



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES
DÁIL ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*

(OFFICIAL REPORT—*Unrevised*)

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DÁIL ÉIREANN

Déardaoin, 17 Nollaig 2015

Thursday, 17 December 2015

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

Paidir.

Prayer.

Ceisteanna - Questions

Priority Questions

Northern Ireland Issues

1. **Deputy Brendan Smith** asked the Minister for Foreign Affairs and Trade the meetings proposed to be held in the immediate future with the British Government and the Northern Ireland Executive parties on the implementation of some provisions of the Stormont House Agreement not included in the agreement, A Fresh Start, such as those dealing with the legacy of the past and the putting in place of appropriate supports for survivors and victims' families; and if he will make a statement on the matter. [45606/15]

Deputy Brendan Smith: For Northern Ireland truly to progress and move forward mechanisms need to be put in place to deal with the legacy of the past. Victims and survivors, be they of atrocities committed in the North or the South, have a basic entitlement to the truth. Anger, frustration and disappointment are the responses of survivors and victims' families to the agreement, A Fresh Start. I would appreciate it if the Minister outlined the proposals he has to try to advance and make progress on these critical issues.

Minister for Foreign Affairs and Trade (Deputy Charles Flanagan): Notwithstanding the clear gains achieved by the agreement, A Fresh Start, I very much regret that it 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 respect. I am particularly disappointed because real progress was made during the talks on many of the details for the establishment of the new institutional framework for dealing with the legacy of the past as envisaged in the Stormont House Agreement. We were, in fact, very close to agreement on a range of issues, including ensuring the operational independence of the historical investigations unit; guaranteeing the anonymity and inadmissibility of information provided for the independent commission for information retrieval, ICIR, while making clear that there would be no amnesty for criminal offences; placing the implementation and reconciliation group on a statutory footing and settling on the purpose and functions of the group; and defining the operation of the oral history archive. The

Irish and British Governments have also agreed the international agreement necessary for the establishment of the ICIR. Therefore, many of the building blocks are in place for the establishment of the new legacy institutions.

The crucial issue on which agreement could not be found was striking the right balance between the onward disclosure needs of families and the national security requirements being sought by the British Government. In the absence of agreement on this key issue, my expressed preference during the talks was to reflect in the agreement, A Fresh Start, the range of legacy issues on which agreement was possible, while also frankly acknowledging the areas of disagreement where further progress was required.

It is important 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 onward disclosure and national security. In this regard, 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 would satisfy these concerns. I also met the Northern Ireland Minister of Justice, Mr. David Ford, MLA, on 11 December to discuss possible next steps and I will meet the Secretary of State for Northern Ireland, Ms Theresa Villiers, MP, later this month to explore options for how best to secure an agreed basis for the establishment of the new legacy institutions.

Deputy Brendan Smith: I thank the Minister for his reply. I am sure he will agree that the necessary mechanisms to get the facts must be put in place. Thorough and unimpeded investigations are needed and no Government, State agency or political grouping can be allowed to continue to block a truth process. It is not acceptable that the British Government is exercising a veto, citing national security concerns, on these issues. Will the Minister inform us whether he has had an opportunity to have discussions with representative groups which advocate on behalf of victims, victims' families and survivors? In the current period of disappointment for these groups it is necessary to have the maximum level of dialogue with them to assure them their concerns and issues will not be put on the backburner, that they will be given the urgent consideration needed and an assurance that progress will be made in dealing with these long-standing issues.

Deputy Charles Flanagan: I confirm and reassure the House that the Irish Government has a long track record of defending and promoting the rights of victims and survivors. Records show that successive Irish Governments have rigorously and vociferously pursued justice and truth for those affected by the Troubles, in Strasbourg through the European Court of Human Rights and bilaterally on all occasions with the British Government. I agree with the Deputy. These issues are most sensitive and important. I had the opportunity to have a lengthy engagement with the victims commissioner since reaching agreement on A Fresh Start. I confirm that I am available on all occasions and at all times to meet representative groups and I have done so during the course of my time as Minister for Foreign Affairs and Trade. I can state on behalf of the Taoiseach that he is also firmly engaged on these issues and has met many of the groups involved. As we take the issues forward, it will be important that the process should offer a credible prospect of success for victims and survivors because I do not believe they can be disappointed again. In so far as these issues are concerned, I assure the Deputy that I am very much engaged on them and will continue to be so.

Deputy Brendan Smith: I thank the Minister for his reply. I raised issues in our previous discussion on Northern Ireland a week or more ago. Does the Minister agree that we need to

deal with them with the utmost urgency? We do not want the atmosphere to be poisoned even more and people to continue to be disappointed. Does the Minister have in mind a timeframe in which he could envisage some progress being made on these issues? We should all be conscious that we are moving into electoral cycles in the North and the South and we know that this atmosphere does not help in moving sensitive and perhaps difficult political issues forward. I appeal to the Minister to continue to attach the utmost urgency to these issues. He mentioned meeting representative groups. Justice for the Forgotten which has been advocating on behalf of victims and survivors of many atrocities committed in the North and the South would value another meeting on what happened in Dublin, Monaghan, Belturbet and other atrocities committed in the North and the South. I hope the Minister will accede to the request for a meeting with the group at an early date.

Deputy Charles Flanagan: I will be happy to pursue the issue raised by the Deputy. I assure the House that the Minister of State, Deputy Sherlock, and I are actively engaged in this matter. Notwithstanding the fact that the intensive round-table talks have been concluded in a positive way by agreeing the fresh start agreement, there will always be issues of concern in terms of North-South relations, Northern Ireland and, in particular, victims and survivors. I look forward to having some important meetings as early as next week.

Human Rights Issues

2. **Deputy Seán Crowe** asked the Minister for Foreign Affairs and Trade if he has raised concerns with his European counterparts over the European Union's new political and financial deal with Turkey to curb the number of refugees entering the Union; if he has human rights concerns over the deal; if he is aware that a very prominent Kurdish human rights lawyer, Mr. Tahir Elçi, was assassinated in Turkey on 28 November 2015; and if he will raise this case with the Turkish authorities. [45624/15]

Deputy Seán Crowe: Before I begin, I wish the Ceann Comhairle and his family, the staff, the Minister and the Minister of State a merry Christmas. I will probably not get another opportunity.

I am concerned that in an attempt to use Turkey as Europe's gatekeeper, the EU is apparently ignoring and, by extension, encouraging serious human rights violations in Turkey. I am also tabling this question in the wake of the assassination in broad daylight of the prominent Kurdish human rights lawyer, Mr. Tahir Elçi. The main party representing Kurds in Turkey, the Peoples' Democratic Party, HDP, contends that he was killed by a bullet fired from a police weapon. Has the Minister concerns about this case and has he raised it with the Turkish authorities?

Deputy Charles Flanagan: I thank the Deputy for his question. On 29 November, the Taoiseach attended an EU Heads of State or Government meeting with Turkey at which it was agreed to activate the EU-Turkey joint action plan, which is aimed at managing the current refugee and migrant crisis, as well as several further shared commitments and actions. The joint action plan contains short and medium-term measures to be undertaken by the EU and Turkey. These will assist Turkey in providing for the refugees in its territory and preventing uncontrolled migratory flows from Turkey to the EU. As part of this, the EU has agreed to provide a financial package worth an additional €3 billion, with the establishment of a refugee facility for Turkey to co-ordinate and streamline actions financed by this package. The overall aim of the plan is to ensure that refugees in Turkey are properly supported. This should prevent desperate

people from undertaking perilous journeys or falling into the hands of unscrupulous traffickers and people smugglers.

Ireland strongly supports the recently intensified engagement between the EU and Turkey, including the outcome of the meeting of 29 November. In particular, I welcome the agreement to implement the EU-Turkey joint action plan. The relationship with Turkey has been the subject of many high-level meetings and will be further discussed at the European Council in Brussels today. Most recently, the Turkish foreign Minister, Mr. Mevlüt Çavuşoğlu, participated in a working lunch with EU foreign Ministers, which I attended, at the Foreign Affairs Council last Monday.

The EU's relationship with Turkey is of key importance, not only in terms of the current migration crisis, but also in the context of Turkey's status as an EU accession candidate. With Turkey now host to well over 2 million Syrian refugees, Ireland is of the view that EU support is necessary. In this context, EU financial assistance will go towards the provision of support to Syrians under temporary protection and to their host communities.

The internal situation in Turkey remains a matter of serious concern, a point that was made clear in the European Commission's latest enlargement progress report. Turkey faces many internal and external challenges, as the Deputy will be aware. The murder on 28 November of the Kurdish human rights lawyer, Mr. Tahir Elçi, as well as those of two policemen killed nearby, is another tragic and worrying development in that regard. As a human rights lawyer, Mr. Elçi was critical of human rights abuses on all sides of the conflict. I strongly condemn Mr. Elçi's killing and offer my sincere condolences to his family and friends. I understand that the Turkish authorities are committed to accelerating the investigation into his murder. It is important that this happen at the earliest opportunity.

