, our job is to engage with the relevant stakeholders. For example, we have serious criticisms of the International Protection Bill. My party has met with all the NGOs working on issues relating to refugees and asylum seekers, as, I am sure, Fianna Fáil and others have. We have listened to their concerns and submitted amendments. That is what parties do in a democracy if they agree with the concerns raised. They try to hold Government to account and to strengthen the legislation and change it. That is what is done in the normal run of things. What has happened here is that we in the Opposition have listened to reasoned arguments from key stakeholders, people who have been dealing with complaints from citizens around legal services for many years and who made solid recommendations for amendments, and we submitted them. I am glad to see that the previous Minister, Deputy Alan Shatter, and the current Minister, Deputy Frances Fitzgerald, and her Department officials, have listened to those concerns. They have

agreed that many of these concerns are sensible and that there is a need for change, and they have made this Bill better. I do not have any major criticism of the change in direction from the original Bill to what it is now.

I have concerns about multidisciplinary practices. They have been presented as a panacea, as a huge cost-saving intervention, and as radical reform of the way we do law in this State. The concern internationally has been that these multidisciplinary practices sucked the talents that were there, took them into the one building, where there are solicitors, barristers and accountants, all hired by the wealthiest companies and corporations and retained by them, and that we would not have a level playing pitch. I am thinking here in an Irish context of citizens in places like Donegal, Limerick and Cork, rural areas where people go to their local solicitor to hire the services of a learned counsel who is specialised in a given area. They might find the best and brightest are under one building, hired by a corporation the client might have to take on. We did not see the benefit of that. The free legal advice centres also had serious criticism of this proposal. I do not think anybody could accuse them of being a vested interest or of protecting the old ways. There were, therefore, considerable concerns about multidisciplinary practices, and we make no apologies for raising them again and again.

There is need for reform within the legal fraternity that is not dealt with in this Bill. People from less privileged backgrounds will struggle to make their way through as barristers. The whole devilling system needs to change. We need to have access for people from working class and other communities in this State to work their way through. This is a really important, fundamental issue because our Judiciary is populated from those ranks. If we have a Judiciary that is from the wealthier, more privileged parts of our society, which may hold views that are more conservative than the average citizen, or may have an experience of life that does not reflect the experiences of most citizens, when these people are tasked with interpreting our Constitution in the Supreme Court at the highest level of the Judiciary, that is worrying. We need a Supreme Court that is populated not just by people learned in the law, but people who have experience, who understand the experiences of citizens, who understand the need for change, and who have a real-life approach to the people who find themselves in front of them in courtrooms across the land. These are real issues and there is much more work to be done than is addressed in this Bill.

I will conclude by reaffirming the following points. The key issue for most citizens who find themselves having to engage with legal services is cost. They find themselves with huge bills that add to the distress they already face. This Bill does not go far enough to address that key issue. That should have been the key challenge of the Bill. The independent legal regulatory authority is welcomed universally. It is important to reassure citizens who have had a bad experience with somebody in the legal fraternity that they have an independent avenue to go to that is beyond reproach.

It is too late for this Government, but whoever is in place in the next Government needs to take the mediation Bill down off the shelf, dust it off, engage with the stakeholders, and task the incoming Oireachtas justice committee with holding hearings, because that Bill, which will probably need more amendments and strengthening, has the potential to make a real impact for citizens and to change the culture. People instinctively go to a solicitor - it is their first port of call and they do not have the culture of mediation in mind - but imagine a situation where the solicitor is obliged to advise them that they should avail of mediation and a judge would be able to say: "Folks, why are you before me? These issues can be resolved by mediation. Go away and try to resolve them, then come back." If we get to that point, that will make the biggest

contribution to a more thoughtful and reasoned approach to resolving disputes in this State and it would be much less costly. That would be in the best interest of citizens.

I have read all of the media analysis, throughout various publications, and they have missed the point. The point is not this idea of a reforming Minister, Deputy Alan Shatter, being undermined by a Minister caving in, which is not correct. The point is that this Bill has not achieved for citizens what it could have achieved. There is hardly any reference to the mediation Bill. Those journalists have an important role in our democracy, in looking at legislation, observing matters in this Oireachtas and looking at who lobbies for changes in legislation. I ask them to go back and look at what has happened with this legislation - to really look at it, not just have an almost lazy analysis. They should go back and look at the facts of what has happened throughout this process. They should look at the recommendations, at what we have ended up with, and the points of view of both sides. On multidisciplinary practices, they should listen to the point of view of the main advocate, the former Minister, Deputy Shatter, and others, and listen to the view of the free legal advice centres, of the Opposition and of critics of that proposal internationally. They should listen to all points of view before they start to write their articles. I was taken aback by the universal analysis, across the media, by journalists I respect.

12 o'clock

Talented, intelligent and capable journalists got this wrong. They missed the key point for the people they are speaking to out there, which is around costs, that this Bill missed. Hopefully, we can reflect on this matter. We are coming to the conclusion of this Bill. It is welcome that we finally got it over the line, but the next Government needs to bring in real reform.

Progress reported; Committee to sit again.

Topical Issue Matters

Acting Chairman (Deputy Liam Twomey): I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy David Stanton - the strategic importance and future of Ireland's only oil refinery in Whitegate, County Cork; (2) Deputy Thomas P. Broughan - the need for the Road Safety Authority to compile and monitor statistics on the operation of the penalty point system, especially with regard to drink-driving and dangerous driving; (3) Deputy Michelle Mulherin - the need for Pobal to provide additional funding to community service programme projects for 2016 in order to cover the increase in the minimum wage to €9.15 from 1 January 2016; (4) Deputy Joe Costello - the need to provide supports for Men's Sheds; (5) Deputy Regina Doherty - EirGrid's new sponsorship deal with Louth Meath FM radio; (6) Deputy Martin Ferris - the technical difficulties at the Department of Agriculture, Food and the Marine preventing the processing of farm partnerships and access to the green low-carbon agri-environment scheme for those affected; (7) Deputy Pat Breen - the measures being taken to protect homes and property along the River Shannon in Springfield, Clonlara and surrounding areas in south-east Clare due to flooding and the release of waters from the Parteen Weir; (8) Deputy Clare Daly - the systemic problems in An Garda Síochána as revealed in the latest Garda Inspectorate report; (9) Deputy Brendan Smith - the need for the Minister to outline the progress in the introduction of adequate measures to support survivors and victims' families following the disappointment expressed by victim representative groups after the Fresh Start agreement; (10) Deputy Paul Murphy - the need to review the tendering process for awarding

State contracts, given recent press reports on the senior alerts scheme; (11) Deputy Mick Wallace - the latest Garda Inspectorate report; (12) Deputy Dara Calleary - the need for the Minister for Jobs, Enterprise and Innovation to discuss the increase in SME credit application rejections; (13) Deputy Niall Collins - the need for the Minister for Justice and Equality to update the House on the Garda Inspectorate report, Changing Policing in Ireland; and (14) Deputy Michael Fitzmaurice - the need for preventive measures, including the dredging and cleaning of rivers, across the west of Ireland to alleviate the problems and distress caused to home owners, businesses, farmers and road users by severe flooding.

The matters raised by Deputies David Stanton, Joe Costello, Brendan Smith and Martin Ferris have been selected for discussion.

Leaders' Questions

Deputy Micheál Martin: The impact of the flooding continues to be devastating for many households, farmers and communities across the countries and there have been many complaints about a basic lack of preparedness for events of this kind. It is fair to say that storms and floods of this ferocity are happening with greater frequency and we need to prepare better as a country for such events. We need to respond better and to accelerate urgently, in particular, the installation of flood relief protection schemes across the country. In short, we need a comprehensive, co-ordinated and sustainable response and there have been many complaints across the country that it is not there. Bandon and Ballinasloe, in particular, stand out. Ballinasloe was told that the 2009 flood was a once in 100 year event and they now know that is not the case. We learned yesterday that the Minister of State, Deputy Harris, has sought a 15-strong expert long-range flood warning unit within Met Éireann at a cost of €2.5 million but the obvious question is, "Why not 12 months or two years ago?" The Taoiseach himself stated in 2012 that such a unit was needed and clearly it was not done.

Deputy Finian McGrath: The Taoiseach should up his game.

Deputy Micheál Martin: The biggest issue where we really need a game-changer in terms of policy change is in insurance cover for flood risk areas. It is a key issue for businesses, homes and farmers. This is the fourth time since 2009 that flooding of this nature has occurred and many are no longer insured or cannot get any insurance.

In 2013, the United Kingdom Government, along with the insurance sector, agreed to develop a not-for-profit scheme, Flood Re, to allow flood insurance to remain widely affordable and available while allowing a sustainable transition to risk-reflective pricing over 25 years.

An Ceann Comhairle: A question, please.

Deputy Micheál Martin: That was followed up by the Water Act 2014 which put legislative flesh on that bone. The UK Government's preferred option was to ensure the continued availability of flood insurance to households at risk of flooding across the United Kingdom, and it responded in kind. The fundamental question is if this Government has had any engagement with the insurance sector on such a scheme and if it will now commit to replicating the UK Government's approach to insurance in flood areas which would reflect the proactive, co-ordinated and comprehensive response that I mentioned earlier.

The Taoiseach: Clearly, the impact of a flood in any household or business is devastating. As everybody will be aware, it ruins property and destroys people's care and attention and pride for their houses and businesses. That goes without saying.

The situation has brought about an enormous community response. For its part, the national co-ordination committee has been meeting for the past number of weeks. The warning was relayed in good time in this case and there had been a co-ordination of community, Civil Defence, Garda, local authorities, Office of Public Works and others, and now the Irish Red Cross, visible all over the country in terms of the assistance that is being given.

The latest is that the Defence Forces have responded to all requests received from the principal response agencies. That has involved a deployment to eight counties comprising over 200 Army personnel, 34 vehicles and an Air Corps helicopter. The Minister of State, Deputy Harris, is available to speak about the issues of the past, the immediate response and the projections for the future in terms of schemes under construction, schemes under design and the timescales envisaged in all of these. The Minister of State goes to Bandon next week. I expect he will bring the Irish Red Cross personnel with him-----

Deputy Noel Grealish: He should go to Galway as well.

Deputy Simon Harris: I will.

The Taoiseach: -----have a meeting with the business people in Bandon-----

Deputy Michael Healy-Rae: He should come to Kerry as well.

The Taoiseach: -----and talk about the issues there. Obviously, as Deputy Martin will be aware, there were legal objections to the tendering process. Those are now cleared and the funding is in place for that scheme to go ahead in 2016, and I expect that to be adhered to. I expect the Minister of State to travel to other locations, including Galway and Crossmolina, the week after to bring the projected designs for what is envisaged there, meet the people and discuss what can happen now and for the medium term.

An Ceann Comhairle: I thank the Taoiseach.

The Taoiseach: The Government yesterday made a decision to put €5 million upfront in respect of the business premises that are flooded and within the context of the Office of Public Works flood areas. The Department of Defence is co-ordinating this with the Irish Red Cross. That is actually happening today and I hope that there will be a structure in place that will allow-----

Deputy Michael Healy-Rae: We would want detailed planning.

The Taoiseach: -----for prompt payments to be made here based on assessments of the damage. Clearly, with the Shannon continuing to rise, and other difficulties for bridges, roads, etc., there are issues that cannot be assessed until it clears.

Finally, I am aware of the situation in Britain. Flood Re is a not-for-profit operation. It has been focused on by the British Government for quite some time. I am not sure-----

An Ceann Comhairle: I am sorry, we are over time.

The Taoiseach: -----whether it is as successful as people might have imagined but it is

something that we would like to look at here. Business people who had insurance or who did not have insurance, even behind flood defences where they are working in Clonmel, Mallow or Fermoy, still cannot get insurance, and obviously that is an issue. That is why in this case we would like €5 million to be made available for businesses that have been flooded and have had this brought to them shortly before Christmas.

Deputy Micheál Martin: I mean no disrespect, but the Taoiseach's reply confirms my basic point about the lack of preparation, urgency and any co-ordinated and comprehensive response. The centrepiece of my question was an insurance scheme similar to that introduced by the United Kingdom with the British insurance sector which would provide long-term sustainable insurance cover for households, families and businesses in flood risk areas. Despite the fact that we have had increasing storms of greater severity than we have ever had previously more regularly, all the Taoiseach can say now is that he would like to look at it. I asked if the Taoiseach has engaged with the insurance sector on such a scheme for Ireland and why we have not seen it. The legislation was passed in 2014.

Deputy Finian McGrath: On the Minister of State's watch.

Deputy Micheál Martin: That is the Bill.

An Ceann Comhairle: Would Deputy Martin put his question, please?

Deputy Micheál Martin: That is the legislation. The point is the British Government went at this much earlier than anything we have seen from this Government. It is too late to go to Bandon next week. The Minister of State will be welcome, of course.

The Taoiseach: That is a disgraceful statement.

An Ceann Comhairle: In the meantime, could you put your question?

Deputy Micheál Martin: My point is that the flooding has happened. It is disgraceful that the flood relief scheme was not in place. The problem is-----

An Ceann Comhairle: It is not the problem; it is your question.

Deputy Simon Harris: The Deputy is playing politics with a national emergency. Does he want us to be like Bertie Ahern with his wellies?

Deputy Micheál Martin: Deputy Harris's remarks are facetious. The people who were flooded feel that had the flood relief scheme been put in place two years ago, they would not have experienced what they experienced last week. While we can quote the legal issues, there was a lack of urgency about getting it in place.

Deputy Bernard J. Durkan: There was a lack of urgency ten years ago.

Deputy Micheál Martin: The other schemes were done before the Government's time. Is the Taoiseach committed to working through the flood insurance and a scheme similar to that in the UK? Does he accept that legislation must be enacted regarding it? It is a good idea and makes sense in the long term.

Deputy Finian McGrath: Put on your wellies and get down there.

The Taoiseach: Yes, the Government remains committed to dealing with it in the short,

medium and longer term.

Deputy Peter Mathews: The very long term.

The Taoiseach: As Deputy Martin is well aware, the Government has allocated €1 billion over the next ten years to flood relief works in 300 locations throughout the country.

Deputy Micheál Martin: The Government is to spend less next year.

The Taoiseach: The Deputy is not expecting me to say the Government should have gone ahead and put the flood works into the Bandon despite the fact that there was a legal objection going through the courts system. Even the Deputy knows this well. It was a disgraceful comment for the Deputy to say the business people and householders should not be visited by the Minister of State with responsibility for the OPW.

Deputy Bernard J. Durkan: Hear, hear.

Deputy Micheál Martin: I did not say that at all.

The Taoiseach: Yes, the Deputy did. He said there was no point.

Deputy Micheál Martin: I said it was too late. The Taoiseach has a habit of making up stories. It is another made-up story, a bit like the Army and the ATMs.

Deputy Finian McGrath: It is a bit like Santa Claus. We will have it on St. Patrick's Day.

Deputy Micheál Martin: It is unfair. The Taoiseach should stop acting like a sleeveen. It is too serious for that.

The Taoiseach: Deputy Martin is playing politics with it for notice. A red card for it.

Deputy Pádraig Mac Lochlainn: Communities in various parts of the State have been devastated in the wake of Storm Desmond with extensive flooding to homes and businesses. Earlier this morning, I read yesterday's transcript, which showed that 17 Government and Opposition Deputies from across the State raised the concerns of their communities in counties Westmeath, Roscommon, Cork, Kerry, Laois, Clare, Galway, Mayo and Donegal. With respect, the Minister of State, Deputy Harris, will have to visit more than just Bandon. There are many counties and communities to be visited during the coming weeks. Despite the increased risk and frequency of flooding in recent years, the Government is not taking it seriously. In the 2016 budget, the Government cut the OPW's risk management programme by 25%, or €15.6 million. Although the Government's PR machine has been out talking about €15 million in flood relief, €10 million of it was already there. Only €5 million is new money, although the Government has cut €15.6 million from the programme for this year.

We have asked the Taoiseach several times whether the Government would introduce a special State-funded package for householders and businesses in areas of high flood risk but who, through no fault of their own, cannot obtain insurance. Will he address it? The Taoiseach avoided answering Deputy Martin's question on it. Will the Taoiseach examine the issue of the OPW's risk management programme and put resources into it again? Will he ensure it has the resources and energy to fast-track the programmes? It has been there since 2011, almost five years. Will the Taoiseach send a message to the communities in the west about the Government's plan regarding insurance and addressing the cutbacks in next year's budget?

The Taoiseach: I do not know where the Deputy has been since this happened or who has been briefing him. He should be aware that the Government is providing €430 million for flood risk over the next six years. There are flood relief works under construction and at design stage. The Deputy understands that major flood relief schemes must go through a planning process and take many factors into account, including hydrological surveys. We cannot just move in with our bulldozers and announce what we are going to do. The humanitarian scheme that has existed since 2012 has €10 million allocated to it and the community welfare officers on the ground are entitled to go to the affected houses and discuss with the people whether their houses are habitable or whether they have to move out, and provide the basic cash for items such as beds, clothes and fridges. This is available now and is happening today as we speak. The Department of Defence is co-ordinating the response strategy to put a structure in place with the Red Cross in order that effective payments can be made to small businesses that have been flooded and their Christmas destroyed by the force of nature. Deputy Martin seems to think we can deal with this as it happens.

Deputy Micheál Martin: It is the opposite.

The Taoiseach: The reason the Minister of State, Deputy Harris, was talking about flood warning systems is that we do not have one and rely instead on European statistics. Other countries can define ten to 15 minutes in advance what is going to happen. We need this.

Deputy Mattie McGrath: We have local knowledge.

Deputy Finian McGrath: Tell the Minister to put on his wellies and get down there.

The Taoiseach: In 2014, the memorandum of understanding was signed between the OPW and the insurance companies so the sharing of information about flood warnings and the impact of it can be factored into the commercial decisions to be made by the insurance industry. It is not as simple as the companies saying they will provide insurance regardless of whether a premises has flood defences. Many other issues must be dealt with. As the Deputy knows, even when the flood relief works are in place, in some cases the water meets a high tide, backs up through the shores and goes behind the walls and up through the houses. These are physical and geographical limitations and challenges as to what must be done. In Mallow, Clonmel, Ennis and Fermoy the defences have worked well. A capital programme has been laid out for the next ten years and €1 billion is allocated to it, with €430 million over the next six years. The list is there, if the Deputy cares to read it. Reliefs are under construction and at design stage. I object to Deputy Martin saying it is not worthwhile for the Minister of State responsible to go the areas and meet the people affected. The Minister of State, Deputy Harris, will do it.

Deputy Micheál Martin: I did not say it. I said he was welcome. The Taoiseach is telling lies.

The Taoiseach: Time was when we could not get a Minister from that outfit over there to go anywhere, when they were firing money at every single problem. For Westmeath, Athlone, Ballinasloe, Donegal, Castlefin, Crossmolina and all the other places, the Minister of State will deal with as many as he can.

Deputy Finian McGrath: He will come after the event. That is the problem. He goes every five years.

The Taoiseach: What is important is to have a structure that is effective, for the Government

to put money in place and let us see how effectively we can make payments before Christmas.

Deputy Pádraig Mac Lochlainn: As I said, yesterday 17 Government and Opposition Deputies spoke. Nobody has a monopoly on concern about this issue that affects communities across the west. The Deputies pointed out practical issues regarding the maintenance and cleaning of rivers and issues around CFRAM's flood risk management. The Taoiseach is very familiar with County Donegal. While Deputies spoke about flooding for the second time in six years, people in the Finn Valley area, south Donegal and west Donegal had flooding for the second time in weeks. Businesses, community centres and homes that had cleared out the damage from the previous flood a few weeks ago, in very traumatic circumstances, were back at it again. They thought they might have had amelioration measures in place. Unfortunately, they were unsuccessful. While all of us in the Houses are concerned, unfortunately, what we are doing is not working.

Will the Taoiseach address in a real, tangible way the issue of homes that cannot get insurance? Will he ensure there are resources around flood risk assessment plans to reassure businesses and communities that the resources will be fast tracked to the OPW? Excellent issues, such as the maintenance of rivers, were raised. The Taoiseach should read through the transcripts of the contributions by all Deputies yesterday, Government and Opposition. They are at the front line speaking to the heroic people who worked in our emergency services, Defence Forces, local authorities and communities and got the proposals to put to the Taoiseach. I know the Minister of State will read the transcripts and take on board the issues that were raised. Can we send a collective message to those citizens from these Houses that such issues will be addressed as best we can within our powers?

The Taoiseach: The answer to the Deputy's question is "Yes". That is what is happening at the moment. As I have said, there is a memorandum of understanding between the OPW and the insurance companies. They meet as needs be. Information is shared so that it can be factored into the commercial decisions being made by insurance companies. As new houses built after 2009 and small businesses are excluded from the British system, I do not think such a model would be suitable for this country. This issue needs to be looked at. I agree that minor works can be carried out by local authorities. I assure Deputy Mac Lochlainn - I have experience of this - that when one interferes with a river or lake system where fishing interests are involved, one finds it is not that easy to have dams removed or bushes and trees cut. The Deputy's council and the councils of the 17 Deputies he mentioned are entitled to apply to the OPW today for grants of up to €500,000 for minor relief works that can be carried out without any great difficulty.

Deputy Micheál Martin: They did, but they were refused.

The Taoiseach: That work is under way in many cases. The answer to Deputy Mac Lochlainn's question is "Yes". The Government has responded with the €10 million in humanitarian relief for private householders that has been available for a number of years, but has not been drawn down. Some €5 million was announced yesterday. Issues are being worked on to ensure this can be dealt with effectively before Christmas. The question of minor relief works as a co-ordinated response with the local authorities is there now. The Red Cross will visit Bandon with the Minister of State, Deputy Harris, next week. They will have a business meeting with those affected to discuss how they can help. That will be followed by similar initiatives in Ballinasloe, Galway and Crossmolina, etc. The Government, like everybody else, has a genuine interest in dealing with this. However, it is not possible to deal with all the flood

relief works overnight.

Deputy Peadar Tóibín: The Government did not come into office overnight.

The Taoiseach: There is a real process to be followed here.

Deputy Mattie McGrath: The rivers need to be cleaned.

The Taoiseach: We need to get it right. In Carlisle in Cumbria, some £38 million was spent on flood relief defences, but 50,000 people have been flooded.

Deputy Michael Healy-Rae: Get the farmers to clean the rivers.

The Taoiseach: We have to get this right.

Deputy Thomas Pringle: Those who have repeatedly raised the shambles that is the health service in this House over the years have been treated by contempt by this Government, which has come up with excuse after excuse for why nothing seems to change. The situation in the mental health services has gone largely unmentioned. This is particularly true of mental health services for older people. Last Friday, the people of County Donegal learned that mental health services for older people in the county have been closed since 7 September last. We heard nothing about this from the HSE or the Government for three months. It was only when I was contacted by concerned family members who were having difficulty accessing services and clinics that we discovered what has happened. We learned that the clinical director of the service sent a letter to all GPs and senior HSE staff in the county in which he stated:

> All referrals received by the Mental Health Service for Older People will be returned to sender. A liaison service to Letterkenny General Hospital can no longer be provided... Care of the Elderly Services in Donegal are [now] the sole providers for all needs of the elderly population.

This letter was sent because, in the words of the clinical director, "without urgent contingency planning, the Donegal Mental Health Service can no longer provide a consultant-led, safe service for the elderly population of Donegal".

I remind the Taoiseach that 78% of over 50s with depression are undiagnosed. A further 85% of people over the age of 50 who suffer from anxiety are also undiagnosed. Signs of depression in elderly people can also be symptoms of the early onset of dementia. If no service is available for older people, many cases could go undiagnosed, which might impose extra costs on the health services. As he comes from rural Ireland, the Taoiseach will be aware that many elderly people are suffering from isolation and loneliness, which can lead to increased anxiety and depression. How can they get help when services have been shut down? Mental health services have lost over 1,000 staff since 2008. In January of this year, staffing levels were just 77% of those recommended in A Vision for Change. What does the Taoiseach intend to do to restore mental health services for older people in County Donegal? When can we expect to see a consultant-led mental health service, which the Government has said is a priority? Does the Taoiseach think it is acceptable that GPs should be left to deal on their own with patients who present with mental health problems?

The Taoiseach: I thank the Deputy for his question. If proper services are to be provided to people right across the board, an economic engine is needed to drive that. For that reason, the Government has deliberately focused on sorting out the public finances and creating jobs

that pay well.

Deputy Mattie McGrath: The Government is at it a long time now.

An Ceann Comhairle: Stay quiet, will you? It is not your question.

The Taoiseach: The more people we have working, the less tax people have to pay and the greater the opportunity to invest in services like those mentioned by Deputy Pringle. The 2016 Vote for the Department of Health is €13.165 billion, which represents an increase of €880 million on the 2015 allocation. Deputy Pringle will be aware that the HSE is required to prepare a service plan setting out how it expects to provide health services to people. It is then required to send that plan to the Minister for Health, who has 21 days to respond to the HSE's proposals. Obviously, there are challenges in the health system. That has always been the case. The service plan was submitted to the Minister for Health on 4 December last. The Minister and the Department will assess the HSE plan. The Minister has 21 days to return it with his recommendations for what should happen. The total level of funding available to the HSE for 2016 is just over €13 billion. The priorities within that will be identified by the HSE and confirmed by the Minister, before being sent back to the HSE for implementation. The scope for vast improvements in 2016 is not there. There is scope for modest improvement. A number of service improvements are planned, including the implementation of the national maternity service.

Deputy John Halligan: The Deputy asked about mental health. Where are the answers?

The Taoiseach: Additional funding for mental health is being handled by the Minister of State, Deputy Kathleen Lynch, who is doing a wonderful job in this area. Further developments in primary care include enhanced therapeutic services for young people. I take Deputy Pringle's point about older people with dementia problems in County Donegal. It is the same thing all over the country. They all deserve a better service. If we are to provide the best service we can give them, we need an economic engine to create the necessary investment. For that reason, the Government intends to continue to focus on well-paid jobs. The more people we have working, the less tax they will pay and the better these services can be. The Minister will return the programme, with his proposals, to the HSE for implementation. One of his priorities is the enhancement of services in the mental health area.

Deputy Thomas Pringle: We have been hearing about the so-called "engine" in the economy for the past couple of years, as the Taoiseach has spoken about the so-called recovery, but that engine has not spluttered into life for anybody outside the Pale.

Deputy Mattie McGrath: Hear, hear.

Deputy Michael Healy-Rae: Not in Kerry anyway.

An Ceann Comhairle: Deputy Pringle does not need your help, thanks very much. He is well capable of handling himself.

Deputy Thomas Pringle: The Taoiseach has suggested that extra funding is being provided for the health service, but I remind the House that the budget for the health service is still €1.5 billion less than it was before the economic crash. The services are not being provided. The Government has focused on improving the lot of the wealthy, for example, by giving them tax breaks, rather than looking after citizens who are crying out in need of services. The Taoiseach's answer is not good enough for the people of Donegal, particularly the elderly, who do not

have a service to go to. When they attend GPs to look for help, the letters and referrals sent by those GPs are being "returned to sender", in the words of the director of mental health services in the county. This issue needs to be addressed as a matter of urgency. Staff need to be provided to allow this service to be restored and helped to get up and running again. It is not enough to say the service plans have to reviewed and sent back again by the Minister for Health. The Government has to act to ensure services are there for the people who need them.

Deputy Finian McGrath: Hear, hear.

The Taoiseach: Deputy Pringle comes in here on a regular basis with a clear philosophy of "pay for nothing and provide everything".

Deputy Thomas Pringle: No. It is obvious that the Taoiseach has not listened to anything I have said.

The Taoiseach: I am sure the Deputy realises that there is nothing for nothing in this life. The situation that applied when this Government took over was a catastrophic mess.

Deputy Mattie McGrath: It had the figures.

The Taoiseach: Things have improved because the people have rallied to that challenge. Deputy Pringle seems to think the property and water charges can be abolished.

Deputy Thomas Pringle: What would happen if the mental health services in Mayo closed?

The Taoiseach: He thinks all of these services can be provided without people having to pay for anything.

Deputy Thomas Pringle: What would the Taoiseach say?

Deputy Mattie McGrath: Some €90 million was provided for consultants.

The Taoiseach: I assume he appreciates that the economy is about people and not about statistics.

Deputy Thomas Pringle: I am talking about people.

The Taoiseach: I want services to be available to the people of Donegal and every other county.

Deputy John Halligan: Deputy Pringle is talking about some of the most vulnerable people in the country.

The Taoiseach: I am not just talking about the provision of services for older people with dementia. I am talking about the provision of services to every person.

Deputy Mattie McGrath: It is a blunderbuss, scattergun approach.

An Ceann Comhairle: Stay quiet.

The Taoiseach: That is why we want to move towards the abolition of the double-tier system, which has been inequitable.

Deputy Micheál Martin: The Government has abandoned that move.

The Taoiseach: I know that the community and voluntary services that deal with people with dementia around the country do a wonderful job and provide great comfort and consolation to families afflicted by dementia. The law states that when the HSE submits its report to the Minister, the Minister has 21 days to return it to the HSE. An increase of €880 million has been allocated to the Department of Health Vote and I confirm that one of the areas in which we expect a modest improvement in the level of services is mental health. The Minister will examine the HSE proposals, make his recommendations and return them to the HSE for implementation. I hope the modest improvement to which I referred will have an impact in the homes of Donegal and every other location where it is required around the country.

Order of Business

The Taoiseach: It is proposed to take No. 14, motion re Supplementary Estimates for public services, Votes 6, 7, 12, 17, 20, 21, 26, 29, 30, 31, 32, 37, 38 and 40, back from committee; and No. 2, Legal Services Regulation Bill 2011 - amendments from the Seanad (resumed). It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 9 p.m. tonight and shall adjourn on the conclusion of Private Members' business; No. 14, Votes 6, 7, 12, 17, 20, 21, 26, 29, 30, 31, 32, 37, 38 and 40, shall be moved together immediately after the Order of Business and the proceedings thereon shall, if not previously concluded, be brought to a conclusion after 20 minutes by one question, and the following arrangements shall apply: the speech of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed five minutes in each case, and such Members may share their time, and any division demanded thereon shall be taken forthwith, followed by a suspension of the sitting under Standing Order 23(1); Private Members' business, which shall be No. 205, motion re the establishment of an independent anti-corruption agency (resumed), shall be taken no later than 8.30 p.m. and shall, if not previously concluded, be brought to a conclusion after 90 minutes.

Tomorrow's business after Oral Questions shall be No. 2, Legal Services Regulation Bill 2011 - amendments from the Seanad (resumed); No. 36, Criminal Justice (Burglary of Dwellings) Bill 2015 - Order for Report, Report and Final Stages; No. 2*a*, International Protection Bill 2015 *[Seanad]* - Second Stage; and No. 2*b*, Planning and Development (Amendment) Bill 2015 *[Seanad]* - Second Stage.

An Ceann Comhairle: There are three proposals to put to the House. Is the proposal for dealing with the late sitting agreed? Agreed. Is the proposal for dealing with No. 14, motion re Supplementary Estimates for public services, agreed to?

Deputy Micheál Martin: It is not agreed to. It seems extraordinary that we are dealing with Supplementary Estimates involving hundreds of millions, if not billions, of euro while the plenary session of the Dáil is not in a position to have any serious debate about them. One Supplementary Estimate alone involves €665 million for the health service, which was disgracefully treated in the past, but a total of only 20 minutes will be allocated to all of them. By any yardstick, that represents a dramatic lack of accountability on the part of individual Departments to the full assembly of the Dáil. Large amounts of taxpayers' money are being spent without any real debate or discussion on them. They have been discussed in various committees but there is a plenary session here, too, and people who are not members of individual committees-----

Deputy Arthur Spring: They can attend.

Deputy Micheál Martin: They may not have the opportunity.

An Ceann Comhairle: The Deputy is entitled to a short contribution. I think he has made his point.

Deputy Micheál Martin: We are talking about €1.6 billion of taxpayers' money being rushed through in 20 minutes. It is a disgrace. This is some democratic revolution. There will be five minutes for each spokesperson.

An Ceann Comhairle: The Deputy has made his point. This is the Order of Business.

Deputy Micheál Martin: Parliament is being consistently undermined by Government.

Deputy Peter Mathews: It is the law of large numbers.

The Taoiseach: This is the return of the Estimates to the plenary session of the House. They were all discussed individually in committee, and party spokespersons and anybody else who wished had full entitlement to go to those discussions and ask any questions they wanted for as long as they wished. We are not going to have the same thing in here. They were discussed individually and in detail. I am not sure whether Deputy Martin's spokespersons turned up, but they had the opportunity to debate them at any length they wished in the place they should be debated in detail, namely, in committee.

Deputy Micheál Martin: That is not the point. I would like to discuss them. Are we to abolish the plenary session of the Dáil?

The Taoiseach: Did Deputy Martin check whether his spokespersons turned up? What questions did they ask? Did they make a contribution?

Deputy Micheál Martin: It is about every Member of the House having the opportunity. Does the Taoiseach understand Parliament?

Deputy Bernard J. Durkan: Does Deputy Martin understand Parliament?

Question, "That the proposal for dealing with No. 14 be agreed to", put and declared carried.

An Ceann Comhairle: Is the proposal for dealing with Private Members' business agreed to? Agreed.

Deputy Micheál Martin: I know that the Minister for Finance, Deputy Michael Noonan, laid out the red carpet for Donald Trump recently in County Clare, but I take it the Government will not lay out the red carpet for the disgraceful and inflammatory remarks Mr. Trump made in the course of the American presidential election about banning Muslims from coming into the United States.

An Ceann Comhairle: On proposed legislation, Deputy.

Deputy Micheál Martin: I am coming to that. That is incitement to hatred and it is important that the Government formally makes it clear to the Republican Party in the United States that such remarks are viewed with abhorrence in Ireland and are something we would not tolerate in our democracy. In that context, when does the Taoiseach believe the criminal justice Bill

will be brought forward? The remarks warrant a Government response to Mr. Trump and to the Republican Party in America, because it is a new low in terms of normal democracy.

Can the Taoiseach indicate when the Red Cross (amendment) Bill is to be published, given the role the Red Cross will be given in assisting with the horrendous flooding across the country? Can he indicate when we can expect the consumer rights Bill? It is stated in the programme for Government that this will deal with the fact that consumers are being ripped off across the board in many areas. Can the Taoiseach tell us when the public health (retail licensing of tobacco products) Bill will come forward? Although e-cigarettes are being sold in most shopping centres and main streets across the country, there is no licensing system. The legislation has been promised, but when will it be published?

On page 3 of the programme for Government there is a very clear commitment that it will give schools, hospitals and other public service bodies new freedoms, within strict budgets and new accountability systems, to set their own staffing needs, automate routine processes and adapt work practices to local staff and customer needs. That is just one commitment in the programme for Government that reflects what a great book of fiction it was when it was published back in 2011.

(Interruptions).

An Ceann Comhairle: Sorry, Deputy, this is about promised legislation. You are eight minutes in.

Deputy Micheál Martin: I have gone through the chapter on commitments in respect of health but, although year after year and month after month the Taoiseach assured me they would all be implemented, the Minister for Health, Deputy Varadkar, came along and said we were not implementing universal health insurance at all and, what is more, it will never happen.

Deputy Robert Dowds: What about all the reports that Deputy Martin commissioned?

Deputy Micheál Martin: Teachers in schools hate the Croke Park hours. They call it detention for teachers, as they have to stay in school for an extra couple of hours.

An Ceann Comhairle: Please, Deputy. This is about promised legislation.

Deputy Micheál Martin: I do not think they realise there is a paragraph in the programme for Government that states that teachers do not have to do this at all. Instead, the Government will allow schools to set their own staffing needs, automate routine processes and adapt work practices to local staff and customer needs. When is that going to be implemented?

An Ceann Comhairle: After eight minutes, thank you.

Deputy Micheál Martin: It is after five years.

An Ceann Comhairle: There are other Deputies in the Chamber. The Deputy spent eight minutes asking about promised legislation.

The Taoiseach: I referred yesterday to comments made in the United States that are not acceptable to me or to people in this country. Free speech is one thing, but the comments made are unacceptable.

The heads of the Red Cross (amendment) Bill were cleared on 24 November. That Bill will

be available early in the new year. The public health tobacco (retail licensing of tobacco products) Bill is due next year as well. Yesterday, we published the Public Health (Alcohol) Bill. In respect of schools and so forth, the Minister has outlined the opportunities for schools through the summer works scheme and the short courses they can put in place.

Deputy Micheál Martin: Will the Taoiseach keep them in for the summer?

The Taoiseach: Deputy Martin referred to words of fiction. I recall some of his words: "My own view is that some stories have emerged that shouldn't happen. The idea of there not being enough trolleys when you go into a hospital - that should never happen with the level of investment that is going in now. Using the ambulances and stretchers in the car park, in my view that's not acceptable. With the level of money going in it should be possible to organise yourself to avoid that happening." Back in 2004 the Deputy was very vociferous-----

Deputy Mattie McGrath: The Taoiseach is going backwards.

Deputy Michael Healy-Rae: We want to go forward.

The Taoiseach: -----about the fact that lack of investment created all kinds of difficulties. However, he was the person in charge who would not accept any responsibility for what he was supposed to be doing.

Deputy Pádraig Mac Lochlainn: The Taoiseach might be aware that there has been serious criticism of the International Protection Bill from all the non-governmental organisations, NGOs, that work with asylum seekers and refugees in the State. They are devastated about the missed opportunity and the failure to consult the working group on issues with the direct provision centres and the profound failures that have occurred. The Bill is due to be debated on Second Stage in the House tomorrow. Will the Government withdraw the Bill and take on board the serious concerns of the respected NGOs that work with refugees and asylum seekers?

Second, the "RTE Investigates" programme has had a hell of a run, but let us not forget its fantastic exposé of the criminal gangs that control prostitution throughout the island. There is legislation in the North that decriminalises women in prostitution and imposes the criminal offence on the user, who is almost always a man. Members must look at that documentary-----

An Ceann Comhairle: Is there promised legislation?

Deputy Pádraig Mac Lochlainn: -----and understand. Will the Taoiseach ensure that the Criminal Law (Sexual Offences) Bill, which will deal with those issues, is introduced before the Christmas recess? There is serious concern that there will be two different legal realities on this island which obviously will have implications for the State. Will the Taoiseach address that before he calls an election? I urge him to do it before the Christmas recess.

The Taoiseach: Deputy Mac Lochlainn need not worry about the election at all. The Criminal Law (Sexual Offences) Bill is currently before the Seanad, where I expect many Members will raise the issues the Deputy has raised. I commend RTE on the programme it produced. This Bill is a Government priority.

The Second Stage debate on the International Protection Bill will be held in the House tomorrow. I expect a good discussion on it. I hope Members will have constructive suggestions to make that will be helpful to the Minister in implementing it. Clearly, there is a deal of work to be done in the future in terms of the implications of that Bill, and the Government looks

forward to the participation of Members and their constructive views on how they believe the matter can be advanced and implemented.

Deputy Pat Deering: Much concern has been expressed in recent days about the takeover of a number of meat plants throughout the country by one individual and the ABP Food Group. For example, it has taken over Slaney Foods. It has now become a potentially dominant player in the market. The Competition and Consumer Protection Act was passed by the Oireachtas a year ago but no regulations have been put in place to cover matters such as this. When will those regulations be introduced, because there are serious matters coming down the line?

The Taoiseach: The Deputy is correct that the legislation was passed in July 2014. I will take up the matter with the Minister for Agriculture, Food and the Marine, Deputy Coveney, for a response in respect of his responsibility in this area and with the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, who deals with competition and the consumer.

Deputy Arthur Spring: When can we expect the gambling control Bill and the sale of alcohol Bill to be brought to the House? These are two areas where addiction can cause terrible strife not only in the person's life but also in society and in their families. With regard to gambling, the use of credit cards is becoming prevalent in online gambling and I encounter an increasing number of people at my office who have built up debts with credit cards. Second, the sale of cheap alcohol and house parties are causing problems for the Garda and publicans alike.

The Taoiseach: That is an important point. Both Bills are scheduled for early next year.

Deputy Michael P. Kitt: The wildlife (amendment) Bill is to provide for certain matters related to the natural heritage, but it has not yet been approved by the Government. Legislation relating to wildlife has been blamed for delays on many infrastructure projects and, indeed, delays in flood relief programmes, which is topical at present. Will this legislation be referred to a committee where stakeholders can give their views on these issues?

The Taoiseach: There is a Bill and it will go before the committee. The wildlife around Castleblakeney can feature in that when the discussions take place.

Deputy Michael P. Kitt: I look forward to that. I was on the committee that dealt with the original Bill.

Deputy Seán Ó Fearghaíl: I wish to raise the Criminal Justice (Spent Convictions) Bill again. This Bill was introduced in the Seanad and Committee Stage in the Dáil was completed in March 2013. The Bill has profound implications for people who have had convictions imposed on them and who now want to move on with their lives. They are being impeded from doing that due to the lack of legal provision to deal with spent convictions. What has happened to the Bill? For God's sake, can we bring it back into the system and expedite its passage?

The Taoiseach: It is on Report Stage. Perhaps the Deputy would raise that matter at the Whips meeting.

Deputy Michael Healy-Rae: With regard to the Minerals Development Bill and the environmental liability Bill, the National Parks and Wildlife Service and the fisheries boards will have to recognise that cleaning out rivers is of paramount importance. Allowances will have to made in order that farmers can clean out rivers, which will alleviate much of the flooding.

An Ceann Comhairle: To what legislation is the Deputy referring?

Deputy Michael Healy-Rae: The Minerals Development Bill and the environmental liability Bill. The Taoiseach knows what I am talking about. Since the cleaning of rivers has stopped, there has been an increase in flooding.

An Ceann Comhairle: The Deputy made his point.

The Taoiseach: The Minerals Development Bill was published last July and is awaiting Second Stage. I cannot foresee it being dealt with before the recess. With regard to fisheries boards and cleaning out rivers, a number of State agencies are involved in these matters-----

Deputy Mattie McGrath: They need to wake up to reality.

The Taoiseach: -----and, as the Deputy knows, it can be quite difficult to get agreement on the best thing to do.

Deputy Michael Healy-Rae: Lives are more important than fish.

Deputy Charlie McConalogue: The Minister for Education and Skills indicated this morning that the Education (Admission to Schools) Bill will not be brought to the Dáil during the Government's term. Will the Taoiseach explain why that Bill has not been prioritised and, indeed, if his party objected to it? Would the Taoiseach agree that the shelving of the schools admissions Bill represents a failure, particularly for the Labour Party, of the reform programme with regard to education? There have been failures on the three issues of the schools admissions Bill, divestment and junior certificate reform-----

An Ceann Comhairle: The Deputy has made his point.

Deputy Charlie McConalogue: -----which had been put forward as reform in the Department of Education and Skills under the Labour Party.

The minimum wage legislation is a related topic. The national minimum wage is due to increase to €9.15 in January. Will organisations funded by Pobal have their funding increased in order that they can pay the minimum wage-----

An Ceann Comhairle: That is a separate matter. It is not a matter for the Order of Business.

Deputy Charlie McConalogue: -----to their workers who will be due that payment in January? I understand Pobal is refusing to pay the funding required to the organisations so they can pay the increased minimum wage to workers.

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

The Taoiseach: It is due to pressure of business. The question about Pobal could be dealt with as a Topical Issue if the Ceann Comhairle decides to let the Deputy raise it.

Deputy Dessie Ellis: Plans are being worked out on the harmonisation of penalty points between the North and South of our country. An agreement between the UK and here on how this should be implemented is at an advanced stage. The road traffic Bill 2015 is intended to address this. When will it be introduced? Will it be before the Government gives way over the next while?

The Taoiseach: The next North-South Ministerial Council is on Friday. Following the

Stormont House Agreement, we are committed to dealing with criminality and lawlessness on both sides of the Border through a variety of mechanisms, including this.

Deputy Bernard J. Durkan: Have the heads of the criminal procedure Bill on pre-trial procedures been cleared and is it likely to come before the House at an early stage? The mediation Bill is important proposed legislation. Have the heads of the mediation Bill been cleared and will the Bill come before the House in the near future?

The Taoiseach: The criminal procedure Bill was cleared in April and the mediation Bill was also cleared, but it will be next year.

Deputy Thomas P. Broughan: To follow up on Deputy Ellis's point on the road traffic Bill, which deals with drug driving, the Minister for Transport, Tourism and Sport said it would definitely be passed before Christmas. As such, only a few days are left. Is there a priority list of legislation *vis-à-vis* a couple of other important Bills mentioned this morning? Is there a priority list for the Ministers opposite of Bills that will be passed before they go to the country a few weeks after Christmas? Most importantly, is the road traffic Bill one of them?

The Taoiseach: It is going to Cabinet next week and it will certainly be published. We have a lot of complaints about rushing legislation through, but I expect that if it comes to Cabinet next week and is approved, it will be published.

Deputy Thomas P. Broughan: What about the others? What about the priority list?

The Taoiseach: There is a packed agenda there.

Deputy Mattie McGrath: That is gone away with the flood.

An Ceann Comhairle: We now move on to the Land and Conveyancing Law Reform Bill 2015. I call Deputy Mattie McGrath.

Deputy Peter Mathews: I indicated, a Cheann Comhairle.

An Ceann Comhairle: Resume your seat, please.

Deputy Peter Mathews: A Cheann Comhairle, this is undemocratic.

An Ceann Comhairle: Resume your seat. I tell you to resume your seat when I am on my feet.

Deputy Peter Mathews: I am appealing to the House at this stage.

An Ceann Comhairle: I am on my feet.

Deputy Peter Mathews: I am appealing to the House.

An Ceann Comhairle: I am on my feet. I will tell you something, when you decide to apologise to the House for your behaviour, not just yesterday, but on other days, totally ignoring the Chair and the rules-----

Deputy Derek Keating: Hear, hear.

Deputy Peter Mathews: A Cheann Comhairle-----

An Ceann Comhairle: Sit down. Please, sit down. After you apologise, I will then call you.

Deputy Peter Mathews: You ignored me as an elected Member of this House.

An Ceann Comhairle: I did not ignore you.

Deputy Peter Mathews: You did ignore me. I object to this.