Deputy Seán Crowe: Yesterday, Amnesty International condemned the Turkish authorities for detaining scores of refugees, including people from Iraq and Syria, and pressuring them into returning home in an alleged breach of international law dating back to September. The EU seems to be setting aside many of its concerns about the growing authoritarianism of the Turkish Government and is instead promising €3 billion to Turkey, supposedly in aid of refugees, along with a package of political goodies in the naive and misguided belief that doing this will somehow help to solve the refugee crisis.

In its haste, the EU is also ignoring the claims that Turkey has allowed jihadist fighters and arms shipments across its border. Two Turkish journalists have been jailed, supposedly for espionage. Do these issues concern the Government? They are clearly linked to the package.

Deputy Charles Flanagan: I assure the Deputy that Ireland is not silent on these issues. With our European colleagues, we will continue raising them. We raised them most recently at the meeting of Ministers' deputies at the Council of Europe on 2 December, when the arrest of two journalists, the importance of freedom of the press and expression in Turkey and the need to ensure a strong and healthy democracy were emphasised. The rule of law and human rights, including that of freedom of expression, are core principles of the EU. Deputy Crowe will be aware that these are prerequisites for accession to the Union. Ireland is clear that Turkey must live up to the same standards and commitments as all other candidate countries. Progress in the accession process can only be made based on clear benchmarks and criteria.

Deputy Seán Crowe: The video of the moment that Mr. Elçi was killed is concerning. It

shows him taking cover behind police officers as they open fire on an armed man running towards them. Once the man passes them, they turn and fire in the opposite direction where Mr. Elçi was sheltering. A few seconds later, his body is seen laid out on the ground. He was killed by a single bullet to his head. Mr. Andrew Gardner, Amnesty International's researcher on Turkey, has stated that the Turkish investigation already smacks of a cover-up.

We are aware of the killing of the human rights lawyer, Mr. Pat Finucane, in the North as a result of collusion. There is concern in the Turkish case that the authorities, which seem to be involved, are investigating this alleged killing. I urge the Minister to raise it, not only with the Turkish authorities, but with his European counterparts to ensure that a similar cover-up is not allowed to happen.

Deputy Charles Flanagan: I wish to repeat for the benefit of the Deputy that these are concerns of a most important nature. Ireland has raised them and will continue to raise them. I assure the Deputy that officials in my Department, both at our headquarters in Dublin and in our embassy in Ankara, will continue to follow developments across a range of human rights concerns closely, but in particular regarding Mr. Elçi's murder. I would be happy to keep the Deputy informed of our interaction in that regard.

Northern Ireland Issues

3. **Deputy Clare Daly** asked the Minister for Foreign Affairs and Trade if he has had discussions with the Northern Ireland Justice Minister, Mr David Ford, MLA, or the British Secretary of State for Northern Ireland, Ms Theresa Villiers, MP, in respect of the International Red Cross process in Maghaberry and the public announcement of a new regime for political prisoners, and the implications of same; and if he will make a statement on the matter. [45530/15]

Deputy Clare Daly: This question, which is tabled on behalf of the group of cross-party Deputies who regularly visit Maghaberry Prison, comes on the back of the damning inspection of that prison. The Minister is aware that there have been various initiatives to try to get the 2010 agreement implemented, including a stock-take report, but we have come to the conclusion that there must be another agenda at play because there does not appear to be any desire on the part of the prison authorities for a resolution. Has the Minister raised this issue with the various Northern Ministers and what is his reading of the International Red Cross process, which seems to be at a crossroads?

Deputy Charles Flanagan: Last Friday, I met Northern Ireland's Minister of Justice, Mr. David Ford. We discussed in detail the situation at Maghaberry Prison, including the regime for separated prisoners. My last meeting with the Secretary of State, Ms Theresa Villiers, MP, was on 17 November as we concluded the negotiation of the fresh start agreement. We will meet before the end of this month when I will again raise non-devolved matters relating to Maghaberry with her directly.

It is my understanding that there are no proposals to change the current regime for separated prisoners at the prison. Implementation of the independent assessment team recommendations remains the responsibility of the Northern Ireland Prison Service. In our discussion last week, the Minister, Mr. David Ford, MLA, noted that while there had been some progress, full implementation had been affected by trust issues arising, in part from the sense of a threat to staff. This echoed a statement from the Northern Ireland Prison Service qualifying its commitment to

the recommendations by making them conditional on an “an environment where staff are free from threat and intimidation”.

The naming of individuals by prisoners in public statements may not have been intended by them to be seen as threatening. However, having read their statements, I can understand if those named were to consider them intimidatory. It is my strong view that the full implementation of the recommendations of the independent assessment team is dependent on the establishment of a reasonable level of trust between the relevant prisoners and prison staff. The Deputy will agree that there must be a regime of trust.

Among the challenges I discussed with the Minister, Mr. Ford, were the obstacles to the operation of the prison forum which, since July 2015, has been chaired by a representative of the International Committee of the Red Cross. A functioning forum would make an important contribution to reducing tensions in Maghaberry. My officials maintain regular contact with the chair of the prison forum and also with the members of the independent assessment team.

Deputy Clare Daly: I am glad the Minister has raised the issues with the Minister, Mr. Ford. We are very concerned about what is happening there at present. We do not agree with the assessment by the Minister, Mr. Ford, that progress has been made. In fact, the proposals which were put forward, not by the prisoners but by the International Committee of the Red Cross, have been stymied by prison authorities. We continue to come back to this mysterious threat scenario, but it must be put on record that there is no factual basis for any threats. Prison officers have been attacked in other parts of the prison, not in the segregated wing. Indeed, it is a fact that two senior governors were caught on closed circuit television, CCTV, on 5 November last falsifying a threat from a republican prisoner. This has been referred to the Prisoner Ombudsman for Northern Ireland and legal representatives.

This tactic is being used to delay and stymie the process. We believe a progressive system should be put in place, and obviously one that does not compromise security. I do not believe the Minister is being given the full version of the story. I will make a point later about the security forces, but I believe their hand is at play in this.

Deputy Charles Flanagan: All Deputies will agree that there is no room or place for any form of threats or intimidation, implied or otherwise. It is important to make that absolutely clear in the context of a functioning democracy.

In the course of my meeting with the Minister, Mr. Ford, he updated me on progress in the implementation of the recommendations of the recent report by the criminal justice inspector, Brendan McGuigan, into conditions in the prison. I expressed my concerns about the deficiencies identified within the prison, which affect the entire prison population and prison staff and not just those in the separated regime. It is a matter of concern that the inspectors found that the demands of the separated unit are undermining the work of the entire prison, to the detriment of the majority of the prison population. One of my officials met yesterday with the criminal justice inspector to discuss the findings of the report and they have agreed to remain in contact. The criminal justice inspector will return to Maghaberry in January to monitor progress. I hope he will be able to report that significant progress has been made in terms of improving outcomes for all prisoners at Maghaberry.

Deputy Clare Daly: We have met loyalist and republican prisoners who are involved in this process. Both sides are unhappy, but the republican side is more unhappy. That probably re-

flects the cultural problems there. That is important. The issue of threats continues to be used. Obviously, we would oppose any threats occurring, but there is no evidence of any threats and no activity of a negative character has taken place in the segregated wing against any staff. On the other hand, we see the hand of the security forces and MI5, in particular, operating in the prison. It is a fact that there is a close link between the DUP and the POA. Some of the problems that had to be addressed in the PSNI, and I am not saying that they are resolved, relating to the cultural background of staff still exist in the Northern Ireland Prison Service. It must be broken up, as it were, and there must be an overhaul of prison staff if there is to be equity and a regime that is respectful of human rights.

I am glad the Minister is raising this issue, but we are only hearing one side of the story. Throwing out the idea that there was going to be a new regime onto the back of this stalled process rang alarm bells. That type of operation would not be acceptable to anybody and would aggravate the situation even further.

Deputy Charles Flanagan: In general, it is important that we continue to report progress on the matter of prison reform in Northern Ireland. Comprehensive reform of the Northern Ireland Prison Service based on the October 2011 review conducted by Dame Anne Owers concluded in March this year. It is disappointing that, despite the prison reform process, the inspection report found that conditions for prisoners under the categories of safety, respect and purposeful activity had all deteriorated. Only in the area of resettlement were prisoners experiencing acceptable outcomes. However, I assure the Deputy that both I and my officials will continue to monitor the situation. The recommendations contained in the inspection report are an agenda for change and I am anxious that we will see change and can chart progress in that regard. I was pleased to hear from the Minister, Mr. Ford, MLA, that progress is being made on this issue. I look forward to seeing this progress being demonstrated when the inspectors return in January.