An Ceann Comhairle: When you decide to apologise, I will consider calling you.

Deputy Peter Mathews: Apologise for what?

An Ceann Comhairle: Your behaviour.

Deputy Peter Mathews: My behaviour has been absolutely flawless and polite.

An Ceann Comhairle: Yes. Well, thank you. I call Deputy Mattie McGrath.

Deputy Peter Mathews: I appeal to the Taoiseach. Taoiseach-----

The Taoiseach: I am hearing the Deputy.

Deputy Peter Mathews: Good.

An Ceann Comhairle: Sorry, Taoiseach, it is none of your business, with the greatest of respect to you.

Deputy Peter Mathews: I ask the Taoiseach, who has a majority----

Deputy Derek Keating: Address the Ceann Comhairle. We have procedures.

An Ceann Comhairle: I ask Deputy Mattie McGrath to get on his feet and move his Bill.

Deputy Peter Mathews: I want to ask the Taoiseach a question.

An Ceann Comhairle: Deputy Mathews, resume your seat or you will be leaving once again.

Deputy Peter Mathews: He gave the House an undertaking, as did his Tánaiste, to introduce legislation and have it enacted and operational before Christmas. There are four working days left.

An Ceann Comhairle: Resume your seat or you will be taking another walk today.

Deputy Peter Mathews: Please, a Cheann Comhairle, this is just absurd.

An Ceann Comhairle: This time you might be out for three days. Resume your seat and when you apologise to the House, I will consider calling you in the future.

Deputy Peter Mathews: I will apologise to the House if it asks me to apologise.

An Ceann Comhairle: Thank you. Sit down.

Deputy Peter Mathews: The House has not asked me to apologise.

An Ceann Comhairle: Sit down and do not disturb Deputy McGrath. I have called him.

Deputy Peter Mathews: I am being very fair. This is absurd.

An Ceann Comhairle: Your behaviour is absurd.

Deputy Peter Mathews: You ignored a parliamentarian elected to the House.

An Ceann Comhairle: I will continue to do so as long as you totally ignore the rules of the House.

Deputy Peter Mathews: I do not ignore the rules. I have always obeyed them.

An Ceann Comhairle: We will leave it for others to decide that.

Deputy Peter Mathews: Please take a vote on it.

Deputy Paul Kehoe: I would not go that far, Peter.

An Ceann Comhairle: I call Deputy Mattie McGrath.

Land and Conveyancing Law Reform Bill 2015: First Stage

Deputy Mattie McGrath: I move:

> That a Bill entitled an Act to provide that irrespective of the language of the Land and Conveyancing Law Reform Act 2013 that certain statutory provisions apply to mortgages of a particular class notwithstanding the repeal and amendment of those statutory provisions by the Land and Conveyancing Law Reform Act 2009, to provide for the adjournment of legal proceedings in certain cases; that section 1 of the Land and Conveyancing Law Reform Act 2013 be amended in so far as it can be interpreted, that it retroactively deprives a right or entitlement of any person to a plenary process for the determination of whether they stand to be evicted from their principal private residence, and by implication substitute a summary process for eviction; and to provide for related matters.

I thank the Ceann Comhairle for giving me permission to move my Private Members' Bill, the Land and Conveyancing Law Reform Bill 2015. The Bill represents my effort to address the situation regarding home repossessions and the trauma, intimidation and bullying experienced by families, home owners and sometimes people who buy to rent. It has been going on now for six or seven years since the onset of the financial crash. The people of this country have paid a huge price and suffered greatly due to the actions taken, including by me, when we voted to save the banks on that fatal night in September long ago. The people have suffered, put their shoulders to the wheel and been made to pay. It is now time the House and the Department of Finance put some restrictions, as the ECB failed to do, on banks and financial institutions and to make them understand the trauma they are visiting on people in their homes. Families are being put under financial pressure leading to stress, ill health and marital distress and separation. There is a litany of effects the pressure has on people who, in good faith, borrowed to put roofs over their heads. They went out, took the risk, obtained planning in many cases, bought houses, paid their planning fees, paid builders, paid solicitors, paid accountants and paid planning consultants. They owned their own homes and were doing fine paying for them as they intended to pay their mortgages when they were signed until the financial crisis hit and many

were made unemployed through no fault of their own. Some self-employed people lost their businesses and could not get any social welfare or other supports. They faced awful trauma.

The banks were perplexed for a while and moved slowly enough initially, but repossessions started to happen quickly after that. Then Ms Justice Elizabeth Dunne, who I salute, found the loophole as it was her duty as a judge to do, and stopped the banks and financial institutions completely in their tracks with one judgment. It was very good because the courts are meant to be fair and free and to protect citizens under the law as well as everybody else. However, the Government, for reasons I do not understand, introduced the Land and Conveyancing Law Reform Act 2013 for which all of the Government Deputies voted. In spite of the nice words in which it was couched and despite being dressed up as a support for families, behind its docile name the Act was really what ought to have been called an eviction Bill. Anyone facing the hammer, repossession and eviction, considers that a more appropriate name. In seeking to plug a loophole, the Act put us back to where we were before Ms Justice Dunne's judgment in 2012. The banks could circumvent that loophole and went on their merry way again to threaten, pressurise and intimidate householders.

It is going on apace. The courts in Clonmel and Nenagh in my county are full and 60 and 70 repossession orders are being made every week. The courts in every county are full of repossession applications. A great deal of trauma is being imposed. Beneath it all is the murky business of receivers and banks selling on repossessed properties for minimal figures only for handsome profits to be made by third parties mere weeks and months later. It is a murky business. I call on the Government not to oppose the Bill and to deal with it at the 99th hour of its five-year tenure. On foot of the mandate it received five years ago, I ask the Government to give some sustenance to home owners and frightened people and to provide them with legal support to fight their cases. Many of them cannot afford that at the moment. I salute the groups out there supporting families, including the Land League. I thank barrister David Langwallner for assisting me in putting this Bill together. It is badly needed. I appeal to the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, as a member of the Labour Party which was founded in my own town of Clonmel 100 years ago-----

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): It is even more than 100 years.

Deputy Mattie McGrath: -----to be compassionate and to redress this situation. I ask that the Land and Conveyancing Act be repealed and that my Private Member's Bill be accepted.

An Ceann Comhairle: Is the Bill being opposed?

Deputy Brendan Howlin: No.

Question put and agreed to.

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

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

Question put and agreed to.

Health (Pricing and Supply of Medical Goods) (Amendment) Bill 2015: First Stage

Deputy Sean Fleming: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Health (Pricing and Supply of Medical Goods) Act 2013 to allow interchangeability between biologic and biosimilar medical goods.

I am pleased to introduce this short Bill, which I hope can reduce the large bill of up to €2 billion that we face each year for medicines in our health services. The Department of Health and the HSE have failed to get value for money on behalf of the taxpayer. At a recent meeting of the Committee of Public Accounts, it was confirmed that the renegotiation of the deal between the Government and the Irish Pharmaceutical Healthcare Association, IPHA, which was due to expire at the end of October, had not proceeded because the Government side was putting together for the first time a full, centralised national database of all medicines being purchased on behalf of the taxpayer. The State purchases medicines for use in acute hospitals and community settings and for prescription by general practitioners, GPs. It is an indictment of the HSE and the Department that they have not had all of this information in one place to date. It is essential that we do so in order to reduce the cost of medicines and improve the Government's negotiating position in respect of these contracts.

1 o'clock

The proposed Bill would amend the Health (Pricing and Supply of Medical Goods) Act 2013 in two ways. First, it would allow consultants and doctors to choose biosimilar drugs, or biologics, instead of existing medicines. Biologics are medicines that are made by or derived from a biological source, such as a bacterium or yeast. They can consist of relatively small molecules such as insulin or more complex ones. They are more affordable and are the norm across Europe, but Ireland has refused to adopt them. My proposed Bill would allow for patients to be switched, where appropriate, from existing medicines to more affordable, but equally effective, biosimilars. This is not allowed under the current legislation.

Second, the Bill would allow doctors and consultants to prescribe all newly diagnosed patients with generic, more affordable medicines instead of the branded, expensive medicines that we have currently. For some conditions, doctors and consultants continue to prescribe the more expensive branded medicines for newly diagnosed patients. The 2013 Act provides an exemption allowing the prescriber not to substitute a branded medicine for a generic one in particular circumstances. We all agree with this, but while generic substitution is not recommended for patients on existing treatment regimes, there is no reason new patients seeking treatment for the first time cannot be given more affordable generic alternatives. That is what the Bill proposes to do. Prescribers should move to generics when there is no good medical reason not to do so.

The proposed measures have the potential to deliver savings for the taxpayer. Savings from the use of biosimilar medicines are in the region of €40 million per annum, while savings from the use of generic medicines can amount to €10 million, giving a total saving of €50 million every year. We need to do this, as that €50 million could be put to better use in the health service.

The national procurement office should be given the task of managing this contract. I have called for that year in, year out and we have included it in our annual budget submissions. I am delighted that a national database is being put in place for the first time. Shame on the HSE and the Department of Health for entering into an agreement with the companies when they did not even know the full extent of what they were purchasing.

Recently, I met representatives of the IPHA and the Healthcare Enterprise Alliance regarding the cost of drugs. They contacted me after I raised this general issue at the Committee of Public Accounts and I was happy to meet them. The Health Products Regulatory Authority, HPRA, is responsible for the establishment, maintenance and publication of a list of interchangeable medical products. This list allows the HPRA to group medicines that are deemed interchangeable with one another. Doctors can then prescribe and pharmacists dispense medicines within that group. Everything that I have suggested would require the HPRA's normal approval of medicines. There would be no question of a doctor or consultant prescribing a medicine on the basis that he or she believed it had done well in Europe. It would have to be approved in Ireland by our statutory agency.

My Bill provides for the removal of section 5(7)(d) of the 2013 Act, which prohibits the substitution of biologic and biosimilar medicines for medicinal products. Some people will not get this, but it is happening in Europe, which is far ahead of us. These medicines should only be used where they are deemed equally effective and there is a saving to the taxpayer. I am pleased to commend the Bill to the House.

An Ceann Comhairle: Is the Bill opposed?

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

Question put and agreed to.

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

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

Question put and agreed to.

Suicide Prevention Authority Bill 2015: First Stage

Deputy Derek Keating: I move:

> That leave be granted to introduce a Bill entitled an Act to provide for the establishment of a body to be known in the Irish language as *an tÚdarás um Chosc ar Fhéinmharú* or in the English language as the Suicide Prevention Authority, to define its functions and to provide for connected matters.

I am pleased to have the opportunity to sponsor this Bill and I commend it to the House for its First Reading.

Suicide remains the single greatest preventable cause of death, with upwards of ten people in Ireland dying by suicide every week. If ten people died on our roads every week due to traffic incidents, there would be a national outcry and it would be considered a crisis. The incidence of suicide is at crisis stage and increasing. It is believed that more people are dying by suicide than are accounted for, given the number of single-car accidents and the stigma associated with suicide, which sometimes prevents people from declaring that their loved ones have died by suicide.

More people are affected by suicide despite the wonderful work of the National Office for

Suicide Prevention and charities such as 3Ts, Pieta House, of which I was a proud director for six rewarding years, Console and many other organisations that are doing their own thing. They are saving lives every day. If a national suicide prevention authority were established, even with the objective of saving just one life per year, it would be worthwhile. Consider the wonderful achievement of the Road Safety Authority, RSA, in helping to reduce the number of road deaths dramatically every year since its foundation in 2006, although even one life lost on our roads is one too many. A suicide prevention authority should be created.

When flicking through some of the national newspapers this morning, I noticed that a considerable amount of space had been given to the weather conditions. That is understandable. Reference was made to the number of Deputies who tabled Topical Issue matters and Priority Questions on this issue in the Dáil yesterday. That is also understandable, but what would our reaction be if ten people died every week because of the weather? There would be an even greater outcry.

Recently, I read a report of the HSE. It stated:

> If mental health becomes more of an everyday issue, that matters to us all, then the stigma attached to getting help can be reduced. While Irish society will continue to experience considerable change and face new challenges ahead, a mentally healthier Irish society will be much better able to cope.

This is true. We can only begin to reduce the stigma associated with mental health issues and suicide when we talk about them more. An organisation that I know has a mantra: "It's okay not to feel okay." This is what we tell our young people, but we do not provide the resources. We need to provide those resources to the national authority. We need to be able to share our stories, listen to one another and let one another know that we care.

I am someone whose mental health was in crisis until recently. Through my experience of hospitalisation, including treatment, medication, counselling and, most important, the love I feel for my family every day, I discovered the wonderful process of recovery. We do not give people that message. The time has come to face these new challenges and address suicide in a more serious way, not only through the agencies doing the invaluable work but also through a national strategy framework with direct ministerial accountability. I have so many facts and figures available to me and I would love to believe that if the House had the opportunity to interrogate this Bill meaningfully on Second Stage, we would have the time to digest them.

I thank the Office of the Ceann Comhairle and the Government Chief Whip. I pay special tribute to Mr. Noel Smith, co-founder and chairman of 3Ts, and also Ms Lisa Halford, the manager, who drafted this Bill. I thank my staff, including Mr. Gerry Kennedy, my parliamentary assistant, Ms Linda Kavanagh, my secretarial assistant, and my colleague Paul Hughes, who was invaluable in conducting research and assisting me today. I commend the Bill to the House.

An Ceann Comhairle: Is the Bill being opposed?

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

Question put and agreed to.

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

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

Question put and agreed to.

Estimates for Public Services 2015

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

Vote 6 – Office of the Chief State Solicitor (Supplementary).

That a supplementary sum not exceeding €1,500,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Chief State Solicitor.

Vote 7 – Office of the Minister for Finance (Supplementary).

That a supplementary sum not exceeding €1,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Finance, including the Paymaster-General's Office, for certain services administered by the Office of the Minister and for payment of certain grants.

Vote 12 – Superannuation and Retired Allowances (Supplementary).

That a supplementary sum not exceeding €16,770,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for pensions, superannuation, occupational injuries, and additional and other allowances and gratuities under the Superannuation Acts 1834 to 2004 and sundry other statutes; extra-statutory pensions, allowances and gratuities awarded by the Minister for Public Expenditure and Reform, fees to medical referees and occasional fees to doctors; compensation and other payments in respect of personal injuries; fees to Pensions Board; miscellaneous payments, etc.

Vote 17 – Public Appointments Service (Supplementary).

That a supplementary sum not exceeding €380,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Public Appointments Service.

Vote 20 – Garda Síochána (Supplementary).

That a supplementary sum not exceeding €35,200,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Garda Síochána, including pensions, etc.; for the payment of certain witnesses' expenses, and for payment of certain grants.

Vote 21 – Prisons (Supplementary).

That a supplementary sum not exceeding €6,297,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December,

2015, for the salaries and expenses of the Prison Service, and other expenses in connection with prisons, including places of detention; for probation services; and for payment of certain grants.

Vote 26 – Education and Skills (Supplementary).

That a supplementary sum not exceeding €175,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Education and Skills, for certain services administered by that Office, and for the payments of certain grants.

Vote 29 – Communications, Energy and Natural Resources (Supplementary).

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

Vote 30 – Agriculture, Food and the Marine (Supplementary).

That a supplementary sum not exceeding €104,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Agriculture, Food and the Marine, including certain services administered by that Office, and of the Irish Land Commission and for payment of certain grants, subsidies and sundry grants and for the payment of certain grants under cash-limited schemes and the remediation of Haulbowline Island.

Vote 31 – Transport, Tourism and Sport (Supplementary).

That a supplementary sum not exceeding €100,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Transport, Tourism and Sport, including certain services administered by that Office, for payment of certain grants and certain other services.

Vote 32 — Jobs, Enterprise and Innovation (Supplementary).

That a supplementary sum not exceeding €50,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Jobs, Enterprise and Innovation, including certain services administered by that Office, for the payment of certain subsidies and grants and for the payment of certain grants under cash-limited schemes.

Vote 37 — Social Protection (Supplementary).

That a supplementary sum not exceeding €299,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Social Protection, for certain services administered by that Office, for payments to the Social Insurance Fund and for certain grants.

Vote 38 — Health (Supplementary).

That a supplementary sum not exceeding €600,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Health and certain other services administered by that Office, including grants to the Health Service Executive and miscellaneous grants.

Vote 40 — Children and Youth Affairs (Supplementary).

That a supplementary sum not exceeding €15,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2015, for the salaries and expenses of the Office of the Minister for Children and Youth Affairs, for certain services administered by that Office and for the payment of grants including certain grants under cash-limited schemes.

Budget 2016 set the expenditure forecast outturn at €54.9 billion. This figure included provision for gross Supplementary Estimates of €1.6 billion, which have now been debated at the relevant committees and are returning to this House today. The net forecast figure for the Supplementary Estimates - the gross figure minus moneys received in appropriations-in-aid, such as PRSI and pension contributions - set out in the expenditure report on budget day was just under €1.3 billion. These figures were entirely consistent with Ireland's obligations under the Stability and Growth Pact. As colleagues understand, Supplementary Estimates confer legal authority on Departments to expend money based on their best estimate of the year-end requirements. Departments are not allowed to exceed their Supplementary Estimate figure but in some cases it is not reached. As a result, the agreed Supplementary Estimates figure can sometimes overstate the actual year-end requirement. It is obviously better to have a buffer of some level than to run out of money.

I am pleased to report that the current forecast on outturn, which is provisional and will remain so until the final figures are in, is set to be in the region of €100 million in gross terms lower than the forecast in the expenditure report. How does this impact upon the public finances? The general Government deficit target for this year under the excessive deficit procedure is 2.9% of GDP, as Deputies will know. Budget 2015 set the deficit target of 2.7%. In the interim, both November and October saw tax receipts greatly exceed profile. The vast bulk of these receipts are sustainable, as confirmed in recent correspondence between the Revenue Commissioners and the Minister for Finance. Accordingly, based on the most recent data available, the end-of-year budget deficit forecast for this year will be in the region of 1.7% of GDP. This will obviously feed into the starting position for next year. It represents a remarkable turnaround on where we were when the Government took office almost five years ago. This improved economic position has allowed the Government to target additional expenditure in areas experiencing increased demand and demographic pressure. I am pleased we are in a position to do that.

It would be useful to put the increases provided in the Supplementary Estimates into context. In order to repair the public finances, gross voted expenditure was reduced from over €63 billion in 2009 to €54 billion in 2014. At the same time, while expenditure was being reduced, demographic and other cost pressures arising from increased demand for services still had to be met.

The Supplementary Estimates for 2015 allow for additional expenditure to be directed in

particular towards the key areas of health, education and social protection. Funding is provided towards a summer works scheme to allow work to be carried out on schools that have been in need of refurbishment. There is funding for the IDA to support jobs in the regions and the regional programme we set out. There are further capital funds for the science and technology programme and the programme for research in third level institutions; a Christmas bonus for recipients of long-term social welfare payments; and funding in the health sector for the delayed discharge initiative, the fair deal scheme, the hospital waiting lists, the winter initiative and the rolling out of universal general practitioner services. There is additional expenditure on the public transport investment programme for the maintenance of the heavy rail network and the expansion of the PSO bus fleet, and on the roads programme to address critical works on the national road infrastructure and improve substandard paving on regional and local roads. The adverse weather of recent times will make the latter allocation all the more necessary. The additional expenditure provided by way of Supplementary Estimate represents a responsible approach towards ensuring public services are adequately funded to meet the Government's key social and economic objectives of protecting the vulnerable and creating economic conditions to support growth in employment.

Deputy Sean Fleming: I am pleased to contribute to this debate on the Supplementary Estimates, which are additional record Supplementary Estimates from the Minister for Public Expenditure and Reform, Deputy Brendan Howlin. His Department was set up to reform public expenditure but the only reform he has achieved was to ensure no adequate budgeting at the beginning of each year. In the last fortnight of every year since taking office, he comes into the Chamber to seek an ever-increasing Supplementary Estimate to back up the flawed Estimate announced in the Budget Statement.

The Supplementary Estimates are really being introduced because of the content of the Budget Statement of 12 months ago. That statement was one of the clearest examples in five years of the total capitulation of the Labour Party to Fine Gael. The budget could have been summarised in one sentence: if one was on over €70,000, one got a tax cut and was better off. The choices made in the budget 12 months ago for 2015 meant that there were tax cuts for the high-income earners. That was done at the expense of people who needed serious support, such as the critically ill and those requiring suicide prevention measures, as recently mentioned by Deputy Derek Keating. I refer also to career guidance teachers in schools and homeless people.

We had a big debate on homelessness and the housing crisis around the time the Estimates were going through last year. The Labour Party lost that debate because there had to be a 1% income tax cut for the top earners. However, as the year progressed we were very fortunate that Ireland received a bonanza increase in corporation tax revenue from the foreign multinationals. Without it we could not have addressed some of the aforementioned matters in the last couple of months in the year. We have to thank the companies that chose to act as they did for a reason utterly unknown to the Minister for Finance or anybody else in the Government. While we have the additional revenue, the problem is that the Minister is not only increasing expenditure for this year but also for next year by the same amount as in these Supplementary Estimates. He will build on that. Although the Government has criticised previous regimes for using the mantra "If we have it we will spend it," it is using that mantra to a scale never envisaged before. It has got the extra money and, since there is an upcoming election, it is saying it will increase expenditure for 2015 and have any amount of money for 2016. It is saying it has it so it will spend it; that is the essence of what is happening. Today is just one little element of the Government's plan to spend the extra €7 billion that is coming our way. Some of this revenue

arises from the increase in corporation tax revenue that we cannot explain. The other element is substantially a consequence of the programme the Government inherited and which it operated in full for three years to put the country back on its feet. The financial position may have improved but I take issue with some of the choices made by the Government in the past year or two. While Supplementary Estimates to provide additional money for Departments are welcome, the Office of Public Works, which comes within the remit of the Department of Public Expenditure and Reform, has not spent, nor is it projected to spend, all the money allocated to it by the Oireachtas for flood relief last year. Despite nationwide flooding, the Department will probably roll over or return to the Department of Finance capital funding it did not spend this year. At the same time, the Minister is before the House today seeking approval for a Supplementary Estimate. Deputies take the budgetary process seriously. If we agree to allocate the Office of Public Works money to spend on flood relief, we expect the office to do its job in this area. It was the responsibility of the Minister to ensure the money was spent.

Major problems have arisen with the Government's management of this year's expenditure programme. While I welcome additional funding for services, my principal difficulty with the Supplementary Estimates is that the €600 million in additional funding for the Heath Service Executive should have been provided in January 2015. This would have enabled the HSE to plan the provision of health services for the 12 months of this year in an orderly and efficient manner and avoided some of the problems that have occurred in the health service in the past year. Having told the HSE its budget would be restricted and no further allocation would be made this year, hey presto, as we reach December, the Government proposes to provide an additional €600 million to enable the HSE to meet overruns. It has been told to spend this money as quickly as possible before the end of the year. One of the reasons for the crisis in the health service is the lack of proper budgeting. While the Supplementary Estimates are welcome, the funding provided should have been included in the original Vote to allow for proper and planned expenditure during the year as opposed to rushing to spend it in the final fortnight of 2015.

Deputy Mary Lou McDonald: I have noticed in many of the Minister's public pronouncements of late that he attempts to make a virtue, as he sees it, of increased and ahead-of-profile tax returns while keeping a firm reign on public expenditure. The Minister paints this position as one that reflects prudence in his governance. Listening to him, one would never believe he was a Minister in a Government that had hacked billions of euro from public services during its time in office. I suggest that rather than boasting that he will continue to starve public services of the resources they need to repair some of the damage inflicted by the Government and modernise and improve access to and the quality of these services, he would be better off arguing for progressive investment. Instead, he toes the quintessentially right-wing, Tory and Fine Gael Party line of small government and low public expenditure. He appears to subscribe fully to the ideology of private wealth and public squalor pursued by Fine Gael, the Labour Party's sister party.

The Supplementary Estimates reflect some of the reality of underinvestment and low spending. The allocation for health is the figure that jumps out most. While Sinn Féin has no objection to additional moneys being provided for the health services where they are needed, one must wonder why, year after year, the Government takes at least two bites out of the health cherry to get the spending profile right. Even with an additional €600 million, the health system will continue to creak and come under pressure. Hospitals will continue to be understaffed and patients, including many elderly people, will continue to wait on trolleys. Those who are not so lucky will sleep on chairs, and when things get really bad, some of them will sleep on the floors

of accident and emergency departments.

I always have the sense when the Minister presents figures that it is being done for the optics. While he spins out substantial figures, the reality is that he continues to preside over a system that is massively underfunded. If recent indicators or public positions adopted by the Minister are anything to go by, it appears he hopes and intends to proceed into the next election and Government, if he is so lucky, with the same guiding principles he has demonstrated over the past five years, namely, to look after the haves, deal in a tokenistic fashion with the have-nots and place public services under enormous and unsustainable pressure.

From next year onwards, the Government will no longer have available to it the facility of introducing Supplementary Estimates. I have not heard a convincing answer from the Minister or any other member of the Government how this will work out. I foresee difficulties, however, because the Government's record on forecasting and getting the numbers right is not a terribly good one. If the Minister has an opportunity to respond, I ask him to sketch out how health, social protection and education services will be able to stand on their feet and have the budgets they require to function in the absence of the release valve of the Supplementary Estimate.

Deputy Richard Boyd Barrett: These Supplementary Estimates are a belated recognition, prompted by a looming general election, that one of the major slogans deployed by the Government in its first years in office was completely bogus. I do not know if the Minister remembers the slogan that we would get more for less but it was repeated *ad nauseam* when the Government was inflicting the most savage and cruel cuts in vital public services and supports and infrastructural and capital spending. Its claim that it was a reforming Government that would get more for less was a complete fallacy. The most obvious place in which this fallacy has been exposed is the health service where the slashing of budgets, staff numbers and investment has led to a diabolical position in which we have unacceptable waiting lists of up to two years for people in chronic pain who need operations, while tens of thousands of other people in hopeless and desperate circumstances must wait for procedures and many others must lie on trolleys for days on end. That is the legacy of the more for less fallacy the Government has promoted.

Another major area in which the more for less fallacy has been exposed is housing. How wrong can a Government be? It has managed to generate the worst housing crisis in the history of the State by butchering and effectively stopping investment and spending on social housing. We are now paying a heavy price for this failure and the lack of sufficient investment in flood relief, drainage and water infrastructure generally. All these chickens are coming home to roost.

Deputy Brendan Howlin: Did the Deputy refer to investment in water infrastructure?

Deputy Richard Boyd Barrett: I referred to underinvestment.

In recent years, we argued that the Government could get the money to obviate the need for cuts from a number of sources, including the corporate sector through corporation tax. What we proposed was dismissed as rubbish and it was said that it would threaten our national economy. We could not say "boo" to the multinationals. It was only because a small number of people on this side of the House persisted in saying there was an absolute scandal in the area of corporate tax and pointing out that companies were not paying even close to 12.5%, and because of international criticism over the tax haven role Ireland was playing in facilitating aggressive tax avoidance, that eventually and begrudgingly the Government was pushed into beginning to move with the international tide to clamp down on aggressive tax avoidance by

the multinationals.

Lo and behold then, the pot of gold the Minister said did not exist suddenly appeared - the unexplained €2 billion in extra corporate tax receipts which the Minister laughably claims is to do with a surge in sales. I absolutely refute that. It has nothing to do with a surge in sales. I defy the Government to provide the evidence for that. Perhaps the Minister can do that for us. Perhaps he can provide us with the monthly breakdowns of the corporate tax rates for this year, which we always receive several years behind, so that we can discover the real picture on corporate tax, the profits being made and the sudden appearance of an extra €2 billion.

I am very glad some of this money is being put into extra spending in the areas the Government has butchered over the past number of years. However, is this just a pre-election stunt or is there any intention to go after all of the corporate tax money so that we have the resources to recover the massive butchering of budgets the Government has implemented over the past five years? I do not believe the Minister has the will to do that, because I think this is a pre-election stunt.

Votes put and agreed to.

Sitting suspended at 1.32 p.m. and resumed at 2.32 p.m.

Topical Issue Debate

Energy Resources

Deputy David Stanton: I thank the Office of the Ceann Comhairle for allowing me to raise this matter today and the Minister for Communications, Energy and Natural Resources, Deputy Alex White, for being present. I really appreciate it.

This issue concerns the importance of the oil refinery in Whitegate. It is the only oil refinery in Ireland and, as the Minister knows, it is up for sale. I want to recognise the fact that the Minister, his Department and his officials engaged with the owners, management and workers over the past while. Today, all of us have the opportunity to discuss the issue in the Dáil. I am interested in hearing the Minister's reaction to my view that the refinery is of strategic importance to the State.

It supplies 40% of Ireland's transport needs and sells on a wholesale, rather than retail, basis. I have been told it turns around about 200 lorries per day, a figure which has risen to well over 300 at times of peak demand. If it were to close, it would be a major shock to the State, and that is why it is of strategic importance. The fuel, as the Minister knows, is used for transport, industry, agriculture, shipping, food production, heating, hospitals, haulage, public transport and so on. The refinery also produces liquid petroleum gas for a local company, Calor Gas.

All other fuel is imported, mainly from the UK. The refinery acts as a competitor to the importation of fuel. No other country in Europe has allowed all of its refining capacity to be closed, and that should not happen in Ireland. I ask the Minister and the current and future Governments to support the continuation of refining in Whitegate and to continue the positive engagement that has occurred to date with the owners, any future owners, the workforce and

local management.

I understand it is the wish and hope of the owners and local management that refining will continue - the refinery is being sold as a going concern. Refining is a high-volume, low-margin business, as the Minister knows. In 2014, the refinery made a loss, but some of that involved write-downs. I understand it is doing very well this year. Of more significance, however, is its importance to the State. We know what is happening in Europe and around the world. We live in volatile times. The risk, fear and concern is that we, as an island nation, would be exposed if the refinery was to shut down. We may be at risk of having a shortage of transport fuel, and that would be a major blow to our economy. That is why the refinery is of strategic importance.

Locally, over 300 workers are employed in the refinery, comprising 157 staff and 130 contractors. About €100 million is spent in the local economy in the Cork region. It is also very important from that point of view. I have been told that 600 ancillary jobs are dependent on the refinery, which again shows its importance. It accounts for about half of the shipping tonnage in Cork Harbour.

It was offered for sale in 2014. The Bantry terminal was sold and the current obligation expires in July 2016. That is why it is now crucial to engage with the process and for the Government and State to be as supportive as possible to ensure the continuation of refining in Cork. We need to do whatever we can to encourage purchasers to come to Cork and continue the refining capacity and operation as much as possible. I am interested in hearing what the Minister has to say about this issue. I contend this is an important and strategic refinery for national and local reasons, and I have brought the matter to the floor of the Dáil today so that the Minister has an opportunity to respond.

Minister for Communications, Energy and Natural Resources (Deputy Alex White): I welcome the opportunity to address the House on this matter and I thank Deputy Stanton for raising it. Ireland has a single refinery, at Whitegate in Cork, which is owned and operated by Phillips 66, a private company. As the Deputy stated, Phillips 66 supplies approximately 40% of the main products on the market, excluding jet fuel. Under the 2001 sale and purchase agreement, when the State sold the refinery, there was a legal requirement on the refinery owner to continue to operate the refinery for a minimum period of 15 years until July 2016. Commercial decisions beyond July 2016 are a matter for the company, which operates in a fully liberalised market.

In 2012, the Department commissioned a study on the strategic case for oil refining requirements on the island of Ireland. This study examined various scenarios, including the all-island dimension of oil security and the expected impact if the refinery were to close completely or be converted to a terminal. Further to consideration of the report, the Government's primary conclusion on the strategic case for oil refining was that the presence of an operational refinery on the island of Ireland is highly desirable. It provides flexibility, enhancing the options available to the State in the event of an oil supply disruption, by providing an alternative source of product, thus mitigating a complete reliance on imports. The Government also noted the economic importance of the refinery in terms of employment and other economic benefits. The report was published on 30 July 2013.

Refining in Europe has been struggling since the onset of the recession in 2008. There have been several refinery closures, some conversions of refinery sites to terminals and some takeovers, mainly by Asian and Russian owners. Three refineries in the UK have closed down in the

period. The European Commission initiated a refining fitness check process in 2013 to examine whether the combination of European policies and legislation was having a negative impact on European companies *vis-à-vis* the rest of the world. A report from the European Commission on the outcome of the refining fitness check, due to be published shortly, indicates that energy prices, particularly natural gas prices, have been a significant factor in the loss of competitiveness of European refineries *vis-à-vis* the rest of the world. It indicates that about one fifth of the loss of competitiveness can be attributed to European directives and regulations.

The local management of Phillips 66 informed the Department on 12 October last of the company's intention to put the refinery and marketing business up for sale. Any sale of the refinery would be a commercial matter between Phillips 66 and a potential purchaser. While this process is under way, Whitegate will continue to operate on a business-as-usual basis. Whitegate's management has repeatedly indicated that it is committed to honouring the 15-year agreement under the 2001 sale and purchase agreement. This commitment is not, and would not be, affected by the planned sale.

Ireland is 98% dependent on oil for transport, and has significant oil dependence in the thermal heating sector. The lack of a refinery would mean that Ireland was entirely dependent on the import of already-refined product. Studies have shown that it is likely that crude oil could be easier to access than finished product in an oil shortage situation. Recently, I had a number of meetings with my Cabinet colleagues to discuss the future of the refinery. In summary, the outcome of these discussions is that there is recognition of the strategic importance of the refinery at Whitegate from an energy security perspective. Security of supply remains a fundamental tenet of our energy policy. I updated the Government on the matter earlier this week.

Deputy David Stanton: I warmly welcome the Minister's statement that the Government recognises the strategic importance of the refinery at Whitegate and supports the continuation of refining in Whitegate, not only for the east Cork area but for the State. Oil expertise is difficult to acquire and replace. There is enormous expertise in refining in Whitegate. The refinery is ahead of itself in respect of biofuel technology, and given the climate change discussions in Paris at present, this is crucial. The refinery is quite anxious to continue this expertise and technology. It is involved in the addition of fatty acid ethyl ester to diesel and biodiesel. It has also been an extraordinarily good neighbour in the area, supporting the local community and really and truly engaging in a most positive way.

I am sure the Minister realises that to try to put in place a refinery anywhere in the State would be very difficult. People would not really want one in their backyard. Over the decades, since it was established in 1959, the refinery has been an extraordinarily good neighbour, and the local management continues this. I am pleased with the Government's position that refining should continue in Ireland and that it is of strategic importance, and the Government will support in whatever way it can the continuation of refining in the State.

Deputy Alex White: I thank the Deputy again for his observation and insights. I remind him I have had occasion to visit the refinery and met management and workers to understand the value of the facility in the greater region where it is located. I have no doubt the Deputy is absolutely right in what he says about the refinery being a good neighbour and an important part of the economy and the fabric of the Port of Cork and the broader region. This is very well understood by the Government, but the fact remains that it is owned by a private company, and commercial decisions are made by the company in respect of the refinery. Having said that, the Government has always stated, and I state again now, the importance we attach to having a

refinery here. This is the single refinery in the island of Ireland and it is of strategic importance.

The report I mentioned in my earlier remarks, published in February 2013, was discussed by the Government at the time. A number of options and suggestions on how the Government might assist were examined during that period, and certainly, as a Minister, I would want to do anything reasonably within my powers to ensure we maintain the single refinery we have, always remembering the fact that it is a commercial operation. The period during which it is required contractually to continue refining expires in July 2016. We certainly want to keep this matter closely under review and maintain good contact with local and US management, whom I have met, staff representatives, workers and trade unions, who have taken a close interest and a very responsible approach to the future of the refinery.

Sitting suspended at 2.50 p.m. and resumed at 3 p.m.

Community Development Projects

Deputy Joe Costello: I apologise for being late, which was the result of a misunderstanding. I am pleased to have the opportunity to discuss the important and exciting innovation that is the men's sheds movement, which provides a way of engaging with men within their communities. It is an idea that came from Australia and has spread like wildfire through many parts of this country, with well in excess of 200 such groups in operation at this time. We all know how notoriously difficult it can be to get men to engage in any type of activity after retirement. Irish men were never great at taking up courses or going to the bingo. Many find themselves at a loose end after retiring but it is difficult to get men who have reached a certain age to bond together in any sort of community activity. However, large numbers of men have taken very quickly and enthusiastically to the men's sheds movement. In my constituency, several groups are up and running and doing great work, from East Wall to the city centre to Cabra.

An issue that comes up in every discussion of the men's sheds movement is the question of resources. Participants do all types of activities, from having a cup of tea together to working on a community garden, doing carpentry or electrical work, doing maintenance at senior citizens' complexes and so on. It is about participating on a communal basis in activities in which they would not otherwise have engaged. This phenomenon is now embedded in the community and is proving a great success. It is a good thing in all sorts of ways, particularly in respect of men's health. Serious consideration should now be given to the provision of specific supports to ensure the movement can thrive and expand throughout the rest of the country.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): I am pleased to have an opportunity to address the Dáil regarding funding for men's sheds. I agree with the Deputy's comments about the great work being done by these groups. I have visited many of them and the benefits for participants are clear to see. My Department provides support to the Irish Men's Sheds Association, IMSA, under the funding scheme to support national organisations in the community and voluntary sector. During 2013, in advance of the commencement of the 2014 scheme, my Department carried out a review which found the scheme had fulfilled its main objective of providing multi-annual funding to national organisations towards core costs associated with the provision of services. The review recommended that organisations be required to demonstrate clearly the added value of the work proposed. The effective use of core funding by recipient organisations also requires that robust governance and cost control procedures be in place within those organisations.

The new scheme was advertised for applications early last year. Some 157 applications were received by Pobal and 55 were approved for funding for the two-year period from 1 July 2014 to 30 June 2016. The award process included considerations such as social and economic benefits, consistency with current policies and long-term vision. The approach brought together the relevant information within each application, including experience, evidential analysis, consideration of impacts and comparative analysis, with the final decision based on a fair and transparent assessment of the applications.

IMSA applied successfully for funding and was allocated €175,950 over the 24-month period of the scheme. The aim of the funding is to enable IMSA, together with community partners, to increase the network of men's sheds in Ireland to more than 400, involving the participation of more than 20,000 disadvantaged men. The funding is contributing to the employment of a CEO and a resource worker as well as associated overheads. My Department is providing funding under the scheme of in excess of €8 million over the two-year period. This represents an increase in funding of more than 10% per annum compared with the previous scheme.

My Department has also funded men's shed projects under the rural development fund and the Leader element of the rural development programme. Funding has been provided to renovate buildings to house those types of initiatives and for tools and equipment. Since the downturn in the construction industry, large numbers of men have found themselves at a loose end while looking for new employment. In some rural areas, this has led to a feeling of isolation. Men's shed projects have turned this negative into a positive by supporting the development of initiatives where new friendships have been fostered and communities have benefited from the products and services provided by the clubs.

I understand there are almost 220 men's sheds in Ireland at this time, comprising more than 7,000 members. Several wonderful projects have grown from these initiatives such as the restoration of old farm machinery and the production of fantastic wooden pieces. They have helped men in a number of communities to come together to work on initiatives in which they would not have participated if not for the men's shed.

Deputy Joe Costello: I thank the Minister of State for her informative reply. I am pleased to hear there is a national co-ordinating body for men's sheds projects which is funded under the scheme to support national organisations in the community and voluntary sector. However, I wonder how effective it has been in responding to new organisations that are seeking to establish themselves. It certainly seems to me there is no great awareness that such an organisation exists and is in a position to distribute funds. There may be a difficulty in making contact with men who would be interested in participating unless there is a degree of awareness abroad that funding is available and how to access it.

It is not just disadvantaged men who are participating in men's sheds but also men who are not disadvantaged in any sense but have retired from all types of employment. It is a phenomenon that appeals to all categories of income and background. Will consideration be given to setting up a specific fund earmarked for the resourcing of the 220 existing men's shed groups and the development of new groups? This is the only activity I am aware of that has been successful in engaging men to this sort of level. It is contributing enormously to men's health, as well as everything else. From that point of view, it is important that we give it the recognition it deserves. That can best be done by giving it a special stream of funding that would be available to resource what is there, to look at areas in which it might continue to carry out good work and then to look at its expansion throughout the country.

Deputy Ann Phelan: Funding under the scheme to support national organisations, SSNO, is provided to national organisations such as the Irish Men's Shed Association for core funding. My Department does not provide funding under the SSNO for local and regional branches of national organisations. The organisations funded under the SSNO reflect significant diversity in theme and in the target groups they support, including health and disability, community development, education, equality, integration, unemployment, young people, drugs, older people and child welfare. They are, therefore, all in and around the space to which the Deputy refers. In terms of future funding for these projects, the Leader element of the Rural Development Programme 2014-2020 will provide €250 million in resources to support the sustainable development of rural communities across the country. This funding will be delivered using a community-led local development approach based on local development strategies. I assure Deputy Costello that the funding for this type of activity will be eligible under that programme, once it is included in the Leader strategy for the local area. As Deputy Costello knows, our President is patron of this association. I take on board the Deputy's desire to raise awareness about this, because the organisation and association does a very significant amount for men and it has been difficult to engage men up to now. I understand what the Deputy is saying and I will take it back to my officials to see whether more can be done.

Northern Ireland Issues

Deputy Brendan Smith: I appreciate the Ceann Comhairle selecting this important Topical Issue matter and I very much appreciate that the Minister, Deputy Flanagan, is here to deal with this question himself. The Fianna Fáil Party believes the rights of survivors and victims of the Troubles must stay on the agenda and must be kept to the fore. The newly-agreed Fresh Start agreement comes against the backdrop of protracted uncertainty and instability in the Northern Ireland Executive. While the Fianna Fáil Party has welcomed the agreement, there remains a series of issues that must be addressed to copperfasten progress and safeguard peace on this island.

This new agreement is welcome because it removes the immediate threat of long-term collapse of democratic institutions established as the result of the overwhelming support of the people of this island. It provides a fresh start only in terms of the implementation of the previous deal. Unfortunately, it does not provide a fresh start or anything close to it for many people in Northern Ireland, particularly survivors and victims of the Troubles. The new, progressive measures to deal with the legacies of the past outlined in the previous Stormont House Agreement, which I welcomed at the time, are not included in the Fresh Start agreement and, therefore, those who are seeking answers and justice have once again been sidelined with no mechanism contained in the Fresh Start agreement to address their issues.

Unfortunately, the British Government and some political groupings in particular have stood in the way of dealing with the past in order to protect their own interests. Each continues to focus on the victims of others and does the absolute minimum on anything involving their side. We share the outrage of victims' groups about how this issue has been brushed aside. There is effectively nothing in the agreement for survivors and victims to deal with the legacy of the past. Where is the fresh start for those people?

The WAVE Trauma Centre, the largest cross-community victims and survivors support group in Northern Ireland, has said those it works with feel "abandoned and betrayed" by the

agreement. The CEO of the centre, Sandra Peake, has highlighted the failure of the Fresh Start agreement to address the needs of victims. In her words:

> The two Governments and political parties have said that dealing with the suffering of victims and survivors is central to Northern Ireland moving forward. They can no longer say that with any credibility. The reality is that they have abandoned and betrayed victims and survivors who have repeatedly been promised that there would be an inclusive and comprehensive way found to deal with the legacy of the past.

These are strong words on behalf of the WAVE Trauma Centre, but they demonstrate the level of anger, frustration and disappointment felt by survivors' and victims' families. In the debate here on 25 November, the Minister expressed his disappointment with not having in place adequate measures to deal with these issues. While we acknowledge the efforts made to secure this Fresh Start agreement, we must continue to address issues that were not resolved in the agreement and to fight for the rights of survivors and victims of the Troubles.

The Minister for Foreign Affairs and Trade, Deputy Flanagan, stated in a reply to a parliamentary question I submitted that "[g]ood progress was made on agreeing many of the details necessary for the establishment of the new institutional framework for dealing with the legacy of the past and that Agreement is very close on many of the details necessary for the establishment of these new institutions". Since the signing of the Fresh Start agreement, what has the Government done to address the concerns of survivors and victims and to move forward on institutions that will deal with the legacies of the past? What, if any, progress has been made regarding the historical investigations unit, placing the implementation and reconciliation group on a statutory footing and settling on its purpose and functions, and in deciding on the detail and operation of the oral history archive? The last day the Minister indicated to us during his contributions to the debate on Northern Ireland that he would be meeting with survivors' groups in the aftermath of the signing of the Fresh Start agreement. He might give us an update in regard to that dialogue on the progress we can hope to see made at the earliest possible date on what are very important issues.

Minister for Foreign Affairs and Trade (Deputy Charles Flanagan): I thank Deputy Smith for raising this most important issue this evening. It is important to start with the positives and what was achieved by the Fresh Start agreement. It has placed the Government in Northern Ireland on a sound budgetary footing, which is so important for economic stability and development, and new financial supports that will help to unlock the full potential of the all-island economy were also agreed. A plan was agreed to bring to an end the insidious influence of paramilitarism and measures to further enhance North-South co-operation on tackling associated criminality and organised crime. Crucially, the Fresh Start agreement has assured the political stability of the devolved power-sharing institutions so that they can deliver for the people of Northern Ireland.

Notwithstanding these clear gains, the Government regrets that the Fresh Start agreement did not include agreement on the implementation of provisions of the Stormont House Agreement dealing with the legacy of the past. We share the deep disappointment of the victims and survivors of the Troubles and their families in this regard. It is worth stressing again that it was not the Irish Government that pressed for an agreement that completely left aside the legacy of the past. However, when it became clear that the choice was between having an agreement which uncoupled the past and having no agreement at all, the Government most reluctantly agreed to have a less comprehensive deal that would at least ensure that the devolved institu-

tions would be protected and placed on a stable and sustainable footing.

What is important now is that we find a way forward that banks the good progress already achieved during the talks on legacy issues and secures a solution to outstanding matters, including the key issue of striking the right balance between the onward disclosure needs of families and the national security requirements being sought by the British Government. To this end, I met Northern Ireland's victims commissioner on 26 November to discuss the concerns of victims and possible ways to take the issue forward in a way that satisfies these concerns. I will also meet the Northern Ireland Minister for Justice, David Ford, this Friday and the Secretary of State for Northern Ireland, Theresa Villiers, later this month in order to take stock of the implementation of the Fresh Start agreement.

In that agreement, both Governments acknowledged the "need to resolve the outstanding issues concerning the legacy of the past and to reflect on the options for a process to enable this". While I am determined to re-engage on this work in the very near future, it is also important that the selected process of engagement offers a credible prospect of success; the victims and survivors simply cannot be disappointed again. In so far as the issue of onward disclosure and national security vetoes remain a zero-sum stumbling block to wider progress, there also needs to be a measure of flexibility, compromise and common sense so that an acceptable accommodation can be found. When discussing the past in Northern Ireland and its legacy of loss and hurt, the iconic tragedies, such as Ballymurphy and Kingsmill, the murder of Pat Finucane and the Dublin-Monaghan bombings, are never far from my thoughts. In regard to the latter, I share Deputy Smith's disappointment that the British Government has not yet positively responded to the relatively modest requirements of the all-party motion approved by this House. It is an issue that I have raised on a number of occasions with the Secretary of State for Northern Ireland, and I will continue to do so while I have the honour of serving in this position.

I assure the Deputy that the Government remains committed to finding a way forward so that the setting up of the new institutional framework on the past can take place on an agreed basis, as envisaged in the Stormont House Agreement. We are determined to achieve the establishment of these institutions so that we can in a fundamental way deal with the past, foster reconciliation and build a society for future generations that is free from hurt and suspicion. This is essential if the full potential of the Good Friday Agreement is to be realised.

Deputy Brendan Smith: I thank the Minister for his detailed response.

The Minister has had a number of meetings, and earlier today a number of Members of the Oireachtas from all political parties met with the group Justice for the Forgotten to discuss the Dublin-Monaghan bombings and other atrocities. If the Minister and his Department can continue to engage with the different representative groups in the aftermath of the Fresh Start agreement, it is important to reassure the groups that these issues will continue to be given the attention they need and that there can be no moving away from this issue until progress is achieved.

Elections will be held, both North and South, in 2016, and we all are fully aware of the additional difficulties in making progress on important and sensitive issues leading up to election time. Both Governments and the five Northern Ireland Executive parties must give these issues the highest priority this month and in January.

For Northern Ireland to truly move forward, we need to put in place mechanisms that deal

with the legacies of the past. Victims and survivors, be they of atrocities committed North or South, have a basic entitlement to the truth. The most evil of crimes and large-scale murder were witnessed on this island, perpetrated by paramilitary organisations, and some British state forces were involved in collusion in the most heinous of crimes.

For our society, and particularly for the families concerned, the truth must be forthcoming. The necessary mechanisms have to be put in place to get the facts. Thorough and unimpeded investigations are needed, and no Government or State agencies or political groupings can be allowed to continue to block the truth process. The British Government's invoking what is in reality a veto is no longer acceptable, and I am glad the Minister referred to the unanimous motions of this House, passed in 2008 and 2011, on the need to give access to the papers and files relating to the horrific murder of so many in May 1974 in both Dublin and Monaghan. This is an issue, along with many others, that needs to be on the agenda in every meeting with the British Government and members of that Government.

Deputy Charles Flanagan: I acknowledge the commentary of Deputy Smith and, indeed, acknowledge his support and that of his party, both in recent times and prior to that, in terms of our approach here to matters pertaining to Northern Ireland.

The Government has a long track record of defending and promoting the rights of victims and survivors. The record clearly shows that successive Irish Governments, including those of Deputy Smith's party, have rigorously pursued justice and truth for those adversely affected by the Troubles.

This commitment to victims and survivors will remain a key priority for this Government and for myself. Whether it is Ballymurphy or Kingsmill, the Dublin-Monaghan bombings or the late Pat Finucane, the measure of one's commitment is not the loudness but the resilience and persistence. This commitment was demonstrated again through the Government's work with the British Government and the political parties in Northern Ireland in agreeing the Stormont House Agreement of December last year. This was a watershed moment in terms of dealing in a fundamental way with the legacy of the past. I met victims' representatives in recent times and I will continue to do so, and make myself available, as will my Government colleagues.

It is now important to continue our efforts to implement in full the new institutional framework on the past, as agreed under the Stormont House Agreement, which builds on the substantial progress achieved on legacy issues at the recent talks and keeps the needs of the victims and their survivors at the centre of everything these new institutions will do. The opportunity to set up the institutions must not be lost, and I intend having further meetings between now and the Christmas season.

Farm Partnerships

Deputy Martin Ferris: We have all been supportive of the partnership arrangement for younger and older farmers as a mechanism for encouraging young people to stay on the land and build up their own entitlements with the expertise that many of them have gleaned through Pallaskenry and other colleges where young farmers go for farming education. The problem, as I understand it, is that although there have been roughly 800 applications for the scheme, apparently only 300 have been processed. If these applications are not processed, it will run into next year, and the young farmers who have not had their applications processed will lose

the top-up on their entitlements. It would also affect their green low-carbon agri-environment scheme, GLAS, payments and the higher grants under the targeted agricultural modernisation scheme, TAMS, which are essential for young farmers, because availing of the TAMS support and grant system amounts to putting good capital investment into farm holdings.

Those who have not been processed will not access GLAS within the current deadline of 14 December. Furthermore, partnerships that have been created are missing vital information such as commonages from their applications, which means that they cannot enter GLAS and there is no sign they will have their information updated. The loss to the young farmer will be quite substantial.

I hope the delay in processing these partnerships will be dealt with, because it is preventing young farmers from applying for those entitlements. I understand the computer system will not allow GLAS planners to submit applications for unprocessed partnerships. I would appreciate it if the Minister of State could give me a positive response to my queries.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank the Deputy for giving me the opportunity to answer his queries about the difficulties he has outlined. I welcome the opportunity to address the Dáil today on the matter of support for farmers and, in particular, possible issues relating to partnerships.

The range of schemes available to farmers, such as the basic payment scheme, BPS, under Pillar 1 and the areas of natural constraints, ANC, scheme and GLAS under the new Rural Development Programme, RDP, 2014-2020, are vital supports for farmers, as the Deputy correctly points out. In rolling out the new BPS and RDP schemes, I have been anxious to ensure that cognisance is taken of the role that partnerships play in addressing a range of economic and social issues in today's agrifood sector.

The main schemes that fall for payment to farmers at this time of the year are the basic payment scheme, the greening payment and the ANC scheme. The basic payment scheme replaces the old single payment scheme and includes for the first time this year a new greening payment. At present, my Department is processing applications from some 122,000 farmers who currently have entitlements under the scheme. The ANC scheme replaces the old disadvantaged areas and less favoured areas schemes. The ANC scheme seeks to compensate farmers in certain designated areas for the challenges they face due to factors such as remoteness, difficult land type and poor quality. These farmers tend to have lower farm productivity and a higher unit cost of production than farmers in other areas.

Under EU regulations, all applications under the basic payment and ANC schemes must be subject to robust administrative checks prior to payment. The Department's system for processing payments must meet demanding EU and national audit requirements. Only valid applications under the basic payment and ANC schemes that fully comply with the requirements of the EU legislation are paid. Consequently, all applications under the schemes are subject to administrative checks. The main element of these administrative checks is an area assessment. This is achieved by using the detailed database of individual land parcels.

Regarding the basic payment scheme and greening payment, advance payments began issuing on 16 October 2015. This is the earliest that payments can commence for these schemes under the governing EU regulations. The level of the advance payment was set at 70% for 2015 rather than the normal 50%, a concession won by the Minister, Deputy Coveney. This increase

was one of the key issues I raised with Commissioner Hogan in our discussions earlier this year. Ireland is among the earliest to pay the BPS in the European Union and, to date, of the approximately 122,000 eligible applicants, 117,380 farmers have received payments totalling €1.025 billion. Given these figures, my Department has been very effective in issuing payments early this year. The figures I have outlined show that over 96% of applicants under BPS and some 83% of applicants under the ANC scheme have received payment. Ireland is among the first member states to make payments.

More than 26,000 farmers were accepted into GLAS under the first tranche, and those whose contracts start from 1 October 2015 will receive a payment before the end of the year. Although there are a small number of partnerships where the entitlement position is not yet finalised, it does not affect a farmer applying to GLAS. Most of these farmers are multiple partnerships where two or more farmers have gone into partnership during or prior to the 2013 scheme year. These farmers submitted one single payment scheme application in 2013 which included all land farmed by all partners in that year.

During the course of the ongoing processing of the basic payment scheme and GLAS applications, we have recently been made aware of a small number of partnerships that have experienced some minor delay in applying for GLAS. This is as a result of a technical issue that occurred at the basic payment scheme application stage and we are in the process of resolving these cases. It is not expected that the issue will result in any ongoing delays or blockages for those partnerships wishing to enter GLAS. They will not hold it up.

On Monday, a separate technical issue regarding the mapping feature in the GLAS online system when processing GLAS applications came to light. It is being addressed as we speak and will be fixed in the next few hours. Technical issues such as this are a feature of any online system and normally can be fixed very quickly. I have received assurance from officials that these issues will be fixed before the day is out.

Deputy Martin Ferris: As the Minister of State said, a small number have been affected. The number I have is 800 applications. I assume they are 2014 applications as distinct from 2013. Taking away 300 leaves 500. This could have changed in the days since I received the information. It is encouraging that it will be resolved and that the technical issue regarding the mapping feature in GLAS will also be resolved today. If it is not resolved by the end of the year but takes some time into next year to resolve it, I hope no penalties or loss of entitlements will be imposed on applicants for this year. It is essential that they have the understanding and certainty that if it is not resolved between now and 31 December but runs over, it will not affect the top-up to which the applicants are entitled.

The other issue with the delay in processing is that it prevents young farmers from applying for GLAS, given that the computer system will not allow GLAS farmers to submit applications for unprocessed partnerships. Unprocessed partnerships that have not been processed cannot be submitted through the computer system. Maybe it is part of the technical hitch. If so, I welcome that it will be examined.

Deputy Tom Hayes: Some 95% of payments have been made and departmental officials are working very hard to try to deal with them. Under no circumstances will anybody receive a levy. People will not be put at an disadvantage because of something that is happening in the Department. The technical issues regarding the IT system just cropped up. The Deputy's final point is being addressed as we speak.

Legal Services Regulation Bill 2011: From the Seanad (Resumed)

The Dáil went into Committee to resume consideration of Seanad amendment No. 1:

Section 1: In page 9, line 19, to delete "*sections 85* and *87*" and substitute "*section 85*".

Deputy Joan Collins: I want to make a small contribution, although I was not part of the overall debate. The point has been made that the amendments do not cover the cost for ordinary people of accessing the courts, which is one of the key issues the troika instructed the Government to deal with. In 2013, I took a case against the Minister for Finance and was advised that a stenographer was required for the days we were sitting in court, and that the State would pay half the cost. The cost for the stenographer for four days was €11,194.80, approximately €3,000 per day. Such a cost is a major restriction on people taking cases they feel have a constitutional basis. We should examine it. I was asked to pay half the cost of the stenographer, €5,597, which is a lot of money to pay up front and restricts people who do not have money from challenging the courts.

A constituent of mine is raising an issue with the legislation. He found himself in a particular adverse situation through the courts. Earlier, Deputy Shatter mentioned citizens' trust and ability to find justice through the courts or, if they do not find justice in the courts, how it is dealt with. I support Deputy Mac Lochlainn's point on the need for a Bill to implement some sort of mediation and provide somebody who is professionally skilled and qualified to be able to assist people through adverse situations in which they find themselves. My constituent has raised the issue asking the Minister to take into account in the new Bill something he feels is not taken account of, namely, some abuse in the legal system. He feels ombudsmen and gardaí are not fit for the purpose of dealing with all the corruption that is part of the culture in the justice system, and he feels the public is aware of it. My constituent was a victim of insider dealing in the courts whereby a case was staged without being put on the day's list. He attended the case with a barrister. I am not going to mention any names. A famous name in the courts was appointed for the court in an appeal that was then in the master's court. It was the master himself who asked my constituent to leave the courtroom. I remind the House that he was the appellant. My constituent left the courtroom thinking that all the scandal involved in the case was being put to his opponent - a court insider who never had to attend any of the previous Circuit Court or master's hearings. He feels that crucial decisions were hatched behind his client's back in the courtroom. He feels that the Courts Service official or registrar had to turn a blind eye and ear and that this entirely favoured his opponent and the attempted evictor. This is still going on today.

This is important because it relates to the question of how people access the courts. The judge in this case went on to the Supreme Court. Both the judge and the barrister are retired from the courts now. As a consequence of what happened, my constituent's client is facing the prospect of having his home, where he has lived for 70 years, taken from him. The Property Registration Authority has stonewalled the release of a document that is putting this man's residence of 70 years at risk. He has applied four times to see that document. I have made two such applications, but I have received no response whatsoever. The man in question feels that the document is a fraud because it is based on an obsolete out-of-time will that was made before the Succession Act came into force and has been struck down, in effect, by the option that gives the spouse one third of the estate. The claim that was made in the Circuit Court was blunted and not reflected in the 2003 hearing, of which no record exists. It is very strange that this all

happened in a court, but there is no actual record of it.

My constituent finally found the DPP file when an assault was made on his house. There was a break-in. It was not handed over to the DPP. The gardaí were thwarted in their efforts to bring the case. My constituent feels there was a hand behind that action. My constituent finally found that the DPP file never arrived. He feels that all of this corruption reached a new high when his client agreed property tax terms before the deadline in 2013. Before he could pay, he was told that the relative in question had paid it in her own name as the registered owner. The sole purpose of this was to blunt the client's plea of adverse possession after 70 years in the house. At least half of that time was spent as the owner of the house. He thought he had pleaded his case successfully through the courts and the master's court at the time.

Acting Chairman (Deputy Olivia Mitchell): I am not sure this is entirely relevant.

Deputy Joan Collins: Yes, but I think it needs to go on the record.

Acting Chairman (Deputy Olivia Mitchell): I ask the Deputy to conclude this point as quickly as possible.

Deputy Joan Collins: All of this was dissolved by the court case in 2003. How would any of the Minister's reforms address such a debacle and make it impossible for it to occur in the courts and in the justice system again? There is another scandal of loopholes. It seems that in some circumstances, solicitors can put registrations through the Property Registration Authority. My constituent believes that some of these registrations are bogus because they did not go through the courts system properly. He feels that this legislation does not even attempt to deal with anything like this. A mediation Bill would possibly be a good step forward in actually dealing with some of these issues in which people find themselves adversely involved.

Acting Chairman (Deputy Olivia Mitchell): I ask the Minister to respond to the Deputies' comments that are relevant to the amendments before the House.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I will make a couple of points in response to the various issues that have emerged today. I would say firstly that there is a public interest in having an independent regulator. This Bill provides for better control of costs. It provides for public complaints to be dealt with in an independent fashion. It provides a roadmap for the opening up of our legal services market. All of that is delivered in this Bill. It is very much about the public interest. Obviously, I have been very concerned to ensure the public interest is served by enabling these legislative proposals to become law.

Multidisciplinary partnerships are in their infancy in other countries. There has been very little coverage of their impact to date. They seem to be operating happily alongside traditional models, but they have raised regulatory issues. Risk will need to be properly managed by the regulatory system. I am not stopping multidisciplinary partnerships. I expect to see them happening in Ireland. However, I believe we should do a proper research project first.

I agree with the points that have been made about mediation and costs. I would like to make an important point about this Bill in that context. I think Deputies Mac Lochlainn and Collins will be particularly interested in this. The Bill provides for informal resolution and mediation on several fronts: in resolving complaints, in settling legal cost disputes, in settling consumer issues such as inadequate service and in settling misconduct issues. It is important that the model provided for in the Bill mirrors and anticipates the mediation Bill and creates a culture

of informal resolution. I would say that the mediation Bill is very important. We have not been able to get to it due to the heavy legislative workload of the Department of Justice and Equality. It is almost ready for publication.

It is very important that we move ahead in establishing this Bill because it provides for significant independent regulation of legal services and includes a full suite of modern regulatory inspection powers that will stand up to constitutional scrutiny. We are giving the new regulatory authority full powers to oversee all the new business models, which is very important. The Bill has been restructured to give effect to the agreement that the former Minister, Deputy Shatter, made with the Law Society in 2012 concerning the retention by the society of its supervisory powers in relation to solicitors' accounts and compensation funds. The Bill designs and brings forward measures to introduce limited liability partnerships for legal firms. As I said this morning, I have proposed an array of amendments to the Bill. A huge amount is being done.

I assure the House that I was not threatened by anyone. As the Minister with responsibility for this legislation, I had three options open to me. First, I had the option of leaving things exactly as they were in the area of legal services. Deputies can see from the major changes introduced in the Bill that I am not taking that route. Second, I had the option of disregarding the legal advice that certain elements of the Bill posed constitutional risks. Some people would have liked me to disregard that advice so that I would be tied up in lengthy and costly litigation and none of these reforms would be implemented in the near future. Third, I had the option of getting this Bill enacted, thereby creating a direct path to the opening of the market to new legal partnerships as early as next year, laying the groundwork for further reforms and creating an authority with the teeth to ensure the reforms get going and get embedded. That is what I have chosen to do.

The troika came and went, but we continued to work on structural reform to open up the way legal services are provided in this State. We did so in a way that offers choice to legal practitioners and those who avail of their services. It also addresses the cost of doing legal business or enforcing contracts, which was set to become a deepening competitive issue of disadvantage for our economy. There is more work to be done, but a more transparent legal cost structure, involving a legal costs adjudicator, is now embedded in the Bill. Solicitors and barristers will have to lay out what their costs are, while other changes relate to advertising. The various processes in the Bill will ensure we are on the right path in terms of supporting consumers. I have accepted several of the suggestions that came from the Competition and Consumer Protection Commission by proposing changes to Schedule 1 to the Bill. I have been able to incorporate those very good suggestions in the legislation. In addition, the commission will be given an opportunity in 18 months to review how the Bill is working. The new regulatory authority will take careful note of any attempt by any professional body to subvert what is intended in this Bill.

Deputy Niall Collins: I want to make a few general comments on the Bill. I welcome the fact that we are getting to the concluding stages.

Acting Chairman (Deputy Olivia Mitchell): The Deputy should address the amendments we are considering.

Deputy Niall Collins: I am getting to them. This legislation has been on a long journey. As Deputy Shatter said earlier, it was published in late 2011. The real test of whether the Bill will pass muster is whether consumers will see reductions in legal fees. We need to be conscious

that outside the big law houses in Dublin, many of the small and medium-sized practitioners throughout the country and across Dublin have, like many other small businesses, been significantly affected by the recession of recent years. Many solicitors have gone out of business following a downturn in business caused by forces in the economy. Many people who were employed in law firms and solicitors' practices throughout the country have lost their jobs. It is not right to say they are all living high on the hog and that this is an entire gravy train. Having said that, studies that have been produced have shown that some of the larger legal services providers charge excessively high fees. Many of them often charge such fees to the State. We have seen huge reportage of that. It has played out time and again in the Committee of Public Accounts.

I reiterate that we need to be mindful of the needs of small and medium-sized legal practitioners. An example of this is a solicitor in Kerry who recently told me he used to have a practice of 2.5 solicitors, with the necessary administrative support staff of up to eight, but as a result of the recession he is on his own, working from his house. Many legal practices are now operating from a virtual office, using a shared services call centre to deal with post, administration and answering the phones. There has been a sea change in this regard but fees will be the big one.

I know the Minister has to leave so her colleague beside her might take notes on this matter. Will the new authority deal with a case to which my attention has been drawn recently? That person took an action against the State. It went through the process and came to court but was ultimately settled on the steps of the court, with the State agreeing to pay damages in the order of €100,000 plus legal fees. When he went to conclude his business with his solicitor, his solicitor endeavoured to retain €10,000 of the €100,000 in addition to the fees the State had agreed to pay. In other words, the solicitor was engaged in double charging, something we have seen over the years. He made the Law Society aware of the issue in correspondence but got no satisfaction from the Law Society. The Law Society pointed out that there was no written agreement but the solicitor said there was a verbal agreement and this is now in dispute. The person who brought the case now finds himself in the situation where it is his word as against the solicitor's word and they are left to argue it out between themselves. What does a citizen do in such a situation? They cannot get their hands on an award given by way of settlement because their solicitor is paid fees on one side by the State, through the Taxing Master, while at the same time looking for a slice of the action on the other side.

The Minister made a couple of points on mediation. I know it is not particularly relevant to the passing of this Bill but free legal aid is related to the provision of legal services and this needs to be looked at in the context of mediation. We have free legal aid in criminal cases but we need to have a look at the civil side of things. The criminal legal aid demand uses up the entire amount of the budget but people are coming into our clinics, day in, day out and week in, week out, looking for civil free legal aid.

I welcome the passage of the Bill, whether it is today or tomorrow, and the fact that we will have a new regime. The engagement with both the Bar Council and the Law Society was very detailed and they were right to lobby us. That is what democracy is all about and stakeholder groups should be able to engage with their politicians. Some people mentioned the media reporting of it. It has to be done in an open and transparent fashion. They came and stated their case, as did the association representing legal executives who may not have got entirely what they wanted but who made some progress. We are all happy to engage with stakeholders in the passage of legislation.

Deputy Frances Fitzgerald: I thank Deputy Collins for his support in the passing of this Bill. In answer to his question, the kind of case he describes can be referred if it involves fraud, as can excessive costs, and complaints may be made by a client against a practitioner. Legal adjudication is there to assess costs and, arising from the Bill, far more transparency about costs is intended. A retrospective complaint, such as the one the Deputy described, could go to the legal costs adjudicator. The public will make their complaints about alleged misconduct on the part of solicitors and barristers to the new legal services regulatory authority instead of the Law Society or the Bar Council, as they do at present. That will include the handling of consumer-type complaints about excessive costs, which the regulatory authority will seek to resolve by informal means. This will provide ordinary consumers with an alternative solution to the more expensive process of going through the Taxing Master. However, the charging of grossly excessive fees by a legal practitioner will be dealt with under the conduct regime of the Bill as a matter of misconduct.

The Bill strengthens the position of consumers and there is greater transparency on costs by replacing the Taxing Master with the legal costs adjudicator. There will be independent procedures for complaints, discipline and general complaints and these will now go to an independent body where previously they had been dealt with under the Solicitors Acts within the Law Society while barristers dealt with these cases and published a report once a year. Now there is an independent body for complaints or discipline and this is a major change and a significant step forward.

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 1: In page 9, to delete lines 23 to 27 and substitute the following:

"(3) *Section 85* shall come into operation on such day, not later than 6 months after the laying before each House of the Oireachtas under *subsection (4)* of *section 102* of a report referred to in *subsection (2)* of that section, as the Minister shall appoint by order.".

Seanad amendment agreed to.

Acting Chairman (Deputy Olivia Mitchell): Amendments Nos. 3, 55 to 57, inclusive, 101 to 103, inclusive, 229, 231 to 264, inclusive, the amendment to amendment No. 257, 266, 278 and 279 are all related and may be discussed together.

Seanad amendment No. 3:

Section 1: In page 9, between lines 27 and 28, to insert the following:

"(4) The Solicitors Acts 1954 to 2011 and *Part 13* may be cited together as the Solicitors Acts 1954 to 2015.".

Deputy Frances Fitzgerald: This group of amendments deals with the transition from the old regulatory system to the new regulatory system provided by the Bill. A decision made by my predecessor, post publication of the Bill, that the society would retain the financial and accounting oversight of solicitors and the associated solicitors' compensation fund has led to a great many amendments to date. The key policy consideration, with which I agree, has been for the new authority and, by extension, the State, not to be responsible or held liable for the

solicitors' compensation fund. This change is that the Law Society, subject to the oversight mechanisms of the new regulatory authority, will retain its existing investigative, protective and disciplinary powers regarding the financial regulation of solicitors. This, in essence, represents a co-regulatory split between the Law Society and the authority in respect of solicitors. There will be no equivalent regulatory split in regard to barristers, who will be exclusively and entirely regulated by the authority.

The Law Society already has extensive powers in the Solicitors Acts 1954 to 2011 relating to the financial and accounting oversight of solicitors and within this regulatory framework the solicitors' compensation fund, a multimillion euro fund financed by solicitors themselves from which compensation is paid to clients who have, in effect, been defrauded by solicitors holding their moneys, operates. It makes sense to keep the infrastructure and potential liability associated with the compensation fund in place but with the Law Society subject to the oversight of the LRSA. The credibility and effectiveness of this system and maintaining a visible threat to solicitors depend on the Law Society being able to pursue disciplinary action, including High Court emergency measures, on its own initiative. These are critical factors both in managing the risk of financial misbehaviour by solicitors and in moving quickly to investigation and enforcement. The Law Society has a wealth of experience in the management of these issues. However, the Law Society's activities will be overseen by, and held accountable to, the new authority through a range of mechanisms, namely, a monitor, a monitoring presence, an officer of the authority on the Law Society's regulation of practice committee, the power to obtain reports from the Law Society, provisions to allow for the flow of information between the Law Society and the new authority, and the authority's general power to make recommendations to the Minister for legislative change including where the authority might conclude from its monitoring of the Law Society that these arrangements need to be adjusted legislatively.

4 o'clock

The authority will be the approving authority for regulations made by the Law Society. It is important to note that the authority will operate a new, independent public complaints handling system for general professional misconduct by both solicitors and barristers.

As a corollary to the regulatory division of labour between the Law Society and the legal services regulatory authority, several repeals and amendments will be necessary to the Solicitors Acts and these are provided for in this group of amendments.

As I said, we had to wait until the structure of the Bill was absolutely clear before we could deal with all the amendments to the Solicitors Acts. The amendments to those Acts reflect the changes we are introducing in the regulatory system, which must be reflected in the Solicitors Acts.

Seanad amendment agreed to.

Acting Chairman (Deputy Olivia Mitchell): Amendments Nos. 4 to 21, inclusive, 24, 25, 27, 30, 45, 54, 58, 148 to 150, inclusive, 152 to 158, inclusive, 160, 161, 166, 175 to 180, inclusive, 184 to 186, inclusive, 190 to 194, inclusive, and the amendment proposed to amendment No. 193, 207 to 210, inclusive, 212, 215 to 221, inclusive, 223, 224, 230 and 267 are related and may be discussed together.

Seanad amendment No. 4:

Section 2: In page 9, between lines 29 and 30, to insert the following:

" "Act of 1954" means the Solicitors Act 1954;

"Act of 1960" means the Solicitors (Amendment) Act 1960;

"Act of 2002" means the Solicitors (Amendment) Act 2002;".

Minister of State at the Department of Justice and Equality (Deputy Dara Murphy): This is a large group of amendments. It concerns a range of corrections to wording, spelling, cross-references, section numbers and updates to legislative references and collective citations. While I accept that there is an extent to which these types of amendment must be taken in good faith as a group, that will not prevent or disrupt us from discussing them and those substantial matters of amendment that are before us today. I assure the House that the Department has carefully ensured that all amendments that touch upon substantive policy issues are grouped separately from these.

As one can see from a perusal of this cluster of amendments, they fall into the tidying-up category in respect of the Bill. It is hoped it will be appreciated how difficult it is to maintain correct numbering as we go through the numerous amendments a Bill of this complexity will generate by way of realising its statutory and reform objectives from a whole-of-Bill perspective. While I can explain what each amendment does, I assure the House that the amendments are necessary to ensure coherence and congruity across the Bill and are of no policy import. However, I can provide the details on each amendment if required.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 2: In page 9, between lines 29 and 30, to insert the following:

" "Act of 1994" means the Solicitors (Amendment) Act 1994;".

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 2: In page 9, to delete line 30, and in page 10, to delete lines 1 to 4.

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 2: In page 10, between lines 12 and 13, to insert the following:

" "Compensation Fund" means the fund maintained by the Law Society under section 21 of the Solicitors (Amendment) Act 1960;".

Seanad amendment agreed to.

Seanad amendment No. 8:

Section 2: In page 10, line 13, to delete "*Part 6*" and substitute "*Part 5* ".

Seanad amendment agreed to.

Seanad amendment No. 9:

Section 2: In page 10, to delete lines 14 and 15 and substitute the following:

" "complaint" means a complaint made under *subsection (1)* or *(2)* of *section 42*".

Seanad amendment agreed to.

Seanad amendment No. 10:

Section 2: In page 10, line 16, to delete "*section 51*" and substitute "*section 59*".

Seanad amendment agreed to.

Seanad amendment No. 11:

Section 2: In page 10, line 19, to delete "*section 62*" and substitute "*section 64*".

Seanad amendment agreed to.

Seanad amendment No. 12:

Section 2: In page 10, line 22, to delete "appointed under *section 30*" and substitute "appointed under *section 36*".

Seanad amendment agreed to.

Seanad amendment No. 13:

Section 2: In page 11, between lines 7 and 8, to insert the following:

" "legal partnership" means a partnership formed under the law of the State by written agreement, by two or more legal practitioners, at least one of whom is a practising barrister, for the purpose of providing legal services;".

Seanad amendment agreed to.

Seanad amendment No. 14:

Section 2: In page 11, between lines 12 and 13, to insert the following:

" "limited liability partnership" has the same meaning as it has in *Part 8*;".

Seanad amendment agreed to.

Seanad amendment No. 15:

Section 2: In page 11, between lines 14 and 15, to insert the following:

" "multi-disciplinary practice" means a partnership formed under the law of the State by written agreement, by two or more individuals, at least one of whom is a legal practitioner, for the purpose of providing legal services and services other than legal services;".

Seanad amendment agreed to.

Seanad amendment No. 16:

Section 2: In page 11, to delete line 29 and substitute the following:

" "prescribed" means prescribed by regulations under this Act;".

Seanad amendment agreed to.

Seanad amendment No. 17:

Section 2: In page 11, line 30, after "Society" to insert ", the Honorable Society of King's Inns".

Seanad amendment agreed to.

Seanad amendment No. 18:

Section 2: In page 11, line 31, to delete "Minister" and substitute "Authority".

Seanad amendment agreed to.

Seanad amendment No. 19:

Section 2: In page 11, between lines 37 and 38, to insert the following:

" "professional indemnity insurance" means a policy of indemnity insurance to cover claims in respect of any description of civil liability incurred in the provision of legal services by—

(a) a legal practitioner,

(b) a legal partnership, multi-disciplinary practice or limited liability partnership, or

(c) a partner, employee or agent or former partner of a person referred to in *paragraph (a)* or *(b)*;".

Seanad amendment agreed to.

Seanad amendment No. 20:

Section 2: In page 12, line 5, to delete "he or she has been" and substitute "he or she, before the date on which *Part 5* comes into operation, has been".

Seanad amendment agreed to.

Seanad amendment No. 21:

Section 2: In page 12, between lines 16 and 17, to insert the following:

" "Solicitors Accounts Regulations" means—

(a) the Solicitors Accounts Regulations 2001 to 2013,

(b) the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014), and

(c) any other regulations made by the Law Society under section 66 of the Act of 1954 or section 73 of the Act of 1994.".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendment No. 22, the proposed amendment to Seanad amendment No. 22, and Seanad amendments Nos. 23, 26, 28, 29, 31 to 34, inclusive, 38 to 42, inclusive, 66, 83, 145, 195 and 270 are related and may be discussed together.

Seanad amendment No. 22:

Section 6: In page 13, between lines 27 and 28, to insert the following:

"Review of Act

6. (1) The Authority shall—

(a) not later than 18 months after the establishment day and not later than the end of each subsequent 3 year period, commence a review of the operation of this Act, and

(b) not later than 12 months after the commencement of a review under *paragraph (a)*, make a report to each House of the Oireachtas of its findings and conclusions, including such recommendations (if any) to the Minister resulting from that review as it considers appropriate.

(2) Recommendations under *subsection (1)(b)* shall include such recommendations (if any) for amendments to this Act (including amendments to *Part 7*), the *Solicitors Acts 1954* to *2015* or any instrument made under those Acts, as the Authority considers appropriate arising from its findings and conclusions.

(3) In conducting a review under this section, the Authority shall consult with the Competition and Consumer Protection Commission, professional bodies and such other person as the Authority considers appropriate for such purpose.".

Deputy Niall Collins: I move amendment No. 1 to Seanad amendment No. 22:

To insert the following new subsection after subsection (3)

"(4) The Minister shall publish a new Regulatory Impact Analysis of this Act prior to its commencement."

Given that it is so long since the Bill was published, the Minister of State might not recall that a regulatory impact assessment was published at the time of its publication. The purpose of this amendment is to seek the publication of a new regulatory impact assessment, given the number of amendments that have been processed since the Bill was published, to assess how the final product will work *vis-à-vis* the first draft of the Bill. Perhaps the Minister of State would comment on that.

Deputy Dara Murphy: The publication of a regulatory impact analysis is part of the preparatory process for a Bill being put before the Houses. A 52-page regulatory impact analysis of the Legal Services Regulation Bill was published in November 2013. This document, which

ranks among the more substantial regulatory impact analyses prepared on the Bill, sets out the costs, benefits and impacts of three policy options. The third of these options was the establishment of a lean and independent legal services regulator. That was preferred and agreed by the Government.

The development of the Legal Services Regulation Bill has held to this preferred option. The Bill has been developed with relevant Cabinet approvals on that basis and in detailed consultation with relevant stakeholders, where necessary or appropriate. Under the legislative process, the Bill has been further developed and amendments duly made in detailed debate before both Houses and in the Oireachtas Committee on Justice, Defence and Equality, of which the Deputy is a member. The Bill provides for a series of review mechanisms under which remaining key issues will be subjected to public consultations. These consultations will shape and determine how those issues may be dealt with or regulated in the future, including, if necessary, under primary legislation. Multidisciplinary practices are a case in point. The new authority will also have the power to carry out such consultations on relevant matters on its own initiative.

Under an amendment introduced by the Government in the Seanad, the operation of the Legal Services Regulation Bill will be subject to periodic review. The first such review will be held 18 months after the establishment of the new regulatory authority. It will include a review of the levy on legal practitioners and the participation of the Competition and Consumer Protection Commission. These public consultation and periodic review mechanisms built into the Bill, as amended, enable the Bill's objectives, functions and impacts to be analysed on an ongoing basis. They will review and consider the real issues arising in real time under the Bill from when it is enacted. In fact, these new reviews and consultations are among some of the distinguishing features of the Bill.

That covers amendment No. 22. If the Deputy wishes to discuss the other amendments in the group, I will be happy to do so.

Deputy Niall Collins: I accept what the Minister said, so I will withdraw my amendment.

Amendment No. 1 to Seanad amendment No. 22, by leave, withdrawn.

Seanad amendment No. 22 agreed to.

Seanad amendment No. 23:

Section 7: In page 14, line 6, to delete "with the approval of the Minister given with the consent of the" and substitute "with the consent of the Minister given with the approval of the".

Seanad amendment agreed to.

Seanad amendment No. 24:

Section 8: In page 15, line 9, to delete "Competition Authority" and substitute "Competition and Consumer Protection Commission".

Seanad amendment agreed to.

Seanad amendment No. 25:

Section 8: In page 15, line 10, to delete "Human Rights Commission" and substitute

"Irish Human Rights and Equality Commission".

Seanad amendment agreed to.

Seanad amendment No. 26:

Section 9: In page 16, line 27, to delete "as the Minister for Public Expenditure and Reform may" and substitute the following:

"as the Minister with the consent of the Minister for Public Expenditure and Reform may from time to time".

Seanad amendment agreed to.

Seanad amendment No. 27:

Section 10: In page 17, to delete lines 13 to 22 and substitute the following:

"(c) in the case of a member who is a legal practitioner, his or her name is struck off the roll of solicitors or the roll of practising barristers, as the case may be, or, following the investigation of a complaint under *Part 5*, he or she is the subject of—

(i) a determination under *section 72(1)* and the member concerned has not brought an appeal in accordance with *section 73(2)(a)*, or

(ii) a decision of the High Court under *subsection (2)(a)* or *(3)* of *section 75*,

or

(d) he or she—

(i) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(ii) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provisions of that Act,

or".

Seanad amendment agreed to.

Seanad amendment No. 28:

Section 10: In page 17, line 25, to delete "that Act, or" and substitute "that Act.".

Seanad amendment agreed to.

Seanad amendment No. 29:

Section 10: In page 17, to delete line 26.

Seanad amendment agreed to.

Seanad amendment No. 30:

Section 12: In page 19, line 32, to delete "referred to in *section 38*" and substitute "in accordance with *sections 38* and *39*".

Seanad amendment agreed to.

Seanad amendment No. 31:

Section 12: In page 19, to delete lines 33 to 39 and substitute the following:

"(d) establish and administer a system of inspection of legal practitioners for such purposes as are provided for in this Act,

(e) receive and investigate complaints under *Part 5*,

(f) maintain the roll of practising barristers in accordance with *Part 9*,".

Seanad amendment agreed to.

Seanad amendment No. 32:

Section 15: In page 23, lines 6 and 7, to delete "with the approval of the Minister for Public Expenditure and Reform, may" and substitute the following:

"with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform may from time to time".

Seanad amendment agreed to.

Seanad amendment No. 33:

Section 16: In page 23, lines 29 and 30, to delete "as the Authority, with the approval of the Minister for Public Expenditure and Reform, may determine" and substitute "as the Authority may determine".

Seanad amendment agreed to.

Seanad amendment No. 34:

Section 16: In page 23, between lines 30 and 31, to insert the following:

"(3) Any fees or allowances for expenses due to a consultant or advisor appointed under this section shall form part of the expenses of the Authority.".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard Durkan): Amendments Nos. 35 to 37, inclusive, 43, 44 and 46 to 53, inclusive, are related and may be discussed together by agreement.

Seanad amendment No. 35:

Section 17: In page 23, between lines 32 and 33, to insert the following:

"Legal privilege

17. (1) Nothing in this Act shall compel a person, other than a person to whom *subsection (2)* applies, to disclose any information or documentation that the person would be entitled to refuse to produce on the grounds of legal professional privilege.

(2) Notwithstanding the relationship between, or rights and privileges of, a legal practitioner and his or her client, a legal practitioner shall, if so requested by a person authorised in that behalf by the Authority, provide the person with any information (in such form as that person may specify) or documentation which is required by the Authority for the purpose of enabling the Authority to discharge its functions under this Act.

(3) Information or documentation provided by a legal practitioner in accordance with *subsection (2)* may only be used for the purpose of enabling the Authority to discharge its functions under this Act in relation to legal practitioners.”.”.

Deputy Dara Murphy: These amendments relate to the issue of the powers of the authority to inspect legal practices. Sections 30 and 31 have been remodelled into a new Part to better specify the inspection powers of the legal services regulatory authority. The grouping also includes the safeguard protections in relation to legal privilege, which is an essential and long-standing legal right which must be protected, especially with respect to clients. If necessary, I can go through each amendment in detail. Deputies will want to know at the outset, of course, that the legal services regulatory authority will have a full suite of powers to carry out inspections either on foot of a complaint or by way of ensuring compliance with the new Bill, its regulations or any code of practice.

Seanad amendment agreed to.

Seanad amendment No. 36:

Section 17: In page 24, to delete line 10.

Seanad amendment agreed to.

Seanad amendment No. 37:

Section 17: In page 24, between lines 20 and 21, to insert the following:

“(4) If information disclosed in accordance with this section is subject to legal professional privilege, that information may not be used by the persons to whom the information is disclosed as against the client in respect of whom the privilege is vested.

(5) Where any question arises as to whether information is or is not subject to legal professional privilege, or the use to which such information may be put, the client of the legal practitioner asserting such privilege may apply to the High Court for the determination of any matter relating to such information and the use to which such information may be put and the Court may make such orders as it considers appropriate in determining the matter before it.”.

Seanad amendment agreed to.

Seanad amendment No. 38:

Section 23: In page 29, between lines 18 and 19, to insert the following:

"(4) A member of staff of the Authority shall be a public servant.".

Seanad amendment agreed to.

Seanad amendment No. 39:

Section 24: In page 29, between lines 18 and 19, to insert the following:

"Transfer of staff of Law Society or Bar Council

24. (1) Subject to this section, the Authority may, for the purposes of discharging its functions under *Part 5*, give appropriately qualified staff of the Law Society or the Bar Council an option to transfer to the Authority.

(2) Where a member of staff referred to in *subsection (1)* exercises an option under that subsection, the Authority shall request the Minister, with the consent of the Minister for Public Expenditure and Reform, to designate in writing such member to be transferred to the staff of the Authority from such date as may be specified in the designation (in this section referred to as "the effective date").

(3) A member of staff of the Law Society or the Bar Council designated in accordance with *subsection (2)* shall become and be a member of staff of the Authority from the effective date and shall become a member of the Single Public Service Pension Scheme from that date.

(4) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, persons transferred by virtue of a designation under *subsection (2)* shall not be brought to less favourable terms and conditions than the terms and conditions of service relating to basic remuneration to which the person was subject immediately before the effective date.

(5) Subject to *subsection (4)*, the Authority shall determine, in accordance with *section 23(2)*, the terms and conditions of service and the grade of a person transferred by virtue of a designation under *subsection (2)*.".

Seanad amendment agreed to.

Seanad amendment No. 40:

Section 24: In page 29, lines 20 to 23, to delete all words from and including "(1) The Authority" in line 20 down to and including line 23 and substitute the following:

"(1) The Authority may, with the approval of the Minister for Public Expenditure and Reform, make a scheme or schemes for the granting of superannuation benefits to or in respect of any person appointed chief executive or any person who, on becoming a member of staff of the Authority, does not become a member of the Single Public Service Pension Scheme.".

Seanad amendment agreed to.

Seanad amendment No. 41:

Section 28: In page 32, to delete lines 30 and 31.

Seanad amendment agreed to.

Seanad amendment No. 42:

Section 28: In page 32, between lines 31 and 32, to insert the following:

"(4) Fees prescribed under *Part 8* and paid to the Authority may be used by the Authority to meet the costs it incurs in carrying out its functions under that Part.".

Seanad amendment agreed to.

Seanad amendment No. 43:

Section 30: In page 33, to delete lines 6 to 26.

Seanad amendment agreed to.

Seanad amendment No. 44:

Section 31: In page 33, to delete lines 27 to 40, and in page 34, to delete lines 1 to 28.

Seanad amendment agreed to.

Seanad amendment No. 45:

Section 34: In page 37, line 38, to delete "2011" and substitute "2015".

Seanad amendment agreed to.

Seanad amendment No. 46:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"PART 3

INSPECTIONS - LEGAL PRACTITIONERS

Inspectors

36. (1) For the purposes of this Act, the Authority may appoint such and so many—

(a) members of its staff as it thinks fit to be inspectors for such period and subject to such terms as the Authority may determine,

(b) other persons as it thinks fit to be inspectors for such period and subject to such terms (including terms as to remuneration and allowances for expenses) as the Authority, with the approval of the Minister and consent of the Minister for Public Expenditure and Reform, may determine.

(2) A person appointed to be an inspector under this section shall on his or her appointment be furnished with a warrant of appointment by the Authority and when exercising a power conferred by this Act shall, when requested by any person affected, produce such warrant or a copy thereof, together with a form of personal identification, to that person.

(3) The Authority may revoke any appointment made by it under *subsection (1)*.

(4) An appointment or revocation under this section shall be in writing.

(5) The appointment of a person as an inspector under *subsection (1)* ceases—

(a) on the revocation of the appointment by the Authority,

(b) in a case where the appointment is for a specified period, on the expiration of that period,

(c) on the resignation of that person from the appointment, or

(d) where the person was appointed under *subsection (1)(a)*, where that person ceases to be a member of staff of the Authority.".

Seanad amendment agreed to.

Seanad amendment No. 47:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"Inspection on direction of Authority

37. An inspector shall, upon the direction of the Authority, have power to carry out an inspection in accordance with *section 38*—

(a) for the purpose of an investigation of any complaint made or deemed to be made under this Act, or

(b) to ensure compliance by a legal practitioner with—

(i) any requirements imposed by this Act on the practitioner,

(ii) any regulations made under this Act applicable to the practitioner, or

(iii) any code of practice issued under *section 20*,

and

(c) for the purpose of the Authority exercising its power under *section 42(7)*.".

Seanad amendment agreed to.

Seanad amendment No. 48:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"Powers of Inspectors

38. (1) For the purposes set out in *section 37*, an inspector may—

(a) subject to *subsections (2)* and *(4)*, enter and inspect any place—

(i) which he or she reasonably believes is being used to carry on the business of a legal practitioner,

(ii) at which he or she has reasonable grounds for believing records or documents relating to the business of a legal practitioner are being kept,

(b) at such place inspect and take copies of any books, records, accounts or other documents (including books, records, accounts or documents stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection,

(c) require—

(i) any legal practitioner who carries on the business of a legal practitioner in the place concerned, or

(ii) any person at the place concerned, including the owner or person in charge of that place,

to produce to the inspector such books, records, accounts or other documents (and in the case of documents stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as that inspector may reasonably require for the purposes of his or her functions under this Act,

(d) subject to an order being obtained for such purpose from the High Court under *section 39*, seize and retain any such books, records, accounts or other documents from such premises and take any other steps which appear to the inspector to be necessary for preserving or preventing interference with such books, records, accounts or other documents,

(e) where there is data equipment on the premises which the inspector reasonably believes is or has been used in connection with the business of the legal practitioner, require any person—

(i) who uses the data equipment or on whose behalf the data equipment is used, or

(ii) having charge of, or who is otherwise concerned with the operation of, such equipment,

to afford the inspector all reasonable assistance in relation to the operation of such equipment and any associated apparatus or material,

(f) subject to an order being obtained for such purpose from the High Court under *section 39*, to secure for later inspection such data equipment and any associated apparatus or material,

(g) subject to an order being obtained for such purpose from the High Court under *section 39*, secure for later inspection the place or any part of the place, for such period as may reasonably be necessary for the purpose of exercising his or her powers under this section,

(h) require—

(i) any legal practitioner who carries on the business of a legal practitioner in the place concerned, or

(ii) any person at the place concerned, including the owner or person in charge of that place,

to give the inspector such information and assistance as the inspector may reasonably require for the purposes of his or her functions under this Act,

(i) examine with regard to any matter under this Act any person whom the inspector has reasonable grounds for believing to be—

(i) a legal practitioner who carries on the business of a legal practitioner in the place concerned, or

(ii) employed by a person referred to in *subparagraph (i)*,

and require the person to answer such questions as the inspector may ask relative to those matters and to make a declaration of the truth of the answers to those questions, and

(j) require a legal practitioner who carries on the business of a legal practitioner in the place concerned, or any person duly authorised by the legal practitioner in that behalf, to give such authority in writing addressed to such bank or banks as an inspector requires for the purpose of enabling the inspector to inspect any accounts held by that practitioner at such bank or banks and obtain copies of any documents relating to such accounts.