Undocumented Irish in the USA

4. **Deputy Brendan Smith** asked the Minister for Foreign Affairs and Trade the status of the proposed immigration reform legislation in the United States of America; if any further discussions are planned with the authorities there, given the ongoing concern of many Irish emigrant representative organisations, the difficulties facing the undocumented Irish and the concerns of their families at home; and if he will make a statement on the matter. [45607/15]

Deputy Brendan Smith: In November 2014, we welcomed the administrative measures announced by President Obama, which could have benefited thousands of undocumented Irish emigrants based in the United States. Unfortunately those measures now face a legal challenge in the US federal court. Can the Minister inform the House, from his contacts in the United States, if there is any prospect of progress in the area of immigration reform, be it through executive action by President Obama or through legislation in the US Congress? What is the most up-to-date estimated number of undocumented Irish emigrants in the United States from the figures available to his Department?

Deputy Charles Flanagan: Achieving relief for undocumented Irish migrants in the US and agreement on a facility for future legal migration between Ireland and the US is a priority in the Government's relationship with the United States. Our embassy in Washington and consulates elsewhere in the US are active in advocating immigration reform and the issue is also the subject of high level political contacts between Ireland and the US Government. Meetings

such as those between the Taoiseach, President Obama and other senior political figures around St. Patrick's Day have provided an important opportunity to reiterate our concerns regarding the undocumented Irish and to encourage progress on a comprehensive legislative package by the US Congress.

In July, the Taoiseach and I met with John Boehner, then Speaker of the House of Representatives, and a number of his congressional colleagues when they visited Dublin. More recently, in Washington at the end of September, I met key Democrat and Republican contacts on Capitol Hill, including Senator Patrick Leahy, Congressmen Joseph Kennedy III, Paul Ryan, James Sensenbrenner, Richard Neal and other members of the Congressional Friends of Ireland group. In all of those meetings I stressed the importance we attach to immigration reform, as I did when meeting leaders of the Irish American community later that week in New York. I will take the opportunity to raise these points again when I visit New York in early January.

Following my meetings in September, a Bill was tabled by Congressman Jim Sensenbrenner in the US House of Representatives. The Bill is aimed at providing access to several thousand E3 visas for Irish citizens. I warmly welcome this positive step towards meeting the desire of many Irish people to live and work in the US for a time, but there is much work to be done in both Houses of Congress before this Bill might become law. I am also aware that while this measure would advance our objective of securing improved legal migration channels, it would not address the concerns of the many undocumented citizens currently in the US. These remain a key priority and continue to be the subject of ongoing contacts with the US authorities.

Deputy Brendan Smith: Our minds are probably more focused on this issue now than at other times of the year. Living without documentation can mean living in the shadows and in fear in a country which many consider their home. It also means that people might be unable to travel to Ireland to see friends and family. It can mean missing family occasions, be they celebratory occasions or occasions of bereavement. The Minister will know from his constituency as I do from mine, which unfortunately has a long history of emigration, that many families are torn apart because sons, daughters or siblings cannot return home.

10 o'clock

Is there any hope of immigration reform being achieved? We spoke about the electoral cycle in Northern Ireland and an electoral cycle is in full swing in the United States at present, with the caucuses to start in the next few weeks. Has the Minister had any indication from the ambassador, or our representatives at official level, whether there is any hope of the legal challenge to President Obama's executive decision being finalised or the previous legislation, inaugurated in the House of Representatives and then the Senate, being moved forward?

Deputy Charles Flanagan: The President's executive action is now the subject of court proceedings and I do not have a date on which this matter will be decided. I assure the Deputy that this is a matter of priority on the part of the Government. I intend visiting the United States in early January and I will raise this issue again. It is difficult to put precise figures on the exact number of undocumented Irish citizens in the US but we estimate there are many thousands. These individuals are living in something of a twilight zone, who are in breach of US immigration law and do not have the means of ensuring their status is regularised. They wish that the US Government would develop a mechanism to allow them to acquire a documented right to continue their lives in the US, to fully participate in the life of their adopted communities and to travel in and out of their country.

I am conscious of the difficulties being experienced by Irish citizens who are undocumented in the US and their families who remain in this jurisdiction. I am very much aware of the pain they feel when family members are unable to return for a family occasion, be it a celebration or a bereavement.

Deputy Brendan Smith: We need to keep the issue on the agenda and to assure the undocumented Irish, of whom all of us know and whose family members we know at home, that this is an issue that will continue to be treated with the utmost urgency, be it through political contacts or contacts at official level. There was a proposal to have visa waivers for the undocumented Irish, which focuses on permitting undocumented immigrants to travel back to Ireland without triggering the three-year or ten-year bars on returning to the United States. Is there any progress with regard to that proposal, apart from the overall immigration reform measure that would deal with all the undocumented?

Deputy Charles Flanagan: I am aware of and have raised the matter of the waivers for three-year and ten-year travel bans in relation to US visa applications for Irish undocumented who have overstayed their visa in the United States. At my request, the Secretary General of my Department wrote to the US ambassador earlier this year requesting that he further explore the question of such waivers. The US Embassy indicated that the waiver system is applied strictly in accordance with US laws and regulations and is operated uniformly on an international basis, including Ireland. Such a waiver can be applied for in the case of a three-year or ten-year ban having been imposed for overstaying a visa in the United States of America.

I acknowledge the difficulties on the part of the many Irish undocumented. I assure the Deputy that this continues to be a priority and I intend raising the issue early in the new year. The Government continues to actively pursue all opportunities to advance immigration reform that would benefit our citizens. In the meantime, the Government provides significant financial support, in the order of €1.5 million in 2015, to assist the work of various Irish immigration centres across the US.

Human Rights Issues

5. **Deputy Seán Crowe** asked the Minister for Foreign Affairs and Trade if he is aware that a person's (details supplied) trial took place on 15 December 2015; the specific assistance the Irish Embassy in Cairo in Egypt gave to this person and the person's legal team in advance of and at this trial; and his future plans to ensure that the person is released and allowed to return to Ireland. [45623/15]

Deputy Seán Crowe: On Tuesday, the trial of Irish citizen Ibrahim Halawa in Egypt was postponed yet again. His trial has been postponed ten times and is now due to take place on Saturday, 19 December. If convicted he faces the death penalty. Last Sunday, he marked his 20th birthday in prison, his third birthday in jail, and I attended a sad, though good-natured, vigil at the embassy at the weekend. I put forward this question to discuss the case and to ask what assistance the embassy has been giving to Ibrahim and his legal team in advance of the trial and to hear again from the Minister any future plans he has to ensure Ibrahim is released and returned home to his family in Ireland.

(Deputy Charles Flanagan): I am aware of the hearing that took place in Egypt on 15 December concerning this citizen. Officials from our embassy in Cairo attended this hearing,

as they have all previous ones, and met directly both with members of this citizen's family and with his Egyptian legal team who represent him in court. At this most recent hearing, the trial was adjourned for five days until Saturday, 19 December, due to the non-attendance of one defendant. This citizen and his family have been the recipients of comprehensive consular assistance from my Department and, as well as attendance at his trial hearings, the individual in detention has been visited on numerous occasions by embassy officials, most recently on 23 November. Numerous interventions have been made with the Egyptian authorities on his behalf at the very highest levels. The Government has also formally supported applications that have been made by this citizen's legal team in Egypt for his release on bail and under the presidential decree, law 140. The key focus of our extensive engagement on this complex and sensitive case remains securing this citizen's best interests in so far as we can, working to see him released by the Egyptian authorities at the earliest possible opportunity, and providing consular support for his welfare while he remains in detention.

This exceptional level of action has been taken by the Government and by my Department because of the very particular nature of this case – he was a minor at the time of his arrest and the group nature of his trial gives rise to particular concerns. We will continue to take all appropriate action that we believe to be in the best interests of this citizen. However, the reality is that any decision to release this citizen will ultimately be taken by the Egyptian authorities, not by the Irish authorities.

Given that the trial is ongoing, the Government has to be extremely careful to ensure that its actions, both public and private, are well judged and do not detract from our key goal of securing positive progress for this citizen at the earliest possible time. I am aware that there are those who do not agree with the Government's approach but I would appeal to all those who also have this citizen's best interests in mind to ensure that their actions and public statements are not such that they could jeopardise our considered and concerted efforts to achieve positive progress for this citizen. The Government's considered view remains that the firm, measured and sustained diplomatic approach we are taking continues to be in his best interest and represents the best hope to achieve his return to Ireland at the earliest possible date.

Deputy Seán Crowe: We are all on the same page on this. We all want to see him come home and the only difference is how this can be achieved. I welcome the fact that the ambassador to Egypt, Damien Cole, was present at Ibrahim's trial on Tuesday. I also welcome the consular assistance Ibrahim is getting. Will the Minister confirm that the Irish Embassy has access to a translator who speaks the legal, formal Arabic that is used in the Egyptian courts? I understand that legal Arabic is quite different from the usual Arabic spoken every day.