(2) Subject to *subsection (5)*, an inspector may use reasonable force, if necessary, to enter any place referred to in subsection (1)(a), to exercise his or her powers under this section.

(3) An inspector may enter and inspect a place under *subsection (1)*—

(a) at any time during normal business hours with or without prior notice to the practitioner where an inspector reasonably believes that the business of a legal practitioner is carried on at that place or records or documents relating to the business of a legal practitioner are being kept at that place, and

(b) at any other time on reasonable notice to the practitioner.

(4) When performing a function under this Act, an inspector may, subject to any warrant under *subsection (6)*, be accompanied by such number of other inspectors or members of the Garda Síochána as he or she considers appropriate.

(5) An inspector shall not enter a dwelling other than—

(a) with the consent of the occupier, or

(b) pursuant to a warrant under *subsection (6)*.

(6) Upon the sworn information of an inspector, a judge of the District Court may—

(a) for the purposes of enabling an inspector to carry out an inspection of a place that the inspector has reasonable grounds for believing is being used for the carrying on of the business of a legal practitioner, or

(b) if satisfied that there are reasonable grounds for believing that information, books, records, accounts or other documents (including information, books, records, accounts or other documents stored in non-legible form) required by an inspector under this section relating to the business of a legal practitioner is or are held in any place,

issue a warrant authorising a named inspector accompanied by such other inspectors or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter the dwelling (if necessary by using reasonable force) and exercise the powers of an inspector under *subsection (1)*.

(7) In this Part, "place" shall be construed in accordance with section 29 (inserted by section 1 of the Criminal Justice (Search Warrants) Act 2012) of the Offences Against the State Act 1939.".

Seanad amendment agreed to.

Seanad amendment No. 49:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"High Court order to exercise certain powers under *section 38*

39. The High Court may, on application to it in that behalf by the inspector concerned, make an order authorising that inspector, accompanied by such other inspectors or members of the Garda Síochána as may be necessary, to exercise his or her powers under *paragraphs (d)*, *(f)* or *(g)* of *section 38(1)* where the Court is satisfied it is necessary for the purposes of *section 37*.".

Seanad amendment agreed to.

Seanad amendment No. 50:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"High Court direction to comply with inspection

40. (1) Where a person, without reasonable cause, fails, refuses or neglects to comply with a requirement of an inspector in the exercise of his or her powers under any of *paragraphs (c)*, *(e)*, *(h)*, *(i)* or *(j)* of *section 38(1)*, the Authority may, on notice to the person concerned, apply to the High Court for an order directing a person to comply with such requirement or requirements as the Authority considers necessary for the purposes of an inspection referred to in *section 38*.

(2) Where the person referred to in *subsection (1)* is not the legal practitioner in respect of whose business the inspection is concerned, the Authority shall, at the same time as notifying that person, notify that legal practitioner of the application.

(3) The High Court may make an order in the terms sought by the Authority under *subsection (1)* or such other order as the Court considers necessary for the purpose of such inspection.".

Seanad amendment agreed to.

Seanad amendment No. 51:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"Offences

41. (1) A person commits an offence if he or she—

(a) obstructs or interferes with an inspector or a member of the Garda Síochána in the course of exercising a power conferred on him or her by *section 38* or a warrant under *section 38(5)* or impedes the exercise by the person or member, as the case may be, of such power,

(b) removes from a place referred to in *paragraph (a)* of *section 38(1)*, or deletes, destroys, defaces or conceals, all or any part of his or her books, records, accounts or other documents (including books, records, accounts or other documents stored in non-legible form) with intent to prevent, or interfere with, the exercise of a power of an inspector or member conferred on him or her by *section 38*, or

(c) fails or refuses to comply with a request or requirement of, or to answer a question asked by, the inspector or member pursuant to *section 38*, or in purported compliance with such request or requirement or in answer to such question gives information to the inspector or member that he or she knows to be false or misleading in any material respect.

(2) Where an inspector believes, upon reasonable grounds, that a person has committed an offence under this Part, he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.

(3) A statement or admission made by a person pursuant to a requirement under *paragraph (h)* or *(i)* of *section 38(1)* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (1)*).

(4) A person who commits an offence under this section is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.".

Seanad amendment agreed to.

Seanad amendment No. 52:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"Report to Authority in certain circumstances following inspection

42. (1) An inspector shall, where an inspection relates to *paragraph (b)* or *(c)* of *section 37*, prepare and furnish a report in writing to the Authority of the inspection within 21 days of completion of the inspection.

(2) A report prepared under *subsection (1)* shall, where an inspection relates to *paragraph (b)* of *section 37*, include a statement by the inspector as to whether he or she has found evidence of failure to comply with any of the matters set out in *subparagraphs (i)*,

(ii) or *(iii)* of that paragraph.

(3) A report prepared under *subsection (1)* shall, where an inspection relates to *paragraph (c)* of *section 37*, include a statement by the inspector as to whether he or she has found evidence of an act or omission that may constitute misconduct (within the meaning of *section 41(1)*) on the part of a legal practitioner.

(4) The Authority shall refer the report of an inspector under this section to the officer of the Authority referred to in *subsection (4)* of *section 42* for his or her consideration in accordance with that subsection.

(5) An inspector may, if he or she considers it necessary to do so, make an interim report to the Authority in respect of any matter arising in the course of the inspection being carried out by him or her.

(6) The Authority shall refer an interim report of an inspector under this section to the officer of the Authority referred to in *subsection (4)* of *section 42* for his or her consideration in accordance with that subsection.".

Seanad amendment agreed to.

Seanad amendment No. 53:

Section 36: In page 38, between lines 7 and 8, to insert the following:

"Admissibility of evidence obtained in course of inspection

43. Any report or interim report prepared under *section 42* and any information or documents obtained in the course of an inspection under this Part may be admitted in evidence in any—

(a) proceedings in respect of a legal practitioner under *Part 5*, and

(b) investigation, inquiry or proceedings under the *Solicitors Acts 1954* to *2015* in respect of a legal practitioner who is a solicitor.".

Seanad amendment agreed to.

Seanad amendment No. 54:

Section 36: In page 38, line 18, to delete "Solicitors Acts 1954 to 2013" and substitute "*Solicitors Acts 1954* to *2015*".

Seanad amendment agreed to.

Seanad amendment No. 55:

Section 37: In page 38, to delete lines 21 and 34, and in page 39, to delete lines 1 to 24.

Seanad amendment agreed to.

Seanad amendment No. 56:

Section 38: In page 39, between lines 24 and 25, to insert the following:

"Legal practitioners to have professional indemnity insurance

38. (1) A legal practitioner shall not provide legal services unless there is in force, in respect of such practitioner, at the time of the provision of such services, a policy of professional indemnity insurance which complies with—

(a) where a legal practitioner is a practising barrister, regulations made under *section 39*, or

(b) where a legal practitioner is a practising solicitor, regulations made under section 26 of the Act of 1994.

(2) A legal practitioner who provides legal services as a partner or employee of a legal partnership, a multi-disciplinary practice or a limited liability partnership shall be taken to comply with *subsection (1)* where at the time of provision of such services by the legal practitioner there is in place a policy of professional indemnity insurance in respect of that partnership or practice concerned which—

(a) in the case of a partnership or practice which is comprised of practising barristers only, complies with regulations made under *section 39* in respect of such partnership or practice,

(b) in the case of partnership or practice which is comprised of practising solicitors only, complies with regulations made under section 26 of the Act of 1994 relating to practising solicitors in such partnerships or practices, or

(c) in the case of a partnership or practice which is comprised of both practising barristers and practising solicitors—

(i) complies with regulations made under section 26 of the Act of 1994 relating to practising solicitors in such partnerships or practices, and

(ii) complies with regulations made under *section 39* in respect of practising barristers in such partnerships or practices.

(3) The Authority may approve a group scheme of professional indemnity insurance for legal practitioners who are practising barristers where the scheme is provided under the aegis of a professional body and it is satisfied that the scheme complies with regulations made under *section 39* in respect of practising barristers.

(4) Where at the time of provision of legal services, a legal practitioner who is a practising barrister is covered by a scheme approved by the Authority under *subsection (3)*, he or she shall be taken to comply with *subsection (1)*.

(5) A legal practitioner shall not knowingly make a false or misleading declaration of a material nature for the purpose of obtaining professional indemnity insurance.".

Seanad amendment agreed to.

Seanad amendment No. 57:

Section 38: In page 39, to delete lines 25 to 40, and in page 40, to delete lines 1 to 35 and substitute the following:

"Regulations regarding professional indemnity insurance

39. (1) The Authority shall make regulations in relation to the professional indemnity insurance required to be maintained by—

(a) practising barristers,

(b) legal partnerships, multi-disciplinary practices and limited liability partnerships (in this section referred to as "legal practices") other than in relation to practising solicitors in such partnerships or practices.

(2) The Authority shall consult with professional bodies before making regulations under this section.

(3) Regulations made under *subsection (1)* shall specify the practising barristers or legal practice to whom or to which the regulations apply and may specify circumstances in which practising barristers may be exempted from any requirements in relation to professional indemnity insurance in regulations made under this section.

(4) In making regulations under *subsection (1)* the Authority shall have due regard to the following objectives:

(a) ensuring that the interests of clients of practising barristers and legal practices are protected;

(b) encouraging the provision of legal services of a high standard by practising barristers and legal practices at a reasonable cost;

(c) ensuring that there is adequate consideration given, in setting professional indemnity insurance requirements, to any different levels of risk which may apply in respect of practising barristers or different legal practices;

(d) ensuring, in setting professional indemnity insurance requirements in relation to legal practices, that there is adequate cover in place in respect of each practising barrister and other person in the legal practice concerned in respect of whom such insurance is required to be in place.

(5) Without prejudice to the generality of *subsection (1)*, regulations made under that subsection may—

(a) specify the matters or risks in respect of which insurance is to be maintained by practising barristers or legal practices to whom the regulations apply, and the Authority may specify different matters or risks in respect of which insurance is to be maintained in respect of practising barristers or different legal practices or both,

(b) by reference to a monetary amount, specify minimum levels of insurance which are to be maintained by a practising barrister or legal practice to whom the regulations apply and such amount may be specified by reference to—

(i) a type or category of claim, or

(ii) practising barristers or different legal practices,

(c) by reference to a monetary amount, specify the maximum excess amount which shall apply in respect of the insurance maintained by a practising barrister or legal practice as the case may be, and such amount may be specified by reference to—

(i) a type or category of claim, or

(ii) practising barristers or different legal practices, as the case may be,

and

(d) specify criteria to be met by persons offering such insurance as is required to be maintained and as respects the terms and conditions of such cover.

(6) Regulations made under *subsection (1)* may provide that the insurance required to be in place shall be considered as meeting the requirement if—

(a) the insurance is provided by an insurer or mutual fund approved by the Authority,

(b) the terms of the policy or other documentation effecting the insurance meet criteria specified in the regulations, and

(c) the wording of terms and conditions of the policy or insurance documentation is in a specified form.

(7) Regulations made under *subsection (1)* may include such incidental or supplementary provisions as appear to the Authority to be necessary.".

Seanad amendment agreed to.

Seanad amendment No. 58:

Section 39: In page 41, line 16, to delete "*section 38*" and substitute "*section 39* or section 26 of the Act of 1994, as the case may be".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 59 to 65, inclusive, 67 to 82, inclusive, and 104 to 144, inclusive, and the amendments to these amendments are related and may be discussed together, by agreement.

Seanad amendment No. 59:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"PART 5

COMPLAINTS AND DISCIPLINARY HEARINGS IN RESPECT OF LEGAL PRACTITIONERS

Construction (*Part 5*)

40. (1) In this Part—

"barrister" means, in relation to a person who is the subject of a complaint under this Part—

(a) a practising barrister, or

(b) a person who, at the time of the act or omission to which the complaint relates, was a practising barrister;

"solicitor" means, in relation to a person who is the subject of a complaint under this Part—

(a) a practising solicitor, or

(b) a person who, at the time of the act or omission to which the complaint relates, was a practising solicitor.

(2) For the purposes of this Part—

(a) the legal services provided to a person by a legal practitioner shall be considered as being of an inadequate standard where, by act or omission of the legal practitioner, the legal services actually provided by him or her—

(i) where the legal practitioner is a barrister, were inadequate in any material respect and were not of the quality that could reasonably be expected of him as a barrister, and

(ii) where the legal practitioner is a solicitor, were inadequate in any material respect and were not of the quality that could reasonably be expected of him or her as a solicitor,

(b) a reference to an amount of costs sought by a legal practitioner in respect of the provision of legal services means an amount of costs specified in a bill of costs issued by the legal practitioner concerned, and

(c) a reference to the resolution of a matter in an informal manner includes a reference to the referral of the dispute concerned to mediation or other appropriate form of dispute resolution.".

Deputy Dara Murphy: Parts 5 and 6 as passed by the Dáil have been remodelled into a new single Part 6. The amendments in the grouping represent a core policy change since the Bill's inception whereby the Law Society, under the oversight of the new legal services regulatory authority, will retain its existing investigative, protective and disciplinary powers regarding the financial regulation of solicitors under the Solicitors Acts. The Law Society will therefore continue to oversee the implementation of the solicitors' accounts regulations, carry out routine financial inspections of solicitors and investigate any financial infringements and prosecute them before the legal practitioners disciplinary tribunal. In a complaint against a solicitor, the authority, complaints committee or disciplinary tribunal will be able to request the Law Society to carry out an investigation under the Solicitors Acts into the matter relevant to the complaint. The Law Society will have to comply with the request and, within a reasonable time, submit a report on the matter which will be admissible in any disciplinary proceedings. It should be noted that the authority will be solely responsible for the handling of all complaints against legal practitioners.

The three grounds on which a person may make a complaint to the authority are that an act or omission of the legal practitioner constitutes misconduct, that the legal services provided by the legal practitioner were inadequate or that the amount of costs sought by the legal practitioner were excessive. The authority will have the power to seek resolutions to complaints and may invite the complainant and the legal practitioner to make efforts to resolve the issue in an informal manner. Where both parties agree to such an approach, the authority may facilitate efforts to resolve matters either directly or by referring parties to other persons willing to assist with information resolution.

The final important provision of the new Part is one which specifies what is meant by misconduct by a legal practitioner in the context of the legislation.

Seanad amendment agreed to.

Seanad amendment No. 60:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Misconduct by legal practitioners

41. (1) For the purposes of this Act, an act or omission of a legal practitioner may be considered as constituting misconduct where the act or omission—

(a) involves fraud or dishonesty,

(b) is connected with the provision by the legal practitioner of legal services, which were, to a substantial degree, of an inadequate standard,

(c) where occurring otherwise than in connection with the provision of legal services, would justify a finding that the legal practitioner concerned is not a fit and proper person to engage in the provision of legal services,

(d) consists of an offence under this Act,

(e) in the case of a solicitor, consists of a breach of the *Solicitors Acts 1954* to *2015* or any regulations made under those Acts,

(f) in the case of a solicitor, consists of an offence under the *Solicitors Acts 1954* to *2015*,

(g) in the case of a barrister, is likely to bring the barristers' profession into disrepute,

(h) in the case of a solicitor, is likely to bring the solicitors' profession into disrepute,

(i) in the case of a legal practitioner who is a managing legal practitioner of a multi-disciplinary practice, consists of a failure by him or her to comply with his or her obligations under this Act as a managing legal practitioner (within the meaning of *Part 8*),

(j) consists of the commission of an arrestable offence,

(k) consists of the commission of a crime or offence outside the State which, if

committed within the State, would be an arrestable offence,

(l) consists of seeking an amount of costs in respect of the provision of legal services, that is grossly excessive,

(m) consists of a breach of this Act or regulations made under it, or

(n) consists of a contravention of *section 153(1)*.

(2) In determining whether an act or omission referred to in *paragraph (l)* of *subsection (1)* should be considered as constituting misconduct, the Authority, the Complaints Committee, the Disciplinary Tribunal or, as the case may be, the High Court may have regard to—

(a) the amount by which or the extent to which the amount claimed in the bill of costs was found to be excessive,

(b) whether in the particular circumstances of the legal services performed the amount of the bill of costs appears to be unconscionable, and

(c) whether or not a Legal Costs Adjudicator has found the costs charged to be grossly excessive.

(3) In this section "arrestable offence" has the same meaning as it has in the Criminal Law Act 1997.".

Seanad amendment agreed to.

Seanad amendment No. 61:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Complaints under *Part 5*

42. (1) A client of a legal practitioner, or person acting on behalf of such a client, may make a complaint to the Authority in respect of a legal practitioner where the client considers that—

(a) the legal services provided to the client by the legal practitioner were or are of an inadequate standard, or

(b) an amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive.

(2) A person may make a complaint to the Authority in respect of a legal practitioner where the person considers that an act or omission of the legal practitioner constitutes misconduct.

(3) Subject to *section 43*, on or after the coming into operation of this Part, a complaint applies may be made to the Authority only.

(4) An officer of the Authority, having considered an interim report or a report of an inspector under *Part 3*, may make a complaint under *subsection (2)* in respect of the legal practitioner concerned.

(5) Subject to *subsection (7)*, where the Law Society, in the performance by it of its functions under the *Solicitors Acts 1954* to *2015*, forms the opinion that an act or omission of a solicitor constitutes misconduct, it shall, in such manner as may be prescribed, notify the Authority of its opinion, and such notification shall be deemed to be a complaint made by the Law Society under *subsection (2)*.

(6) *Subsection (6)* shall not apply where—

(a) the opinion of the Law Society is that the act or omission concerned constitutes a breach of the Solicitors Accounts Regulations, or

(b) the Law Society is investigating, or proposes to investigate, a suspected breach of the Solicitors Accounts Regulations and is of the opinion that the circumstances of the act or omission means that it should be investigated by it as part of the investigation of the suspected breach.

(7) The Authority, on receipt of a complaint that is made in respect of a solicitor (other than a complaint made by the Law Society), shall notify the Law Society of the complaint, which notification shall be accompanied by any documents relating to the complaint that are submitted by the complainant.

(8) Nothing in this section shall be construed as affecting the power of the Authority to investigate an act or omission of a legal practitioner where no complaint has been received by it in relation to that legal practitioner.

(9) This section and *section 43* shall not operate to prevent the Authority or a person who is aggrieved by an act or omission of a legal practitioner seeking assistance from another person with a view to resolving the matter to which a complaint relates.

(10) A complaint shall be made in writing and in accordance with this Part and regulations under *section 46*.

(11) This section is subject to *section 49*.".

Deputy Dara Murphy: I move amendment No. 1 to Seanad amendment No. 61:

In subsection (5) of section 42 proposed to be inserted by Seanad Amendment no. 61 to delete "subsection (7)" and substitute "subsection (6)".

Amendment No. 1 to Seanad amendment No. 61 agreed to.

Deputy Dara Murphy: I move amendment No. 2 to Seanad amendment No. 61:

In subsection (6) of section 42 proposed to be inserted by Seanad Amendment no. 61 to delete "subsection (6)" and substitute "subsection (5)".

Amendment No. 2 to Seanad amendment No. 61 agreed to.

Seanad amendment No. 61, as amended, agreed to.

Seanad amendment No. 62:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Referral of complaints by Bar Council, Honorable Society of King's Inns, Law Society

43. (1) The Bar Council or the Honorable Society of King's Inns shall refer to the Authority a complaint that is made to the body concerned—

(a) by a client, or a person acting on behalf of such a client, of a barrister, and

(b) in respect of an act or omission of the barrister to which *subsection (1)* or *(2)* of *section 42* applies, that occurred on or after that date on which this subsection comes into operation.

(2) The Law Society shall refer to the Authority a complaint that is made to it—

(a) by a client, or a person acting on behalf of such a client, of a solicitor, and

(b) in respect of an act or omission of the solicitor to which *subsection (1)* or *(2)* of *section 42* applies, on or after the date on which this subsection comes into operation.

(3) Where a complaint is referred to the Society under *subsection (1)* or *(2)*, the Authority shall invite the person who made the complaint to make a complaint under *section 42*.

(4) Nothing in this section shall be construed as preventing the Bar Council, the Honorable Society of King's Inns or the Law Society from making a complaint under *section 42* in respect of a legal practitioner.".

Seanad amendment agreed to.

Seanad amendment No. 63:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Limitation period

44. In reckoning any period of time for the purposes of any limitation period in relation to the making of an application for adjudication of a bill of costs under *Part 10* which bill of costs is or has been the subject of a complaint under this Part, the period beginning on the making of a complaint to the Authority or, where the complaint is made on the invitation of the Authority under *section 43(3)*, on the making of the complaint referred to in *subsection (1)* or *(2)* of *section 43*, and ending—

(a) on the date on which the complaint is withdrawn by the complainant, or

(b) where the complaint is not withdrawn by the complainant, on the date that is 2 months after the date on which complaint is determined under this Part, shall be disregarded.".

Seanad amendment agreed to.

Seanad amendment No. 64:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Withdrawal of complaint under Part

45. (1) Where a complaint made in accordance with this Part is withdrawn, the Authority may, notwithstanding the withdrawal, where it considers it to be in the public interest to do so, proceed or, as the case may be, continue to deal with the complaint in accordance with this Part.

(2) The Authority shall notify the complainant and the legal practitioner concerned where it decides under *subsection (1)* to continue or proceed to deal with a complaint.".

Seanad amendment agreed to.

Seanad amendment No. 65:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Regulations regarding complaints

46. (1) The Authority may make regulations regarding—

(a) the making of complaints to the Authority under this Part, and

(b) the procedures to be followed by the Authority and the Complaints Committee in investigating complaints under this Part.

(2) Without prejudice to the generality of *subsection (1)*, regulations made under this section may provide in particular for the extension or abridgement by the Authority or the Complaints Committee of any period specified in the regulations for the doing of any thing, where the Authority or the Complaints Committee is satisfied that the extension or abridgement is appropriate and would not cause an injustice to the other parties to the complaint.

(3) The Authority shall, in making regulations under this section, have as an objective that the manner in which complaints may be made, and the procedures to be followed by the complainant, the legal practitioner concerned and the Authority are as informal as is consistent with the principles of fair procedures and that undue expense is not incurred by the complainant or the legal practitioner concerned in relation to the complaint.".

Seanad amendment agreed to.

Seanad amendment No. 66:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Fees in respect of complaints

47. The Authority may, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, make regulations prescribing the fee (if any) payable in respect of making a complaint under this Part and the regulations may specify the circumstances in which the fee shall be refunded.".

Seanad amendment agreed to.

Seanad amendment No. 67:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Preliminary review of complaints

48. (1) Where the Authority receives a complaint under this Part, it shall conduct a preliminary review of the complaint to determine whether or not the complaint is admissible.

(2) The Authority, for the purpose of its preliminary review under *subsection (1)*, shall notify the legal practitioner concerned of the complaint, which notification shall request the legal practitioner to respond to the Authority, within such reasonable period as is specified in the notification, with his or her observations on the complaint.

(3) A notification under *subsection (2)* shall be accompanied by a copy of the complaint and any documents relating to the complaint that are submitted by the complainant.

(4) The Authority, for the purpose of determining whether a complaint is admissible under *section 49*, may request from the complainant or the legal practitioner further information relating to the complaint.

(5) The Authority, having considered the response (if any) of the legal practitioner to the notification under *subsection (2)* and any information received under *subsection (4)*, shall in accordance with *section 49* determine that the complaint is --

(a) admissible,

(b) inadmissible, or

(c) one to which *section 49(6)* applies.

(6) The Authority shall notify the complainant and the legal practitioner concerned of its determination under this section and of the reasons for its determination.

(7) Where the Authority makes a determination referred to in *subsection (5)(b)*, it shall take no further action under this Part in relation to the complaint.".

Seanad amendment agreed to.

Seanad amendment No. 68:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Admissibility of complaints

49. (1) This section applies to a preliminary review conducted under *section 48* by the Authority to determine whether or not a complaint is admissible.

(2) The Authority shall determine a complaint to be inadmissible, if in the opinion of the Authority the complaint is—

(a) frivolous or vexatious, or

(b) without substance or foundation.

(3) The Authority shall determine a complaint to be inadmissible where it is satisfied

that the act or omission to which the complaint relates is the same or substantially the same act or omission as that which was the subject matter of a complaint in respect of that legal practitioner which was previously determined under this Act.

(4) The Authority shall determine a complaint that is made in respect of a solicitor to be inadmissible where it is satisfied that the act or omission to which the complaint relates is—

(a) the same or substantially the same act or omission as that which was the subject matter of a complaint in respect of that solicitor which was previously determined under the *Solicitors Acts 1954* to *2015*—

(i) by the High Court, or

(ii) by the Law Society or any of its Committees or Tribunals,

or

(b) the same or substantially the same act or omission as that which was the subject of civil proceedings or criminal proceedings in respect of which a final determination of the issues has been made by the court in those proceedings in favour of the solicitor concerned.

(5) The Authority shall determine a complaint that is made in respect of a barrister to be inadmissible where it is satisfied that the act or omission to which the complaint relates is—

(a) the same or substantially the same act or omission as that which was the subject matter of a complaint in respect of that barrister which was previously determined by the Barristers' Professional Conduct Tribunal or the Honorable Society of King's Inns, or

(b) the same or substantially the same act or omission as that which was the subject of civil proceedings or criminal proceedings in respect of which a final determination of the issues has been made by the court in those proceedings in favour of the barrister concerned.

(6) (a) Where the Authority is satisfied that the act or omission to which a complaint relates is the subject of civil proceedings or criminal proceedings in respect of which a final determination of the issues has not been made by the court in those proceedings, the Authority may defer consideration under this Part of the complaint until the proceedings have been finally determined.

(b) Where the Authority is satisfied that the act or omission to which a complaint relates has been investigated by a court in civil proceedings or criminal proceedings and that a final determination of the issues which are, in substance, the issues involved in the complaint has been made by the court in those proceedings in favour of the legal practitioner concerned, the Authority may decide to take no action or no further action in relation to the complaint.

(c) Proceedings shall not be regarded as finally determined for the purposes of *paragraph (a)* or *(b)* until any appeal, rehearing or retrial in relation to those pro-

ceedings has been determined.

(7) The Authority shall determine a complaint under *section 42(1)* to be inadmissible where it is satisfied that the complaint was made more than 3 years after the later of the following:

(a) the date on which the legal services concerned were provided or the bill of costs concerned was issued, or

(b) the date on which the client first became aware, or ought reasonably to have become aware, that it would be reasonable to consider that *paragraph (a)* or *(b)* of *section 42(1)* applied in respect of the legal practitioner concerned.

(8) In reckoning any period of time for the purposes of the limitation period under *subsection (6)*, the period between the date of receipt of a complaint by the body referred to in *subsection (1)* or *(2)* of *section 43* and the making, on invitation by the Authority under *section 43(3)*, of a complaint under *section 42* in respect of the act or omission concerned, shall be disregarded.

(9) Where the Authority does not determine a complaint to be inadmissible under this section, it shall determine the complaint to be admissible.

(10) In this section, "Barristers' Professional Conduct Tribunal" means the body of that name constituted in accordance with the Disciplinary Code for the Bar of Ireland.".

Seanad amendment agreed to.

Seanad amendment No. 69:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Authority may request Law Society to investigate matter relevant to complaint

50. (1) The Authority may, at any stage in its investigation under this Part of a complaint in respect of a solicitor, and for the purposes of the investigation, request the Law Society to carry out an investigation under the *Solicitors Acts 1954* to *2015* into any matter that is relevant to the complaint.

(2) The Complaints Committee or Disciplinary Tribunal may, for the purposes of its consideration under this Part of a complaint, request the Law Society to carry out an investigation under the *Solicitors Acts 1954* to *2015* into any matter that is relevant to that consideration.

(3) The Law Society, on receipt of a request under *subsection (1)* or *(2)*, shall—

(a) comply with the request, and

(b) within one month of receipt of the request, or such later period as may be agreed between it and the Authority, the Complaints Committee or the Disciplinary Tribunal, as the case may be, provide the Authority, Complaints Committee or Disciplinary Tribunal with an interim report of its investigation and an indication of when its final report will be available.

(4) An interim report and final report of the Law Society referred to in *subsection (3)* shall be admissible in any proceedings under this Part.".

Seanad amendment agreed to.

Seanad amendment No. 70:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Authority to facilitate resolution of complaints made under this Part relating to inadequate services

51. (1) Where the Authority determines under *section 48* that a complaint to which *section 42(1)(a)* applies is admissible, or where a complaint is remitted to it under *section 53*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.

(2) Where the client and the legal practitioner agree to the Authority's invitation under *subsection (1)*, and request the Authority to do so, the Authority shall facilitate the resolution of the matter—

(a) by offering its assistance in resolving the matter in an informal manner, or

(b) by identifying to the legal practitioner and the client other persons who are willing to assist in resolving the matter in an informal manner.

(3) Where the Authority, having allowed the client and the legal practitioner a reasonable period to resolve the matter the subject of the complaint in an informal manner, considers that an agreement or resolution between the parties in relation to the complaint is unlikely to be reached in that manner, it may give notice in writing to the client and the legal practitioner (and, where appropriate, any other person involved in attempting to resolve the dispute) that it proposes to determine the complaint in accordance with this section.

(4) Where *subsection (3)* applies, the Authority shall not determine the complaint concerned earlier than 30 days after the giving of notice under that subsection.

(5) Where—

(a) the client or the legal practitioner does not accept the Authority's invitation under *subsection (1)*,

(b) the client or the legal practitioner, having attempted to resolve the matter in an informal manner, confirms to the Authority that he or she does not wish to continue to make such an attempt, or

(c) the Authority decides under *subsection (3)* to exercise its power to determine the complaint under this section,

the Authority shall thereafter invite the client and the legal practitioner to furnish to it, within such reasonable period as is specified by the Authority, a statement setting out their respective positions in relation to the matter the subject of the complaint.

(6) The Authority shall consider any statement furnished to it pursuant to *subsection (5)* and, where it considers that the legal services provided by the legal practitioner were of an inadequate standard, and that it is, having regard to all the circumstances concerned, appropriate to do so, the Authority may direct the legal practitioner to do one or more of the following:

(a) secure the rectification, at his or her own expense or at the expense of his or her firm, of any error, omission or other deficiency arising in connection with the legal services concerned;

(b) take, at his or her own expense or at the expense of his or her firm (which shall not exceed €3,000), such other action as the Authority may specify;

(c) transfer any documents relating to the subject matter of the complaint to another legal practitioner nominated by the client, subject to such terms and conditions as the Authority may consider appropriate having regard to the existence of any right to possession or retention of any of the documents concerned vested in the legal practitioner to whom the direction is issued;

(d) pay to the client a sum not exceeding €3,000 as compensation for any financial or other loss suffered by the client in consequence of the legal services provided by the legal practitioner to the client being of an inadequate standard.

(7) Where the client or the legal practitioner is aggrieved by a direction made by the Authority under *subsection (6)* or its failure to make such a direction he or she may by notice in writing given not more than 30 days after the Authority has notified the parties to the complaint of its decision under *subsection (6)*, seek a review by a Review Committee established under *section 53* of the direction or the failure.

(8) Any payment made by a legal practitioner pursuant to a direction referred to in *subsection (6)(d)* shall be without prejudice to any legal right of the client.".

Seanad amendment agreed to.

Seanad amendment No. 71:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Authority to facilitate resolution of complaints made under this Part relating to excessive costs

52. (1) Where the Authority determines under *section 48* that a complaint to which *section 42(1)(b)* applies is admissible, or where a complaint is remitted to it under *section 53*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.

(2) Where the client and the legal practitioner agree to the Authority's invitation under *subsection (1)*, and request the Authority to do so, the Authority shall facilitate the resolution of the matter—

(a) by offering its assistance in resolving the matter in an informal manner, or

(b) by identifying to the legal practitioner and the client other persons who are

willing to assist in resolving the matter in an informal manner.

(3) Where the Authority, having allowed the client and the legal practitioner a reasonable period to resolve the matter the subject of the complaint in an informal manner, considers that an agreement or resolution between the parties in relation to the complaint is unlikely to be reached in that manner, it may give notice in writing to the client and the legal practitioner (and, where appropriate, any other person involved in attempting to resolve the dispute) that it proposes to determine the complaint in accordance with this section.

(4) Where *subsection (3)* applies, the Authority shall not determine the complaint concerned earlier than 30 days after the giving of notice under that subsection.

(5) Where—

(a) the client or the legal practitioner does not accept the Authority's invitation under *subsection (1)*,

(b) the client or the legal practitioner, having attempted to resolve the matter in an informal manner, confirms to the Authority that he or she does not wish to continue to make such an attempt, or

(c) the Authority decides under *subsection (3)* to exercise its power to determine the complaint under this section,

the Authority shall thereafter invite the client and the legal practitioner to furnish to it, within such reasonable period as is specified by the Authority, a statement setting out their respective positions in relation to the matter the subject of the complaint.

(6) The Authority shall consider any statement furnished to it pursuant to *subsection (5)* and, where it considers that the amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive, and that it is, having regard to all the circumstances concerned, appropriate to do so, may direct the legal practitioner to do one or more of the following:

(a) refund without delay, either wholly or in part as directed, any amount already paid by or on behalf of the client in respect of the practitioner's costs in connection with the bill of costs;

(b) waive, whether wholly or in part as directed, the right to recover those costs.

(7) Where the client or legal practitioner is aggrieved by a direction made by the Authority under *subsection (6)* or its failure to make a direction, he or she may by notice in writing given not more than 30 days after the Authority has notified the parties to the complaint of its decision under *subsection (6)* seek a review by a Review Committee established under *section 53* of the direction or the failure.

(8) Where a bill of costs which has been the subject of complaint under *section 42(1)(b)* has subsequently been adjudicated, then—

(a) where the Authority has given a direction under *subsection (6)*, the direction shall cease to have effect, or

(b) where the Authority has not given a direction under *subsection (6)*, it shall not proceed to investigate such a complaint or otherwise apply the provisions of this section.

(9) Where the Authority has notified a legal practitioner under *section 48(6)* that a complaint under *section 42(1)(b)* in respect of a bill of costs issued by the legal practitioner is admissible, the legal practitioner shall not—

(a) issue or cause to be issued civil proceedings (whether on his own behalf or on behalf of any other person or persons), or

(b) if already issued, proceed further with civil proceedings,

in respect of the amount (or any part thereof) of a bill of costs without the written consent of the Authority before the Authority has determined the matter under *subsection (6)* unless, on application by that legal practitioner, on notice to the Authority, a Court orders otherwise.

(10) Where pursuant to this section a dispute regarding a bill of costs between the client and the legal practitioner is resolved, the client shall not thereafter be entitled to seek adjudication of the bill of costs under *Part 10* unless such adjudication forms part of the resolution.

(11) The determination under this section of a complaint shall be without prejudice to any legal right of the client.".

Seanad amendment agreed to.

Seanad amendment No. 72:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Review Committee

53.(1) The Authority shall establish a Review Committee to consider reviews requested by complainants or legal practitioners in relation to determinations of the Authority under *section 51* or *52*.

(2) The Review Committee shall be composed of 3 persons, 2 of whom shall be lay persons and one of whom shall be a legal practitioner.

(3) The member of the Review Committee who is a legal practitioner shall—

(a) in a case where the complaint relates to a solicitor, be a solicitor, and

(b) in a case where the complaint relates to a barrister, be a barrister.

(4) A person shall be eligible to serve as a member of a Review Committee established under this section if he or she is eligible to serve as a member of the Complaints Committee established under this Part.

(5) The Review Committee shall consider reviews requested and, having given both the client and the legal practitioner an opportunity to make a statement in writing to it as to why the determination of the Authority under *section 51* or *52*, as the case may be,

was incorrect or unjust, determine the review by—

(a) confirming the determination of the Authority,

(b) remitting the complaint to the Authority, with such directions as the Review Committee considers appropriate or necessary, to be dealt with again under *section 51* or *52*, as the case may be, or

(c) issuing one or more than one of the directions to the legal practitioner that the Authority is authorised to issue under *section 51(6)* or *52(6)* as the case may be.

(6) Any payment made by a legal practitioner pursuant to a direction referred to in *subsection (5)* shall be without prejudice to any legal right of the client.".

Seanad amendment agreed to.

Seanad amendment No. 73:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Appeal to High Court from determination of Review Committee

54.(1) Where a Review Committee determines a review under *section 53*, the client or the legal practitioner concerned may, within a period of 21 days of the notification of such determination or direction to him or her, apply to the High Court for an order directing the Review Committee to rescind or to vary such determination and on hearing such application the Court may make such order as it thinks fit.

(2) Where no application under *subsection (1)* is made within the period specified in that subsection, the determination of the Review Committee shall become absolutely binding on the client and legal practitioner immediately upon the expiration of such period.

(3) Where an application has been made by a legal practitioner under *subsection (1)*, the Authority may apply to the High Court and the Court may dismiss the application of the legal practitioner if it is satisfied that such application has no merits and has been made purely for the purposes of delay.

(4) Where a legal practitioner, in respect of whom a determination of the Review Committee is binding, without reasonable excuse refuses, neglects or otherwise fails to comply with such determination, he or she shall be guilty of an offence and be liable on summary conviction thereof to a Class B fine.".

Seanad amendment agreed to.

Seanad amendment No. 74:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Authority to offer assistance in resolving matter in dispute where it appears that conduct could constitute misconduct

54. (1) Where the Authority decides under *section 48* that a complaint under *section 42(2)* is admissible, and that the act or omission of the legal practitioner to which

the complaint relates, if the complaint were substantiated, would constitute misconduct within the meaning of *section 41(1)(b)*, it shall invite the complainant and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in a prompt manner in accordance with guidelines published by the Authority pursuant to *section 57*.

(2) The agreement by the complainant and the legal practitioner to make efforts to resolve the matter the subject of the complaint shall not prevent the Authority continuing with its consideration or investigation of the complaint.

(3) Notwithstanding *subsection (2)*, where the Complaints Committee, the Disciplinary Tribunal or the High Court is satisfied that an act or omission of a legal practitioner the subject of a complaint has been resolved or that proper effort was made by the legal practitioner concerned to resolve the matter in accordance with this section, the Complaints Committee, Disciplinary Committee or the High Court, as the case may be, shall, in determining the appropriate sanction (if any) that should be imposed upon the legal practitioner, give due regard to the efforts to resolve the matter made by the legal practitioner concerned.".

Seanad amendment agreed to.

Seanad amendment No. 75:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Resolution of complaint by mediation or informal means-additional provisions

55. (1) No answer or statement made, in the course of attempting to resolve a complaint in the manner specified in *section 51*, *52* or *54*, by—

(a) the complainant, or

(b) the legal practitioner who is the subject of the complaint,

may be used in any disciplinary, civil or criminal proceedings or communicated to any person other than the persons participating in the attempt to resolve the complaint.

(2) Any costs arising from an attempt to resolve a complaint in the manner specified in *section 51*, *52* or *54* shall be borne equally by the parties to the complaint unless the parties agree otherwise.".

Seanad amendment agreed to.

Seanad amendment No. 76:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"56. An agreement by a legal practitioner who is the subject of a complaint to attempt to resolve the complaint in the manner referred to in *section 51*, *52* or *54* shall not be taken as an admission of any allegation of an act or omission by the legal practitioner to which *paragraph (a)* or *(b)* of *section 42(1)*, or of misconduct insofar as such misconduct consists of an act or omission of the legal practitioner that the legal services provided by the practitioner were, to a substantial degree, of an inadequate standard.".

Deputy Dara Murphy: I move amendment No. 1 to Seanad amendment No. 76:

To delete the section 56 proposed to be inserted by Seanad amendment number 76 and substitute the following:

"56. An agreement by a legal practitioner, who is the subject of a complaint, to attempt to resolve the complaint in the manner referred to in *section 5*, *52* or *54* shall not be taken as an admission—

(a) of any allegation contained in a complaint made under *paragraph (a)* or *(b)* of *section 42(1)* regarding the legal practitioner, or

(b) of any allegation of misconduct referred to in *section 42(2)*.".

Amendment No. 1 to Seanad amendment No. 76 agreed to.

Seanad amendment No. 76, as amended, agreed to.

Seanad amendment No. 77:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Guidelines for resolution of complaints by mediation or informal means

57. The Authority shall prepare and publish guidelines in relation to the resolution of complaints by informal means and those guidelines may—

(a) set out the process whereby a determination can be made in respect of whether a complaint can be resolved by informal means,

(b) provide for the recording of the manner in which a complaint was resolved and of the terms of any agreement between the complainant and the legal practitioner the subject of the complaint,

(c) outline the steps to be taken (including notice to the Authority, the complainant, the legal practitioner concerned, where applicable, and the Complaints Committee) if the complaint cannot, in the opinion of the person attempting to do so, be resolved by informal means, and

(d) contain any other matters that the Authority considers necessary or appropriate for facilitating the resolution of the complaint by informal means.".

Seanad amendment agreed to.

Seanad amendment No. 78:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Authority to refer complaints relating to misconduct to Complaints Committee

58. The Authority shall refer a complaint under *section 42(2)* to the Complaints Committee where the client and legal practitioner concerned do not succeed in resolving a matter in accordance with *section 54*.".

Seanad amendment agreed to.

Seanad amendment No. 79:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Establishment and membership of Complaints Committee

59. (1) The Authority shall establish a committee, to be known as the Complaints Committee, for the purpose of considering and investigating complaints referred to it by the Authority under *section 58*.

(2) A member of the Complaints Committee shall—

(a) hold office for a period of 4 years from the date of his or her appointment, and

(b) be eligible for reappointment as a member of the Complaints Committee, provided that he or she does not hold office for periods the aggregate of which exceeds 8 years.

(3) The Complaints Committee shall be appointed by the Authority and shall consist of not more than 27 members of whom—

(a) the majority shall be lay persons,

(b) not fewer than 8 shall be persons nominated by the Law Society, each of whom has practised as a solicitor for more than 10 years, and

(c) not fewer than 4 shall be persons nominated by the Bar Council, each of whom has practised in the State as a barrister for more than 10 years.

(4) In appointing lay persons to be members of the Complaints Committee the Authority shall ensure that those members are persons who—

(a) are independent of the professional bodies, and

(b) have expertise in or knowledge of—

(i) the provision of legal services,

(ii) the maintenance of standards in a profession (including those regulated by a statutory body),

(iii) the investigation and consideration of complaints relating to services, or

(iv) the interests of consumers of legal services.

(5) The Complaints Committee shall act in divisions of not less than 3 members and not more than 5 members (in this Act referred to as a "Divisional Committee").

(6) A Divisional Committee shall consist of an uneven number of members.

(7) Each Divisional Committee shall have a majority of lay members.

(8) The chairperson of each Divisional Committee shall be one of the lay members

of that Divisional Committee.

(9) The chief executive shall make arrangements for the provision of such administrative and secretarial support to each Divisional Committee as he or she considers necessary.

(10) Subject to *subsections (6)* and *(7)*, where a complaint relates to a solicitor—

(a) in a case where the Divisional Committee consists of 3 members, one of the members of the Divisional Committee shall be a solicitor,

(b) in a case where the Divisional Committee consists of 5 members, 2 of the members of the Divisional Committee shall be solicitors.

(11) Subject to *subsections (6)* and *(7)*, where a complaint relates to a barrister—

(a) in a case where the Divisional Committee consists of 3 members, one of the members of the Divisional Committee shall be a barrister,

(b) in a case where the Divisional Committee consists of 5 members, 2 of the members of the Divisional Committee shall be barristers.".

Seanad amendment agreed to.

Seanad amendment No. 80:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Investigation of complaints

60. (1) A Divisional Committee shall consider and investigate complaints made under this Part referred to the Complaints Committee by the Authority.

(2) Where the Authority refers a complaint to the Complaints Committee, the Authority shall furnish to the Divisional Committee concerned—

(a) a copy of the complaint and any documents relating to the complaint that have been submitted by the complainant, and

(b) a summary of the complaint.

(3) On receipt of the documents referred to in *subsection (2)*, the Divisional Committee shall—

(a) request the legal practitioner to whom the complaint relates to furnish to the Divisional Committee, within such reasonable period as is specified by the Divisional Committee, his or her response to the complaint, and

(b) unless the legal practitioner has already been furnished with the documents concerned, furnish a copy of the documents referred to in *subsection (2)* to him or her.

(4) Where, in the opinion of the Divisional Committee, the response of the legal practitioner under *subsection (3)* indicates that he or she is not in agreement to the issu-

ing of a direction under *section 61(1)(a)* or the taking of a measure under *section 61(1)(b)*, the Divisional Committee shall furnish a copy of the response to the complainant inviting him or her to furnish observations to the Divisional Committee in relation to the response of the legal practitioner within such a period as may be specified by the Divisional Committee.

(5) Where—

(a) the response of the legal practitioner under *subsection (3)* does not satisfy the Divisional Committee that it should not issue a direction under *section 61(1)(a*) or take a measure under *section 61(1)(b)*, or

(b) the legal practitioner does not furnish a response within the period specified in the notice,

the Divisional Committee shall, subject to the provisions of this Part, take such steps as it considers appropriate to investigate the complaint.