Significant concerns have been raised by Ibrahim's family that he has only been able to meet his Egyptian legal team once while in prison. There were reports in the media to this effect, as there were about his international legal team. Is the Minister concerned about this? This case has been going on for approximately three years but he has only met his team once. He also seems to have no access to details of the charges against him.

Deputy Charles Flanagan: I assure the Deputy that the concerns raised by him and others are treated with the utmost gravity and importance by the Irish Government. We continue to keep in very close contact with the citizen, and with his family here in Dublin, while he is in detention.

There have been many different views and suggestions for actions on the case. We keep the

possibilities for action under ongoing review in light of the best information available on developments. However, I assure the House that we are guided at all times by what action is most likely to achieve positive practical progress for our citizen at the earliest possible date. In the meantime, pending the hearing of the case, we have raised the issue of concern regarding prison conditions. I assure the Deputy that the matters of the citizen's health and welfare, access to a legal team and prison conditions are all under constant discussion with our team in Cairo and at headquarters in Dublin.

Deputy Seán Crowe: The Egyptian Embassy has been briefing Deputies, Senators and Members of the European Parliament on this case. Is the Minister concerned about some of the information emerging at these briefings that seems to be erroneous? There was a suggestion that the prisoner addressed the court in regard to his hunger strike. My information is that there is no opportunity to address the court. We are being told it is not a mass trial but the fact that the court case is not going ahead would indicate it is. Is the Minister concerned about that?

The motion in the European Parliament today calls on the European External Action Service, through the EU delegation in Cairo, to get involved in the case of this European citizen. Will the Irish authorities request the service, on the basis of its international standing, to monitor the case of Ibrahim Halawa and use whatever resources it has available to it in this regard?

Deputy Charles Flanagan: I note the debate in the European Parliament. The Deputy will be aware that I have specifically raised this case through discussion with High Representative Mogherini on a number of occasions. She has assured me that the case of the Irish citizen will continue to remain high on the European Union's bilateral agenda with Egypt until his release. The European Union remains supportive of our position and, on several occasions, has raised its support for our concerns with the Egyptian authorities at appropriate opportunities.

While we continue to take all appropriate action that we believe to be in the best interest of the citizen in question, the reality remains that any decision regarding his release will ultimately be taken by the authorities in Cairo, Egypt, and not by the Irish authorities.

Other Questions

Middle East Issues

6. **Deputy Seán Crowe** asked the Minister for Foreign Affairs and Trade if he is aware that a Palestinian Member of Parliament (details supplied) who is a senior member of the Popular Front for the Liberation of Palestine and member of the Palestinian Legislative Council was sentenced to 15 months in jail by an Israeli military court; that the charges are viewed as political in nature; that the individual was placed under administrative detention for six months without trial or charges; and if he will raise concerns regarding her incarceration with the Israeli Government. [45390/15]

Deputy Seán Crowe: This question is about Ms Khalida Jarrar, a Palestinian Member of Parliament and a senior member of the Popular Front for the Liberation of Palestine and the Palestinian Legislative Council. She was sentenced to jail for 15 months by an Israeli court on 6 December. She was seized in April during a late-night raid on her home in al-Bireh, a town

near the occupied West Bank city of Ramallah. She was held without charge or trial under a six-month administrative detention order. According to her lawyer, she agreed to a plea deal because she had no faith in the military courts. Is the Minister concerned about her imprisonment? If so, will he raise his concerns with the Israeli authorities?

Deputy Charles Flanagan: Multiple conflicts across the Middle East region have necessarily occupied much international attention in recent times. These include the conflict in Syria and the rise of Daesh and their impact on Europe. However, I continue to stress at EU and international levels the importance of retaining a focus on the continuing Israel–Palestine dispute.

I am aware of the case referred to by the Deputy, on which NGOs supported by Ireland have been actively engaged. I am not in a position to take a definitive view on the substance of the case. The Popular Front for the Liberation of Palestine, to which the defendant belongs, has clearly an involvement in violent actions, and some of the evidence was given in secret. However, there are grounds for serious concern about the basis for this conviction. The person involved is a member of the Palestinian Parliament, and it does not appear that any suggestion has been advanced or proved of her involvement in violent activities. The offences she was charged with seem to relate to political protest against the occupation and occupation policies.

Ireland has drawn attention for some time to its concern that, increasingly, criminal prosecutions are being taken by Israeli authorities against non-violent political protesters, and that there is an increase in the use of live ammunition against Palestinian demonstrations. I have asked our missions in the area to monitor and report on this case. We will continue to make the case that if legitimate protest is treated in the same way as violence, it will only play into the hands of those who advocate violence. We will continue to make known our concerns about the treatment of protest and protesters, in this case and more widely.

Deputy Seán Crowe: Last week, the Oireachtas Joint Committee on Foreign Affairs and Trade met Mr. Bernard Sabella, the chairman of the Palestinian delegation at the Council of Europe. He asked us specifically to raise the case in the Parliament because of the fact that he was a Member of Parliament. The point he made at the meeting was that all the charges are deemed political. The Israeli court has rejected an appeal against the imprisonment of Ms Khalida Jarar, not recognising her parliamentary immunity. As I stated, she refused to recognise the Israeli court's legitimacy.

The 12 charges all relate to her political activity, including giving speeches, attending public forums and calling for the freedom of Palestinian prisoners. These are all issues that Irish and Palestinian Members of Parliament would raise. Has the Minister monitored this? Could he raise it with the Israeli authorities when he next gets the opportunity? Could he speak again to his European colleagues seeking the release of the Palestinian Member of Parliament?

Deputy Charles Flanagan: I assure the Deputy that my officials and I will keep a very close eye on this case and monitor events and developments in respect of it. I condemn attacks on innocent people and any use of force that results in avoidable injuries or death. Once again, I call for an end to attacks and for calm and responsible leadership. Any necessary security measures should be proportionate and restrained. I have stressed the need for a response beyond security measures and for leadership to tackle the underlying issues that might have led people to take actions that are themselves inexcusable. There have been a number of outbreaks of violence, and there will be more unless the underlying issues are tackled.

Deputy Seán Crowe: Many observers have noted that the timing of Ms Khalida Jarrar's arrest came shortly after the Palestinian Authority joined the International Criminal Court. This was an important focus of Ms Khalida Jarrar's parliamentary work. Many see this arrest as Israel seeking and taking revenge for the Palestinians joining the International Criminal Court. Does the Minister share that belief? Has he any views on it? The view I have expressed has been echoed by the Israeli media organisation Harretz, which also demanded Ms Jarrar's release.

Deputy Charles Flanagan: We need to focus on the current causes of violent activity and to play our part, along with our EU colleagues, in ensuring the Middle East peace process gets back on track. The direct talks broke down at the start of 2014 and there is no immediate prospect of a resumption. There is a considerable lack of trust in the intentions of each party, in addition to reluctance on the Israeli side to accept that the occupation must end. As with the peace process in Northern Ireland, any peace process involves a large measure of compromise. I had the opportunity last Monday to attend a meeting of EU foreign affairs Ministers. The European Union continues to support a resumption of talks because it is only through talks that conflict can be resolved and progress made.

Foreign Conflicts

7. **Deputy Brendan Smith** asked the Minister for Foreign Affairs and Trade the proposals he put forward at recent meetings of the Foreign Affairs Council in relation to the very urgent need to address the ongoing conflict in Syria and the horrendous loss of life and displacement of persons; the decisions reached at those meetings on additional measures to be taken by the European Union and the international community to progress a political solution; if additional humanitarian aid was pledged for Syria and that region; and if he will make a statement on the matter. [45310/15]

Deputy Brendan Smith: The loss of life and the displacement of people as a result of the ongoing conflict in Syria are horrendous. More than 250,000 Syrians have lost their lives in the four and a half year conflict, 6.6 million people are displaced within Syria and more than 4 million people have fled the country. Nearly 14 million people in Syria, half the country's population, are in dire need of humanitarian assistance with the utmost urgency. Will the Minister outline any new initiative that may be taken at EU level to assist these people who are living in desperate circumstances?

Minister for Foreign Affairs and Trade (Deputy Charles Flanagan): Ending the catastrophe which has befallen Syria and imposed enormous burdens on the states neighbouring Syria is critical to the stability of the Middle East region and the security and safety of the Syrian people and their neighbours. This has been a key priority for Ireland and its EU partners in recent years. I welcome the announcements of 30 October and 14 November by international stakeholders, including the European Union and a number of EU member states, in Vienna on the launching of negotiations, the holding of elections, working for a nationwide ceasefire and supporting unimpeded humanitarian access across Syria. I call on all parties to support the United Nations' efforts and commit themselves to work sincerely and with urgency for a nationwide ceasefire, a negotiated peace agreement. Ireland strongly endorses the efforts of the United Nations to renew peace negotiations based on the 2012 Geneva communiqué principles, in particular, the ending of violence, the formation of a transitional governing body with full

executive powers and a constitutional reform process which would protect Syria's multi-ethnic and multi-sectarian character.

There must also be legal accountability for victims of the Syrian conflict. In 2014 we co-sponsored a resolution which called for referral of the situation in Syria to the International Criminal Court. While recognising the need for a political transition and an end to the Assad regime, ultimately, it is the Syrian people's right to decide on Syria's future national leadership. Ireland has pledged that its support for the Syrian people will reach over €42 million by the end of 2015.

Deputy Brendan Smith: I thank the Minister for his reply and sincerely hope, given the views expressed by the EU High Representative after the Vienna talks, that a political solution to be achieved with the utmost urgency is the way forward. We fully realise the difficulties in achieving it. In the aftermath of the Paris attacks by Daesh the House had the opportunity to condemn the attacks. The organisation's ideology is extreme and constitutes a global and unprecedented threat to peace and security. I condemn the gross, systematic and widespread abuses of human rights and the violations of humanitarian law by Daesh. The European Union has been a good contributor to assist people in the most difficult of circumstances in Syria. We must recognise the pressures on the countries adjoining Syria, namely, Jordan, Lebanon, Turkey and Iraq, that have been generous in their response to the Syrian people. Humanitarian aid and assistance must be given to these neighbouring countries, as well as to those in Syria who are living in the worst of circumstances.

Deputy Charles Flanagan: I agree with the Deputy, particularly on the horrific acts of terrorism perpetrated by Daesh in Syria and across the region. It is imperative that appropriate action be taken. On the situation in the wider region, the Deputy will agree that ending the Syrian conflict is essential to the stabilisation of the Middle East region, ending the threat of terrorism and the humanitarian and security crisis which are devastating the people of Syria and the region. The flow of refugees is posing social, political and economic challenges, as I witnessed in Lebanon earlier this year and as my colleague, the Minister of State, Deputy Sean Sherlock, witnessed in Jordan last month. Ireland continues to play its part in the provision of assistance in the region and to the refugee population in neighbouring countries. The Deputy will agree that the regional crisis cannot be adequately addressed without a viable peace process in Syria.

Deputy Brendan Smith: As I stated previously, we need a fair, equitable and proportionate EU resettlement programme in response to the migrant challenge. Ireland must play a part in providing a safe haven for those escaping conflict. We must also put in place robust safeguards to ensure those who seek refuge in Europe, including Ireland, are genuine migrants. This is important as we deal with the issue.

On 1 December the European Union adopted the regional trust fund, a €350 million aid package, the single biggest response to the crisis in Syria. It breaks down into substantial funding for education, local development, health, water and sanitation programmes. Is Ireland contributing to the fund and is the Minister satisfied, based on the data available, that this very welcome and progressive aid programme will meet the needs of the people in most need of assistance?

Deputy Charles Flanagan: By the end of the year Ireland will have pledged support for the Syrian people in excess of €42 million. This is Irish Aid's largest response to a single crisis in recent years. Ireland's funding is channelled via the United Nations, the Red Cross and our

NGOs in the region. The money is expended on meeting priority needs in the area, including for food, water, sanitation, shelter, education and protection, including child protection and the prevention of gender based violence. The funding underlines Ireland's continued commitment to respond to the humanitarian crisis in Syria and neighbouring countries where there are millions of vulnerable refugees and internally displaced persons. Ireland's support through Irish Aid and NGOs on the ground includes support for the protection of Syrian refugees in Iraq and other areas across the region.

Humanitarian Aid

8. **Deputy Seán Crowe** asked the Minister for Foreign Affairs and Trade if he is aware that the El Niño weather pattern is expected to wreak havoc this year; that the United Nations has warned that 11 million children are at risk from hunger, disease and lack of water in eastern and southern Africa alone; that in west Africa conditions are aligning in a similar way to the massive 1972 drought that devastated the Sahel with famine; what his Department is doing to prepare for these events and to mitigate the effects of the humanitarian crisis before it hits. [45393/15]

Deputy Seán Crowe: El Niño is a periodic, worldwide weather phenomenon caused by the Pacific Ocean warming. This year's pattern is more extreme than it has been for decades and expected to wreak havoc. The European Union has warned that 11 million people are at risk from hunger, disease and lack of water in eastern and southern Africa alone. In west Africa conditions are emerging similar to the severe 1972 drought which devastated the Sahel with famine. During the event drying winds from El Niño tipped the region into full blown drought. I have tabled the question to find out what plans Irish Aid has in place to deal with these expected humanitarian crises and mitigate them before they strike fully.

Minister of State at the Department of Foreign Affairs and Trade (Deputy Sean Sherlock): I thank the Deputy for the question. The current El Niño weather event is one of the strongest ever measured. More unpredictable weather conditions are already having a detrimental effect on people's lives and livelihoods across Africa, particularly in the Horn of Africa and the Great Lakes region. In the next six months humanitarian needs will increase, with severe droughts and flooding. Below normal rainfall and drought conditions have already affected parts of Ethiopia, Sudan, Djibouti and Eritrea, reducing agricultural production. Excessive rainfall is affecting parts of Ethiopia, Somalia and other countries, causing severe and sustained flooding, loss of livelihoods and disease outbreaks.

Irish Aid, the Government's overseas development assistance programme, is stepping up its preparedness to respond. Our long-term development programme in countries such as Ethiopia includes funding for a large social protection programme for the most vulnerable households. We are also scaling up humanitarian responses to reduce the impact on households and save lives in the worst affected places. In Ethiopia alone in 2015, Ireland has increased its bilateral programme to nearly €28 million in response to the humanitarian crisis. We are providing an additional €1.8 million in humanitarian assistance through non-governmental organisation, NGO, partners.

In total, Ireland has provided over €80 million in humanitarian assistance in 2015 and this budget will be increased to over €100 million for 2016. We are allocating additional resources across affected countries to support programmes which save lives, improve food security, protect livelihoods and build the resilience of people to withstand the effects of such a weather

event across Africa. We will continue to monitor the position closely and scale up action as El Niño strengthens and conditions on the ground worsen.

Deputy Seán Crowe: It is welcome that there will be additional funding. The concern is that the world does not seem to pay attention to the advance warning of these humanitarian crises and does not act until it sees horrific images on television or computer screens. Oxfam has stated the world must move faster than in the past to help drought stricken regions of Africa. In 2011 warnings were issued months in advance and food shortages are not the only problem. Droughts and flooding can have other health effects such as outbreaks of cholera, typhoid and diarrhoeal diseases in many areas. An estimated 10.2 million people, more than one tenth of the population of Ethiopia, need humanitarian aid because of the lack of basic food after the latest failed harvests. Will the Minister of State assure us that there will be food stocks in that region? What other support can we give to the people of the region? The Minister of State has mentioned extra funding, but the hurricane coming down the track will have a negative impact on millions of people in the region.

Deputy Sean Sherlock: Ireland's bilateral relationship with Ethiopia is very strong. Official Ethiopian Government figures for January 2016 indicate that 10.2 million people will require food assistance, in addition to the 7.9 million receiving food and cash transfers as part of the productive safety nets programme. Ireland is one of the core funders of the programme through Irish Aid and the embassy. We have been doing this since 2005. There are financial resources required to deal with this issue. This is the third largest humanitarian emergency globally, behind those in Syria and Yemen. It is estimated that approximately US\$1.8 billion is required to cover the cost of emergency interventions. We will continue to work with multilateral partners such as the UN agencies and on a bilateral basis. We have increased the commitment to Ethiopia because this involves protecting small stakeholder farmers and their families. There are knock-on consequences in terms of *in utero* development which is having a major effect on malnutrition and under-nutrition. We will continue to monitor the position.

Deputy Seán Crowe: One could argue that the crises in Syria and Yemen are man-made, but it could be argued also that this weather phenomenon is caused by climate change. At the Oireachtas Joint Committee on Foreign Affairs and Trade, Deputy Aengus Ó Snodaigh asked whether this issue would be raised at the December meeting of the EU Foreign Affairs Council. Did the Irish contingent at that meeting raise the issue? What is the response going to be?

Deputy Sean Sherlock: There is due to be a meeting of Development Ministers in January. I am not entirely sure if it was raised in December, but I will check for the Deputy.

It is fair to say that in our response to the crisis in Ethiopia we are punching above our weight. Through the bilateral aid programme we have provided €3.8 million to help meet the immediate humanitarian need. I met the President of the Tigray region two weeks ago when he was in Ireland and I have visited the country on several occasions. We see this as a major humanitarian crisis and the Irish response to it is measuring up. We are working hand in hand with Trócaire, Goal and Concern, our NGO partners on the ground. We have provided them with €1.8 million in humanitarian assistance. We continue to monitor and respond as needs arise.