(6) For the purposes of investigating a complaint in accordance with *subsection (1)*, the Divisional Committee—

(a) shall have due regard to information furnished to it by the Authority, the complainant and the legal practitioner,

(b) may, by notice in writing to the complainant, do one or more of the following:

(i) require the complainant to verify, by affidavit or otherwise, anything contained in the complaint;

(ii) request the complainant to supply to the Committee, within a reasonable period specified in the notice—

(I) such information relating to the complaint as is specified in the notice, or

(II) such documents relating to the complaint as it may require;

(iii) require that information requested under *subparagraph (ii)* be verified by affidavit or otherwise;

and

(c) may, by notice in writing to the legal practitioner the subject of the complaint require him or her to do one or more of the following:

(i) verify, by affidavit or otherwise, anything contained in his or her response under *subsection (3)*;

(ii) supply the Committee, within a reasonable period specified in the notice, with—

(I) such information relating to the complaint as is specified in the notice, or

(II) such documents relating to the complaint as it may require;

(iii) require that information requested under *subparagraph (ii)* be verified by affidavit or otherwise.

(7) The complainant concerned shall comply with a notice issued to him or her by the Divisional Committee under *subsection (6)(b)*.

(8) The legal practitioner concerned shall comply with a notice issued to him or her by the Divisional Committee under *subsection (6)(c)*.

(9) The Divisional Committee may, having had due regard to—

(a) information furnished to it by the Authority,

(b) any information or documents provided to it by the complainant or the legal practitioner concerned under this section,

(c) any response furnished to the Divisional Committee by the legal practitioner concerned pursuant to this section, and

(d) any observations furnished by the complainant under *subsection (4)*,

require the complainant and the legal practitioner to appear before the Committee for the purposes of the investigation of the complaint.

(10) The complainant and the legal practitioner may be represented by a person of their choice for the purposes of their appearance before the Divisional Committee and the costs of such representation, if any, shall be borne by the person who requested such representation.

(11) Where a complaint is withdrawn when it is being investigated by the Divisional Committee, the Committee may—

(a) decide that no further action be taken in relation to the matter the subject of the complaint, or

(b) proceed as if the complaint had not been withdrawn and, where it does so, shall notify the Authority, the complainant and the legal practitioner concerned of the fact.

(12) Where the Divisional Committee determines that the act or omission does not warrant the issuing of a direction under *section 61(1)(a)* or the taking of a measure under *section 61(1)(b)*, it shall so advise the complainant and the legal practitioner in writing, giving reasons for the determination.

(13) The Divisional Committee shall make reasonable efforts to ensure that—

(a) the complainant is kept informed of all decisions made by the Committee in relation to the complaint concerned,

(b) the Committee acts expeditiously, and

(c) complaints referred to it are processed in a timely manner.".

Seanad amendment agreed to.

Seanad amendment No. 81:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Power of Divisional Committee to specify measures

61. (1) Where the Divisional Committee, following an investigation under *section 60*, considers that the act or omission the subject of the complaint is not one to which *subsection (7)* applies, but determines that it warrants the imposition of a sanction under this section, it may—

(a) subject to *subsection (9)*, issue a direction to the legal practitioner concerned to take such measures as are specified in the determination of the Divisional Committee, being measures specified in *paragraphs (a)* to *(i)* of *subsection (5)*, or

(b) where the legal practitioner concerned so consents in writing, take the measure specified in the determination of the Divisional Committee, being a measure specified in *subsection (6)*.

(2) Where the Divisional Committee issues one or more than one direction in accordance with *subsection (1)(a)* and the legal practitioner complies with each such direction, the complaint shall be considered as determined.

(3) Where the Divisional Committee (with the consent of the legal practitioner concerned) takes a measure specified in *subsection (1)(b)*, the complaint shall be considered as determined.

(4) The Divisional Committee shall not impose a sanction under *subsection (1)* unless the Committee considers it to be a reasonable and appropriate manner of determining the complaint.

(5) The measures referred to in *subsection (1)(a)* are the following:

(a) a direction to the legal practitioner to perform or complete the legal service the subject of the complaint or a direction to the legal practitioner to arrange for the performance or completion of the legal service the subject of the complaint by a legal practitioner nominated by the complainant at the expense of the legal practitioner the subject of the complaint;

(b) a direction to the legal practitioner that he or she participate in one or more modules of a professional competence scheme and that he or she furnish evidence to the Authority of such participation within a specified period;

(c) a direction to the legal practitioner—

(i) that he or she waive all or a part of any fees otherwise payable by the complainant to the legal practitioner concerned, or

(ii) that he or she refund to the client some or all of any fees paid to the legal practitioner concerned in respect of the legal services the subject of the complaint;

(d) a direction that the legal practitioner take such other action in the interest of the client as the Committee may specify;

(e) a direction to the legal practitioner to comply with (in whole or in part) an undertaking given by the legal practitioner to another legal practitioner or to another person or body;

(f) a direction to the legal practitioner to withdraw or amend an advertisement;

(g) a direction to the legal practitioner to pay a sum not exceeding €5,000 as compensation for any financial or other loss suffered by the client in consequence of any inadequacy in the legal services provided or purported to have been provided by the legal practitioner, provided that any such payment made in compliance with the direction shall be without prejudice to any legal right of the client;

(h) a direction to the legal practitioner to pay to the Authority a sum not exceeding €5,000 by way of contribution towards the costs incurred by the Authority in investigating the complaint;

(i) where the Divisional Committee has determined that the legal practitioner has in the course of the investigation refused, neglected or otherwise failed, without reasonable cause, to respond appropriately in a timely manner, or at all, to a written request from the Divisional Committee and that the Authority has incurred additional costs in relation to the investigation of the complaint in consequence of that refusal, neglect or failure, a direction to the legal practitioner to pay to the Authority a sum not exceeding €2,500 by way of contribution towards those additional costs incurred by the Authority in investigating the complaint.

(6) The measure referred to in *subsection (1)(b)* is the issue of a notice—

(a) in the case of a legal practitioner who is a solicitor, to the Law Society informing the Law Society of the decision of the Divisional Committee to impose a sanction under *subsection (1)(b)* and directing the Law Society to impose a specified restriction or condition on the practising certificate of the legal practitioner concerned, or

(b) in the case of a legal practitioner who is a barrister, to the chief executive of the Authority of the decision of the Divisional Committee to impose a sanction under *subsection (1)(b)* and directing the chief executive to impose, in accordance with *Part 10*, a specified restriction or condition on the legal practitioner concerned in respect of his or her practice as a barrister.

(7) (a) Subject to *subsection (8)*, where the Divisional Committee considers that the act or omission the subject of the complaint is of a kind that is more appropriate for consideration by the Legal Practitioners Disciplinary Tribunal than under this section, it may make an application in respect of the matter to it for the holding of an inquiry under *section 71*.

(b) In determining whether it would be more appropriate for the complaint to be considered by the Legal Practitioners Disciplinary Tribunal, the Complaints Committee shall have regard to the gravity of the concerns raised and matters disclosed in the complaint and in the investigation under this section.

(8) (a) Where the Divisional Committee considers that a measure specified in *subsection (6)* is the appropriate measure to be taken as respects the complaint, it shall notify the legal practitioner concerned to that effect and specify the precise measure (including in the case of a restriction or condition to be imposed on the practising certificate of the legal practitioner or on the legal practitioner in respect of his or her practice as a barrister, the precise restriction or condition) it proposes to take.

(b) The notification referred to in *paragraph (a)* shall indicate that, unless the legal practitioner concerned furnishes to the Divisional Committee his or her consent in writing to the imposition of the specified measures within 21 days of the issue of the notification, the Divisional Committee will apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry into the complaint by the Tribunal under this Part.

(c) Where the Divisional Committee issues a notification pursuant to *paragraph (b)* and does not receive the written consent of the legal practitioner concerned within 21 days to the imposition of the specified measures, it shall apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry by it into the complaint in so far as the Committee has not found that the complaint is unfounded or that the act or omission concerned does not warrant the imposition of a sanction under this section or an application under *subsection (7)* to the Disciplinary Tribunal.

(9) In issuing a direction specified in *paragraph (c)(ii)*, *(g)*, *(h)* or *(i)* of *subsection (5)*, the Divisional Committee shall have regard to the means of the legal practitioner concerned.

(10) The Divisional Committee shall notify the Authority of its determination under *subsection (1)*.".

Seanad amendment agreed to.

Seanad amendment No. 82:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Appeal of determination of Divisional Committee

62. (1) Where the Divisional Committee issues a direction under *section 61(1)(a)* to a legal practitioner, the legal practitioner may, within a period of 21 days of the date of such issue, appeal to the High Court against either or both of the following:

(a) the determination of the Divisional Committee under *section 61(1)*, or

(b) the direction.

(2) The Authority may, within a period of 21 days of the notification under *section 61(9)* of the determination of the Divisional Committee under *section 61(1)*, appeal to the High Court against one or more than one of the following:

(a) where a direction is issued under *section 61(1)(a)*—

(i) the determination of the Divisional Committee under *section 61(1)*, or

(ii) the direction;

(b) a failure of the Divisional Committee to make an application under *section 61(7)*.

(3) The High Court, on an application under *subsection (1)* or *(2)*, may—

(a) in an appeal to which *subsection (1)(a)* or *(2)(a)(i)* applies—

(i) confirm the determination of the Divisional Committee under *section 61(1)*, or

(ii) set aside the determination of the Divisional Committee under *section 61(1)*,

and

(b) in an appeal to which *subsection (1)(b)* or *(2)(a)(ii)* of *section 62* applies, may—

(i) confirm the direction concerned,

(ii) set aside the direction, or

(iii) set aside the direction and impose another sanction that the Divisional Committee could have imposed under *section 61(1)*,

and

(c) in an appeal to which *subsection (2)(b)* applies, affirm or set aside the decision of the Divisional Committee not to make an application under *section 61(7)*.".

Seanad amendment agreed to.

Seanad amendment No. 83:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Publication of reports by Authority relating to its functions under this Part

63. (1) The Authority shall publish, in such manner as the Authority considers appropriate, a report on the performance of its functions under this Part.

(2) A report referred to in *subsection (1)* shall include information in respect of the relevant reporting period of—

(a) the number and type of complaints received by the Authority under this Part during the relevant reporting period,

(b) the general nature and outcome of those complaints,

(c) the number of complaints referred to the Complaints Committee in the relevant reporting period, and

(d) the outcome of those complaints which were considered by the Complaints

Committee during the relevant reporting period including—

(i) the sanction imposed by the Complaints Committee,

(ii) where a sanction was imposed, the nature of the act or omission that was the subject of the complaint,

(iii) the measures taken by the Complaints Committee, and

(iv) where the Complaints Committee made a determination under *section 61(1)*, and where the Authority considers it appropriate, the name of the legal practitioner concerned.

(3) A report published under *subsection (1)* shall be published by the Authority at intervals no greater than 6 months.".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 84 to 100 inclusive and the amendments thereto are related and may be discussed together.

Seanad amendment No. 84:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Establishment of Legal Practitioners Disciplinary Tribunal

64. There shall stand established a body to be known as the Legal Practitioners Disciplinary Tribunal to consider applications brought before it under *section 67* and to perform the other functions assigned to it by this Act.".

Seanad amendment agreed to.

Seanad amendment No. 85:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Membership of Disciplinary Tribunal

65. (1) The Disciplinary Tribunal shall be appointed by the President of the High Court on the nomination of the Minister and shall consist of not more than 33 members of whom—

(a) the majority shall be lay persons,

(b) not fewer than 6 shall be persons, nominated by the Law Society, each of whom has practised in the State as a solicitor for more than 10 years,

(c) not fewer than 6 shall be persons, nominated by the Bar Council, each of whom has practised in the State as a barrister for more than 10 years, and

(d) at least 40 per cent, calculated to the nearest whole number, shall be men and at least 40 per cent, as so calculated, shall be women.

(2) One of the persons appointed under *subsection (1)* shall be appointed as chair-

person of the Disciplinary Tribunal.

(3) The Minister shall ensure that those lay persons nominated to be members of the Disciplinary Tribunal are persons who are independent of the Government and the professional bodies and have knowledge of and expertise in one or more than one of the following:

(a) the provision of legal services;

(b) the maintenance of standards in a profession (including those regulated by a statutory body);

(c) the investigation and consideration of complaints relating to services;

(d) commercial matters;

(e) the interests of consumers of legal services.

(4) The Disciplinary Tribunal shall act in divisions consisting of—

(a) an uneven number of members,

(b) a majority of lay members, and

(c) not fewer than 3 members.

(5) The chairperson of each division of the Disciplinary Tribunal shall be one of the lay members.

(6) Where a complaint relates to a solicitor, the division of the Disciplinary Tribunal hearing the inquiry shall include at least one solicitor.

(7) Where a complaint relates to a barrister, the division of the Disciplinary Tribunal hearing the inquiry shall include at least one barrister.".

Seanad amendment agreed to.

Seanad amendment No. 86:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Chairperson of Disciplinary Tribunal

66. (1) The person appointed as chairperson of the Disciplinary Tribunal shall, where the person is a legal practitioner, have practised as a barrister or solicitor for not less than 10 years.

(2) The term of office of the chairperson shall be 5 years, and the chairperson may be appointed for a second term not exceeding 5 years.

(3) The chairperson shall retire on attaining the age of 70 years.

(4) The chairperson shall be appointed by the President of the High Court from the persons nominated by the Minister for membership of the Tribunal.".

Seanad amendment agreed to.

Seanad amendment No. 87:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Applications to Disciplinary Tribunal

67. The Disciplinary Tribunal may hear the following applications that are brought to it in accordance with regulations under section 69(1):

(a) an application by the Complaints Committee under *subsection (7)* or *(8)(c)* of *section 61*;

(b) an application by the Law Society under subsection (6) or (7)(c) of section 14A of the Solicitors (Amendment) Act 1994.".

Seanad amendment agreed to.

Seanad amendment No. 88:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Presentation of case to Disciplinary Tribunal

68. (1) The Authority, or a person appointed to do so on its behalf, shall, in an application referred to in *paragraph (a)* of *section 67*, present the evidence to the Disciplinary Tribunal grounding the contention that misconduct by the legal practitioner concerned has occurred.

(2) The Law Society, or a person appointed to do so on its behalf, shall, in an application referred to in *paragraph (b)* of *section 67*, present the evidence to the Disciplinary Tribunal grounding the contention that misconduct by the solicitor concerned has occurred.".

Seanad amendment agreed to.

Seanad amendment No. 89:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Regulations relating to Disciplinary Tribunal

69. (1) The Disciplinary Tribunal may make Regulations, consistent with this Act, regulating—

(a) the making of applications to the Disciplinary Tribunal under this Act, and

(b) the proceedings of the Disciplinary Tribunal under this Act.

(2) Regulations made under *subsection (1)* may make provision for the parties, other than the Authority, and the legal practitioner concerned, who may make submissions to the Disciplinary Tribunal.

(3) The Disciplinary Tribunal, in making regulations under *subsection (1)*, shall have

as objectives that the manner of making applications, and the conduct of proceedings, be as informal as is consistent with the principles of fair procedures, and that undue expense is not likely to be incurred by any party who has an interest in the application.

(4) The Disciplinary Tribunal may consider and determine an application to it under this Part on the basis of affidavits and supporting documentation and records where the legal practitioner, and the Authority consent.".

Deputy Dara Murphy: I move amendment No. 1 to Seanad amendment No. 89:

To delete subsection (2) of the section 69 proposed to be inserted by Seanad amendment number 89 and substitute the following:

"(2) Regulations made under *subsection (1)* may make provision for—

(a) the procedures to be followed in relation to the matters referred to in *subsection (1)*, and

(b) the parties, other than the Authority, the complainant and the legal practitioner concerned, who may make submissions to the Disciplinary Tribunal.".

Amendment No. 1 to Seanad amendment No. 89 agreed to.

Seanad amendment No. 89, as amended, agreed to.

Seanad amendment No. 90:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Powers of Disciplinary Tribunal as to taking of evidence, etc.

70. (1) The Disciplinary Tribunal shall, for the purposes of any inquiry under this Part, have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action, in respect of—

(a) the enforcement of the attendance of witnesses and their examination on oath or on affirmation,

(b) the compelling of the production of documents, and

(c) the compelling of the discovery under oath or under affirmation of documents, and a summons signed by a member of the Disciplinary Tribunal may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production and the discovery under oath or under affirmation of documents.

(2) The Disciplinary Tribunal may require the Authority and the legal practitioner concerned to submit in writing an outline of the evidence expected to be given by each of the witnesses whom they propose to have summoned to attend the hearing.

(3) The Disciplinary Tribunal may, if of opinion that the evidence expected to be given by any witness whom it is proposed to have summoned to attend the hearing is irrelevant or does not add materially to that proposed to be given by other witnesses and that accordingly the attendance of the witness at the inquiry is likely to give rise to un-

necessary delay or expense, so inform the Authority or the legal practitioner concerned, as the case may be, and bring to the attention of the Authority or legal practitioner the provisions of *subsection (4)*.

(4) On the completion of the inquiry the Disciplinary Tribunal, whether or not it has acted in accordance with *subsection (3)*, may, if of opinion that the attendance of any witness summoned at the request of the Authority was unnecessary and thereby involved the witness in avoidable expense, by order direct that the Authority or the legal practitioner concerned, as the case may be, shall pay a specified amount or amounts not exceeding €1,000 to the witness in respect of the expense incurred, and the witness may recover the sum or sums from the Authority or legal practitioner, as the case may be, as a simple contract debt.

(5) Before making an order under *subsection (4)*, the Disciplinary Tribunal shall notify in writing the Authority or the legal practitioner concerned that it proposes to do so and shall consider any representations that may be made to it in writing by the person concerned within 14 days after the notification.

(6) The Authority or the legal practitioner concerned in respect of whom an order has been made under *subsection (4)* may appeal to the High Court against the order within 21 days of the receipt by him or her of notification of the making of the order, and the Court may make such order on the appeal as it thinks fit.

(7) If a person—

(a) on being duly summoned as a witness before the Disciplinary Tribunal, without just cause or excuse disobeys the summons,

(b) being in attendance as a witness before the Disciplinary Tribunal, refuses to take an oath or make an affirmation when required by the Disciplinary Tribunal to do so, or to produce or discover under oath or under affirmation any documents in his or her possession or under his or her control or within his or her procurement required by the Disciplinary Tribunal to be produced or discovered under oath or under affirmation by him or her, or to answer any question to which the Disciplinary Tribunal may require an answer,

(c) wilfully gives evidence to the Disciplinary Tribunal which is material to its inquiry which he or she knows to be false or does not believe to be true,

(d) by act or omission, obstructs or hinders the Disciplinary Tribunal in the performance of its functions, or

(e) fails, neglects or refuses to comply with the provisions of an order made by the Disciplinary Tribunal,

the person shall be guilty of an offence.

(8) A witness before the Disciplinary Tribunal shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(9) A person guilty of an offence under this section shall be liable—

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

(b) on conviction on indictment, to a fine not exceeding €30,000 or to imprisonment for a term not exceeding 2 years or to both.

(10) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an offence under this section as if, in lieu of the penalties specified in subsection (3) of that section, there were specified therein the penalties provided for by *subsection (9)*, and the reference in subsection (2)(a) of that section to the penalties provided for in subsection (3) of that section shall be construed accordingly.

(11) A reference in this section and *section 71* to the Authority shall be deemed, in the case of an inquiry the application for which was made by the Law Society under *section 67(d)*, to include a reference to the Law Society.".

Deputy Dara Murphy: I move amendment No. 1 to Seanad amendment No. 90:

In subsection (4) of the section 70 proposed to be inserted by Seanad amendment number 90, in the third line of that subsection, after "Authority" to insert "or the legal practitioner concerned".

Amendment No. 1 to Seanad amendment No. 90 agreed to.

Seanad amendment agreed to.

Seanad amendment No. 91:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Inquiry by Disciplinary Tribunal

71. (1) Where the Disciplinary Tribunal receives an application referred to in *section 67* for the holding of an inquiry, it shall arrange a date for the hearing and notify in writing the legal practitioner and the Authority.

(2) An inquiry under this section shall be conducted by way of oral hearing and, subject to *subsection (3)*, shall be heard in public.

(3) Where the Disciplinary Tribunal is satisfied that it is necessary to do so in the interests of justice, it may direct that the hearing of the inquiry or any part thereof be held otherwise than in public.

(4) The legal practitioner concerned and the Authority may be represented at any hearing before the Disciplinary Tribunal by a legal practitioner.

(5) Witnesses appearing before the Disciplinary Tribunal shall give evidence on oath or on affirmation.

(6) The legal practitioner concerned and the Authority shall have an opportunity to examine every witness giving evidence to the Disciplinary Tribunal.

(7) If the Tribunal considers that, for the purposes of the inquiry, it requires the advice or assistance of an expert in respect of any matter, it may, subject to such terms

and conditions as it may determine, appoint such number of persons having expertise in relation to the matter concerned as it considers necessary to provide it with such advice or assistance.

(8) Having conducted the inquiry, the Disciplinary Tribunal shall make a determination whether or not, on the basis of the evidence properly before it, each act or omission to which the inquiry relates constitutes misconduct and, in that event, make a determination as to whether the issue of sanction should be dealt with pursuant to *subsection (1)* or *(2)* of *section 72*.

(9) A determination referred to in *subsection (9)* shall—

(a) be in writing,

(b) specify the reasons for the determination,

(c) specify the sanction (if any) to be imposed, and

(d) be notified to the legal practitioner, and the Authority.".

Seanad amendment agreed to.

Seanad amendment No. 92:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Sanctions following finding of misconduct by Disciplinary Tribunal

72. (1) Where, pursuant to the holding of an inquiry under *section 71*, the Disciplinary Tribunal makes a determination under *section 71(9)* that there has been misconduct on the part of a legal practitioner and determines that the issue of sanction should be dealt with pursuant to this subsection, the Disciplinary Tribunal may, subject to *subsections (3)* and *(4)*, make an order imposing one or more of the following sanctions on the legal practitioner:

(a) an advice;

(b) an admonishment;

(c) a censure;

(d) a direction that the legal practitioner participate in one or more modules of a professional competence scheme and furnish, within a specified period, evidence to the Disciplinary Tribunal of such participation;

(e) a direction that the legal practitioner concerned—

(i) waive all or a part of any costs otherwise payable by the complainant to the legal practitioner concerned in respect of the matter the subject of the complaint,

(ii) refund all or any part of any costs paid to the legal practitioner concerned in respect of the matter the subject of the complaint;

(f) a direction that the legal practitioner arrange for the completion of the legal

service to which the inquiry relates or the rectification, at his or her own expense, of any error, omission or other deficiency arising in connection with the provision of the legal services the subject of the inquiry, as the Disciplinary Tribunal may specify;

(g) a direction that the legal practitioner take, at his or her own expense, such other action in the interests of the complainant as the Disciplinary Tribunal may specify;

(h) a direction that the legal practitioner transfer any documents relating to the subject matter of the complaint (but not otherwise) to another legal practitioner nominated by the client or by the Authority with the consent of the client, subject to such terms and conditions as the Authority may deem appropriate having regard to the circumstances, including the existence of any right to possession or retention of such documents or any of them vested in the legal practitioner or in any other person;

(i) a direction that the legal practitioner pay a sum, not exceeding €15,000, as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;

(j) a direction that the whole or a part of the costs of the Disciplinary Tribunal or of any person making submissions to it or appearing before it, in respect of the inquiry be paid by the legal practitioner concerned (which costs shall be assessed by a Legal Costs Adjudicator in default of agreement);

(k) where the legal practitioner is a practising solicitor, a direction that a specified condition be imposed on his or her practising certificate;

(l) where the legal practitioner is a practising solicitor, and the misconduct concerned consists of a breach of the Solicitors Accounts Regulations, a direction that he or she pay a sum not exceeding €15,000 to the Compensation Fund;

(m) where the legal practitioner is a practising barrister, a direction to the chief executive of the Authority directing him or her to impose a specified restriction or condition on the legal practitioner in respect of his or her practice as a barrister.

(2) Where, pursuant to the holding of an inquiry under this Part, the Disciplinary Tribunal makes a determination under *section 71(9)* that there has been misconduct by a legal practitioner and determines that the issue of sanction should be dealt with pursuant to this subsection, the Disciplinary Tribunal shall make a recommendation to the High Court that the Court make one or more than one of the orders specified in *section 75(7)*.

(3) Where the Disciplinary Tribunal under *subsection (1)* makes an order imposing one or more of the sanctions specified in *paragraphs (g)*, *(i)*, *(j)* or *(l)* of that subsection, the aggregate amount of the sums to be paid by the legal practitioner under the order concerned shall not exceed €15,000.

(4) In making an order referred to in *subsection (3)*, the Disciplinary Tribunal shall have regard to the means of the legal practitioner concerned.".

Seanad amendment agreed to.

Seanad amendment No. 93:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Persons who may appeal determination of Disciplinary Tribunal and matters in respect of which appeal may be brought

73. (1) Where the Disciplinary Tribunal makes a determination under *section 71(9)* that the act or omission concerned does not constitute misconduct, the Authority may appeal that finding to the High Court.

(2) Where the Disciplinary Tribunal makes a determination under *section 71(9)* that the act or omission concerned constitutes misconduct and deals with the issue of sanction under *section 72(1)*, an appeal may be brought to the High Court—

(a) by the legal practitioner concerned as respects the determination of misconduct or the sanction imposed, or

(b) by the Authority as respects the sanction imposed.

(3) Where the Disciplinary Tribunal makes a determination under *section 71(9)* that the act or omission concerned constitutes misconduct and deals with the issue of sanction under *section 72(2)*, the legal practitioner concerned may appeal that determination to the High Court.

(4) Where the application to the Disciplinary Tribunal was brought by the Law Society, a reference in this section to the Authority shall be construed as including a reference to the Law Society.

(5) An appeal under this section shall be brought within the period of 28 days of the date on which the notification under *section 71(9)(d)* of the determination concerned was sent to the person making the appeal.".

Seanad amendment agreed to.

Seanad amendment No. 94:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Appeals to High Court from Disciplinary Tribunal

74. (1) The High Court shall determine an appeal brought in accordance with *section 73* in accordance with this section and any rules of court made in relation to such appeals.

(2) Each party who was a party participating in the inquiry of the Disciplinary Tribunal shall be entitled to appear and make submissions in connection with the matter under appeal.

(3) In an appeal under *section 73(1)*, the High Court may—

(a) confirm the determination of the Disciplinary Tribunal, or

(b) allow the appeal, and—

(i) impose a sanction which the Disciplinary Tribunal could impose pursuant

to *section 72(1)*, or

(ii) consider, in accordance with that section, the imposition of a sanction under *section 75*.

(4) In an appeal under *section 73(2)(a)*, the High Court may—

(a) confirm the determination of the Disciplinary Tribunal, or

(b) determine that the act or omission the subject of the inquiry does not constitute misconduct.

(5) In an appeal under *section 73(2)(b)*, or where the High Court makes a confirmation under *subsection (4)(a)*, the Court may—

(a) confirm the sanction imposed under *section 72(1)*, or

(b) impose a sanction which the Disciplinary Tribunal could have imposed under *section 72(1)*, or

(c) consider, in accordance with that section, the imposition of sanction under *section 75*.".

Seanad amendment agreed to.

Seanad amendment No. 95:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Consideration of matter by High Court where referred by Disciplinary Tribunal

75. (1) Where the Disciplinary Tribunal makes a recommendation to the High Court under *section 72(2)* and the legal practitioner concerned appeals in accordance with *section 73(3)* against the determination of misconduct, the Court shall first determine the appeal.

(2) In an appeal under *section 73(3)*, the High Court may—

(a) confirm the determination of the Disciplinary Tribunal, or

(b) determine that the act or omission the subject of the inquiry does not constitute misconduct.

(3) Where—

(a) the legal practitioner concerned does not appeal under *section 73(3)* the determination of the Disciplinary Tribunal,

(b) the High Court confirms under *subsection (2)* the determination of the Disciplinary Tribunal, or,

(c) the High Court makes a decision referred to in *subsection (3)(b)(ii)* or *(5)(c)* of *section 74*,

the Court shall, having considered (where applicable) the recommendation of the Disciplinary Tribunal under *section 72(2)* and given each party who was a party participating in the inquiry of the Disciplinary Tribunal an opportunity to appear to make submissions in connection with the matter, decide upon the sanction to be imposed on the legal practitioner.

(4) The sanction referred to in *subsection (3)* may be—

(a) one or more of the sanctions which the Disciplinary Tribunal could impose under *section 72(1)*, or

(b) the making of an order under *subsection (6)*.

(5) Before imposing a sanction under *subsection (3)*, the High Court may, if it thinks fit, remit the case to the Disciplinary Tribunal to take further evidence for submission to it and to make a supplementary report, and the Court may adjourn the hearing of the matter pending the submission to it of such further evidence and the making of such supplementary report.

(6) In imposing a sanction under *subsection (3)*, the High Court shall take account of any finding of misconduct on the part of the legal practitioner concerned previously made by the Disciplinary Tribunal and not rescinded by the Court and of any order made by the Court under this Act or under the *Solicitors Acts 1954* to *2015*.

(7) The Court, under this subsection, may by order direct one or more than one of the following:

(a) that the legal practitioner be censured or that he or she be censured and required to pay an amount of money to the Authority or, in the case of a legal practitioner who is a solicitor, to the Compensation Fund, as the Court considers appropriate;

(b) that the legal practitioner be restricted as to the type of work which he or she may engage in, for such period as the Court considers appropriate and subject to such terms and conditions as the Court considers appropriate;

(c) that the legal practitioner be prohibited from practising as a legal practitioner otherwise than as an employee, and subject to such terms and conditions as the Court considers appropriate;

(d) that the legal practitioner be suspended from practice as a legal practitioner for a specified period and subject to such terms and conditions as the Court considers appropriate;

(e) where the legal practitioner is a barrister, that the Authority, in accordance with *Part 9*, strike the name of the person off the roll of practising barristers and inform the Chief Justice and the Honorable Society of King's Inns of the fact;

(f) where the legal practitioner is a solicitor, that the name of the solicitor be struck off the roll of solicitors;

(g) in the case of a legal practitioner to whom a Patent has been granted, that the Authority make an application referred to in *section 148(2)* in respect of that grant;

(h) that the legal practitioner do one or more than one of the following:

(i) take, at his or her own expense, such other action in the interests of the complainant as the Court may specify;

(ii) pay a sum as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;

(iii) pay the whole or a part of the costs of the Disciplinary Tribunal or of any person making submissions to it or appearing before it, in respect of the inquiry concerned (which costs shall be assessed by a Legal Costs Adjudicator in default of agreement);

(i) where the legal practitioner is a solicitor:

(i) that a specified bank shall furnish any information in its possession that the Law Society may require relating to any aspect of the financial affairs of the practice of the solicitor;

(ii) that the solicitor shall swear an affidavit disclosing all information relating to or contained in accounts, held in his or her own name or in the name of his or her firm or jointly with third parties with any bank within a specified duration of time, to be fixed by the Court;

(iii) that the solicitor make restitution to any aggrieved party the Court thinks fit;

(iv) on the application of the Law Society or the Authority, that the solicitor swear an affidavit (within a specified duration of time to be fixed by the Court) disclosing all information as to his or her assets either then in his or her possession or control or within his or her procurement and, if no longer in his or her possession or control or within his or her procurement, his or her belief as to the present whereabouts of those assets;

(v) that the solicitor make himself or herself available before the Court on a specified day and at a specified time for oral examination under oath or under affirmation in relation to the contents of any affidavit of assets sworn by him or her pursuant to *subparagraph (iv)*;

(vi) on the application of the Law Society or the Authority and where it is shown that the conduct of the solicitor or of any clerk or servant of that solicitor arising from that solicitor's practice as a solicitor has given or is likely to give rise to the making by the Law Society of a grant or grants out of the Compensation Fund, direct that the solicitor shall not reduce his assets below a certain specified amount or value unless the Court otherwise directs;

(vii) on the application of the Law Society or the Authority, the delivery to any person appointed by the Law Society or Authority of all or any documents in the possession or control or within the procurement of the solicitor arising from his practice as a solicitor;

(viii) either—

(I) that no bank shall, without leave of the Court, make any payment out of an account in the name of the solicitor or his firm, or

(II) that a specified bank shall not without leave of the Court, make any payment out of any account in the name of the solicitor or his or her firm;

(ix) that the solicitor shall not attend at the place of business of his or her practice as a solicitor unless otherwise permitted by the Court;

(x) that the solicitor shall not represent himself or herself as having, or hold himself or herself out as having, any connection with his or her former practice as a solicitor, or permit any other person to so represent that solicitor, unless otherwise permitted by the Court.

(8) In making an order under *subsection (6)*, the Court may, in addition—

(a) make such order as to costs incurred in the proceedings before it and the Legal Practitioners Disciplinary Tribunal as the Court thinks fit;

(b) make an ancillary order in relation to the matter which the Court thinks fit.

(9) In this section, "Patent" has the same meaning as it has in *Part 12*, and includes a Patent granted in the State before the coming into operation of this section.".

Deputy Dara Murphy: I move amendment No. 1 to Seanad amendment No. 95:

In subsection (4)(b) of section 75 proposed to be inserted by Seanad Amendment no. 95 to delete "subsection (6)" and substitute "subsection (7)".

Amendment No. 1 to Seanad amendment No. 95 agreed to.

Seanad amendment No. 95, as amended, agreed to.

Seanad amendment No. 96:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Exercise of jurisdiction of High Court under *sections 74* and *75*

76. The jurisdiction vested in the High Court by *sections 74* and *75* shall be exercised by the President of the High Court or, if and whenever the President of the High Court so directs, by an ordinary judge of the High Court for the time being assigned in that behalf by the President of the High Court.".

Seanad amendment agreed to.

Seanad amendment No. 97:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Appeals to Court of Appeal

77. The Authority or the legal practitioner concerned may appeal to the Court of Appeal against an order of the High Court made under *section 75* within a period of 21 days

beginning on the date of the order and, unless the High Court or the Court of Appeal otherwise orders, the order of the High Court shall have effect pending the determination of such appeal.".

Seanad amendment agreed to.

Seanad amendment No. 98:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Orders made by High Court or determinations made by Authority

78. (1) A copy of every decision or order made by the High Court under *section 74* or *75* and any determination made by the Disciplinary Tribunal under *sections 71* and *72* shall be furnished to the registrar of solicitors in the case of an order relating to a practising solicitor or and to the Honorable Society of King's Inns in the case of an order relating to a practising barrister.

(2) Where an order—

(a) striking the name of a legal practitioner who is a solicitor off the roll of solicitors,

(b) striking the name of a legal practitioner who is a barrister off the roll of practising barristers, or

(c) suspending a legal practitioner from practice,

is made by the High Court under *section 74* or *75*, the Authority shall as soon as practicable thereafter cause a notice stating the effect of the operative part of the order to be published in *Iris Oifigiúil* and shall also cause the notice to be published in such other manner as the Authority may consider appropriate.

(3) Where a matter is determined by the Disciplinary Tribunal in accordance with *section 72(1)* and the time for lodging an appeal has expired the Authority shall arrange for the publication of—

(a) the determination,

(b) the nature of the misconduct,

(c) the sanction imposed, and

(d) the name of the legal practitioner concerned.

(4) Where the High Court makes a decision under—

(a) *section 74(3)(b)*,

(b) *section 74(4)* (other than *section 74(4)(b)*),

(c) *section 75* (other than *section 75(2)(b)*),

the Authority shall arrange for the publication of—

(i) the decision,

(ii) the nature of the misconduct,

(iii) the sanction imposed, and

(iv) the name of the legal practitioner concerned.".

Deputy Dara Murphy: I move amendment No. 1 to Seanad amendment No. 98:

In subsection (1) of section 78 proposed to be inserted by Seanad Amendment No. 98, in the second last line to delete "and".

Amendment No. 1 to Seanad amendment No. 98 agreed to.

Seanad amendment No. 98, as amended, agreed to.

Seanad amendment No. 99:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Privilege (*Part 5*)

79. The following shall be absolutely privileged:

(a) complaints made to the Authority under this Part and documents created or furnished to the parties entitled to receive them under this Part;

(b) proceedings and documents associated with an inquiry held by the Disciplinary Tribunal under this Part;

(c) a report made by the Disciplinary Tribunal to the High Court in accordance with this Part;

(d) a notice authorised by *section 78* to be published or communicated.".

Seanad amendment agreed to.

Seanad amendment No. 100:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Enforcement of order of Disciplinary Tribunal under this Part

80. (1) Where, on application by the Authority in circumstances where the matter is not otherwise before the High Court, it is shown that a legal practitioner or any other person has refused, neglected or otherwise failed, without reasonable cause, to comply in whole or in part with a direction, determination or order to which *subsection (4)* applies, the Court may by order direct the legal practitioner or other person, as the case may be, to comply in whole or in part as may be appropriate, with the direction, determination or order.

(2) An application by the Authority pursuant to *subsection (1)* shall be on notice to the legal practitioner or other person concerned unless the High Court otherwise orders.

(3) An order of the High Court under *subsection (1)* may contain such provisions of a consequential nature as the Court considers appropriate.

(4) This subsection applies to the following—

(a) a direction of the Authority under *section 51(6)* or *52(6)*;

(b) a determination of a Review Committee under *section 53(5)*;

(c) a direction of a Divisional Committee under *section 61(1)(a)*;

(d) an order of the Disciplinary Tribunal under *section 72(1)*.".

Seanad amendment agreed to.

Seanad amendment No. 101:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Transitional provisions in relation to solicitors

81. (1) Where, before the date on which this subsection comes into operation, a complaint under section 8 or 9 of the Solicitors (Amendment) Act 1994 has been received by the Law Society, then, notwithstanding the amendment by this Act of the Solicitors Acts 1954 to 2011, the provisions of those Acts shall continue to apply to the complaint as if those amendments had not been made.

(2) Where, on or after the date on which this subsection comes into operation—

(a) a complaint is made under *section 42(1)* in respect of a solicitor, and

(b) the act or omission to which the complaint relates occurred before that date,

the complaint shall be dealt with under this Part and this Act shall apply accordingly.

(3) Where, on or after the date on which this subsection comes into operation—

(a) a complaint is made under *section 42(2)*, in respect of a solicitor, and

(b) the act or omission to which the complaint relates occurred before that date,

the complaint shall be dealt with under this Part and this Act shall apply accordingly, subject to the modification that "misconduct" shall, for the purposes of the complaint, be deemed to have the meaning it has under section 3 of the Solicitors (Amendment) Act 1960 as if the amendment of that section by *section 158* had not been made.".

Seanad amendment agreed to.

Seanad amendment No. 102:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Transitional provisions in relation to barristers

82. (1) Where, on or after the date on which this subsection comes into operation, the

Benchers of the Honorable Society of King's Inns disbar a person for an act or omission of the person that occurred before that date, the Honorable Society of King's Inns shall notify the Authority of the disbarment, which notification shall be accompanied by a report of the act or omission concerned.

(2) The Authority, on receipt of a notification and report under *subsection (1)*, shall examine the report and, where it considers that the act or omission of the person constitutes misconduct, shall make an application to the High Court for the making by it of an order under this section.

(3) An application under *subsection (2)* shall be on notice to the person concerned and the Honorable Society of King's Inns.

(4) The High Court, on an application under *subsection (2)*, having considered the report under *subsection (1)* and given the Authority, the persons concerned and the Honorable Society of King's Inns an opportunity to appear and to make submissions in connection with the application, decide whether to impose a sanction on the person.

(5) The Court, under this subsection, may by order direct one or more than one of the following:

(a) that the person be restricted as to the type of work which he or she may engage in, for such period as the Court considers appropriate and subject to such terms and conditions as the Court considers appropriate;

(b) that the person be suspended from practice as a barrister for a specified period and subject to such terms and conditions as the Court considers appropriate;

(c) that the Authority, in accordance with *Part 9*, strike the name of the person off the roll of practising barristers and inform the Chief Justice and the Honorable Society of King's Inns of the fact.".

Seanad amendment agreed to.

Seanad amendment No. 103:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Authority may appoint monitor for purposes of section 14C of Act of 1994

83. (1) The Authority may appoint such and so many members of its staff as it thinks fit to perform the functions of a monitor under section 14C of the Act of 1994.

(2) The Authority may, at any time, request a report from a monitor in relation to the performance by him or her of his or her functions referred to in *subsection (1)*.".

Seanad amendment agreed to.

Seanad amendment No. 104:

Section 40: In page 41, between lines 22 and 23, to insert the following:

"Power of Authority under *Part 5*

82. The Authority, in the performance by it of its functions under this Part in relation to a complaint made as respects a solicitor, may exercise any power conferred on the Law Society under the *Solicitors Acts 1954* to *2015*.".

Seanad amendment agreed to.

Seanad amendment No. 105:

Section 40: In page 41, to delete lines 26 to 34.

Seanad amendment agreed to.

Seanad amendment No. 106:

Section 41: In page 41, to delete lines 35 to 38, to delete page 42, and in page 43, to delete lines 1 to 9.

Seanad amendment agreed to.

Seanad amendment No. 107:

Section 42: In page 43, to delete lines 10 to 14.

Seanad amendment agreed to.

Seanad amendment No. 108:

Section 43: In page 43, to delete lines 15 to 37, and in page 44, to delete lines 1 to 7.

Seanad amendment agreed to.

Seanad amendment No. 109:

Section 44: In page 44, to delete lines 8 to 43, and in page 45, to delete lines 1 to 23.

Seanad amendment agreed to.

Seanad amendment No. 110:

Section 45: In page 45, to delete lines 24 to 40, and in page 46, to delete lines 1 to 5.

Seanad amendment agreed to.

Seanad amendment No. 111:

Section 46: In page 46, to delete lines 6 to 41, and in page 47, to delete lines 1 to 3.

Seanad amendment agreed to.

Seanad amendment No. 112:

Section 47: In page 47, to delete lines 8 to 36, and in page 48, to delete lines 1 to 11.

Seanad amendment agreed to.

Seanad amendment No. 113:

Section 48: In page 48, to delete lines 12 to 23.

Seanad amendment agreed to.

Seanad amendment No. 114:

Section 49: In page 48, to delete lines 24 to 40.

Seanad amendment agreed to.

Seanad amendment No. 115:

Section 50: In page 49, to delete lines 1 to 5.

Seanad amendment agreed to.

Seanad amendment No. 116:

Section 51: In page 49, to delete lines 6 to 39, and in page 50, to delete lines 1 to 23.

Seanad amendment agreed to.

Seanad amendment No. 117:

Section 52: In page 50, to delete lines 24 to 34.

Seanad amendment agreed to.

Seanad amendment No. 118:

Section 53: In page 50, to delete lines 35 to 38, and in page 51, to delete lines 1 to 24.

Seanad amendment agreed to.

Seanad amendment No. 119:

Section 54: In page 51, to delete lines 25 to 34.

Seanad amendment agreed to.

Seanad amendment No. 120:

Section 55: In page 51, to delete lines 35 to 41, and in page 52, to delete line 1.

Seanad amendment agreed to.

Seanad amendment No. 121:

Section 56: In page 52, to delete lines 2 to 9.

Seanad amendment agreed to.

Seanad amendment No. 122:

Section 57: In page 52, to delete lines 10 to 23.

Seanad amendment agreed to.

Seanad amendment No. 123:

Section 58: In page 52, to delete lines 26 to 36, and in page 53 to delete lines 1 to 28.

Seanad amendment agreed to.

Seanad amendment No. 124:

Section 59: In page 53, to delete lines 29 to 37, to delete page 54, and in page 55, to delete lines 1 to 25.

Seanad amendment agreed to.

Seanad amendment No. 125:

Section 60: In page 55, to delete lines 26 to 39, to delete page 56, and in page 57, to delete lines 1 to 44.

Seanad amendment agreed to.

Seanad amendment No. 126:

Section 61: In page 58, to delete lines 1 to 19.

Seanad amendment agreed to.

Seanad amendment No. 127:

Section 62: In page 48, to delete lines 22 to 26.

Seanad amendment agreed to.

Seanad amendment No. 128:

Section 63: In page 58, to delete lines 27 to 37, and in page 59, to delete lines 1 to 19.

Seanad amendment agreed to.

Seanad amendment No. 129:

Section 64: In page 59, to delete lines 20 to 34.

Seanad amendment agreed to.

Seanad amendment No. 130:

Section 65: In page 60, to delete lines 1 to 3.

Seanad amendment agreed to.

Seanad amendment No. 131:

Section 66: In page 60, to delete lines 4 to 7.

Seanad amendment agreed to.

Seanad amendment No. 132:

Section 67: In page 60, to delete lines 8 to 25.

Seanad amendment agreed to.

Seanad amendment No. 133:

Section 68: In page 60, to delete lines 26 to 37, to delete page 61, and in page 62, to delete lines 1 to 12.

Seanad amendment agreed to.

Seanad amendment No. 134:

Section 69: In page 62, to delete lines 13 to 40, and in page 63, to delete line 1.

Seanad amendment agreed to.

Seanad amendment No. 135:

Section 70: In page 63, to delete lines 2 to 41.

Seanad amendment agreed to.

Seanad amendment No. 136:

Section 71: In page 64, to delete lines 1 to 26.

Seanad amendment agreed to.

Seanad amendment No. 137:

Section 72: In page 64, to delete lines 27 to 40, and in page 65, to delete lines 1 to 4.

Seanad amendment agreed to.

Seanad amendment No. 138:

Section 73: In page 65, to delete lines 5 to 38.

Seanad amendment agreed to.

Seanad amendment No. 139:

Section 74: In page 66, to delete lines 1 to 34.

Seanad amendment agreed to.

Seanad amendment No. 140:

Section 75: In page 66, to delete lines 35 to 39.

Seanad amendment agreed to.

Seanad amendment No. 141:

Section 76: In page 67, to delete lines 1 to 5.

Seanad amendment agreed to.

Seanad amendment No. 142:

Section 77: In page 67, to delete lines 7 to 36.

Seanad amendment agreed to.

Seanad amendment No. 143:

Section 78: In page 68, to delete lines 1 to 9.

Seanad amendment agreed to.

Seanad amendment No. 144:

Section 79: In page 68, to delete lines 10 to 21.

Seanad amendment agreed to.

Seanad amendment No. 145:

Section 80: In page 68, line 33, to delete "for Public Expenditure and Reform".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 146, 147, 151, 159 and 162 to 165, inclusive, are related and may be discussed together.

Seanad amendment No. 146:

Section 80: In page 69, to delete lines 25 and 26 and substitute the following:

"(ii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and

(iii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.".