Human Rights Issues

9. **Deputy Paul Murphy** asked the Minister for Foreign Affairs and Trade to report on the actions taken by him to secure the release of an Irish citizen (details supplied) who is detained in Egypt and facing serious charges that could result in the death penalty; and if he will make a statement on the matter. [45311/15]

Deputy Paul Murphy: A tenth trial date, a third birthday and Ibrahim Halawa, an Irish citizen, is still languishing in jail in a dictatorship, potentially facing a death sentence, after his 20th birthday. I listened to the Minister's response to Deputy Seán Crowe and accept that he wants to see Ibrahim Halawa released and that embassy staff are working hard in that respect. However, is it not time to acknowledge that the current strategy has not worked, as evidenced by the fact that he is still sitting in jail and the Irish Government needs to try a different tack?

(Deputy Charles Flanagan): The Department's approach to this case is focused on achieving a positive outcome at the earliest time possible for this citizen. That strategy is based on two key objectives: first, to see this citizen released by the Egyptian authorities in order that he can return to his family and studies in Ireland and, second, to provide consular support for his welfare while he remains in detention. In furtherance of these objectives, I have intensively engaged with the Egyptian authorities, including the Egyptian Minister for Foreign Affairs and Egypt's ambassador to Ireland, and with EU and international partners, including the High Representative of the European Union for Foreign Affairs and Security Policy, Ms Federica Mogherini. The Taoiseach also raised the case in person on two occasions with Egyptian President el-Sisi. Our embassy in Cairo has also held meetings with senior members of the Egyptian Government, including the Assistant Foreign Minister for European Affairs. The information we receive from all of these contacts is carefully considered and used in reviewing our approach to the case on a constant basis. As I have continually highlighted, the charges facing this citizen are serious. Given that the trial is ongoing, the Government has to be extremely careful to ensure its actions, both public and private, are well judged and do not detract from our key goal of securing positive progress for this citizen at the earliest possible time.

The view of the Government remains that firm, measured and sustained diplomatic engagement continues to be in this citizen's best interest and that it represents the best hope to achieve his return to Ireland at the earliest possible date.

Deputy Paul Murphy: I accept the bona fides of the Government and the Minister that they want to see a positive outcome to this case. I also accept that Ibrahim Halawa is facing a trial in a judicial system in another country. It is also a fact that it is not possible for him to receive a fair trial, to reasonably prepare for his defence, in a situation where he faces a mass trial with almost 500 people and where, despite some misinformation from the embassy, he potentially faces the death penalty. Is it not necessary for the Government to extremely loudly add its voice to demand the immediate, unconditional release of Ibrahim Halawa and, as a mechanism for doing so, to either make a formal request for a presidential decree under Egyptian law 140 or formally support the family's application, as was done in the case of Peter Greste?

Deputy Charles Flanagan: As regards the presidential decree, law 140, I wish to assure the Deputy and the House that the Government has formally supported an application made by the citizen's Egyptian legal team for his return to Ireland under presidential decree. This was done by way of a formal diplomatic note sent by Ireland's embassy in Cairo to the Egyptian ministry of foreign affairs as far back as last February.

This specific issue has also been the subject matter of discussions both by the Taoiseach and myself with our Egyptian counterparts. However, it is clear from all of the contacts made with the Egyptian authorities that it is their position that the current trial process must be permitted to take its course before consideration could be given to the application of the law in respect of the presidential decree.

Any decision to release this citizen will ultimately be taken by the Egyptian authorities. I would remind the Deputy that the trial is ongoing and the return date is next Saturday. Every effort is being made by my officials and myself to ensure that while this citizen remains in detention in Egypt, his welfare is given priority. We hope that Saturday next will see progress on the matter of this long outstanding trial.

Deputy Paul Murphy: One would hope that Saturday will see progress, but we also hoped for progress on earlier dates. It is therefore not unreasonable for people not to have too many illusions about the Egyptian courts system. The Egyptian authorities argue that before law 140 can be applied, the case must first be finished and a conviction or otherwise occur. That does not seem to be accurate, however. It was not accurate in the case of Peter Greste. It is a facility whereby someone facing trial, who is from a different jurisdiction, can be transferred to that jurisdiction to face trial there.

It is correct that the Irish Government cannot wave a magic wand and get Ibrahim Halawa out of prison. However, the Government could be louder and clearer in its outrage over what is happening, as well as trying to add international pressure. In that respect, I welcome the resolution that will hopefully be passed at the European Parliament today. It clearly expresses deep concern at the unacceptable breach of basic human rights arising from the arbitrary detention of Irish citizen, Ibrahim Halawa, and calls on the Egyptian authorities to release him, immediately and unconditionally, to the Irish authorities.

Deputy Charles Flanagan: I acknowledge what Deputy Paul Murphy has said - that this is ultimately an issue which will not be decided here in Dublin by the Irish authorities, but in Cairo by the Egyptian authorities. However, I wish to assure the House that many of the suggestions that have been put forward are well meant and are taken having regard to the need to ensure the welfare and health of the citizen. As regards our contacts in this case, given our experience and expertise in dealing with difficult consular cases over many years, all the evidence indicates that the Government's approach is most likely to achieve a positive and practical measure of progress for our citizen, and that this matter can be resolved at the earliest possible date.

EU Membership

10. **Deputy Brendan Smith** asked the Minister for Foreign Affairs and Trade the discussions he has had with his European counterparts in relation to Brexit; and if he will make a statement on the matter. [45308/15]

Deputy Brendan Smith: Fianna Fáil values the key role that Britain plays as an ally and friend of Ireland in the European Union. We will be vocal in supporting the UK remaining as a full member state of the EU. We believe it would be a political and economic disaster, both for Ireland and Britain, if Britain exited the EU. It would also have a serious impact on British-Irish trade. We must also factor in the Northern Ireland dimension to this debate.

While we do not agree that the four freedoms of the EU should be compromised to ensure that Britain remains in the EU, the Union must show some flexibility in other areas when engaging with Britain to prevent an exit where possible.

Deputy Charles Flanagan: Although the date is not yet known, Prime Minister Cameron has confirmed that before the end of 2017 a referendum will be held in the United Kingdom regarding their continued membership of the EU. The final decision on the matter, therefore, lies with the UK electorate.

As independent studies have shown, a UK exit from the EU has the potential to be most damaging for Ireland. The reasons for this are well documented. A UK withdrawal would likely have a significantly adverse impact on our economy and could also be unhelpful both for the peace process in Northern Ireland and British-Irish relations more generally. Furthermore, Ireland does not believe that a UK departure from the European Union is in the best interests of the EU itself.

Ireland is not, however, the only EU member state that highly values the UK's place in the EU. It is widely recognised across the Union that the EU is better and stronger on account of the UK's EU membership, whether because of its strong economy or the influence it wields on the international stage. This is why none of our EU partners wishes to see a so-called "Brexit".

For these reasons, through the ongoing negotiations process in Brussels, the Government is committed to doing all it can to help ensure the UK remains in the European Union. It is therefore no surprise that the EU-UK relationship features significantly in discussions I have had with my European counterparts, especially in the margins of meetings of the Foreign Affairs Council. This is the same for the Taoiseach, the Minister of State with responsibility for European Affairs, Deputy Dara Murphy, and many other Ministers in the contacts they have with their respective counterparts. The subject is also consistently raised at high-level official meetings, while I would add that Ireland's embassies across the EU, and further afield, also remain actively engaged on this issue.

Given our close ties with the UK and its government, EU member states often wish to know our views and where we stand on Prime Minister Cameron's EU agenda. Our response has always been to confirm that we believe it is in all our mutual best interests that the UK remains in the European Union, and that we will continue to be constructive and flexible in the negotiations process, while respecting the fundamental principles of the Union.

Equally, we use every opportunity to explain to our European partners why UK membership is particularly important to Ireland, especially at it relates to our economy and to Northern Ireland.

An Ceann Comhairle: We are over time but I will allow one supplementary comment.

Deputy Brendan Smith: Thank you, a Cheann Comhairle. I also thank the Minister for his reply. We must have a better national debate on this issue throughout all of our island because it is of critical importance. We do not want to see the nightmare again of passport controls and customs posts on the Border between North and South in this country. Peace funding provided by the EU has been critical in building a better society in Northern Ireland, as well as improving North-South and east-west relations.

Both governments are co-guarantors of the Good Friday Agreement, so there are many is-

sues in which we have a common interest. We need to work together in the EU in this regard. Our party is fully supportive of engaging in dialogue on the need for Britain to remain in the EU. We have a selfish, strategic interest in this. Of course, it is up to the British people to make their own democratic decision, but over the centuries successive British regimes and governments did not mind involving themselves in Irish affairs either.

Deputy Charles Flanagan: The positive impact the EU has had in Northern Ireland is often overlooked and forgotten. That is why I have been very clear - most recently in a speech at Queen's University in Belfast - in explaining why I think a UK withdrawal from the EU would be bad for Northern Ireland. For a start, the EU has helped to foster peace and reconciliation, and has provided a framework for co-operation between North and South, as well as between Unionists and Nationalists. In essence, it has provided an uncontested setting in which both traditions in Northern Ireland have found expression in a wider union of which we are all members. We should not underestimate for one moment the security and stability that this brings, and how much the EU has underpinned the peace process.