Deputy Dara Murphy: These amendments deal with the levy that will be imposed on all legal practitioners to fund the annual operating costs and administrative expenses of the new legal services regulatory authority and the new legal practitioners disciplinary tribunal. The process is very well advanced so these amendments today are only minor tidying-up amendments in order to perfect the relevant Part. The Part provides that the Law Society will be responsible for paying to the authority an annual levy on behalf of solicitors. The Bar Council will be responsible for paying the levy on behalf of its members, and those barristers who are not members of that body will be individually responsible for paying the levy directly to the authority. The levy will be divided fairly and proportionately between the three categories of legal practitioner.

Deputy Niall Collins: How it is proposed that the Law Society and Bar Council will levy a solicitors' or barristers' practice? Will it be per registered solicitor or barrister practising or based on turnover? What will the rationale be?

Deputy Dara Murphy: The calculation ratio is that 10% of the expenses incurred by the authority and the tribunal in their disciplinary-related functions will be apportioned to the Law Society and 10% to all practising barristers, whether or not they are members of the Law Library, while the remaining 80% will be apportioned in proportion to the expenses incurred in the consideration and investigation of complaints in respect of the three categories of legal practitioner. The expenses incurred by the authority in fulfilling its functions other than those relating to complaints will be apportioned *pro rata* between the three groups.

A levy assessment notice shall be sent at the end of each financial year to the relevant professional bodies or individuals, as the case may be, specifying the total due to be paid and the breakdown of the final tally and how it is achieved. The initial set-up costs for the new bodies will be paid by the Exchequer on a recoupable basis.

Seanad amendment agreed to.

Seanad amendment No. 147:

Section 80: In page 69, to delete lines 32 and 33 and substitute the following:

"(b) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and

(c) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.".

Seanad amendment agreed to.

Seanad amendment No. 148:

Section 80: In page 70, line 6, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 149:

Section 80: In page 70, line 9, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 150:

Section 80: In page 70, line 13, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 151:

Section 80: In page 70, to delete lines 15 to 21 and substitute the following:

"calculated under *paragraph (b)* of *subsection (4)*, of those expenses that were incurred by the Authority in the consideration and investigation of complaints in respect of each category of legal practitioner referred to in *subparagraphs (i)*, *(ii)* and *(iii)* of that paragraph;".

Seanad amendment agreed to.

Seanad amendment No. 152:

Section 80: In page 70, line 23, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 153:

Section 80: In page 70, line 25, to delete "the number of barristers" and substitute "the number of practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 154:

Section 80: In page 70, line 26, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 155:

Section 80: In page 70, line 30, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 156:

Section 80: In page 70, line 31, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 157:

Section 80: In page 70, line 33, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 158:

Section 80: In page 70, line 37, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 159:

Section 80: In page 70, to delete lines 40 to 42, and in page 71, to delete lines 1 to 3 and substitute the following:

"consideration of applications brought before the Tribunal that concerned complaints in respect of each category of legal practitioner referred to in *paragraphs (a)*, *(b)* and *(c)* of that subsection.".

Seanad amendment agreed to.

Seanad amendment No. 160:

Section 80: In page 71, line 9, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 161:

Section 80: In page 71, line 12, to delete "barristers" and substitute "practising barristers".

Seanad amendment agreed to.

Seanad amendment No. 162:

Section 80: In page 71, to delete lines 21 to 24 and substitute the following:

"*subsection (4)(a)(i)* that was incurred in the consideration and investigation of complaints in respect of each category of legal practitioner referred to in *subparagraphs (i)*, *(ii)* and *(iii)* of *paragraph (b)* of *subsection (4)*,".

Seanad amendment agreed to.

Seanad amendment No. 163:

Section 80: In page 71, to delete lines 29 to 32 and substitute the following:

"brought before it concerning complaints in respect to each category of legal practitioner referred to in *paragraph (a)*, *(b)* and *(c)* of that subsection,".

Seanad amendment agreed to.

Seanad amendment No. 164:

Section 80: In page 72, lines 2 to 4, to delete all words from and including "The levy" in line 2 down to and including "directs" in line 4 and substitute the following:

"The levy referred to in *subsection (1)* shall be collected and retained by the Authority to be used to meet the costs it incurs in carrying out its functions under this Act".

Seanad amendment agreed to.

Seanad amendment No. 165:

Section 80: In page 72, between lines 21 and 22, to insert the following:

"(14) For the purposes of *subsections (4)* and *(5)*—

(a) a barrister is not a member of the Law Library at a given time, if, at that time,

his or her name is on the roll of practising barristers, where the entry concerned specifies that he or she is not a member of the Law Library, and

(b) a barrister is a member of the Law Library at a given time, if, at that time, his or her name is on the roll of practising barristers, where the entry concerned does not include the specification referred to in *paragraph (a)*.".

Seanad amendment agreed to.

Seanad amendment No. 166:

Section 84: In page 74, line 8, to delete "barrister" and substitute "practising barrister".

Seanad amendment agreed to.

Seanad amendment No. 167:

Section 84: In page 74, to delete lines 9 to 15 and substitute the following:

" "limited liability partnership" means a relevant business in respect of which an authorisation, granted under *section 109*, is for the time being in force;

"relevant business" means—

(a) a partnership of solicitors, or

(b) a legal partnership.".

Seanad amendment agreed to.

Seanad amendment No. 168:

Section 85: In page 74, to delete lines 16 and 18, and substitute the following:

"Legal partnerships and professional codes

85: (1) Subject to this Part, a legal practitioner may provide legal services as a partner in, or an employee of, a legal partnership.

(2) A professional body shall not, through its professional codes or otherwise, prevent or restrict a legal practitioner who is a member of that body from working with, or otherwise doing business with, a legal practitioner providing legal services in a legal partnership in accordance with *subsection (1)*.".

Seanad amendment agreed to.

Seanad amendment No. 169:

Section 86: In page 74, line 20, to delete "providing legal services" and substitute "providing legal services as a practising barrister".

Seanad amendment agreed to.

Seanad amendment No. 170:

Section 87: In page 74, to delete lines 23 and 35, and substitute the following:

"Multi-disciplinary practices and professional codes

87: (1) Subject to this Part, a legal practitioner may provide legal services as a partner in, or an employee of, a multi-disciplinary practice.

(2) A professional body shall not, through its professional codes or otherwise, prevent or restrict a legal practitioner who is a member of that body from working with, or otherwise doing business with, a legal practitioner providing legal services in a multidisciplinary practice in accordance with *subsection (1)*.".

Seanad amendment agreed to.

Seanad amendment No. 171:

Section 88: In page 74, between lines 25 and 26, to insert the following:

"Complaints under *Part 5* in respect of legal practitioners in limited partnerships, multidisciplinary practices and limited liability partnerships

88: For the avoidance of doubt, nothing in this Part shall be construed as preventing a person making a complaint to the Authority under *Part 5* in respect of a legal practitioner who provides a legal service as a partner or employee of a legal partnership, a multidisciplinary practice or a limited liability partnership.".

Seanad amendment agreed to.

Seanad amendment No. 172:

Section 88: In page 74, line 35, to delete "in such form as may" and substitute "in such form and subject to such fee (if any) as may".

Seanad amendment agreed to.

Seanad amendment No. 173:

Section 89: In page 75, to delete lines 2 to 17, and substitute the following:

"Legal partnership to have professional indemnity insurance

89: A legal partnership shall not provide legal services unless there is in force, at the time of the provision of such services, a policy of professional indemnity insurance which complies with regulations made under *section 39* and section 26 of the Act of 1994 (if applicable).".

Seanad amendment agreed to.

Seanad amendment No. 174:

Section 90: In page 75, line 27, to delete "in such form as may" and substitute "in such form and subject to such fee (if any) as may".

Seanad amendment agreed to.

Seanad amendment No. 175:

Section 91: In page 76, lines 6 and 7, to delete "*section 74(3)(b)(iii)*" and substitute "*section 75(7)(c)*".

Seanad amendment agreed to.

Seanad amendment No. 176:

Section 91: In page 76, line 10, to delete "*section 74(3)(b)(iv)*" and substitute "*section 75(7)(d)*".

Seanad amendment agreed to.

Seanad amendment No. 177:

Section 91: In page 76, line 15, to delete "*subparagraph (v)* or *(vi)* of *section 74(3)(b)*" and substitute "*paragraph (e)* or *(f)* of *section 75(7)*".

Seanad amendment agreed to.

Seanad amendment No. 178:

Section 91: In page 76, line 19, to delete "himself" and substitute "himself or herself".

Seanad amendment agreed to.

Seanad amendment No. 179:

Section 91: In page 76, line 22, to delete "practice" and substitute "practise".

Seanad amendment agreed to.

Seanad amendment No. 180:

Section 91: In page 76, to delete lines 27 to 29 and substitute the following:

"(h) a person who—

(i) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(ii) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provisions of that Act;".

Seanad amendment agreed to.

Seanad amendment No. 181:

Section 91: In page 76, line 36, to delete "undischarged bankrupt" and substitute "undischarged bankrupt in this or another jurisdiction".

Seanad amendment agreed to.

Seanad amendment No. 182:

Section 91: In page 76, to delete lines 37 to 39.

Seanad amendment agreed to.

Seanad amendment No. 183:

Section 91: In page 77, between lines 10 and 11, to insert the following:

"(6) A person who contravenes *subsection (4)*, and is not the subject of an order under *subsection (5)*, commits an offence.

(7) A person who commits an offence under *subsection (6)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.".

Seanad amendment agreed to.

Seanad amendment No. 184:

Section 91: In page 77, line 14, to delete "Solicitor's Act 1954" and substitute "Act of 1954".

Seanad amendment agreed to.

Seanad amendment No. 185:

Section 91: In page 77, line 19, to delete "his or her" where it firstly occurs.

Seanad amendment agreed to.

Seanad amendment No. 186:

Section 91: In page 77, line 20, to delete "Solicitors (Amendment) Act 1994" and substitute "Act of 1994".

Seanad amendment agreed to.

Seanad amendment No. 187:

Section 92: In page 78, line 2, to delete "shall take all reasonable action" and substitute "shall, within a period of 14 days, take all reasonable action".

Seanad amendment agreed to.

Seanad amendment No. 188:

Section 92: In page 78, between lines 5 and 6, to insert the following:

"(5) Where a managing legal practitioner fails, within the period referred to in *subsection (4)*—

(a) in accordance with *paragraph (a)* of that subsection, to ensure compliance as referred to in that paragraph, or

(b) to remedy any defaults in accordance with *paragraph (b)* of that subsection, he or she shall, within 7 days of the expiration of that period, notify the Authority of such failure.

(6) A managing legal practitioner who fails to notify the Authority in accordance with *subsection (5)* commits an offence.

(7) A person who commits an offence under *subsection (6)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.".

Seanad amendment agreed to.

Seanad amendment No. 189:

Section 96: In page 79, to delete lines 36 to 40, and in page 80, to delete lines 1 to 12, and substitute the following:

"Multi-disciplinary practice to have professional indemnity insurance

96: A multi-disciplinary practice shall not provide legal services unless there is in force, at the time of the provision of such services, a policy of professional indemnity insurance which complies with regulations made under *section 39* and section 26 of the Act of 1994 (if applicable).".

Seanad amendment agreed to.

Seanad amendment No. 190:

Section 99: In page 82, line 9, to delete "Supreme Court" and substitute "Court of Appeal".

Seanad amendment agreed to.

Seanad amendment No. 191:

Section 99: In page 82, line 11, to delete "Supreme Court" and substitute "Court of Appeal".

Seanad amendment agreed to.

Seanad amendment No. 192:

Section 100: In page 82, line 30, to delete "services" and substitute "legal services".

Seanad amendment agreed to.

Seanad amendment No. 193:

Section 100: In page 83, line 19, to delete "maintained by a legal practitioner" and substitute "maintained (or cause to be maintained) by a legal practitioner".

Deputy Dara Murphy: I move amendment No. 1 to Seanad amendment No. 193:

In the text proposed to be inserted by Seanad Amendment no. 193 to delete "cause" and

substitute "caused".

Amendment No. 1 to Seanad amendment No. 193 agreed to.

Seanad amendment No. 193, as amended, agreed to.

Seanad amendment No. 194:

Section 100: In page 83, line 29, to delete "himself" and substitute "himself or herself".

Seanad amendment agreed to.

Seanad amendment No. 195:

Section 100: In page 86, to delete line 4 and substitute the following:

"(c) the circumstances and manner in which a barrister may hold clients' monies and the mechanisms to be applied for the protection of clients' monies which may be so held.".

Seanad amendment agreed to.

Seanad amendment No. 196:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Chapter 3

Limited Liability Partnerships

Limited liability partnership and professional codes

106: A professional body shall not, through its professional code or otherwise, prevent or restrict a legal practitioner who is a member of that body from working with, or otherwise doing business with, a legal practitioner providing legal services as a partner in, or as an employee of, a limited liability partnership.".

Seanad amendment agreed to.

Seanad amendment No. 197:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Liability of partner in a limited liability partnership

107. (1) A partner in a limited liability partnership shall not, by reason only of his or her being a partner or being held out as being a partner in that partnership, be personally liable directly or indirectly, by way of contribution or otherwise, for any debts, obligations or liabilities arising in contract, tort or otherwise of—

(a) the limited liability partnership,

(b) himself or herself,

(c) any other partner in that limited liability partnership, or

(d) any employee, agent or representative of that limited liability partnership.

(2) *Subsection (1)* shall not apply to a partner in a limited liability partnership to the extent that—

(a) the debt, obligation or liability referred to in that subsection is incurred as a result of an act or omission of the partner involving fraud or dishonesty, and

(b) that act or omission—

(i) was the subject of a finding of misconduct under *Part 5*, or

(ii) constituted an offence of which the partner was convicted.

(3) *Subsection (1)* does not affect the liability of a partner in a limited liability partnership in respect of a debt, obligation or liability incurred by that partner for a purpose not connected with the carrying on of the business of the limited liability partnership.

(4) *Subsection (1)* shall not apply to a partner in a limited liability partnership to the extent that the debt or obligation referred to in that subsection relates to any tax (within the meaning of section 960A of the Taxes Consolidation Act 1997).

(5) *Subsection (1)* does not affect the personal liability of a partner in a limited liability partnership for any debt, obligation or liability referred to in that subsection where the debt, obligation or liability was incurred by reason of an act or omission of the partner which occurred prior to the date of authorisation to operate as a limited liability partnership notified under *section 109(6)*.

(6) The Partnership Act 1890 shall apply to limited liability partnerships to the extent that it is not inconsistent with this Chapter.".

Seanad amendment agreed to.

Seanad amendment No. 198:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Property of partnership

108: (1) *Section 107* shall not operate to prevent or restrict the enforcement against the property of a limited liability partnership of any debt, obligation or liability.

(2) The transfer of any partnership property out of the joint ownership of some or all of the partners in a limited liability partnership for the benefit of any one or more of those partners shall constitute a conveyance for the purposes of section 74 of the Land and Conveyancing Law Reform Act 2009 and section 7 of the Bankruptcy Act 1988.".

Seanad amendment agreed to.

Seanad amendment No. 199:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Application for limited liability partnership

109: (1) A relevant business shall not operate as a limited liability partnership unless authorised by the Authority to so operate under this section.

(2) An application for authorisation to operate a relevant business as a limited liability partnership shall be made to the Authority.

(3) An application under *subsection (2)* shall be in such form and be accompanied by—

(a) such information, and

(b) such fee (if any), as may be prescribed in regulations made under *section 114*.

(4) Subject to *subsection (5)*, where the Authority receives an application in accordance with *subsection (3)* and the Authority is satisfied that the relevant business has professional indemnity insurance in place which complies with regulations made under *section 39* in relation to limited liability partnerships and under section 26 of the Act of 1994 (if applicable), the Authority shall authorise a relevant business to operate as a limited liability partnership.

(5) An authorisation under *subsection (4)* is subject to the condition that the limited liability partnership has professional indemnity insurance in place which complies with regulations made under *section 39* in relation to limited liability partnerships and under section 26 of the Act of 1994 (if applicable) at all times in respect of that partnership.

(6) An authorisation given by the Authority under *subsection (4)* shall be in writing and shall have effect from such date as is specified in the notice.

(7) A limited liability partnership shall, as soon as practicable after receipt of the authorisation under *subsection (4)*, notify its clients and creditors of the fact that it is operating as a limited liability partnership and setting out the information prescribed in regulations made under *section 114(2)(c)*.

(8) A limited liability partnership shall—

(a) conduct the business of the partnership using a name that ends with either the expression "limited liability partnership" or the abbreviation "LLP",

(b) use the name referred to in *paragraph (a)* on all contracts, invoices, negotiable instruments, orders for goods and services, advertisements, invitations to treat, websites or any other publication published in any format by or on behalf of the limited liability partnership, and

(c) comply with any obligations imposed on limited liability partnerships by or under this Act.

(9) The Authority shall make a decision under *subsection (4)* not later than 60 days after receipt of an application which complies with *subsection (3)*.".

Seanad amendment agreed to.

Seanad amendment No. 200:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Authority to maintain register of limited liability partnerships

110: (1) The Authority shall establish and maintain a register (in this section referred to as the "register") of limited liability partnerships.

(2) The Authority shall enter the following details in the register in relation to a limited liability partnership:

(a) the name and address of each of the partners in that partnership;

(b) the full name of the partnership and address at which the partnership ordinarily carries on business;

(c) the date on which the authorisation is to take effect under *section 109(6)*;

(d) details of any order under *section 112* suspending an authorisation issued under *section 109*, the period for which the suspension is to operate and any conditions imposed by the High Court under that section;

(e) details of any order under *section 112* which revokes an authorisation issued under *section 109*.

(3) If a particular entered in the register is incorrect, the limited liability partnership to which the particular relates shall, as soon as may be after becoming aware of its being incorrect, inform the Authority thereof accordingly.

(4) The Authority shall, upon becoming aware that any particular entered in the register is incorrect or has ceased to be correct, make such alterations to that register as it considers necessary.

(5) The Authority shall record in the register the date from which an authorisation stands revoked under *subsection (2)* or *subsection (3)* of *section 113*.

(6) The Authority shall make the register available for inspection free of charge to members of the public in such form and manner as it thinks appropriate.".

Acting Chairman (Deputy Bernard J. Durkan): The amendment was discussed with amendment No. 1.

Deputy Eamonn Maloney: It relates to the maintenance of a register by the legal services regulation authority. Is that correct?

Deputy Dara Murphy: It has been discussed with amendment No. 1 but we will allow a clarification.

Deputy Eamonn Maloney: The Minister of State will no doubt correct me if I misunderstood the position. My principal concern is whether there is an obligation on the legal practitioner to register with the authority as opposed to the authority having to police those who are involved in legal practice. What is the position?

Deputy Dara Murphy: The amendment relates to limited liability practices. Subject to appropriate fees, the legal services regulation authority will operate a system of authorisation and

registration of partnerships which wish to become limited liability practices. The authority will also maintain a publicly available register of these practices. Protection will be provided for the consumer in the form of an obligation on firms to have substantial professional indemnity insurance cover. The authorisation to operate as a limited liability practice will be subject to the existence and maintenance of such insurance. Where the correct insurance is not in place, the liability will fall. This is provided for in section 109(4) and (5) and inserted by amendment No. 199, which is the amendment the Deputy had in mind.

Deputy Eamonn Maloney: While I agree in principle with the Minister of State on this matter, I do not know how an ordinary layperson will understand much of the language used in the amendments and the text of the Bill. While the Minister of State will not agree with me, from reading through the Bill and listening to the very good debate in the Seanad last week, specifically the salient points made by the Minister and Senator Sean Barrett, with whom I sometimes disagree, I am concerned that the Oireachtas always encounters serious difficulties when it tries to regulate the professional classes. The Minister and Minister of State both referred to the Bill as being balanced and favouring the consumer, rather than being simply a draft by the legal professions. That is my principal concern. I thank the Minister of State for the explanation provided.

Deputy Dara Murphy: The consumer has been at the centre of the thinking of the Minister and Department. The Law Society will maintain the roll of solicitors, while the legal services regulatory authority will maintain the roll of practising barristers.

Seanad amendment agreed to.

Seanad amendment No. 201:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Power of Authority to issue direction for failure to comply with statutory requirements

111. (1) Where the Authority reasonably believes that a limited liability partnership is contravening or has contravened *subsection (8)* of *section 109* it may, in accordance with this section, give a direction in writing to that partnership to do or refrain from doing such acts as are specified in the direction.

(2) Where the Authority proposes to issue a direction under *subsection (1)*, it shall send the limited liability partnership a notice in writing—

(a) setting out the nature of the contravention that the Authority reasonably believes to be occurring or to have occurred and the reason it so believes,

(b) setting out the measures that it proposes to direct the limited liability partnership concerned to take in order to bring such contravention to an end, and

(c) inviting the limited liability partnership to make observations within such period as is specified in the notice in relation to the belief of the authority referred to in *paragraph (a)* or the measures proposed under *paragraph (b)* or both.

(3) The Authority may, having considered any observations made by the limited liability partnership under *subsection (2)* within the time specified in the notice, give

a direction in writing to the partnership, directing it to take such measures within such period as may be specified in the direction, as the Authority considers necessary to ensure compliance by that partnership with any requirements under *section 109(8)*.

(4) A limited liability partnership may, not later than 21 days after the giving of a direction under this section by the Authority, appeal that direction to the High Court.

(5) An appeal under *subsection (4)* shall be on notice to the Authority.

(6) The High Court, on hearing an appeal under this section, may—

(a) confirm the direction concerned, or

(b) where it considers that the direction is oppressive, unreasonable or unnecessary, revoke or vary the direction.".

Seanad amendment agreed to.

Seanad amendment No. 202:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Application to High Court for order in respect of failure to comply with direction under *section 111*

112. (1) Where a limited liability partnership fails to comply with a direction under *section 111*, the Authority may apply to the High Court for an order—

(a) requiring the partnership to comply with the direction,

(b) suspending the authorisation issued under *section 109,* or

(c) revoking the authorisation issued to that partnership under *section 109*.

(2) An application under *subsection (1)* shall be on notice to the limited liability partnership concerned.

(3) The High Court, on hearing an application for an order under *subsection (1)* may make an order—

(a) directing the limited liability partnership to comply with the direction under *section 111*, or

(b) setting aside the direction.

(4) The High Court, on hearing an application for an order referred to in *subsection (1)(b)*, may make an order suspending the authorisation issued under *section 109* to the limited liability partnership concerned for such period as is specified in the order and subject to such conditions (if any) as the Court may specify.

(5) The High Court, on hearing an application for an order referred to in *subsection (1)(c)*, may make an order—

(a) suspending the authorisation issued under *section 109* to the limited liability partnership concerned for such period as is specified in the order and subject to such conditions (if any) as the Court may specify, or

(b) revoking the authorisation issued under *section 109* to the limited liability partnership concerned.

(6) The jurisdiction vested in the High Court under this section shall be exercised by the President of the High Court or, if and whenever the President of the High Court so directs, by an ordinary judge of the High Court for the time being assigned in that behalf.

(7) The Authority or the limited liability partnership concerned may appeal to the Court of Appeal against an order of the High Court made under this section not later than 21 days from the date of the making of the order and, unless the High Court or the Court of Appeal otherwise directs, the order of the High Court shall have effect pending the determination of such appeal.

(8) Where an order is made by the High Court under *subsection (3)* or *(4)*, the Authority shall as soon as practicable thereafter cause—

(a) a notice to be published in *Iris Oifigiúil* stating the effect of the order, and

(b) such notice to be published in such other manner as the Authority may consider appropriate.".

Seanad amendment agreed to.

Seanad amendment No. 203:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Ceasing to operate as a limited liability partnership

113. (1) Where a limited liability partnership intends to cease operating as a limited liability partnership it shall notify the Authority in writing of its intention and the date on which it intends to cease to so operate.

(2) An authorisation issued to a limited liability partnership under *section 109* shall stand revoked from such date as is specified in a notification given to the Authority in accordance with *subsection (1)*.

(3) An authorisation issued to a limited liability partnership under *section 109* shall stand revoked from such date as the limited liability partnership ceases to have professional indemnity insurance in place as required by that section.

(4) A notification under *subsection (1)* shall be in such form and accompanied by such fee (if any) as may be prescribed by regulations made under *section 114*.".

Seanad amendment agreed to.

Seanad amendment No. 204:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Regulations on operation of limited liability partnerships

114. (1) The Authority shall make regulations in relation to the operation and management of limited liability partnerships.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for—

(a) the form of application for authorisation under *section 109*,

(b) the information to accompany any application for authorisation under *section 109*, including the name and address of each of the partners in the relevant business making the application and the full name of the partnership and the address at which the partnership ordinarily carries on business,

(c) the information (including the standard of such information) to be provided by a limited liability partnership to its clients and creditors as to the nature and effect of limited liability partnerships,

(d) the information to be provided by a limited liability partnership to the Authority for the purposes of enabling the Authority to ensure compliance by that partnership with any requirements imposed on such partnerships by or under this Act, and

(e) the fee to accompany an application under *section 109* or a notification under *section 113*.".

Seanad amendment agreed to.

Seanad amendment No. 205:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Disapplication of section 3 of Registration of Business Names Act 1963

107. Section 3 of the Registration of Business Names Act 1963 shall not apply to a limited liability partnership.".

Seanad amendment agreed to.

Seanad amendment No. 206:

Section 106: In page 87, between lines 13 and 14, to insert the following:

"Amendment of section 27 of Companies Act 2014

108. Section 27 of the Companies Act 2014 is amended by the insertion of the following subsection after subsection (3):

"(3A) Subsection (1) as it relates to the use of the word 'limited', or any abbreviation of that word, shall not apply to a limited liability partnership (within the meaning of the *Legal Services Regulation Act 2015*).".".

Seanad amendment agreed to.

Seanad amendment No. 207:

Section 108: In page 88, to delete line 13.

Seanad amendment agreed to.

Seanad amendment No. 208:

Section 108: In page 88, line 14, to delete "*section 74(3)(b)(v)*" and substitute "*section 75(7)(e)*".

Seanad amendment agreed to.

Seanad amendment No. 209:

Section 108: In page 88, line 21, to delete "*section 74(3)(b)(iv)*" and substitute "*section 75(7)(d)*".

Seanad amendment agreed to.

Seanad amendment No. 210:

Section 111: In page 90, line 15, to delete "arbitration;" and substitute "arbitration, mediation or conciliation;".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 211, 213, 214, 222, 225 to 228, inclusive, and 274 to 276, inclusive, are related and may be discussed together.

Seanad amendment No. 211:

Section 114: In page 93, to delete lines 23 and 24 and substitute the following:

"(8) The register of determinations shall be available for inspection without payment, during office hours by any person who applies to inspect it, and on a website of the Courts Service.".

Deputy Dara Murphy: Part 10 dealing with legal costs has been well developed for some time. As such, the amendments proposed today are, in the main, only technical enhancements to what is already in place, rather than substantive policy changes to the Part. While I can discuss in detail each amendment, if necessary, Deputies may appreciate a brief overview. The purpose of Part 10 is to introduce an enhanced legal costs regime that will bring greater transparency to how legal costs are charged by legal practitioners along with a better balance between the interests of legal practitioners and those of their clients. A key reform under this Bill is that the current functions of the Taxing Master will be assumed by the new office of the legal costs adjudicators when adjudicating a disputed bill of costs. In all, the House will find this Part to be a significant reforming measure that is in the interests of consumers, transparency and competition. I ask Deputies to support this group of amendments.

Seanad amendment agreed to.

Seanad amendment No. 212:

Section 118: In page 95, line 35, to delete "*section 115*" and substitute "*section 117*".

Seanad amendment agreed to.

Seanad amendment No. 213:

Section 121: In page 96, line 40, to delete "person."," and substitute "person.".

Seanad amendment agreed to.

Seanad amendment No. 214:

Section 121: In page 96, after line 40, to insert the following:

"8A. Each Legal Costs Adjudicator shall, in respect of the discharge of his or her functions and exercise of his or her powers, be subject to the general direction of the Chief Legal Costs Adjudicator.

8B. The hours of attendance and sitting times for oral hearings of the Chief Legal Costs Adjudicator and of each Legal Costs Adjudicator shall be regulated by the Chief Legal Costs Adjudicator."," .

Seanad amendment agreed to.

Seanad amendment No. 215:

Section 121: In page 99, to delete lines 19 to 22 and substitute the following:

"(c) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,

(d) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provisions of that Act,".

Seanad amendment agreed to.

Seanad amendment No. 216:

Section 121: In page 99, line 23, to delete "(d) is sentenced" and substitute "(e) is sentenced".

Seanad amendment agreed to.

Seanad amendment No. 217:

Section 121: In page 99, line 25, to delete "(e) is removed" and substitute "(f) is removed".

Seanad amendment agreed to.

Seanad amendment No. 218:

Section 123: In page 101, line 13, to delete "barrister" and substitute "practising barrister".

Seanad amendment agreed to.

Seanad amendment No. 219:

Section 123: In page 101, line 32, to delete "barrister" and substitute "practising barrister".

Seanad amendment agreed to.

Seanad amendment No. 220:

Section 123: In page 102, line 17, to delete "solicitor" and substitute "practising solicitor".

Seanad amendment agreed to.

Seanad amendment No. 221:

Section 123: In page 102, line 18, to delete "barrister" and substitute "practising barrister".

Seanad amendment agreed to.

Seanad amendment No. 222:

Section 125: In page 103, line 30, after "explanation" to insert "in writing".

Seanad amendment agreed to.

Seanad amendment No. 223:

Section 125: In page 104, line 22, to delete "solicitor" and substitute "practising solicitor".

Seanad amendment agreed to.

Seanad amendment No. 224:

Section 125: In page 104, line 23, to delete "barrister" where it firstly occurs and substitute "practising barrister".

Seanad amendment agreed to.

Seanad amendment No. 225:

Section 126: In page 104, line 30, to delete "14 days" and substitute "21 days".

Seanad amendment agreed to.

Seanad amendment No. 226:

Section 137: In page 113, line 2, after "functions of" to insert "the Chief Legal Costs Adjudicator or of".

Seanad amendment agreed to.

Seanad amendment No. 227:

Section 137: In page 113, line 4, after "functions of" to insert "the Chief Legal Costs Adjudicator or of".

Seanad amendment agreed to.

Seanad amendment No. 228:

Section 137: In page 113, line 5, after "she were" to insert "the Chief Legal Costs Adjudicator or".

Seanad amendment agreed to.

Seanad amendment No. 229:

Section 146: In page 117, to delete lines 29 to 33 and substitute the following:

"(ii) professional independence; and

(iii) one or more of the following:

(I) a proven capacity for excellence in the practice of advocacy;

(II) a proven capacity for excellence in the practice of specialist litigation; or

(III) specialist knowledge of an area of law;".

Seanad amendment agreed to.

Seanad amendment No. 230:

Section 148: In page 118, line 27, to delete "*section 74(3)(b)(vii)*" and substitute "*section 75(7)(g)*".

Seanad amendment agreed to.

Seanad amendment No. 231:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"PART 13

AMENDMENTS OF SOLICITORS ACTS 1954 TO 2011

Amendment of section 3 of Act of 1954

150. Section 3 of the Act of 1954 is amended by the insertion of the following definition:

" 'the Authority' means the Legal Services Regulatory Authority;".".

Seanad amendment agreed to.

Seanad amendment No. 232:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 5 of Act of 1954

151. Section 5(1) of the Act of 1954 is amended by the substitution of "may, with the approval of the Authority, make" for "may make".".

Seanad amendment agreed to.

Seanad amendment No. 233:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 47 of Act of 1954

152. Section 47(8) of the Act of 1954 is amended by the substitution of "Authority" for "Minister".".

Seanad amendment agreed to.

Seanad amendment No. 234:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 48 of Act of 1954

153. Section 48(3) of the Act of 1954 is amended by the substitution of "Authority" for "Chief Justice" in both places where it occurs.".

Seanad amendment agreed to.

Seanad amendment No. 235:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 49 of Act of 1954

154. Section 49 of the Act of 1954 is amended—

(a) in subsection (1)(q)—

(i) by the substitution, in subparagraph (ii), of "years," for "years, or",

(ii) by the substitution, in subparagraph (iii), of "clients, or" for "clients.", and

(iii) by the insertion of the following after subparagraph (iii):

"(iv) the number and nature of complaints made to the Authority in respect of the solicitor under *section 42* of the *Legal Services Regulation Act 2015*, within the preceding two practice years;",

(b) by the insertion of the following after subsection (1)(q):

"(r) he has failed to comply with a notice issued to him under *section 60(6)(c)* of the *Legal Services Regulation Act 2015* by the Complaints Committee of the Authority;

(s) he has failed to comply with a direction issued to him under *section 61(1)(a)* of the *Legal Services Regulation Act 2015*;

(t) he has been convicted of an indictable offence;

(u) he has contravened the *Solicitors Acts 1954* to *2015*;

(v) he has contravened the *Legal Services Regulation Act 2015* or regulations made under it.",

and

(c) by the insertion of the following after subsection (7):

"(8) The Society, where it has reason to consider that a solicitor may not be fit to carry on the practice of a solicitor having regard to the state of his physical or mental health, may, for the purposes of subsection (1)(p), direct that the solicitor be examined by a registered medical practitioner nominated by the Society.

(9) In subsection (8), 'registered medical practitioner' means a person who is a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007.".".

Seanad amendment agreed to.

Seanad amendment No. 236:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 66 of Act of 1954

155. Section 66 of the Act of 1954 is amended in subsection (1) by the substitution of "the Authority" for "the President of the High Court".".

Seanad amendment agreed to.

Seanad amendment No. 237:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 71 of Act of 1954

156. Section 71 of the Act of 1954 is amended in subsection (8) by—

(a) the deletion of "Notwithstanding paragraph (d) of subsection (2) and subsection (3) of this section;" and

(b) the deletion of ", whether an advertisement or otherwise,".

Seanad amendment agreed to.

Seanad amendment No. 238:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 3 of Act of 1960

158. Section 3 of the Act of 1960 is amended by the insertion of the following definitions:

" 'Authority' means the Legal Services Regulatory Authority;

'misconduct' shall be construed in accordance with *section 41* of the *Legal Services Regulation Act 2015*, in so far as that section relates to solicitors;".".

Seanad amendment agreed to.

Seanad amendment No. 239:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Solicitor shall not have connection, accept instructions, from certain persons

159. The Act of 1960 is amended by the insertion of the following after section 3:

"3A. A solicitor shall not, in the course of his or her practice as a solicitor, other than where permitted to do so under the *Legal Services Regulation Act 2015*—

(a) have any direct or indirect connection, association or arrangement with any person (other than a client) whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of section 55 or 56 or section 58 of the Principal Act, or section 5 of the Solicitors (Amendment) Act 2002, or

(b) accept instructions to provide legal services to a person from another person whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of the enactments referred to in paragraph (a).".".

Seanad amendment agreed to.

Seanad amendment No. 240:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 7 of Act of 1960

160. Section 7 of the Act of 1960 is amended in subsection (1) by the substitution of "made by the person before the date on which *Part 5* of the *Legal Services Regula-*

tion Act 2015 comes into operation, or made by the Society" for "or by the Society".

Seanad amendment agreed to.

Seanad amendment No. 241:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 9 of Act of 1960

161. Section 9 of the Act of 1960 is amended by the substitution of "Law Society" for "Disciplinary Committee" in each place where it occurs.".

Seanad amendment agreed to.

Seanad amendment No. 242:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 10 of Act of 1960

162. Section 10 of the Act of 1960 is amended by the insertion of the following after subsection (4):

"(5) The Law Society shall inform the Authority of the making of an order, or the refusal of an application, under subsection (3).".".

Seanad amendment agreed to.

Seanad amendment No. 243:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 14 of Act of 1960

163. Section 14 of the Act of 1960 is amended—

(a) in paragraph (e), by the substitution of "application," for "application, and",

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

"(g) the making of a complaint under *Part 5* of the *Legal Services Regulation Act 2015* to the Authority and documents created or furnished to the parties entitled to receive them under that Part,

(h) an interim report and final report, referred to in *section 50* of the *Legal Services Regulation Act 2015*, of the Society of an investigation carried out by it in compliance with a request under that section, and

(i) proceedings and documents associated with an inquiry held by the Legal Practitioners Disciplinary Tribunal under *Part 5* of the *Legal Services Regulation Act 2015*.".".

Seanad amendment agreed to.

Seanad amendment No. 244:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 17 of Act of 1960

164. Section 17 of the Act of 1960 is amended—

(a) in subsection (1)—

(i) by the substitution, in paragraph (a), of "Act" for "Act, and",

(ii) by the substitution, in paragraph (b), of "Act, and" for "Act,", and

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

"(c) a copy of any decision or order made by the High Court and any determination made by the Legal Practitioners Disciplinary Tribunal under *Part 5* of the *Legal Services Regulation Act 2015* in relation to a complaint under that Part in respect of a solicitor,",

(b) in subsection (3)—

(i) by the substitution, in paragraph (b), of "Disciplinary Committee, and" for "Disciplinary Committee.", and

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

"(c) on a file to be termed File C, there shall be entered each decision or order made by the High Court under *section 74* or *75* of the *Legal Services Regulation Act 2015* and any determination made by the Legal Practitioners Disciplinary Tribunal under *section 72* of the *Legal Services Regulation Act 2015*, in relation to a complaint under that Part in respect of a solicitor.",

(c) in subsection (4), by the substitution of "File A, File B or File C" for "File A or File B", and

(d) in subsection (5)(a), by the substitution of "File A, File B or File C" for "File A or File B".".

Seanad amendment agreed to.

Seanad amendment No. 245:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 24 of Act of 1960

165. Section 24 of the Act of 1960 is amended by the substitution of "Authority" for "President of the High Court".".

Seanad amendment agreed to.

Seanad amendment No. 246:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 31 of Act of 1960

166. Section 31 of the Act of 1960 is amended in subsection (2) by the substitution of "Authority" for "President of the High Court".".

Seanad amendment agreed to.

Seanad amendment No. 247:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 2 of Act of 1994

167. Section 2 of the Act of 1994 is amended by the insertion of the following definition:

" 'Authority' means the Legal Services Regulatory Authority;".".

Seanad amendment agreed to.

Seanad amendment No. 248:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 8 of Act of 1994

168. Section 8 of the Act of 1994 is amended—

(a) in subsection (1), by the substitution of "Where the Society, before the date on which *Part 5* of the *Legal Services Regulation Act 2015* comes into operation," for "Where the Society", and

(b) in subsection (8), by the substitution of "Authority" for "President of the High Court".".

Seanad amendment agreed to.

Seanad amendment No. 249:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 9 of Act of 1994

169. Section 9 of the Act of 1994 is amended—

(a) in subsection (1), by the substitution of "Where the Society, before the date on which *Part 5* of the *Legal Services Regulation Act 2015* comes into operation," for "Where the Society", and

(b) in subsection (2), by the substitution of "basis, or to the Chief Legal Costs Adjudicator for adjudication under *Part 10* of the *Legal Services Regulation Act 2015*." for "basis.",

(c) in subsection (3)—

(i) by the substitution of "basis, or to the Chief Legal Costs Adjudicator for adjudication under *Part 10* of the *Legal Services Regulation Act 2015*," for "basis," and

(ii) "taxation, or to the Chief Legal Costs Adjudicator for adjudication under *Part 10* of the *Legal Services Regulation Act 2015*." for "taxation.",

and

(d) in subsection (7), by the substitution of "Authority" for "President of the High Court".".

Seanad amendment agreed to.

Seanad amendment No. 250:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 10 of Act of 1994

170. Section 10 of the Act of 1994 is amended by the substitution of "made, before the date on which *Part 5* of the *Legal Services Regulation Act 2015* comes into operation, to the Society -" for "made to the Society -".

Seanad amendment agreed to.

Seanad amendment No. 251:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 14 of Act of 1994

171. Section 14 of the Act of 1994 is amended in subsection (1)—

(a) by the deletion of "whether as a result of a complaint or otherwise," and

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

"(aa) a matter for the purposes of compliance with a request under *section 50* of the *Legal Services Regulation Act 2015*,".".

Seanad amendment agreed to.

Seanad amendment No. 252:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 14A of Act of 1994

172. The Act of 1994 is amended by the substitution of the following for section 14A:

"14A. (1) For the avoidance of doubt, it is hereby declared that the power of the Society to investigate alleged misconduct by a solicitor may be exercised whether or not the Society receive—

(a) a complaint in relation to the solicitor, or

(b) a request under *section 50* of the *Legal Services Regulation Act 2015* for the investigation into any matter that is relevant to a complaint under *Part 5* of that Act in relation to the solicitor.

(2) The Society shall, in addition to exercising its power referred to in subsection (1), conduct an investigation in compliance with a request under *section 50* of the *Legal Services Regulation Act 2015* for the investigation into any matter that is relevant to a complaint under *Part 5* of that Act in relation to the solicitor.

(3) Where the Society, following an investigation, considers that the act or omission the subject of the investigation is not one to which subsection (6) applies, but determines that it warrants the imposition of a sanction under this section, it may—

(a) in accordance with *section 61* of the *Legal Services Regulation Act 2015*, issue a direction to the solicitor concerned to take such measures as are specified in the determination of the Society, being measures specified in respect of solicitors in subsection (5) of that section, or

(b) where the solicitor concerned so consents in writing, take the measure, being the measure specified in *section 61(6)(a)* of the *Legal Services Regulation Act 2015*, specified in the determination of the Society.

(4) Where the Society issues one or more than one direction in accordance with subsection (3)(a) and the solicitor complies with each such direction, the complaint shall be considered as determined.

(5) Where the Society (with the consent of the solicitor concerned) takes the measure specified in subsection (3)(b), the complaint shall be deemed to be determined.

(6) (a) Subject to subsection (7), where the Society has commenced its investigation on or after the date on which the *Legal Services Regulation Act 2015* comes into operation, and it considers that the act or omission the subject of the investigation is of a kind that is more appropriate for consideration by the Legal Practitioners Disciplinary Tribunal than by it, it may make an application in respect of the matter to it for the holding of an inquiry under *section 73* of the *Legal Services Regulation Act 2015*.

(b) In determining whether it be more appropriate for the matter to be considered by the Legal Practitioners Disciplinary Tribunal, the Society shall have regard to the gravity of the concerns raised and matters disclosed in the complaint and in its investigation.

(7) (a) Where the Society considers that the measure specified in *section 61(6)(a)* of the *Legal Services Regulation Act 2015* is the appropriate measure to be taken as respects the finalisation of its investigation, it shall notify the solicitor concerned to that effect and specify the precise measure (including in the case of a restriction or condition to be placed on the practising certificate of the solicitor, the precise restriction or condition) it proposes to take.

(b) The notification referred to in paragraph (a) shall indicate that unless the solicitor concerned furnishes to the Society his or her consent in writing to the imposition of the specified measures within 21 days of the issue of the notification, the

Society will apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry under *section 71* of the *Legal Services Regulation Act 2015*.

(c) Where the Society issues a notification pursuant to paragraph (b) and does not receive the written consent of the solicitor concerned within 21 days to the imposition of the specified measures, it shall apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry under *section 71* of the *Legal Services Regulation Act 2015* into the matter, in so far as the Society has not found that the concerns giving rise to its investigation of the matter are unfounded or that the act or omission concerned does not warrant the imposition of a sanction under this section or an application under subsection (7) to the Legal Practitioners Disciplinary Tribunal.

(8) The Society shall notify the Authority of its determination under subsection (3).".".

Seanad amendment agreed to.

Seanad amendment No. 253:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Monitor appointed by Authority may attend committee meetings

173. The Act of 1994 is amended by the insertion of the following after section 14B:

"14C. (1) Where a committee is investigating an act or omission of a solicitor to which *section 42(5)* of the *Legal Services Regulation Act 2015* applies, a monitor may attend and observe any meeting of the committee in relation to the investigation.

(2) The Society shall inform the Authority of the time and place of a meeting referred to in subsection (1).

(3) In this section—

'committee' means any committee of the Society to which the powers or functions of investigating alleged misconduct by a solicitor has been delegated;

'monitor' means a person appointed by the Authority under *section 83* of the *Legal Services Regulation Act 2015* to perform the functions of a monitor under this section.".".

Seanad amendment agreed to.

Seanad amendment No. 254:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 22 of Act of 1994

174. Section 22 of the Act of 1994 is amended by the insertion of "or the Legal Practitioners Disciplinary Tribunal" after "Tribunal" in both places where it occurs.".

Seanad amendment agreed to.

Seanad amendment No. 255:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 26 of Act of 1994

175. Section 26 of the Act of 1994 is amended—

(a) in subsection (1)—

(i) by the substitution of "The Society may, with the consent of the Authority, make regulations" for "The Society may make regulations",

(ii) in paragraph (a), by the substitution of "solicitor," for "solicitor, or",

(iii) in paragraph (b), by the substitution of "as a solicitor, or" for "as a solicitor.", and

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

"(c) by a solicitor arising from his practice as a solicitor in a legal partnership, multi-disciplinary practice or limited liability partnership (within the meaning of the *Legal Services Regulation Act 2015*).",

(b) by the insertion of the following new subsection after subsection (1):

"(1A) In making indemnity regulations under subsection (1), regard shall be had to the objective of ensuring, in relation to solicitors in a legal partnership, multi-disciplinary practice or limited liability partnership referred to in paragraph (c) of that subsection, that there is adequate indemnity against losses in place respect of each solicitor and other person in such partnership or practice concerned who is required to be covered.".

(c) in subsection (5), by the substitution of "the Authority" for "the Minister", and

(d) by the deletion of subsection (6).".

Seanad amendment agreed to.

Seanad amendment No. 256:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 35 of Act of 1994

176. Section 35 of the Act of 1994 is amended by the substitution of "Society and to the Authority," for "Society,".".

Seanad amendment agreed to.

Seanad amendment No. 257:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 38 of Act of 1994

177. Section 38 of the Act of 1994 is amended in subsection (1)—

(a) by the substitution of "the *Solicitors Acts 1954* to *2015* or the *Legal Services Regulation Act 2015*," for "the Solicitors Acts, 1954 to 1994,", and

(b) by the insertion of "or the Authority" after "Society".".