Northern Ireland is already on the edge of Europe. Despite that, it has done a good job in managing to attract foreign direct investment. However, a vote to leave the EU could hamper its access to the Single Market and potentially reduce its attractiveness.

I agree with Deputy Smith that it is vitally important for us to engage actively at every level to ensure that those participating in this referendum, who will ultimately make a decision in the polling booths, are fully informed as to the consequences. That is why Ireland will avail of every opportunity to highlight the importance of the relationship between the United Kingdom and the European Union.

Written Answers follow Adjournment.

Electoral (Amendment) (No. 2) Bill 2015: From the Seanad

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

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 1 to 6, inclusive, form a composite proposal and will be discussed together.

Seanad amendment No. 1:

Section 2: In page 4, between lines 20 and 21, to insert the following:

“(b) in section 2, by inserting after the definition of “the list of candidates” the following:

“ ‘Local Authority Members’ Association’ means the association of the members of local authorities (within the meaning of section 2 of the Local Government Act 2001) known as the Local Authority Members’ Association;””.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): I am pleased to be back in the Dáil today to discuss amendments to this Bill which was initiated in this House and passed all Stages here on 18 November.

Most Deputies will be familiar with the main provisions of the Bill, having considered them very recently and I will not go over them again. The amendments we are discussing today are ones I introduced in the Seanad last week.

The first amendment provides for the inclusion of the Local Authority Members' Association in the register of nominating bodies for Seanad panel Member elections in the same way as the Bill is providing for the Association of Irish Local Government to be included. Technically there are six amendments to the Bill to provide for this. The amendments will give equal recognition to the two local government representative bodies for the purposes of making nominations to the Administrative Panel for Seanad elections. I ask this House to support these amendments.

The overall effect of the amended section 2 of the Bill will be to replace the references to the Irish County Councils General Council and the Association of Municipal Authorities of Ireland in sections 8, 27 and 58A of the Seanad Electoral (Panel Members) Act 1947 with references to the Association of Irish Local Government and the Local Authority Members Association.

No increase in the number of nominations to the Administrative Panel will arise from the changes. No changes are being made to the electorate for Seanad panel Member elections.

Deputy Brendan Smith: Did the Minister of State say that LAMA would have the right to nominate a candidate to the Administrative Panel? Correct. I take it that is the sum total of the Government's Seanad reform as well. I think we should put it on the record that it brought in one piece of reform.

Acting Chairman (Deputy Bernard J. Durkan): No. It is Christmas time.

Deputy Ann Phelan: That is not for this Bill.

Acting Chairman (Deputy Bernard J. Durkan): It is the season of goodwill and all that kind of thing.

Deputy Ann Phelan: It is just a technical Bill.

Acting Chairman (Deputy Bernard J. Durkan): We will not go there.

Deputy Brendan Smith: It was important that this Seanad was kept. It is a very important part of our Legislature.

Deputy Brian Stanley: The amendments are mainly technical in nature relating to updating the system. We had the referendum on Seanad abolition and this Bill concerns the Seanad. It is a pity that we do not have more substantial reform. It was not done within the lifetime of the Government. Sinn Féin wanted substantial reform. In particular we wanted universal franchise, increases in the number of women and people from minority groupings in the Seanad, and broader representation. While the existing panels served a purpose and some of them may still serve a purpose, the whole system needs to be re-examined. We need to broaden the franchise to include everybody on the electoral register and allowing people from the Six Counties to become Members of the Seanad. We had people such as Gordon Wilson there in the past. Some other people from the North-----

Deputy Brendan Smith: Seamus Mallon.

Deputy Brian Stanley: ----- have served in the Seanad and they made a valuable contribution. We should open that up. Hopefully, in the term of the next Government we can turn it into a more democratic second Chamber that reflects republicanism in a deeper sense. It is outdated as it is. While the public marginally wanted to keep it, they made it very clear during canvassing for that referendum that they wanted substantial changes in it.

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 2: In page 4, line 22, after “Government” to insert “and the Local Authority Members’ Association”.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 2: In page 4, line 33, after “Government” to insert “and the Local Authority Members’ Association”.

Seanad amendment agreed to.

Seanad amendment No. 4:

Section 2: In page 4, line 40, to delete “Government is registered” and substitute “Government and the Local Authority Members’ Association are registered”.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 2: In page 5, to delete lines 4 to 7 and substitute the following:

“ “(3) In the case of the Association of Irish Local Government and the Local Authority Members’ Association, the persons to be proposed for nomination to the administrative panel by those bodies respectively shall be chosen by the members of the body voting on the system of proportional representation by means of the single transferable vote.” ”.

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 2: In page 5, to delete lines 11 to 14 and substitute the following:

“ “(3) In the case of the Association of Irish Local Government and the Local Authority Members’ Association, the person nominated under this section shall be chosen by the members of the body voting on the system of proportional representation by means of the single transferable vote.” ”.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 7 and 8 form a composite proposal and will be discussed together.

Seanad amendment No. 7:

Section 5: In page 7, between lines 7 and 8, to insert the following:

“Review by Standards in Public Office Commission - direction

5. Section 4 of the Electoral Act 1997 is amended by inserting after subsection (4) the following:

“(4A) Where a person fails to comply with a requirement made of him or her under subsection (4) within such time as the Standards in Public Office Commission considers reasonable, it may direct the person to furnish it with such information, document or thing specified in the direction within such period of time mentioned in the direction and, if the person fails to comply with the direction within that period, the person commits an offence and is liable on summary conviction to a class D fine.

(4B) Any information furnished by a person (other than information that the person knows is false or misleading) to the Standards in Public Office Commission pursuant to a direction under subsection (4A) is not admissible as evidence in proceedings brought against the person for an offence.

(4C) It shall be a defence for a person charged with an offence under subsection (4A) to show that the information, document or thing the subject of the direction was not in his or her possession or control and that it was not reasonably practicable for him or her to comply with the direction.””.

Deputy Ann Phelan: These amendments provide for the amendment of section 4 of the Electoral Act 1997 and a consequential amendment to this Bill. The Electoral Act 1997 provides for the disclosure of donations by Members of the Oireachtas, MEPs, political parties and accounting units, election candidates and third parties. It also provides for the regulation of expenditure at Dáil, European Parliament and presidential elections by candidates, political parties and other persons who incur election expenses. The provisions in the Act are implemented by the Standards in Public Office Commission.

Section 4(4) of the Electoral Act 1997 provides that the Standards in Public Office Commission “may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the purposes of its duties under this Act”.

In reporting on the implementation of those provisions in the Electoral Act 1997 for which it has responsibility, the Standards in Public Office Commission has recommended that failure to co-operate with inquiries made by the commission under section 4(4) of the Act should constitute an offence. The commission is of the view that this would strengthen its hand in implementing the provisions of the Act.

Most of those with responsibilities under the Act co-operate with the commission, but some do not. This amendment is aimed at addressing this situation by introducing a sanction for non-co-operation with inquiries made by the commission.

Amendment No. 8 is a consequential amendment to the Long Title of the Bill.

I ask this House to support these amendments.

Deputy Brendan Smith: I welcome the Minister of State's comments. I believe all election expenditure should be transparent and in the public domain. Most of us do not have problems with donations because we do not get them and so disclosure is not an issue. I am speaking for myself and, I am sure, the vast majority of public representatives as well. We generally go into debt to try to fight elections.

I am sure any measures proposed by the Standards in Public Office Commission come from its experience in dealing with the new regimes that were implemented in the mid-1990s. I remember being in the House when that legislation was first introduced. There have been changes over the years. Any legislation can need change from the point of view of implementation. The people at the coalface who are implementing the legislation we lay down here can often pinpoint the lacunae or the different anomalies that may exist. If it tightens up the existing regulations and practices, I am sure it will be a welcome addition in dealing with election expenditure.

11 o'clock

Am I correct in thinking funds raised abroad cannot be used legally here at election time? If the Minister of State does not have that information at her disposal, will she communicate it to me later? I understand a ban was imposed on the raising of funds outside the jurisdiction and using them for political purposes in the jurisdiction.

Deputy Brian Stanley: I support the amendment. It is important that people comply with the Standards in Public Office Commission's rules for declarations of expenditure at election time. While the system is not perfect, it has brought a level of openness to it. It has also introduced a regulatory system for what election candidates can spend and what they have to declare. There are questions about the timeline and specified period in which the money is spent. That is difficult to redefine and change, but it could possibly be looked at again. The amendment is important because it strengthens the hand of the Standards in Public Office Commission and we support it. The more transparency the better.

Seanad amendment agreed to.

Seanad amendment No. 8:

Title: In page 3, line 6, to delete "and the Electoral Act 1992." and substitute ", the Electoral Act 1992 and section 4 of the Electoral Act 1997."