Deputy Frances Fitzgerald: I move amendment No. 1 to Seanad amendment No. 257:

To delete the section 177 proposed to be inserted by Seanad amendment number 257 and substitute the following:

"Amendment of section 38 of Act of 1994

177. Section 38 of the Act of 1994 is amended—

(a) in subsection (1)—

(i) by the substitution of "the *Solicitors Acts 1954* to *2015* or the *Legal Services Regulation Act 2015*," for "the Solicitors Acts, 1954 to 1994,", and

(ii) by the insertion of "or the Authority" after "Society",

and

(b) in subsection (2) by the substitution of "the *Solicitors Acts 1954* to *2015* or the *Legal Services Regulation Act 2015*," for "the Solicitors Acts, 1954 to 1994,".

Amendment No. 1 to Seanad amendment No. 257 agreed to.

Seanad amendment No. 257, as amended, agreed to.

Seanad amendment No. 258:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 58 of Act of 1994

179. Section 58 of the Act of 1994 is amended—

(a) in subsection (1), by the substitution of "Where a solicitor fails to comply with any provision of the *Solicitors Acts 1954* to *2015* or the *Legal Services Regulation Act 2015*, or with any regulations made thereunder or with any conditions specified in a direction relating to a practising certificate under section 59 of this Act, or has been convicted of an indictable offence and sentenced to a term of imprisonment, and the Society are of the opinion that such failure to comply or, as the case may be, such conviction and sentence is serious and warrants the making of an application under this section" for "Where a solicitor fails to comply with any provision of the Solicitors Acts 1954 to 1994, or with any regulations made thereunder or with any conditions specified in a direction relating to a practising certificate under section 59 of this Act, and the Society are of the opinion that such failure to comply is serious and warrants the making of an application under this section", and

(b) by the substitution of the following for subsection (3):

"(3) Any application made by the Society pursuant to subsection (1) shall be without prejudice to the right of the Society under—

(a) section 7 of the Act of 1960 to apply to the Disciplinary Tribunal for an inquiry into the conduct of the solicitor concerned on the ground of alleged misconduct, or

(b) section 14A to make an application to the Legal Practitioners Disciplinary Tribunal in respect of the conduct of the solicitor concerned for the holding of an inquiry under *section 71* of the *Legal Services Regulation Act 2015*.".".

Seanad amendment agreed to.

Seanad amendment No. 259:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 59 of Act of 1994

180. Section 59(2) of the Act of 1994 is amended by the substitution of "section 49(1)(c) to (v)" for "section 49(1)(c) to (p) (as substituted by this Act)".".

Seanad amendment agreed to.

Seanad amendment No. 260:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 1 of Act of 2002

181. Section 1 of the Act of 2002 is amended by the insertion of the following definition:

" 'the Authority' means the Legal Services Regulatory Authority;".".

Seanad amendment agreed to.

Seanad amendment No. 261:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 5 of Act of 2002

182. Section 5 of the Act of 2002 is amended by—

(a) the substitution of the following paragraph for paragraph (b):

"(b) which, if published or caused to be published by a solicitor, would contravene regulations made under *section 158* of the *Legal Services Regulation Act 2015*.",

and

(b) by the substitution of the following subsection for subsection (2):

"(2) In subsection (1), 'advertisement' has the meaning assigned to it by *section*

158(8) of the *Legal Services Regulation Act 2015* with the substitution, where appropriate, of 'a person who is not a solicitor' for 'a legal practitioner'.".".

Seanad amendment agreed to.

Seanad amendment No. 262:

Section 148: In page 120, between lines 3 and 4, to insert the following:

"Amendment of section 19 of Act of 2002

183. Section 19 of the Act of 2002 is amended—

(a) by the substitution of "Legal Practitioners Disciplinary Tribunal" for "Disciplinary Tribunal" in each place in which it occurs, and

(b) by the substitution of the following for subsection (7):

"(7) In this section, 'misconduct'—

(a) means, in relation to an act or omission that occurred before the date on which *Part 5* of the *Legal Services Regulation Act 2015* comes into operation—

(i) the commission of an offence under section 55, 56 or 58 of the Principal Act or of an arrestable offence (within the meaning of the Criminal Law Act 1997),

(ii) conduct outside the State which constitutes an offence under the law of the jurisdiction concerned and which, if that conduct took place within the State, would constitute an arrestable offence (within that meaning), or

(iii) any other conduct which, if engaged in by a solicitor, would tend to bring the solicitors' profession into disrepute,

and

(b) in relation to an act or omission that occurred on or after the date on which *Part 5* of the *Legal Services Regulation Act 2015* comes into operation, shall be construed in accordance with *section 41* of that Act, in so far as that section relates to solicitors.".".

Seanad amendment agreed to.

Seanad amendment No. 263:

Section 148: In page 120, between lines 5 and 6, to insert the following:

"Immunity

150. (1) Neither the Authority nor a member, or member of staff, of the Authority shall be liable in damages in respect of any act done or omitted to be done by it or him or her in the performance, or purported performance, of its or his or her functions under *Part 3* or *5*, unless the act or omission concerned was done in bad faith.

(2) The State shall not be liable in damages in respect of any act done or omitted to be done by the Authority or a member, or member of staff, of the Authority in the performance, or purported performance, by the Authority or such member of its, his or her functions under *Part 3* or *5*, unless the act or omission concerned was done in bad faith.

(3) Neither the State nor the Authority shall be liable in damages in respect of any act done or omitted to be done by the Law Society in the performance, or purported performance, by the Law Society of its functions under *Part 5* or the *Solicitors Acts 1954* to *2015*.

(4) In this section—

'Authority' includes a Review Committee established under *section 53*, the Complaints Committee and the Disciplinary Tribunal;

'member of staff' includes an inspector appointed in accordance with section *31(1)(b)*.".

Seanad amendment agreed to.

Seanad amendment No. 264:

Section 148: In page 120, between lines 5 and 6, to insert the following:

"No indemnification of Compensation Fund

151. (1) The State shall not indemnify the Compensation Fund in respect of any liability of that Fund howsoever arising and, accordingly, no public moneys shall be paid into that Fund for any purpose or be otherwise used to meet any liability of that Fund.

(2) This section shall apply whether or not the moneys standing to the credit of the Compensation Fund are sufficient to meet the liabilities of that Fund.

(3) In this section "public moneys" means moneys charged on or issued out of the Central Fund or the growing produce thereof or provided by the Oireachtas.".

Seanad amendment agreed to.

Seanad amendment No. 265:

Section 151: In page 120, to delete lines 31 to 38, and in page 121, to delete lines 1 to 10, and substitute the following:

"Barrister in employment may provide legal services to his or her employer

151. (1) A barrister whose name is entered on the roll of practising barristers in accordance with *Part 9* may—

(a) take up paid employment, and

(b) as part of that employment, provide legal services to his or her employer, including by appearing on behalf of that employer in a court, tribunal or forum for arbitration.

(2) A professional body shall not, through its professional codes or otherwise, prevent or restrict a barrister who is a member of that body from working with, or otherwise doing business with, barristers providing legal services in accordance with *subsection (1)*.

(3) In this section "employment" includes part-time employment.".

Seanad amendment agreed to.

Seanad amendment No. 266:

Section 153: In page 121, between lines 16 and 17, to insert the following:

"Amendment of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

153. Section 60 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 is amended in subsection (2)—

(a) in paragraph (d), by the insertion of the words "who is a member of the Law Library" after "barrister", and

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

"(da) in the case of a designated person who is a barrister who is not a member of the Law Library, the Legal Services Regulatory Authority;".".

Seanad amendment agreed to.

Seanad amendment No. 267:

Section 153: In page 121, line 34, to delete "*Part 6*" and substitute "*Part 5*".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 268, 269 and 277 are related and may be discussed together by agreement.

Seanad amendment No. 268:

Section 155: In page 122, to delete lines 9 to 41, to delete page 123, and in page 124, to delete line 1.

Deputy Frances Fitzgerald: These amendments delete the existing sections 155 and 156 along with the existing Schedule 2 relating to whistleblowers and protected disclosures. This follows advices received and detailed consultation with the Department of Public Expenditure and Reform, which has policy responsibility for this area.

The reason for proceeding in this way is that these matters were dealt with centrally under the Protected Disclosures Bill 2014, which has been enacted since it was envisaged these measures would be in this Bill. The Protected Disclosures Act was not in place when the Legal Services Regulation Bill was originally published in 2011. It has been decided to rely on the new and comprehensive whistleblower protections in line with the Government decision to discontinue a sector-by-sector approach to whistleblowing as well as the need to ensure no confusion

or cross-cutting between parallel regimes. The 2014 Act is understood to be comprehensive for these purposes.

Seanad amendment agreed to.

Seanad amendment No. 269:

Section 156: In page 124, to delete lines 2 to 33.

Seanad amendment agreed to.

Seanad amendment No. 270:

Section 158: In page 126, to delete lines 14 to 40, and in page 127, to delete lines 1 to 30 and substitute the following:

"Advertising of legal services

158. (1) No professional code shall operate to prevent—

(a) a legal practitioner from advertising his or her legal services,

(b) a legal partnership, a multi-disciplinary practice or a limited liability partnership from advertising their legal services, or

(c) a group of legal practitioners, who share a facility, premises or cost of practice, from advertising themselves as such a group.

(2) The Authority may make regulations in relation to the advertising of legal services, including in relation to the information that may be contained in advertisements published or caused to be published by legal practitioners in relation to legal services they provide and any areas of law to which those services relate.

(3) Before making regulations under *subsection (2)*, the Authority shall consult, in such manner as it considers appropriate, with—

(a) a professional body, the members of which will be subject to the regulations when made, and

(b) such other interested parties, including legal practitioners who are not members of a body referred to in *paragraph (a)* who will be subject to the regulations when made, as the Authority considers appropriate.

(4) Regulations made under *subsection (2)* may not restrict the advertising of legal services unless such restriction is—

(a) necessary for—

(i) the protection of the independence, dignity and integrity of the legal profession, and

(ii) an overriding reason relating to the public interest,

and

(b) non-discriminatory and proportionate.

(5) Without prejudice to the generality of *subsection (2)*, regulations made under that subsection may—

(a) specify the category or categories of legal practitioner to whom such regulations apply,

(b) make provision in relation to advertisements that may be published or caused to be published by or on behalf of a legal practitioner, including provision in respect of their content and size,

(c) provide for the manner in which the Authority is to determine whether any particular advertisement published or caused to be published by a legal practitioner is in contravention of this section or any regulations under this section, and

(d) restrict the publication by or on behalf of a legal practitioner of any advertisement which in the opinion of the Authority—

(i) is likely to bring the legal profession into disrepute,

(ii) is in bad taste,

(iii) reflects unfavourably on other legal practitioners,

(iv) is false or misleading in any material respect,

(v) is published in an inappropriate location,

(vi) subject to *subsection (7)*, expressly or impliedly solicits, encourages or offers any inducement to any person or group or class of persons to make claims for personal injuries or seek legal services in connection with such claims.

(6) A legal practitioner shall not publish or cause to be published an advertisement which does not comply with regulations made under *subsection (2)*.

(7) Nothing in *subsection (5)(d)(vi)* shall be taken to authorise the Authority to impose a restriction on the inclusion in an advertisement published by or on behalf of a legal practitioner of the words "personal injuries" as part of the legal services provided by the legal practitioner.

(8) In this section—

"advertisement" means any communication (whether oral or in written or other visual form and whether produced by electronic or other means) which is intended to publicise or otherwise promote a legal practitioner in relation to the provision by him or her of legal services, including any—

(a) brochure, notice, circular, leaflet, poster, placard, photograph, illustration, emblem, display, stationery, directory entry, article or statement for general publication,

(b) electronic address or any information provided by the legal practitioner

that is accessible electronically,

(c) audio or video recording, or

(d) presentation, lecture, seminar or interview,

which is so intended but excluding a communication which is primarily intended to give information on the law;

"inappropriate location" means a hospital, clinic, doctor's surgery, funeral home, cemetery, crematorium or other physical location of a similar character.".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 271 to 273, inclusive, and 280 are related and may be discussed together by agreement.

Seanad amendment No. 271:

New Section: In page 127, after line 30, to insert the following:

"PART 15

CLINICAL NEGLIGENCE ACTIONS

Clinical negligence actions

159. (1) The Civil Liability and Courts Act 2004 is amended by inserting the following Part after Part 2:

"PART 2A

CLINICAL NEGLIGENCE ACTIONS

Interpretation of Part 2A

32A. (1) In this Part—

'clinical negligence' means anything done or omitted to be done in the provision of a health service by a health service provider in circumstances which could give rise to liability for damages for negligence in respect of personal injury or death;

'clinical negligence action' means an action for the recovery of damages brought—

(a) by or on behalf of a person alleging that he or she, or a deceased person of whom he or she is a personal representative, has suffered personal injury or death as a result of clinical negligence, and

(b) against the health service provider alleged to have committed the act or omission giving rise to liability or any other person alleged to be liable in respect of that act or omission;

'health service' means—

(a) the carrying out of a clinical investigation, diagnosis, procedure, treatment or research,

(b) the provision of clinical advice or information, or

(c) the provision of clinical care;

'health service provider' means a person whose name is on—

(a) the register of medical practitioners,

(b) a register maintained by the Dental Council,

(c) a register maintained by the Optical Registration Board,

(d) a register set up under section 13(1) of the Pharmacy Act 2007,

(e) a register maintained under section 46 of the Nurses and Midwives Act 2011, or

(f) a register maintained by any health and social care profession which has been designated for the purposes of the Health and Social Care Professionals Act 2005 and which the Minister has prescribed by regulations;

'pre-action protocol' means the pre-action protocol mentioned in section 32B.

Pre-action protocol

32B. (1) There shall be a pre-action protocol relating to clinical negligence actions.

(2) The pre-action protocol shall include requirements that must be complied with by the parties to clinical negligence actions before such actions are brought.

(3) The Minister shall by regulations make provision specifying the terms of the pre-action protocol.

(4) Before making regulations under subsection (3), the Minister shall consult—

(a) the Minister for Health,

(b) the State Claims Agency,

(c) any such bodies involved in the regulation of persons providing legal services as the Minister considers appropriate,

(d) any such bodies involved in the regulation or training of persons providing health services as the Minister considers appropriate,

(e) any such bodies representative of the interests of patients as the Minister considers appropriate, and

(f) any such other bodies as the Minister considers appropriate.

(5) The Minister shall, in making regulations under subsection (3), have regard to the desirability of—

(a) encouraging the early resolution of enquiries or allegations relating to possible clinical negligence,

(b) promoting timely communication between persons who are enquiring into or making allegations about possible clinical negligence and those whom they consider may be liable in respect of it,

(c) reducing the number of cases in which clinical negligence actions are brought,

(d) facilitating the early identification of the issues in dispute in clinical negligence actions, and

(e) encouraging the early settlement of clinical negligence actions.

(6) The terms of the pre-action protocol specified by regulations under subsection (3) shall in particular include provision relating to—

(a) the disclosure of medical and other records relating to persons enquiring into or alleging possible clinical negligence (including charges for disclosure),

(b) the giving of notifications of enquiries into, and allegations of, possible clinical negligence, the acknowledgment of notifications of enquiries and the giving of responses to notifications of allegations,

(c) the specification of the time at or within which records shall be disclosed and notifications given and acknowledged or responded to,

(d) the form of, and particulars to be included with, requests for disclosure or notifications of enquiries or allegations and acknowledgments of and responses to such notifications,

(e) the disclosure of material relevant to allegations and responses, and

(f) agreements to submit issues for resolution otherwise than by a court.

Powers of court

32C. The court in which a clinical negligence action is brought, on hearing the action, may do any of the following:

(a) direct that the action shall not proceed any further until steps which are required by the pre-action protocol to have been taken by any of the parties have been taken;

(b) order that a party who has not complied with a requirement of the pre-action protocol pay the costs, or part of the costs, of the other party or parties (including, where appropriate, on an indemnity basis);

(c) if an award of damages is made in favour of the plaintiff but the plain-

tiff either has not complied with a requirement of the preaction protocol or has rejected an offer to settle made in accordance with the pre-action protocol for an amount equal to or greater than that awarded, order that the plaintiff shall be deprived of interest on all or part of the award or that all or part of the award shall carry interest at a lower rate than it otherwise would;

(d) if an award of damages is made against a defendant but the defendant either has not complied with a requirement of the preaction protocol or has rejected an offer to settle made in accordance with the pre-action protocol for an amount equal to or less than that awarded, order that the defendant pay interest on all or part of the award at a rate higher by no more than 10 percentage points than the rate for the time being standing specified under section 26 of the Debtors (Ireland) Act 1840.

Apology not to constitute admission of liability or invalidate insurance

32D. (1) An apology made in connection with an allegation of clinical

negligence—

(a) shall not constitute an express or implied admission of fault or liability, and

(b) shall not, despite any provision to the contrary in any contract of insurance and despite any other enactment, invalidate or otherwise affect any insurance coverage that is, or but for the apology would be, available in respect of the matter alleged.

(2) Despite any other enactment, evidence of an apology referred to in subsection (1) is not admissible as evidence of fault or liability of any person in any proceedings in a clinical negligence action.".

(2) The amendment made by *subsection (1)* does not apply to clinical negligence actions where the cause of action accrues before the coming into operation of that subsection.".

Deputy Frances Fitzgerald: Amendments Nos. 271 and 273 insert an important new Part 15. They deal with pre-action protocols in medical negligence cases. I am pleased that it has been possible to include this part in the Bill. It provides the statutory basis for the introduction of what is termed "pre-action protocol", which will take the form of ministerial regulations. The pre-action protocol will set out the steps to be followed and the obligations on all relevant parties in respect of the handling of inquiries into and allegations of clinical medical negligence.

As Deputies will be aware, this legislative step has been called for from a wide variety of interested parties, including patient advocacy groups. This is good for the consumer. There have been many sad and difficult cases. It has also been called for by medical professionals and the Judiciary for many years.

The expert working group on medical negligence litigation and periodic payments was established by the President of the High Court with terms of reference that included the examination of the current system within the courts for the management of claims for damages arising out of alleged medical negligence, to identify any shortcomings within the system and the

making of such recommendations as may be necessary to improve the system and eliminate shortcomings. The group published its report in March 2012. I am pleased that, without further delay, the implementation of many of the working group reforms and key recommendations is taking a major step forward today. The insertion of a ministerial regulation with powers in a primary statute, such as the Legal Services Regulation Bill, means the scope and purpose of the regulations as well as any legal technical matters are set out, while the detail of what is to be done is left to the regulator.

Much groundwork has been done in terms of consultation with interested parties. This has come about because we recognise that medical or clinical negligence claims are placing a major burden on patients who believe they are victims of medical negligence. It also places a major burden on the medical professionals, who must handle such claims almost exclusively within the adversarial context of legal proceedings with all the attendant shortcomings. It also places a major burden on the courts, which have to hear the claims, some of which are discovered at a late stage to have been unsupported by the necessary evidence thus leading to delays and inefficiencies. It was against this background that a pre-action protocol was called for in the interests of all parties. The pre-action protocol will set out in a step-by-step manner the procedures to be followed for the aggrieved recipients of health services as well as the medical practitioners concerned, starting from the inquiry stage and featuring all the way to court proceedings, where necessary.

I call on Members to support this pre-action protocol to encourage the early resolution of inquiries of allegations relating to possible clinical negligence and to promote good non-adversarial communication between the parties with a view to reducing the need to go to court.

Of course, access to the courts will still be available to parties where it is warranted. However, the pre-action protocol will ensure that a full disclosure of all relevant information, grounds of complaint and supporting evidence will be made clear at an early stage, thus reducing significantly the likelihood of court adjournments, which are a key factor in the high cost of litigation in this country. I believe this will have knock-on effects for the efficiencies of courts, a point many Senators and Deputies have raised. Many have referred to the need for greater efficiencies in our courts and the various initiatives that would make a difference in this regard. It could also lead to the possible lowering of insurance costs in the medical sphere to the benefit of all consumers. Therefore, from a consumer point of view, this new section will be helpful for some people in very difficult situations. It has been sought for a long period.

Seanad amendment agreed to.

Seanad amendment No. 272:

New Section: In page 127, after line 30, to insert the following:

"Other amendments of Civil Liability and Courts Act 2004

160. (1) Section 8 of the Civil Liability and Courts Act 2004 is amended—

(a) in subsection (1), by substituting "Subject to subsection (3), where" for "Where",

and

(b) by inserting the following subsection after subsection (2):

"(3) This section does not apply to a clinical negligence action within the meaning of Part 2A.".

(2) Section 17 of the Civil Liability and Courts Act 2004 is amended—

(a) in subsection (1), by substituting "Subject to subsection (6A), the" for "The", and

(b) by inserting the following subsection after subsection (6):

"(6A) This section does not apply to a clinical negligence action within the meaning of Part 2A if an offer to settle the claim had, before the bringing of the action, been made by any party to the action in accordance with the pre-action protocol.".

(3) The Civil Liability and Courts Act 2004 is amended by inserting the following section after section 17:

"Pre-action offers of settlement in clinical negligence claims

17A. (1) In a case of an action to which section 17 does not apply by virtue of subsection (6A) of that section, a copy of the offer of settlement shall be lodged in court by, or on behalf of, the party by which it was made.

(2) The terms of the offer of settlement shall not be communicated to the judge in the trial of the clinical negligence action until after he or she has delivered judgment in the action.

(3) The court shall, when considering the making of an order as to the payment of the costs in the action, have regard to—

(a) the terms of the offer of settlement, and

(b) the reasonableness of the conduct of the party by whom the offer was made in making the offer.

(4) This section is in addition to and not in substitution for any rule of court providing for the payment into court of a sum of money in satisfaction of a cause of action or the making of an offer of tender of payment to the other party or parties to an action.".

Seanad amendment agreed to.

Seanad amendment No. 273:

New Section: In page 127, after line 30, to insert the following:

"Amendments of Statute of Limitations (Amendment) Act 1991

161. (1) The Statute of Limitations (Amendment) Act 1991 is amended—

(a) in section 3, by substituting the following subsection for subsection (1):

"(1) An action, other than one to which section 6 of this Act applies, claiming damages in respect of personal injuries to a person caused by negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under a statute or independently of any contract or any such provision) shall not be brought after the expiration of—

(a) in the case of a clinical negligence action within the meaning of Part 2A of the Civil Liability and Courts Act 2004, 3 years, or

(b) otherwise, 2 years,

from the date on which the cause of action accrued or the date of knowledge (if later) of the person injured.",

(b) in section 4(1), by substituting "the period so specified" for "2 years",

(c) in section 5(1), by substituting "the period specified in the said section 3 from the date when he ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period so specified" for "2 years from the date when he ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period specified in the said section 3", and

(d) in section 6—

(i) in subsection (1), by substituting "the relevant period" for "2 years", and

(ii) by inserting the following subsection after subsection (1):

"(1A) In subsection (1) 'the relevant period' means—

(a) in the case of a clinical negligence action within the meaning of Part 2A of the Civil Liability and Courts Act 2004, 3 years, and

(b) otherwise, 2 years.".

(2) The amendments made by *subsection (1)* do not have effect where the date of accrual of the cause of action, or the date of knowledge of the person concerned as respects that cause of action, is before the coming into operation of that subsection.".".

Seanad amendment agreed to.

Seanad amendment No. 274:

Schedule 1: In page 128, line 9, to delete "matters:" and substitute "matters, where applicable:".

Seanad amendment agreed to.

Seanad amendment No. 275:

Schedule 1: In page 128, to delete lines 10 and 11 and substitute the following:

"(a) the complexity and novelty of the issues involved in the legal work;".

Seanad amendment agreed to.

Seanad amendment No. 276:

Schedule 1: In page 128, to delete lines 16 to 19 and substitute the following:

"(e) the urgency attached to the matter by the client and whether this requires or required the legal practitioner to give priority to that matter over other matters;".

Seanad amendment agreed to.

Seanad amendment No. 277:

Schedule 2: In page 129, to delete lines 1 to 42, to delete pages 130 to 132, and in page 133 to delete lines 1 to 18.

Seanad amendment agreed to.

Seanad amendment No. 278:

Schedule 3: In page 134, between lines 6 and 7, to insert the following:

1954, No. 36	***Solicitors Act 1954***	***Section 71(2), (3), (4), (5), (6) and (10).***

Seanad amendment agreed to.

Seanad amendment No. 279:

Schedule 3: In page 134, to delete line 7 and substitute the following:

1994, No. 27	***Solicitors (Amendment) Act 1994***	***Sections 68 and 74***

Seanad amendment agreed to.

Seanad amendment No. 280:

Title: In page 9, line 12, after "counsel," to insert "to provide for matters relating to clinical negligence actions,".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Agreement of Seanad amendments, other than amendments Nos. 61, 76, 89, 90, 95, 98, 193 and 257, is reported to the House. A message will be sent to Seanad Éireann acquainting it that, first, Dáil Éireann has agreed to amendments Nos. 1 to 60, inclusive, 62 to 75, inclusive, 77 to 88, inclusive, 91 to 94, inclusive, 96, 97 and 99 to 192, inclusive, 194 to 256, inclusive, and 258 to 280, inclusive, made by Seanad Éireann to the Legal Services Regulation Bill 2011, and, second, Dáil Éireann has agreed to amendments Nos. 61, 76, 89, 90, 95, 98, 193 and 257,

5 o'clock

with amendments thereto, to which the agreement of Seanad Éireann is desired in each case. Is that agreed? Agreed.

Deputy Frances Fitzgerald: The amendments are mostly technical amendments and one full section is repeated, but in fact a particular sentence needs to be inserted into the amendments.

Acting Chairman (Deputy Bernard J. Durkan): We have now concluded.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank the Acting Chairman for taking us through all of the amendments and my colleague, the Minister of State, Deputy Murphy, for supporting me in the passage of the Bill today. I take this opportunity to express my thanks to Members of the House, the Seanad and the joint committee, which did a lot of work on the Bill. They have all helped to bring it to its final stage. I want to pay particular thanks to my predecessor, Deputy Alan Shatter, who, as Minister, launched the Bill and steered it through Committee Stage in the Dáil. Many people have put a significant amount of work into this very complex and comprehensive Bill over a long period of time, as we heard during the course of the debate today.

I thank in particular the staff of the Department of Justice and Equality who have done Trojan work on this Bill, with all its complexities. Conan McKenna, Richard Fallon and Clare Dowling, who have joined me here today, worked in a painstaking and detailed way over months and years. I also thank the many drafters in the Office of the Attorney General who did likewise and the Attorney General for her support throughout the developments in the Bill and the very complex issues we had to deal with in the transition the Bill represents to an independent regulatory authority.

This is a major transition. It moves us into a system of independent regulation of legal services in this country for the first time and it also introduces independent opportunities to examine complaints and disciplinary issues within legal services, which is extremely important.

Many people were involved in the development of the Bill. The parliamentary draftsmen were very patient in working with the detailed amendments we had to bring forward. Sometimes there were amendments to amendments because so many technical elements needed to be worked through in the Seanad and Dáil. I thank the Bills Office for its support in getting this complex Bill through the Houses.

Today, we discussed why we are enacting the Bill. Its purpose is to create a statutory regulator of all legal practitioners for the first time in the history of the State. The existing regime has no statutory regulation of barristers and there is nowhere other than professional bodies to which the public and clients can go with complaints. The professional bodies provided a large amount of detail to us, which was necessary because there will be a transition from the work they are doing. We needed a large amount of detail from them on the work they had been doing for decades. As I said, this is a major transition.

The Bill provides for complaints about legal practitioners, from whatever source, including clients, to be dealt with by an independent statutory body for the first time. I repeat what I said earlier, that is, that this Bill introduces new business models to increase competition in legal services. There are a series of measures to deal with the costs in the legal services market. The Bill will benefit consumers because there will now be an independent body. There will be an independent pathway, greater clarity regarding costs and pre-action protocols for medical negli-

gence cases. There will shortly be a choice of various business models for the provision of legal services. The market will open up in a way which it has not to date because of the availability of new business models.

There is an outline of the work programme which the legal services regulatory authority will have to undertake in the years ahead. There are provisions to examine legal training. There will be further opportunities through new competitive practices and a greater range of partnerships once research has been done. For the first time limited liability partnerships will be available, which will be helpful in terms of competition. Once the Bill is enacted and the authority established, consumers will be provided with greater clarity about costs. They will be able to go into a practice where a solicitor and barrister or barrister and barrister work together.

I have no doubt that, given the changes in the market we have seen internationally, this is the beginning of new models in this country. It is inevitable that we will see a range of adaptation around those models in the years ahead.

I again point to the important provisions we have introduced regarding barristers who are employees representing their employers._There is a very strong provision in regard to professional associations. There can be no interference in the establishment of these new models. The legal services regulatory authority will have a very strong oversight role when it comes to the development of new models. As I have already outlined, it will be involved in the general oversight of legal services, but also oversight when it comes to discipline and complaints.

I again thank all those involved in the development of the Bill. I look forward to it coming into law and being implemented. We will now move on to the appointment of the CEO and board, which will have a lay majority, another important point. The Bill will benefit consumers.

I thank the Competition and Consumer Protection Commission for its recommendations. We are fulfilling the vast majority of the recommendations in its report. We made some recent changes to the Bill to improve the schedule of costs, something it recommended. I look forward to the coming into being next year of the legal services regulatory authority.

Seanad amendments reported.

Sitting suspended at 5.10 p.m. and resumed at 7.30 p.m.

Establishment of Independent Anti-Corruption Agency: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Catherine Murphy on Tuesday, 8 December 2015:

That Dáil Éireann:

recognises that corruption in public and commercial life represents a great threat to the democratic functioning of the State;

finds that culturally ingrained concepts of patronage, clientelism and favouritism have pervaded political institutions and have led to serious failures in corporate gover-

nance, particularly where inappropriate links between business and politics have been exploited;

concludes that such failings have eroded public confidence that politics and commerce operate to benefit the many over the few;

notes that Bunreacht na hÉireann places in the care of the Oireachtas a responsibility to ensure that the operation of free competition shall not be allowed to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment; and that the Oireachtas has failed to adhere to this guidance in recent years;

recognises that the State has no effective means of preventing, investigating or prosecuting corruption or white-collar crime as responsible agencies are too disconnected, lack appropriate powers, or lack necessary resources;

further notes:

— that prosecutions arising from cases of proven corruption have been rare;

— the failure of the Government to adequately act on the findings of the Tribunal of Inquiry into Certain Planning Matters and Payments (Mahon tribunal) nor the Tribunal of Inquiry into Payments to Politicians and Related Matters (Moriarty tribunal);

— that there have been eight tribunals of inquiry in the past 20 years, and where they made findings of impropriety in public or commercial life, very few consequences, if any, have arisen; and

— that five commissions of investigation are currently in operation, and that in some cases, commissions have sought additional powers to ensure they can fulfil their terms of reference; and

recommends, in order to effectively address these matters, that the Government:

— establish a permanent, independent anti-corruption agency to, initially, assume the functions of the Standards in Public Office Commission; the Office of the Director of Corporate Enforcement; the Registrar of Lobbyists and the Competition Authority, but not confined to these bodies;

— mandate the anti-corruption agency to act as a standing commission of investigation;

— confer the anti-corruption agency with powers of:

— investigation;

— compellability and testimony-taking;

— court-authorised search and seizure, including access to bank records;

— prosecution at District and Circuit Court level only; and

— arrest;

— empower the anti-corruption agency to initiate and conduct investigations and sectoral reviews of its own volition;

— consolidate and reform legislation tackling corruption, official malfeasance and white-collar crime, and place the anti-corruption agency at the apex of the State's legislative architecture countering corruption;

— confer the anti-corruption agency with a monitoring and investigative role over public procurement activities, both ongoing and historic;

— mandate an advisory role, initially upon the anti-corruption agency in relation to the Garda Síochána Ombudsman Commission; the Comptroller and Auditor General; the Ombudsman for the Defence Forces; the Garda Bureau of Fraud Investigation; professional bodies and any future Electoral Commission, but not confined to these bodies;

— draw on the experience in other jurisdictions in establishing an anti-corruption agency, in particular the Independent Broad-Based Anti-Corruption Commission, IBAC, of Victoria, Australia, the Serious Fraud Office, SFO, of the United Kingdom, and the Hong Kong Independent Commission Against Corruption;

— create a new joint Oireachtas oversight committee, to be called the Public Interest Committee, a majority of whom shall be Opposition members; and

— establish annual reporting by the anti-corruption agency to both Houses of the Oireachtas, and ensure reports are debated in both Dáil Éireann and Seanad Éireann."

Debate resumed on amendment No. 1:

To delete all words after "Dáil Éireann" and substitute the following:

"condemns all instances of corruption, anti-competitive behaviour, breaches of ethics legislation, breaches of the Companies Acts, and all other forms of white-collar crime;

recognises the need for a robust system of public standards legislation and enforcement to prevent wrongdoing on the part of elected and public officials;

notes:

— the significant programme of reforms introduced by the Government to protect whistleblowers, reform lobbying and increase transparency and oversight, which includes the Ombudsman (Amendment) Act 2012, the Protected Disclosures Act 2014, the Regulation of Lobbying Act 2015, and the Freedom of Information Act 2014;

— the major overhaul and reform of companies legislation introduced by the Companies Act 2014;

— and approves of the reform of competition and consumer protection regulation by the amalgamation of the Competition Authority and the National Consumer Agency into the Competition and Consumer Protection Commission;

— the significant improvement to legislation enabling investigation and prosecution of white-collar crime occasioned by the Criminal Justice Act 2011;

— the further legislative improvements in regard to the prevention and prosecution of unethical and corrupt behaviour, including measures recommended by the Tribunal of Inquiry into Certain Planning Matters and Payments (Mahon tribunal), including those to be introduced by the forthcoming public sector standards Bill and the criminal justice (corruption) Bill; and

— the reform of planning legislation undertaken by the Government to implement the recommendations of the Tribunal of Inquiry into Certain Planning Matters and Payments (Mahon tribunal) including the forthcoming planning and development (amendment) (No. 2) Bill 2015 which is to be published shortly;

recognises and strongly supports:

— the work of the Garda Síochána and the Criminal Assets Bureau in tackling and investigating white-collar crime; and

— the work of the Office of the Director of Corporate Enforcement;

acknowledges the close co-operation between the Garda Síochána and the Office of the Director of Corporate Enforcement and the significant success in terms of recent convictions for white-collar offences;

recognises and strongly supports the work of a range of other specialised bodies who are charged with the investigation of elected and public officials and commercial activities including the Standards in Public Office Commission, the Competition and Consumer Protection Commission, and the Garda Síochána Ombudsman Commission;

acknowledges the vital independence of the Office of the Director of Public Prosecutions in bringing prosecutions for complex white-collar offences;

recognises that the Government is strongly committed to ensuring that the necessary measures are in place to effectively combat corruption and recognises the significant investment in Garda resources through investment in information communications technology, vehicles, buildings and most importantly through renewed recruitment which will see 600 new trainee Gardaí enter the Garda College in 2016;

further notes:

— that Ireland is a party to a number of inter-governmental conventions which set international standards in the fight against bribery and corruption;

— that Ireland is subject to ongoing external evaluation of the effectiveness of its anti-corruption measures under a number of international evaluation mechanisms including the Council of Europe's Group of States Against Corruption, GRECO, the Organisation for Economic Co-operation and Development, OECD, Working Group on Bribery in International Business Transactions, the Implementation Review Group of the United Nations Convention against Corruption and the European Union Anti-Corruption Report;

— the significant work done and currently being undertaken by various commissions of investigation; and

— the engagement by the Taoiseach with Opposition leaders to seek a consensus on how best to address certain challenges that have arisen in relation to a commission of investigation; and

supports the Government's programme of legislation and reform to improve standards in public office and the private corporate sector, tackle corruption, anti-competitive behaviour and all forms of white-collar crime."

- (Minister of State at the Department of Agriculture, Food and the Marine).

Deputy Mary Lou McDonald: It makes a very depressing vista, and who would have thought after all the tribunals, the political scandals and the exposure of the cynical and self-serving behaviour of a coterie of councillors, Deputies and even Ministers that we would find ourselves back where we started when it comes to unethical and corrupt behaviour by some politicians? Who would have thought the culture of the brown envelope, honed to a fine art most spectacularly by Fianna Fáil and Fine Gael, has once again reared its ugly head? I would have hoped, and the people of Ireland might have hoped, this was a thing of the past. Who could have dreamt it is still as much part of the present as it was of the past? For those who might have thought and hoped we had turned a corner in the ethical standards of politicians, and for those who thought this parish pump style political rot that had become a byword for Fianna Fáil local and national governance was but a distant memory, how devastating it must be for our electorate to discover it is alive and well and seemingly going unchallenged.

I think what most people find most shocking is that such brazen corruption of the type so graphically exposed in the recent RTE programme exists in an almost flippant and casual way. The ordinary voter would have, in all sincerity, hoped after the debacle of previous Fianna Fáil Governments mired in endemic brown envelope corruption and the promise of a new beginning by this Government that we would have left all of this behind. Should we really have expected this in real terms, particularly from a Government that has so generously rewarded the rich and punished the poor, the homeless and the single parent families? It is a Government that gives breaks to the golden circles and the media oligarchs. We would probably need to be delusional, honestly, to believe the Government would really represent a break with the corrupt politics of the past or, indeed, represent a new beginning for the country. Clearly, this is not the case.

With a wearisome sense of *déjà vu* we are faced once again with the scandal of public representatives making demands for clandestine payments, and sure why would they not do it? Where is the sanction that would prevent such atrocious behaviour? Where is the punishment for those who have behaved in such a delinquent manner? Can we point to any real tangible examples of corrupt politicians getting their comeuppance? The answer to this is "No", and unfortunately so for our democratic system. The example of the Haugheys, the Lowrys and the Flynns of this world is, perhaps, a beacon of hope for all those who want to use the political system for their own selfish gain to line their own pockets and to do so, it seems, with impunity.

We should recall that corruption is not a victimless crime. The houses built on flood plains clearly show that the victims of corruption are ordinary families for whom these corrupt politicians clearly have nothing but contempt. Today is international anti-corruption day, and I can think of no more appropriate day on which we deliberate and debate this subject. The costs of

corruption are evident. Corruption undermines democratic institutions and stunts economic development. Something with which we in particular should be concerned is that corruption makes the public, all of our voters, cynical about politicians and politics, and who can blame them?

As we stand here this evening, the question and challenge for the Government and the political system is to make, at last, a real and definitive stand against corruption, set aside self-interest and support an anti-corruption agency and an independent planning regulator with proper teeth and resources, and ensure there are sanctions, penalties and consequences for those who behave in a corrupt manner and who, by extension, corrupt the organs and systems of the State.

Deputy Michael Colreavy: When the Government came to power in 2011 we were promised a democratic revolution, but here we are, almost five years on, and there has been little or no change in how the Government does business. Nowhere is this more obvious than how we have handled the Tribunals of Inquiry Bill 2005. The Bill was introduced in 2005, had Second Stage in 2007, Committee Stage in 2009 and has yet to be brought to Report and Final Stages. It is a Bill by which the outcomes of the Moriarty tribunal could be furthered. Sinn Féin has continually raised the issue with Fine Gael and Labour Party Ministers, but the Bill stands still. As it stands, all the Moriarty tribunal report seems to be useful for is holding up the old sash windows of Government Buildings during warm summer days.

The reality appears to be that the Government does not wish to deal with the tribunals or anything of such matters. To do so would be to severely shift away from how the Government has acted in Ireland for many years. It is not just this Government, but also previous Governments. The findings of the tribunals caused headaches for mainstream parties and for their financial backers. A cosy consortium exists in Irish politics between certain business interests and political life. The Moriarty tribunal pointed this out and yet nothing has happened, just as nothing happened from the outcome of the beef tribunal, and just as those named in the tribunals still operate freely in Ireland, despite having been found doing wrong. In some cases they are still in receipt of Government contracts. Are we serious?

It seems very easy to bring a case against a 16 year old for throwing eggs at a Minister's car. It seems very easy to show up in the early hours of the morning to arrest water protesters in their homes. It even seems very easy to arrest a Member of the House for a political protest at Shannon Airport. Why, then, is it so difficult to follow up on named persons for serious breaches of the law? Is it that Governments in Ireland do not consider white collar crime an actual crime, or is it that the Government is so wedded to the business interests named in these reports that it will never pursue them?

I have no doubt there are many honest Members on the Government benches who do not like the carry on or the actions of these individuals. However, there does not seem to be a political appetite to pursue those who act in a corrupt manner. The "RTE Investigates" programme was a perfect example of how corrupt practices are viewed by some in this country. I fear, moreover, that it is only the tip of the iceberg. White-collar crime is apparently untouchable. If the Government is serious about tackling corruption, it should take a stand today - UN International Anti-Corruption Day - by announcing new measures to bring offenders to justice. It is disingenuous of Fianna Fáil and Fine Gael politicians to lament the fact that the events revealed in Monday night's programme would be very difficult to prove in a court of law. Who writes the legislation? Members will recall that my colleague, Deputy Stanley, brought forward legislation to set up a planning regulator. If Government Deputies had not voted down that Bill, we

might not have seen what we did in the "RTE Investigates" programme.

Acting Chairman (Deputy Marcella Corcoran Kennedy): Deputies Buttimer, Twomey, Mulherin and Fitzpatrick are sharing time.

Deputy Jerry Buttimer: In welcoming the opportunity to speak tonight, I am acutely conscious that all of us in this august Chamber share the privilege of being here at the behest of the people we represent. I do not want to turn this debate into an adversarial political game of criss-cross but I ask the Deputies opposite to reflect on the recent BBC "Spotlight" programme and on the activities engaged in by members of their own organisation in the past. The upholding of ethics in public life is a concern we all share. We all want to see integrity, honesty and transparency from public representatives. I can tell Deputy McDonald with certainty that I have never engaged in, nor would I tolerate, any type of activity that breaches the trust of the people. If she and her colleagues are determined to cast the net, I would point out to her that in the coming election, as in the previous one, I will fund my campaign from my own money and will not seek donations from anybody.

It behoves all of us to have a duty of care to the people we represent. Voters entrusted us with the task of being their voice in the Oireachtas and representing their interests and concerns. It is a privilege that comes with notable responsibilities and a privilege we must respect and honour. In exchange for the trust citizens place in us as their public representatives, they, rightly so, expect us to uphold certain standards and act in a certain manner. When that fundamental relationship is breached, when public representatives act in an unacceptable manner, it betrays the trust of the people we are meant to represent. There can be no ambiguity here. Corruption of any type is wrong and must be rooted out of the political system. No matter who we are, where we are from or what party we represent, we must never stand over corruption in the political system.

The programme RTE broadcast on Monday night last revealed worrying evidence that despite the progress we have made in the past two decades, there are still people willing to succumb to the old ways. We can never allow greed to be part of Irish politics again. Those who breach the high standard we all expect and live by in this House every day let themselves down, let their colleagues down, let the people down and tarnish the excellent work being done by the vast majority of public representatives. Even though they are a minuscule minority, their actions reflect badly on all of us as politicians and betray those of us who do the best we can every day. They erode a fragile trust between politicians and the people they represent.

It is my firm belief that seeking any personal benefit from performing the role to which we have been elected is wrong. There can be no excuses and no ambiguity about that. It is simply wrong to seek to benefit in any way from one's role as a public representative. Having listened to Deputy Catherine Murphy's contribution last night, I emphasise that the members of the party I have represented for 11 years have never sought personal gain or to corrupt the political system. We have 1,186 public representatives in this country, comprising councillors and Members of the Oireachtas. The second half of the programme broadcast by RTE on Monday night focused on the actions of three individuals. Together, they represent 0.25% of all public representatives in the State. It is saddening and sickening that those three individuals can cast a pall over all of us.

We must always operate with honesty and integrity in the work we do. The level of compliance with the requirements of the Standards in Public Office Commission is there to be seen.

In addition to the reforms already in place, the Government is in the process of improving how we regulate public activities. I noted that no Member on the other side of the House referred to the ban on corporate donations. The severing of links between business and the body politic is something we must all welcome. That fundamental change in how politics is funded reveals the intent and nature of the reform this Government is undertaking. I might be in a minority of one in my view that everybody in this House, members of political parties and Independents alike, should be State-funded, because that would ensure openness, transparency and accountability. It would be a great way of doing business.

The ending of corporate donations and the establishment of a system of registration and record-keeping in respect of lobbying are welcome and should, over time, help to make the process of political lobbying more transparent. We all agree more changes are required. A public sector standards Bill, a planning and development Bill and a criminal justice (corruption) Bill are in the process of being drafted. The last will represent a significant change, making companies liable for the actions of directors, employees and agents and making it an offence to pay a middle man, who, in turn, pays the bribe. In addition, it will explicitly make trading in influence an offence. These are significant changes that will further enhance and improve standards across public life. Given the focus that has been brought to these issues this week, I hope we can fast-track those reforms. This morning, the Revenue Commissioners published their list of tax defaulters. That, too, is reflective of unacceptable behaviour. It behoves all of us as politicians to work to serve the people in the public interest, not out of self-interest.

Deputy Liam Twomey: It is offensive to many Members of this House and to people outside it who happen to be members of a political party to have Sinn Féin put forth the claim that we can be assumed to be corrupt. When the Sinn Féin party leader was embroiled in a controversy over issues of child sexual abuse, the Deputies opposite were very coy in condemning it. They would not like it if the assumption were made that Sinn Féin is a political party which is soft on child sexual abuse. Coming in here and throwing out bland statements about corrupt members of political parties is offensive. It is beneath Deputy McDonald and should be beneath her party colleagues to throw out those sorts of accusations. If they want to reduce politics to that level, a claim that Sinn Féin is soft on child sexual abuse has equal standing to the type of ridiculous remarks Deputies of that party have made in regard to corruption. It is easy for them to throw remarks out into the Chamber about decent public representatives who have never taken a bribe in their lives. There are plenty of councillors and plenty of Members of this House who absolutely condemn that type of behaviour and have always found it unacceptable. The Deputies should get off their high horse and show a bit of respect to the Members of this House who represent the public in a genuine manner. We all know about corruption and there were times in the past when it was far too acceptable. In respect of many of the individuals implicated in the Mahon report and other reports, whether Charlie Haughey, Ray Burke or anyone else who was named in it, there was an undercurrent of knowledge that this corruption was going on. There were people who knew about it but it was hard to make those accusations and it is true that it is hard to make those accusations stick because corruption, by its nature, is secretive. However, things have changed and are changing all the time. Some of it is down to the legislation we brought through to protect whistleblowers. It is incredibly important that people can make these serious charges and still be protected. Even issues around freedom of information and how the State does its business have changed dramatically over the past couple of years and are making a huge difference in all of this. Deputy McDonald was not even at the Joint Committee on Finance, Public Expenditure and Reform when we discussed the public sector standards Bill and some of the concerns we all have about this. The real issue with pre-

venting corruption is about putting the policies and the governance in place so that those people who are the decision-makers on financial transactions do not, for some reason, get left to operate on their own and that a close eye is kept on this sort of thing. This is what many companies across the country are doing all the time.

As Deputies, few of us could engage in corrupt practices, even if we wanted to, because we make global decisions here. We work on legislation and we do not really make individual decisions that can affect the business of what people do. In this new legislation, we are placed in the A category, of lads who must send our returns back to SIPO. Senior civil and public servants are in the B and C categories. We should look at this in regard to how people make the decisions. For instance, the programme on Monday night was about councillors. The real decisions councillors make are about rezoning. It is important the rezoning process is transparent so that people can see whether something underhand is going on. It is for the people who make the decisions, like planning officers, procurement officers and other individuals who make the financial transactions on our behalf, that we should have very strong governance structures. They make the decisions. I am not for a minute accusing any of these individuals of being corrupt, because they are not, but the opportunity to take a bribe or to be involved in fraud is there. It is about looking at how the people who make the financial decisions within the Civil Service and public sector operate and how we can build structures around them to protect them as well. That is where we should start with all of this.

I am sure there are many people here who are old enough to remember there was always a level of acceptance of corruption in this country. It is a cultural thing to some degree. People used to drop off a bottle of whiskey to the local Garda station if something was fixed up for them and it was not considered particularly wrong 25 years ago. Now one would not dream of doing it. People gave small cash payments for getting jobs done. It would never happen now because the culture is changing slowly day by day. There is still a great deal more work to do. If an anti-corruption agency would speed up that process and if we could develop that sort of agency to work on the process, I would be the first to support it, as would all other Members on this side of the House, because we have done so much work already in regard to this issue over the past four to five years. We would be more than willing to do more to ensure that we root out all forms of corruption, fraud and bad practice in how taxpayers' money is spent and how the public sector and Civil Service react. It is vital that we in this House work strongly towards that because we have that role to play. However, it is wrong for members of the Opposition to start by denigrating every single person who happens to be a member of Government as being a taker of corrupt payments because they know it is not true.

Some Members on the other side of the House have been vocal and proactive in raising issues and in having those issues investigated. I particularly admire Deputy Catherine Murphy for the way she sticks with it and keeps probing but I ask her not to make allegations that Members on this side of the House are soft on corruption. We are not soft on corruption and we would be the first to give her whatever support she feels is required to ensure that all transactions done in the name of the State are done in the most honourable fashion possible. I have received extensive correspondence on some of the issues she has raised, both from Northern Ireland and from our own Department of Finance. Maybe there is something there but let us be careful not to blacken anybody unintentionally. Some people in State organisations may not always have made the best decisions but that is not the same thing as corruption. We should be careful about how we judge people and what we say about them and that we give them a fair hearing when the time comes. That is important. I do not have much more to say on that. We

should continue what we are doing in this House and let us have more respect for each other when we are talking about this issue in the future.

Deputy Peter Fitzpatrick: I welcome the opportunity to speak this evening. Like so many people around the country, I watched the actions of some of the county councillors exposed by the "RTE Investigates" programme with shock and disgust. It is totally unacceptable for any public representative to use their position in public office for personal financial gain. There should be no place in public life for the kind of behaviour witnessed on the RTE programme this week. What annoys me most, apart from the pure greed displayed by the councillors, is the fact that this kind of behaviour by some can tarnish the reputation of the many fine councillors around the country. I work very closely with many councillors in my own constituency, such as John McGahon, Maria Doyle, Colm Markey, Richie Culhane, Oliver Tully and Dolores Minogue. These councillors are of the highest standard and work tirelessly and honestly for the people of Dundalk, Carlingford, Blackrock, Ardee and Dunleer, who elected them in the first place. As my colleague, the Minister of State, Deputy Tom Hayes, has stated, "There is not a state in the world, not even the most open democracy, that has succeeded in fully eliminating the greed, self-service and corruption of those few who abuse political office for their own gratification or enrichment". I also agree with him when he states:

> The vast majority of our elected representatives, whether in this building or in council chambers nationwide, are in it for the right reasons. Their service to their communities, to the State and to the public good must not be allowed to be tarnished by the carry-on of the few. This carry-on is absolutely unacceptable.

I agree with him wholeheartedly that this kind of behaviour is disgusting and cannot be tolerated. We must also remember that this is not a victimless crime and victims of this crime include families whose homes are flooded because a corrupted vote resulted in housing being built on a rezoned flood plain and residents of areas left without basic community facilities because a planned town centre was shelved in favour of a privately developed shopping centre. I am very strongly of the opinion that those found to be using their position as a public representative for personal gain, whether financial or otherwise, should have the full rigours of the law used against them. Those found guilty of using public office for personal financial gain should be banned from running for public office in the future and, depending on the seriousness of the offence, should also be jailed. Under the Companies Act, a person can be banned from acting as a director of a limited company if they have not acted in accordance with company law. Why not use the same principle for public representatives? How many times have we seen a public representative exposed for abusing their position and yet they are re-elected and in some cases use the fact that they were caught as an election issue? This is wrong and should not be allowed to happen.

8 o'clock

After the exposure of the councillors on the "RTE Investigates" programme, I would like to think the local authorities involved will now take the action necessary to ensure this sort of behaviour will not happen in the future.

I note that shortly after the programme was aired, one of the councillors resigned from his party. What I do not understand is why he did not resign his seat. How come he felt bound to resign from his party yet did not feel he had to resign his council seat?

I also welcome the fact that the Garda is examining the programme to see whether any action is required on its part. One of the main issues addressed in the "RTE Investigates" pro-

gramme was that of preplanning application consultations. Section 247 of the Planning and Development Act 2000 sets out comprehensive procedures for such consultations which, the Act specifically states, should not in any way prejudice the final decision of the planning authority and it requires that records must be kept. Furthermore, it is already a criminal offence for a member or an official of a planning authority to take or seek any favour, benefit or payment, direct or indirect, in connection with any such consultation. It was quite clear from the programme that section 247 of the Act is being abused.

Moving forward, how can we ensure that the greed and corruption that has been evident in recent times is eliminated from Irish politics? The Government, since taking office in 2011, has introduced various legislation, including the Central Bank (Supervision and Enforcement) Act 2013, the Companies Act 2014, the Electoral (Amendment) (Political Funding) Act 2012, the Ombudsman (Amendment) Act 2012, the Protected Disclosures Act 2014, the Regulation of Lobbying Act 2015 and the Freedom of Information Act 2014. I note also that over the coming weeks we will see a number of Bills before the House, including the proposed public sector standards Bill and the proposed corruption Bill.

I would like to put on the record of the House my complete disgust at what we saw on the "RTE Investigates" programme this week. There is no place in Irish politics, at local or national levels, for any person who seeks to turn what is for most of us an opportunity to serve the public interest into a self-serving, money-grabbing, corrupt practice. This Government has done much to reform the legislative and regulatory landscape. There is more to be done, and in the coming weeks we will see publication of further key reforms in the area of planning, public standards and corruption law. We will continue to work to ensure that we have better laws, better enforcement, and a renewed culture of honesty and trust that will leave no hiding place for those who would betray the public trust.

Acting Chairman (Deputy Marcella Corcoran Kennedy): I understand Deputy Richard Boyd Barrett is sharing time with Deputies Ruth Coppinger, Paul Murphy, Seamus Healy, Shane Ross, Clare Daly, John Halligan and Tom Fleming. They have three to four minutes each. Is this agreed? Agreed.

Deputy Richard Boyd Barrett: I was not surprised but I was completely nauseated by the "RTE Investigates" special on corruption. It was quite stunning to see a Fianna Fáil councillor, a Fine Gael councillor and a pro-business Independent involved in the sort of grubby corruption - there is no other word for it - that they were attempting to engage in.

It is worth remembering the cost of this for society. It is this kind of behaviour that contributed significantly to the economic collapse of this country because much of the political system was held hostage by the interests of developers who, directly or indirectly, had captured it. The interests of society as a whole or ordinary citizens went out the window in the grubby drive for profit assisted by politicians who were essentially in the pockets of developers, banks, etc., who were seeking to profit to the absolute maximum.

The Mahon tribunal reports and commentary suggested that many councillors were screaming foul about many of the development plans and the corruption going on around them, but they were told to shut up whenever they made accusations that they had been approached by developers or that they believed corruption was going on. An overwhelming part of the body politic, certainly at a local level, did not want to talk about it and wanted to hush it up. I do not know how many were involved but I think it was widespread, and that there was a widespread

tolerance of it.

We had a small example of this in Dún Laoghaire-Rathdown in the past year when one of our own councillors was approached by a developer who was trying to get rezoning for a development he was trying to push through. It was in the balance in the council. We do not know how many other councillors he approached, but we know he was rebuffed in our office. When he did not get any commitments on the rezoning, he made an offer to pay the election expenses of one of our councillors. The councillor then went into the council chamber and stated this publicly, at which point there was pandemonium with all the usual suspects of the main parties, particularly Fianna Fáil and Fine Gael, stating that one is not allowed say that. Subsequently, Dún Laoghaire-Rathdown County Council took down the footage of the meeting where the allegation was made. This is the sort of stuff that is still going on. When I, as a councillor, was doing the county development plan in Dún Laoghaire-Rathdown and a series of dodgy rezonings was proposed that was clearly in the interests of big private developers for shopping centres, land rezonings or whatever, one could not get one's head around how anybody would support these matters and yet there were councillors in the council chambers supporting them. One Labour Party councillor said to me in a little aside that this is how they would get their election expenses paid. It was an interesting comment. It is exactly the same as what was said to our councillor by this developer. This is the stuff that is going on and it is absolutely rank.

This is not only going on at local level. Deputy Twomey said that it is different at local authority level or with officials doing procurement, but it is not really in the Dáil. I do not accept that at all. The fish always rots from the head. I will give two examples of where there is no will whatsoever at the highest level to go after corruption. For the past few years, there has been no action from the mainstream parties on doing anything about the tax evasion and aggressive tax avoidance of the big multinational corporations, which everybody has known about for the past few years, and have every reason to believe they actively facilitated the same tax evasion. Similarly, in the abuse of bogus self-employment and the relevant contract tax, RCT, system in the construction sector, which some of us have been shouting about for years and saying it simply stretches any credibility that three quarters of all building workers on building sites are self-employed contractors, the Government still claims there is no problem. Nothing is done about it because it benefits the State to have these workers so exploited because it gets cheap schools or housing built. The fish rots from the head and we need serious action to deal with that corruption.

Deputy Ruth Coppinger: In 1991, my Socialist Party colleague, Deputy Joe Higgins, was elected to Dublin City Council. When he got there, he found a nest of vipers going to the local pub, Conway's, and getting brown paper bags in meetings with developers. This has been well documented. A quarter of a century later, what has really changed when we saw what was in the programme the other night?

The Taoiseach and the leader of the Fianna Fáil Party have expressed their shock. They are the only ones in the country who are shocked - the Minister of State, Deputy Dara Murphy, can take that as read. They also stated that these councillors brought the so-called body politic into disrepute. The body politic could not go any lower in repute among the public.

We are essentially talking here about members of the two big parties, plus one so-called Independent. I ask the Minister of State where were the swarms of gardaí conducting dawn raids on the homes of those three councillors the morning after that RTE programme? As for the idea that the parties are taking this seriously, all that was done was that a quiet word was

had in the ears of those two councillors to resign from Fianna Fáil and Fine Gael so as not to spread the rot. It seems that only public representatives who are opposed to measures such as water charges, austerity and war get arrested in this country and face possible imprisonment. The others, who are money-grabbing from their involvement in politics, walk free.

I also take issue with some comments on social media. This is not gombeen politicians getting small amounts of money. The amounts of money that we are talking about regarding the potential for corruption on local authorities is immense. I spent 11 years on a council, and the rewards are large if one wants to be in the big parties, Fianna Fáil, Fine Gael, some independents and, occasionally, but less so, the Labour Party. Development plans and planning decisions mean big bucks, thousands and possibly millions of euro. Members of parties of big business, or some of the so-called Independents, many of whom are from that general gene pool, money in brown envelopes for votes is the stock in trade.

One Deputy who spoke here said it was difficult for a Deputy to be corrupt and asked what a Deputy would get from it. As long as one is in a party that accepts donations from big business, the potential for corruption is obvious. Why do developers and big businesses give money to parties? Is it because they love democracy? They are not doing it for nothing but because votes will be taken in this Chamber on their behalf that benefit the banks and corporations, the Apples, Googles, Starbucks and all of them. A politician does not have to personally receive money. There is major corruption in here.

Why are councillors allowed to get work from a council to which they are elected? Why is a councillor who is elected to a council able to receive money from the council? Will this practice be banned in the legislation next week? It is obviously corrupt. Councillor Hugh McElvaney had a waste business and was doing council work. It is unbelievable. He was elected to represent the people. This had better be outlawed in the legislation next week. This is not the first time it has arisen. Councillors in Kerry County Council, some of whom were elected to the Dáil, did significant business with the council, and there are Deputies who are in the same boat.

What action will be taken against the councillors who, when they were filling in the disclosure forms which we all have filled in for 11 years, forgot that they owned a house, land or other property? Many of the councillors are working in businesses that have very close connections with councils, dealing in property and land. Will the parties of big business, including Fine Gael, ban councillors from accepting money from developers and big businesses? Will they ban Deputies and political parties from doing the same? Will they ban councillors from doing work with the councils of which they are members? Will they ensure councillors do not personally benefit from being elected? I do not think so. To the Anti-Austerity Alliance it is very important that we do not gain personally from being Deputies or councillors but take necessary expenses and live on an average wage. Corruption is alive and well. I do not have time to deal with it; however, Siteserv shows that the idea that the few paltry laws the Government has introduced have dealt with it is completely wrong.

Deputy Paul Murphy: I welcome the motion. It is scandalous that the Government will reject it. I want to highlight an issue that underlines the need for the anti-corruption agency with a monitoring and investigative role over public procurement activities for which the motion calls. Public procurement is a key area in which the space exists for public representatives or others to interfere with public processes for the private benefit of themselves, other private individuals or big or small business. There is an ongoing and unresolved controversy which I have highlighted in freedom of information requests and parliamentary questions, and about

which Justine McCarthy has written in *The Sunday Times*. It relates to the very serious irregularities that have been exposed in the tendering process for telecare equipment in the senior alert scheme. I was first contacted about it several months ago by a not-for-profit company that had participated in the tendering process. The company raised serious concerns about the process, particularly the role played by the Minister, Deputy Alan Kelly. The more information that *The Sunday Times* and I have uncovered, the more it is clear that very serious irregularities occurred and that there are very serious questions to be answered by the Minister, Deputy Kelly, in particular. Months after we started digging, those questions remain unanswered.

At the heart of the irregularities is a meeting that took place on 10 December last year between the Minister, a Department official, Labour Party Deputy Brendan Ryan and two representatives of the company, TASK limited, that went on to be the successful bidder. The meeting happened just days after the deadline for tenders had ended and while Pobal, an agency under the Minister's Department was assessing the tenders. It is suggested the CEO of the company is a supporter of Deputy Ryan. The fact the meeting occurred would appear to be a clear breach of the procurement rules. Although the relevant tender rules, in section 6.7, clearly stated that canvassing shall disqualify, the company that appears to have attempted to canvass went on to be the successful bidder.

Other serious questions remain unanswered. Inexplicably, no minutes were taken at the meeting. A few days ago, I asked the Minister why no minutes had been taken. I received an answer in the name of the Minister of State, Deputy Ann Phelan, which accepted the meeting had taken place and said it was "of brief duration in respect of which minutes were not considered necessary". However, the Minister did not reveal to me what was subsequently revealed to *The Sunday Times* after a freedom of information request, that, two days after the meeting, Pobal, the agency responsible, sent an e-mail to the Department that stated, "the process as a whole is now void and redundant", and that the process was abruptly stopped. Later, the process was restarted. Why did we not receive this information as part of the answer to our question? Was it an attempt to cover it up?

The Department stated that the Minister, Deputy Kelly, had no idea that representatives of the company would be present at the meeting. This begs two questions. Why did the meeting take place in the form it did if it was going to be a meeting between two party colleagues? Why have a Department official there and in such a formal way? What on earth was Deputy Brendan Ryan doing bringing company representatives involved in an ongoing tendering process to meet a Minister unannounced? The notion that it was a meeting for which minutes were not considered necessary, where nothing happened, does not tally with document four, which we received through the freedom of information request, an information note written further to the meeting on Wednesday 10 December which clearly states that following the meeting with TASK the Minister raised a number of issues, particularly the division of the market into ten lots, a minimum standard for any equipment supplied and consultation with suppliers. Why was there a meeting in which nothing happened, apparently, and no minutes needed to be taken, and yet the Minister felt prompted to raise the very particular points that related to the tendering process?

Pobal said the legal advice it received afterwards suggested that the procurement process had not been affected and it was able to restart it. On what basis was this advice given? On what version of the meeting the TASK representatives attended was it based? Surely the legal advice should be published. There are very serious questions for the Government and Minister. On what basis was the 10 December meeting organised if the Minister did not know TASK

representatives would attend? Why were minutes not taken? Why did Pobal decide to suspend the process and based on what legal advice did it decide to restart the process?

Deputy Seamus Healy: I compliment Deputies Paul Murphy, Donnelly and Shortall on bringing forward the motion, which I support. Public and commercial life must be transparent and accountable. The purpose of the motion is not to accuse any individual or party but to put in place effective structures to ensure corruption in public and commercial life is dealt with effectively. The motion recognises that "corruption in public and commercial life represents a great threat to the democratic functioning of the State" and that "the State has no effective means of preventing, investigating or prosecuting corruption or white-collar crime as responsible agencies are too disconnected, lack appropriate powers, or lack necessary resources". Nobody can take issue with those statements. I support the proposal for the establishment of a permanent, independent, anti-corruption agency to deal with the situation and that the agency should have powers of investigation, compellability and testimony taking, court authorised search and seizure, prosecution at District and Circuit Court level and arrest to deal effectively with the situation and to ensure public and commercial life are accountable and transparent. The manner in which election after election, politicians and political parties make promises they have absolutely no intention of keeping is a grave threat to the democratic process. They break those promises and commitments on a regular basis. If one looks at the previous election, one will be able to confirm that this happened. Fine Gael wanted to burn the bondholders. It told us that the banks would not get another cent, that the trolley situation in hospitals would be solved, that it was unjust to tax the family home and that disability would be a priority. The Labour Party gave us the old line that it was Labour's way and not Frankfurt's way. It said that there would be no water charges and no reduction in child benefit. It made a series of other promises as well. Both parties happily went on to break all of those promises. There must be sanctions for such behaviour. The possibility of losing an election after five years is simply not an adequate sanction. The public must be in a position to ensure elected representatives - Deputies, Senators or councillors - can be recalled if they deliberately break promises they make during election campaigns. I would like that to be noted as well.

Deputy Shane Ross: I congratulate the three Deputies who have proposed this motion. It has just occurred to me to contrast this country and its deeply embedded culture of corruption with other countries that take more extreme measures against corruption. I suspect that if some of the offences we are talking about were committed in China, the offenders would be shot or beheaded or whatever they do in China when people commit offences of this sort. In Ireland, many of them are greeted as heroes. The real problem we have is not just the offenders themselves; it is ourselves as a people and our attitude to corruption. Some years ago, I attended a dinner in London at which the guest speaker was the former Taoiseach, Dr. Garret FitzGerald. After he had spoken, he was asked questions about the corruption that was rampant in Ireland at the time and news of which had reached England. A rather stuffy Tory at the back of the room put up his hand and asked Dr. FitzGerald how he tolerated all the corruption that was associated with people in his party and other parties. In response, Dr. FitzGerald said that the problem was not with the public representatives or politicians but with the electorate. The capacity we have as a people to constantly re-elect people who are associated with and, indeed, guilty of corruption is something we are going to have to face.

Deputy John Halligan: Hear, hear.

Deputy Shane Ross: It is all very well and quite right that we should condemn what has happened. However, we should remember the old maxim that we used to hear in connection

with a former Taoiseach, Mr. Haughey, which was that he may have been a crook but he got things done. In other words, his behaviour did not really matter as long as he did things that mattered on the other side. Our tolerance for corruption is something we absolutely and totally refuse to face. We are going to have to face it, however. It is okay to condemn those who act corruptly and to try to set up agencies but we also need to stop tolerating politicians and others who are obviously corrupt and in some cases have been proven to be corrupt. We have a responsibility for that in this House. The way we have disposed of that responsibility in the past is completely and utterly inadequate and very cowardly. One solution, which is not inevitable but which is proposed almost every time a massive scandal erupts, is to set up a tribunal. I suggest that tribunals are proven to be vehicles of escape for corrupt people. They delay matters to such an extent, and kick these affairs so far down the road, that nothing ever really comes of them. They expose certain corrupt activities from time to time but nobody ever pays a price. They actually guarantee impunity. They underline impunity. They guarantee freedom for those who have committed corruption. We will see the terms of the Bill that is to be introduced next week but I doubt that it will tackle the serious underlying problem, which is not always what we saw on "Prime Time" the other night, awful as it was. The underlying problem is in ourselves. I would be very doubtful that those who are committing the sorts of crimes we saw on that programme will ever see the inside of a court. I would like to say one other thing? Do I have a minute left?

Acting Chairman (Deputy Marcella Corcoran Kennedy): No, I am afraid not. There are two further speakers.

Deputy Shane Ross: Okay. I will not say anything else. I will hand over to Deputy Halligan.

Deputy John Halligan: It is interesting that the document produced by Deputy Catherine Murphy and her colleagues uses the phrase "threat to democracy". I heard someone in the bar last night suggesting that the use of such a phrase was a bit tough or rough. We have to ask whether it is inappropriate. We might consider that war, armed revolt or severe apathy to the political system constitute threats to democracy. However, I suggest that corruption is a threat to democracy that goes under the radar and is not often reflected on as such. If we look at the histories of various countries throughout the world, we will see that corruption, rather than war or armed revolt, has damaged the political processes in many of them. Deputy Ross has spoken about what has happened in Ireland over the years involving city managers, politicians and planning officers. A friend of mine who is a businessman in France told me that during the period of the Mahon and Moriarty tribunals, when various details of corruption were breaking, he picked up a business magazine in a hotel which sadly referred to this country as "Irlande: banana republic". I do not know the name of the magazine in question but it accurately reflected how we were thought of in light of everything that had gone on in a relatively small country with a relatively small Parliament and a small population.

The point remains that corruption will continue to go on. It was felt that people would cop on after the Mahon and Moriarty tribunals, but we might as well not have had the tribunals in the first place because this Government has done nothing to act on their recommendations. It was in that context that we saw what was depicted on the television on Monday night. I refer to the arrogance of these councillors in thinking that, as members or ex-members of Fine Gael and Fianna Fáil, they would be able to get away with what they were doing. This is exactly what has happened over the last 20, 30 or 40 years. I do not know what we would dig up and find out if we were to go back to the 1950s or 1960s. It is rather shameful that we appear to have learned

nothing. As Deputy Coppinger said, it is not good enough for people to try to excuse their actions by saying they did not know what to put on the forms. People come into my office with housing forms and medical card forms that are 20 or 22 pages long. I find it difficult to fill out these forms, such as the form for the old age pension, but these arrogant assholes come along and say they did not know about the form and could not-----

Acting Chairman (Deputy Marcella Corcoran Kennedy): Watch your language, Deputy.

Deputy John Halligan: I apologise. We are actually believing them when they say they did not know what it meant.

Deputy Ruth Coppinger: People are thrown off the housing list if they fill out their forms incorrectly.

Deputy John Halligan: Exactly. If some poor old age pensioner fills out a form incorrectly, it is sent back. He or she might not get his or her medical card or pension. We are tolerating those who claim as a last resort that they really did not know what they were filling out, or what they should have filled out. Is this what we have come to in this country? Are we now allowing some people to subvert politics? That is exactly what is happening. None of us is shocked that this is continuing to happen. If ever we needed an agency to deal with corruption, we bloody well need it now in light of what has taken place. We failed with the Mahon and Moriarty tribunals because nobody paid any attention to them and they went under the radar. We need an agency to deal specifically with elected politicians - councillors, Senators and Deputies - by examining them continually and forcibly to ensure they are not breaking any rules. I would be very disappointed, but not surprised, if the Government was to fail to support this proposal.

Deputy Tom Fleming: In 2014 the European Union published its first anti-corruption report, which examined issues of transparency, public procedure policies and bribing across EU member states. According to the report, corruption related risk due to close ties between politicians and industry continues to be a cause for concern in Ireland. The report further noted that the adoption of the Electoral (Amendment) (Political Funding) Act 2012 needed vast improvement. A major legal grey area regarding political donations relates to the number of times corporations and individuals can donate. The current legislation tackles the amount donated in a single transaction rather than the overall amount one can donate. The report further found that legislation regarding election and referendum campaigns remains weak. Many of the Irish anti-corruption laws were overlapping and contradicted each other, leading to legal difficulties and loopholes.

A large portion of Ireland's anti-corruption laws are still based on the United Kingdom's prevention of corruption Acts. Problems regarding outdated and conflicting legislation are affecting the capacity to prosecute and punish corruption efficiently. We do not have, for example, an independent urban planning regulator with the capacity and the powers to investigate systemic problems arising in local government. Indeed, the findings of the report of the EU are that although Ireland is tackling political corruption to a certain extent, it remains a major problem.

Back in the 1990s we started off with the beef tribunal and a host of tribunals followed it. The tribunals found evidence of political corruption but very few politicians were criminally convicted or charged. In response to the McCracken tribunal, the Moriarty tribunal was established in 1997 and this exposed corrupt payments, donations and gifts to prominent Irish

political figures by businesses and large corporations to win favouritism and influence. The Mahon tribunal was the most expensive and longest running in this country and it shook the Irish political system, highlighting the dysfunction and corruption of the political culture as a whole. I fully support this very good and logical motion and all the proposals put forward by the Social Democrats group.

Minister of State at the Department of Foreign Affairs and Trade (Deputy Jimmy Deenihan): This Government recognises the need for robust regulation and enforcement when it comes to tackling corrupt behaviour. We have overhauled regulation of the financial services sector, the corporate sector and the public sector. A major programme of legislation, including the Central Bank (Supervision and Enforcement) Act 2013, the Companies Act 2014, the Electoral (Amendment) (Political Funding) Act 2012, the Protected Disclosures Act 2014, the Regulation of Lobbying Act 2015 and the Criminal Justice Act 2011 has been enacted. Deputies have pointed to the need to do more to implement the recommendations made by various tribunals and the Standards in Public Office Commission. There is no dispute on this. The Government knows that there is more to be done, and it is taking action.

Three Bills are due for publication shortly which will implement those outstanding recommendations. They are the public sector standards Bill, the planning and development (amendment) (No. 2) Bill and the criminal justice (corruption) Bill. All three will be coming before Government for approval to publish in the coming days and weeks. A Bill which will establish the office of the planning regulator, OPR, will be brought to Government by the Minister for the Environment, Community and Local Government next week. Under the provisions of the Bill, the office will be fully independent of the Department, responsible for the independent assessment of all local authority and regional assembly forward planning, including zoning decisions of local authority members in local area and development plans, to ensure compliance with relevant national and regional policy, empowered to review the organisation, systems and procedures used by any planning authority or An Bord Pleanála in the performance of any of their planning functions under the planning Acts, including possible risks of corruption and on foot of individual complaints from members of the public, and required to undertake research, education and public information programmes to highlight the role and benefit of planning. The Government's aim is to ensure proper oversight of planning authorities that will ensure public confidence in the delivery of quality outcomes in planning decisions. Establishment of the OPR will ensure zoning decisions will continue to be scrutinised but in a new and independent manner, separate from the Minister's Department, where that function currently resides.

The public sector standards Bill will deliver comprehensive reform, streamlining provisions at local and national level and ensuring greater consistency in ethics legislation across the public sector. The Bill will significantly enhance the framework for identifying, disclosing and managing conflicts of interest as well as minimising corruption risks. It will replace the Standards in Public Office Commission with a single public sector standards commissioner with increased powers. The deputy commissioner, who will be independent in terms of the investigations functions, will implement improved complaints and investigations procedures. The commissioner will have stronger powers of sanction and enforcement as well as a role in the provision of advice and guidance. All public officials will have to disclose as a matter of routine actual and potential conflicts of interest that arise in the context of the performance of their duties. The Bill significantly extends the personal and material scope of disclosures for public officials in line with Mahon tribunal recommendations, with common definitions applying at national and local level.

The corruption Bill will also be published in the coming weeks. It will clarify and strengthen the law criminalising corruption. It provides penalties of up to ten years' imprisonment and unlimited fines for persons convicted on indictment. Courts are to be given new powers to remove certain public officials from office upon conviction. The Bill will implement Mahon tribunal recommendations for a new offence of making payments knowingly or recklessly to a third party who intends to use them as bribes, and for a new offence of using confidential information to obtain an advantage corruptly. The Bill will contain presumptions of corruption: where a person with an interest in the functions of a public official makes a payment to the official or a close relative, where a public official fails to declare interests as required by ethics legislation, and where a public official accepts a gift in breach of ethics codes.

The proposal to establish an anti-corruption agency is clearly well motivated. What is proposed is the merger of a range of existing agencies with wide and varying responsibilities, functions and powers. It is not clear how the amalgamation would enhance the capacity of the State to fight corruption without having adverse consequences for the existing functions of those agencies. We also need to acknowledge the strong co-operation that currently takes place between agencies. For example, the Garda Bureau of Fraud Investigation already works closely with other bodies, including the Office of the Director of Corporate Enforcement, the Central Bank, the Revenue Commissioners and the Competition and Consumer Protection Commission. Indeed, a number of gardaí are seconded to the Competition and Consumer Protection Commission and the Office of the Director of Corporate Enforcement. Recent convictions for breaches of the Companies Acts were made possible by that co-operation. I remind the House, however, that the Taoiseach has asked his officials to assess how the regulatory, investigatory and enforcement framework can be improved.

An Leas-Cheann Comhairle: Is it agreed that the Minister of State can continue? Agreed.

Deputy Jimmy Deenihan: Issues have arisen in relation to the Cregan commission of investigation. The Government wants to ensure an effective and timely investigation of matters of public concern and aims to secure the greatest possible degree of consensus across the Oireachtas on the optimum solutions. The Taoiseach, therefore, intends to meet the leaders of the Opposition to explore these matters in the coming week.

I believe all of us were shocked by what was revealed on RTE the other night. All of us who have been in this House over the years, in my case the past 35 years, were made to feel very conscious of our responsibility to the people, to ourselves and our system. We have a great system of government in this State and we were shocked and felt let down by what we saw. If the people are to have confidence in our democracy, we must robustly prevent, detect, and punish corruption no matter how rarely it may occur. This Government has enacted significant reform through the Electoral (Amendment) (Political Funding) Act 2012, the Regulation of Lobbying Act 2015 and other reforms. We are not complacent. Further significant reforming legislation on planning, public standards and corruption law will be published in the coming days and weeks. We must all work together to restore public trust in politics and politicians. We must reinvigorate the systems that regulate political behaviour and the systems to detect and punish wrongdoing when it occurs. Legislation and enforcement are important parts of the solution. Of equal importance will be the efforts we make to change the culture. We must have a culture where there are no winks or nods and where it is not possible even to contemplate a wink or a nod. Nobody should respect, excuse or attempt to justify the attempt to fix, square away or sort problems in grubby, corrupt deals. We must end the culture of cute hoorism for once and for all.

I commend the Government's amendment to the House. I also acknowledge the sincerity with which this motion was tabled by the Social Democrats.

Deputy Joan Collins: I support this motion and congratulate the Deputies who tabled it. It gets to the nub of the problem, namely, the lack of political will to take real and effective action to deal with what the Moriarty tribunal found to be systematic and endemic corruption. The words "systematic" and "endemic" do not mean a few rogue politicians or a few bad apples corrupting what is, in general, a clean system. They mean systematic and endemic. People are paying the price for that today, including those whose homes are flooded because they are located in areas prone to flooding and the thousands of individuals and families being made homeless by housing policies geared to the interests of speculators and developers. These policies show an undue influence, to put it mildly, by speculators and developers on the establishment political parties.

One need not go back to the publication of the Moriarty tribunal report, which was only three years ago, to see the influence of this lobby of builders, developers and land speculators. One can look to the Kenny report published 41 years ago in 1974. Basically, the Kenny report contained recommendations that would have ended speculation in building land. That is the reason not one of its recommendations has ever been implemented. Even the Green Party, which included these recommendations in its 2007 general election programme, made no effort to implement any of them when it was in government, despite former Deputy John Gormley being Minister with responsibility for the environment.

There is nothing new in the failure to tackle corruption in the planning process or corruption in general. The implementation of the key elements in the Kenny report and the key recommendation of the Moriarty tribunal, the appointment of an independent planning regulator, would go a long way towards addressing this corruption. The political will to do that does not exist in Fine Gael, Fianna Fáil or, unfortunately, in today's Labour Party.

I refer to a report last year from the Council of Europe Group of States Against Corruption, of which Ireland is a member. This report expresses concern about corruption among elected representatives and the lack of independence of the Judiciary. It found that Ireland now has its lowest ever ranking with Transparency International among the business community. It has fallen to 25th place behind countries such as Uruguay, Chile and the Bahamas. The report states that recent reforms of the freedom of information and ethics Acts are too complex and conflict with each other in some areas. The report wants laws that threaten Ministers and politicians with six months jail for disclosing confidential information to be scrapped because the latter discourages whistleblowers. It calls for more stringent rules on conflicts of interest and asset declarations. These should include liabilities and the interests and assets of those with close connections to elected representatives. It calls for a judicial council to appoint judges, establish an ethics code and oversee training.

The Council of Europe group has given the Government 18 months to report on the steps taken on its 11 recommendations. Hopefully, it will not still be seeking that action 41 years hence.

Deputy Stephen S. Donnelly: I thank the Minister of State and Deputies on all sides for their contributions to this debate.

We have much to be proud of in Ireland at present. Businesses are growing and creating

new jobs. The deficit is being eliminated and the economy is expanding. Despite all of that, however, public trust in government is at an all-time low. This year's Edelman trust barometer shows that public trust in institutions in Ireland is second from the bottom of the 27 countries assessed. Trust in business has fallen since last year, as has trust in the media, government officials and regulators. Why is that? It is that for all the growth, there is a whiff that things are not quite right. People do not believe we are all on a level playing field; they believe there are insiders and everybody else. Nobody sees any accountability or consequences for some of the things that happen.

An experiment was carried out in New York city a few years ago. A car was parked on a street to see how long it would take for somebody to break into it. It was first parked on a well maintained street and then it was parked on a street with several broken windows. It will be no surprise to hear that the car was broken into far more quickly on the street with the broken windows. Anybody who maintains a public park will confirm that if there is already vandalism and graffiti happening in the park, it will be repeated quickly. However, if it is cleaned up, there will be much less damage. This is because we all react to our environment. We are more likely to break the law if we believe that other people are breaking it. We are also more likely to break the law if we believe that the chances of being caught and penalised are slim.

This lack of accountability exists in Ireland. In response to serious allegations of insider trading relating to the Siteserv deal, Deputy Catherine Murphy contacted the Stock Exchange and asked it to investigate. The Stock Exchange said it was not its jobs and that she should go to the Central Bank. Deputy Catherine Murphy contacted the Central Bank and asked it to investigate but was informed that it was not its job and that she should contact the Office of the Director of Corporate Enforcement. She did that but the office said there was nothing to investigate. To this day, no case in respect of insider trading has been taken in Ireland.

The agencies in Ireland with responsibility for tackling corruption are dispersed and underresourced, as is evident from Deputy Catherine Murphy's attempts to bring serious allegations to the right authorities. The Competition and Consumer Protection Commission has numerous cases of alleged anti-competitive and cartel behaviour but it does not have the resources to investigate them. Judge Cregan recently reported that he had neither the power nor the resources required to investigate the large IBRC transactions he was asked to examine. Nowhere is the fragmented nature of the State's response to corruption better illustrated than in the Government's amendment. Last night, the Minister of State referred to the Central Bank (Supervision and Enforcement) Act, the Companies Act, the Electoral (Amendment) Act, the Ombudsman (Amendment) Act, the Protected Disclosures Act, the Regulation of Lobbying Act, the Freedom of Information Acts, the criminal justice Acts, the public sector standards Bill and the planning and development (amendment) (No. 2) Bill. That is a great deal of legislation but there is no investigation, no enforcement and no accountability. What is the point of the legislation?

The Government makes great play of things being done, but members of the public do not trust the Government. Why should they? In response to numerous, specific parliamentary questions to the Minister for Finance, Deputy Noonan, regarding the Siteserv deal, the Minister steadfastly refused to disclose that there were any concerns until Deputy Catherine Murphy followed them up with freedom of information requests. At that point, the concerns started to appear in the Minister's replies to the parliamentary questions. The Taoiseach sent a senior civil servant to the home of the Garda Commissioner late at night and maintains to this day that there was no intent to put any pressure on the Garda Commissioner to resign, which, surprisingly, he did the following morning. Due process of Parliament was overturned in respect of the banking

inquiry when the Government added two members. The Taoiseach then came to the House and said he had done it to control the terms of reference of the banking inquiry.

In the motion before the House, the Social Democrats propose a policy response to restore public trust, create accountability and foster a culture of openness. We propose the establishment of an independent anti-corruption agency. The agency would have the powers and resources to initiate and conduct investigations. It would bring together several relevant agencies, including the Standards in Public Office Commission, the Office of the Director of Corporate Enforcement, the register of lobbying and the Competition and Consumer Protection Commission. Critically, the agency would be able to initiate investigations and conduct them. It would have the power to compel witnesses, to arrest and to prosecute through the courts. Nothing like that exists in Ireland today and we have all seen the consequences.

The proposal of the Social Democrats is based on a recently implemented model from Victoria which is already showing very promising results. It was developed with the input of Rory Treanor and Gavin Elliot, whom I thank for their hard work. The creation of an anti-corruption agency was explicitly called for on Monday night by David Waddell, the former head of the secretariat at the Standards in Public Office Commission, after the "RTE Investigates" programme. Were such an agency in place, it would conduct the inquiry being conducted by Mr. Justice Cregan. It would have sufficient powers and resources and the advantage of inter-agency expertise. Were the agency in place, it is far less likely that we would have seen the behaviour uncovered by the "RTE Investigates" team on Monday night. Indeed, David Waddell stated that SIPO does not even have the resources to conduct the kind of investigation "RTE Investigates" was able to carry out. In and of itself, that tells one all one needs to know. Were the agency in place, serious allegations of insider trading would be investigated and not passed from pillar to post and then dropped.

The Minister stated he did not know how the amalgamation of different agencies would enhance the capacity of the State to fight corruption. Amalgamation would foster co-operation and the sharing of expertise. Coupled with sufficient powers and resources, an independent anti-corruption agency would be a bold statement from Government that the culture needs to change and that public trust must be re-earned. The Government protests that it is serious about tackling corruption, creating a culture of openness and establishing a level playing field. At this stage, nobody believes that to be true. Here is the challenge to the Government. If it is serious about tackling corruption and giving the State the resources and powers needed to fight corruption, it will accept the recommendation of the Social Democrats and begin the process of establishing an independent anti-corruption agency to send a clear message to the public that the culture and the rules have changed for good and for the better.

Amendment put: The Dáil divided: Tá, 70; Níl, 40.TáNílBannon, James.

The Dáil divided: Tá, 70; Níl, 40.	
Tá	***Níl***
Bannon, James.	***Adams, Gerry.***
Barry, Tom.	***Aylward, Bobby.***
Breen, Pat.	***Boyd Barrett, Richard.***
Bruton, Richard.	***Broughan, Thomas P.***
Butler, Ray.	***Calleary, Dara.***
Buttimer, Jerry.	***Collins, Joan.***

Byrne, Catherine.	***Colreavy, Michael.***
Byrne, Eric.	***Coppinger, Ruth.***
Carey, Joe.	***Crowe, Seán.***
Coffey, Paudie.	***Doherty, Pearse.***
Collins, Áine.	***Donnelly, Stephen S.***
Conaghan, Michael.	***Ellis, Dessie.***
Connaughton, Paul J.	***Fitzmaurice, Michael.***
Coonan, Noel.	***Fleming, Sean.***
Corcoran Kennedy, Marcella.	***Fleming, Tom.***
Daly, Jim.	***Grealish, Noel.***
Deenihan, Jimmy.	***Halligan, John.***
Deering, Pat.	***Healy, Seamus.***
Doherty, Regina.	***Healy-Rae, Michael.***
Dowds, Robert.	***Higgins, Joe.***
Doyle, Andrew.	***McConalogue, Charlie.***
Durkan, Bernard J.	***McDonald, Mary Lou.***
Farrell, Alan.	***McGrath, Finian.***
Feighan, Frank.	***McGrath, Mattie.***
Fitzgerald, Frances.	***McGrath, Michael.***
Fitzpatrick, Peter.	***McLellan, Sandra.***
Flanagan, Charles.	***Murphy, Catherine.***
Harrington, Noel.	***Murphy, Paul.***
Harris, Simon.	***Ó Caoláin, Caoimhghín.***
Hayes, Tom.	***Ó Fearghaíl, Seán.***
Heydon, Martin.	***Ó Snodaigh, Aengus.***
Howlin, Brendan.	***O'Brien, Jonathan.***
Humphreys, Heather.	***O'Dea, Willie.***
Humphreys, Kevin.	***O'Sullivan, Maureen.***
Keating, Derek.	***Pringle, Thomas.***
Kyne, Seán.	***Ross, Shane.***
Lawlor, Anthony.	***Shortall, Róisín.***
Lyons, John.	***Smith, Brendan.***
McCarthy, Michael.	***Stanley, Brian.***
McEntee, Helen.	***Troy, Robert.***
McFadden, Gabrielle.	
McGinley, Dinny.	
McHugh, Joe.	
McLoughlin, Tony.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	

Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
O'Dowd, Fergus.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Rabbitte, Pat.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Twomey, Liam.	
Varadkar, Leo.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Catherine Murphy and Stephen S. Donnelly.

Amendment declared.

Question put: "That the motion, as amended, be agreed to."

The Dáil divided: Tá, 72; Níl, 40.	
Tá	***Níl***
Bannon, James.	***Adams, Gerry.***
Barry, Tom.	***Aylward, Bobby.***
Breen, Pat.	***Boyd Barrett, Richard.***
Bruton, Richard.	***Broughan, Thomas P.***
Butler, Ray.	***Calleary, Dara.***
Buttimer, Jerry.	***Collins, Joan.***
Byrne, Catherine.	***Colreavy, Michael.***
Byrne, Eric.	***Coppinger, Ruth.***
Carey, Joe.	***Crowe, Seán.***

Coffey, Paudie.	***Doherty, Pearse.***
Collins, Áine.	***Donnelly, Stephen S.***
Conaghan, Michael.	***Ellis, Dessie.***
Connaughton, Paul J.	***Fitzmaurice, Michael.***
Coonan, Noel.	***Fleming, Sean.***
Corcoran Kennedy, Marcella.	***Fleming, Tom.***
Creed, Michael.	***Grealish, Noel.***
Daly, Jim.	***Halligan, John.***
Deenihan, Jimmy.	***Healy, Seamus.***
Deering, Pat.	***Healy-Rae, Michael.***
Doherty, Regina.	***Higgins, Joe.***
Dowds, Robert.	***Mac Lochlainn, Pádraig.***
Doyle, Andrew.	***McConalogue, Charlie.***
Durkan, Bernard J.	***McDonald, Mary Lou.***
English, Damien.	***McGrath, Finian.***
Farrell, Alan.	***McGrath, Mattie.***
Feighan, Frank.	***McGrath, Michael.***
Fitzgerald, Frances.	***McLellan, Sandra.***
Fitzpatrick, Peter.	***Murphy, Catherine.***
Harrington, Noel.	***Murphy, Paul.***
Harris, Simon.	***Ó Caoláin, Caoimhghín.***
Hayes, Tom.	***Ó Fearghaíl, Seán.***
Heydon, Martin.	***Ó Snodaigh, Aengus.***
Howlin, Brendan.	***O'Brien, Jonathan.***
Humphreys, Heather.	***O'Sullivan, Maureen.***
Humphreys, Kevin.	***Pringle, Thomas.***
Keating, Derek.	***Ross, Shane.***
Kyne, Seán.	***Shortall, Róisín.***
Lawlor, Anthony.	***Smith, Brendan.***
Lyons, John.	***Stanley, Brian.***
McCarthy, Michael.	***Troy, Robert.***
McEntee, Helen.	
McFadden, Gabrielle.	
McGinley, Dinny.	
McHugh, Joe.	
McLoughlin, Tony.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Neville, Dan.	
Nolan, Derek.	

Noonan, Michael.	
O'Donovan, Patrick.	
O'Dowd, Fergus.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Tuffy, Joanna.	
Twomey, Liam.	
Varadkar, Leo.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Catherine Murphy and Stephen S. Donnelly.

Question declared carried.

9 o'clock

Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Agriculture, Food and the Marine has completed its consideration of the Horse Racing Ireland Bill 2015 and has made amendments thereto.

Estimates for Public Services 2015: Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Agriculture, Food and the Marine has completed its consideration of the following Supplementary Estimate for public services for the service of the year ending on 31 December 2015: Vote 30.

The Dáil adjourned at 9.15 p.m. until 9.30 a.m. on Thursday, 10 December 2015.