Seanad amendment agreed to.

Seanad amendments reported.

Assisted Decision-Making (Capacity) Bill 2013: From the Seanad

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

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 1, 2, 5, 248, 252, 253, 256 to 269, inclusive, 274 to 294, inclusive, and 296 are related and may be taken together.

Seanad amendment No. 1:

Section 1: In page 9, line 30, after “Minister” to insert “, after consultation with the Minister for Health,”.

Minister of State at the Department of Health (Deputy Kathleen Lynch): This group of Seanad amendments deal with the moving of the decision support service out of the Courts Service. The amendments were in response to the Government’s decision of 8 December that responsibility for the decision support service be moved from the Courts Service to the Mental Health Commission. The Government’s decision was in response to the concerns expressed at the proposal to locate the decision support service in the Courts Service. The original decision to locate the office of the public guardian, as it was then called, in the Courts Service was based on the view that the Office of the Wards of Court would form the kernel of the staff of the new body. However, stakeholders have recommended that the decision support service be moved away from the Office of the Wards of Court to avoid the false impression that wardship could be perpetuated by another name.

Locating the decision support service in the Mental Health Commission sets a clear boundary between the old wardship system and the new options available for persons with capacity difficulties. The decision to choose the Mental Health Commission as the location of the decision support service was made because the commission has expertise in key functions that will be undertaken by the new body. It has experience of providing information, preparing codes of practice, setting standards, performing regulatory functions and undertaking investigations. It approaches its current functions from a human rights-based perspective, which is what will be important for the new body. It has the necessary skills mix needed by the new body. There will be a need for the rebranding of the Mental Health Commission to reflect its new responsibilities. This will have to be worked out with it in the coming months.

The Seanad amendments are consequential on the Government’s decision to move the decision support service to the Mental Health Commission. It is proposed that all references to the board of the Courts Service be replaced by references to the Mental Health Commission. It is proposed that any reference to the Minister for Justice and Equality be replaced by a reference instead to the Minister for Health, as the Mental Health Commission comes within his remit.

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 2: In page 10, to delete line 14.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 3, 6, 7, 11 to 15, inclusive, 17 to 19, inclusive, 22, 23, 26, 133 to 138, inclusive, 140, 141, 147, 160, 218 to 247, inclusive, and 250 are drafting amendments and may be discussed together.

Seanad amendment No. 3:

Section 2: In page 10, to delete lines 18 to 20.

Deputy Kathleen Lynch: This is a large group of amendments that are technical in nature and do not have policy implications. They concern a range of corrections to the wording to simplify the text and clarify the intent of the provisions in the Bill. They also provide for textual consistency within the Bill.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 4, 8, 20, 21, 68, 76, 142 to 146, inclusive, 148, 176 to 214, inclusive, 297 and 298 are related and may be discussed together.

Seanad amendment No. 4:

Section 2: In page 10, to delete lines 23 and 24 and substitute the following:

“ “attorney” has the meaning assigned to it by section 51(1);

“attorney under the Act of 1996” means a person appointed under an enduring power under the Act of 1996;”.

Deputy Kathleen Lynch: This group of amendments provide for the remodelling of Part 7 relating to the enduring power of attorney. I indicated on Committee Stage in the Dáil that I would bring forward amendments to the enduring power provisions to align them with the revised provisions on co-decision-making and change the jurisdiction from the High Court to the Circuit Court. It was an issue Deputy Colm Keaveney also raised with us.

The Seanad amendments to the enduring powers of attorney provisions align the provisions with the UN Convention on the Rights of Persons with Disabilities and current international best practice. The amendments also align the provisions with the rest of the Bill. The amendments strengthen the safeguards against attorneys acting outside the authority given to them. They address potential risks of abuse and exploitation of donors. They strengthen protection for the rights of donors and provide for attorneys to be accountable and held responsible for their actions.

One the main substantive changes to Part 7 is that the director will not register enduring powers that have been created under the 1996 Powers of Attorney Act but have yet to be registered. I received legal advice stating that it would not be possible for the director to register these enduring powers under this Bill. These will have to be registered under the 1996 Act by the Office of the Wards of Court as is the current system. However, that group of attorneys and all other enduring powers registered under the 1996 Act will be subject to the new complaints and offences provisions that were inserted by way of Seanad amendments Nos. 194 and 198. I believe that this provides greater protection.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 2: In page 10, to delete line 25.

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 2: In page 10, to delete lines 28 and 29.

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 2: In page 11, between lines 19 and 20, to insert the following:

“ “designated centre” has the meaning it has in section 2 of the Health Act 2007;”.

Seanad amendment agreed to.

Seanad amendment No. 8:

Section 2: In page 11, to delete lines 22 to 25 and substitute the following:

“ “enduring power of attorney” has the meaning assigned to it by *section 51(2)*;

“enduring power under the Act of 1996” means an enduring power referred to in section 4 of the Act of 1996 which was created in accordance with the provisions of that Act;”.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 9, 10, 25, 46 to 49, inclusive, 53, 55, 72, 73, 75, 77, 82, 90, 105, 106, 115, 215 to 217, inclusive, and 249 are related and will be discussed together.

Seanad amendment No. 9:

Section 2: In page 11, line 28, to delete “(9)” and substitute “(10)”.

Deputy Kathleen Lynch: I will address Seanad amendments Nos. 9, 10, 25, 46 to 49, inclusive, 53, 55, 72, 73, 75, 77, 82, 90, 105, 106, 111, 215 to 217, inclusive, and 249. This is another large group of amendments. It concerns a range of corrections to wording, spelling, cross-references, section numbers and updates to legislative references. The amendments are necessary to ensure coherence across the Bill and do not introduce any policy changes. Essentially, they tidy up the Bill’s provisions.

Acting Chairman (Deputy Bernard J. Durkan): The Minister of State may have referred to amendment No. 115 in this grouping as amendment No. 111. I just want to clarify that the correct reference is amendment No. 115.

Deputy Kathleen Lynch: I will read out the grouping of amendments again for the sake of clarity.

Acting Chairman (Deputy Bernard J. Durkan): No. That is okay.

Deputy Kathleen Lynch: The correct reference is amendment No. 115.

Seanad amendment agreed to.

Seanad amendment No. 10:

Section 2: In page 11, line 33, to delete “*paragraph (a), (b), (c), (d), (e) or (f)*” and substitute “*paragraph (a), (b), (c), (d), or (e)*”.

Seanad amendment agreed to.

Seanad amendment No. 11:

Section 2: In page 11, to delete lines 35 to 38 and substitute the following:

“ “intervention”, in relation to a relevant person, means an action taken under this Act, orders made under this Act or directions given under this Act in respect of the relevant person by—”.

Seanad amendment agreed to.

Seanad amendment No. 12:

Section 2: In page 12, to delete lines 17 to 21 and substitute the following:

“ “owner”, in relation to a designated centre or mental health facility, includes a person managing a designated centre or mental health facility, or a director (including a shadow director within the meaning of section 222 of the Act of 2014) of, or a shareholder in or an employee or agent of, a company which owns or manages such a centre or facility;”.

Seanad amendment agreed to.

Seanad amendment No. 13:

Section 2: In page 12, line 30, to delete “nursing home or residential facility” and substitute “designated centre”.

Seanad amendment agreed to.

Seanad amendment No. 14:

Section 2: In page 13, to delete lines 12 and 13 and substitute the following:

“(g) the discharge of the relevant person’s debts, tax and duty liabilities and obligations or other obligations;”.

Seanad amendment agreed to.

Seanad amendment No. 15:

Section 2: In page 14, to delete lines 12 and 13.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 16, 27, 41, 62 and 270 to 273, inclusive, are related and will be discussed together.

Seanad amendment No 16:

Section 2: In page 14, between lines 13 and 14, to insert the following:

“ “relevant information”, in relation to a relevant person, means personal records relating to the relevant person or other information that the relevant person is entitled to and that is or are required in relation to a relevant decision;”.

Deputy Kathleen Lynch: Seanad amendments Nos. 16, 27, 41, 62, and 270 to 273, inclusive, inserted provisions to ensure that information is sourced, used and stored correctly and in

compliance with data protection obligations.

Seanad amendment No. 16 brings the Bill into compliance with the Data Protection Act by including a definition of “relevant information”. This definition will enable interveners to know the categories of information that they can and cannot access.

Seanad amendment No. 27 inserts a new guiding principle into section 8. It seeks to ensure that the Bill complies with the Data Protection Acts by prescribing the data protection obligations that will arise for all interveners under the Bill. All interveners will be obliged not to attempt to obtain or to use information acquired in relation to a relevant person other than for the purposes of the decision. Intervenors will also be required to ensure that the relevant information is safely stored to prevent unauthorised access, use and disclosure. Furthermore, a requirement is proposed which would require an intervener to dispose of the information when that information is no longer required.

Seanad amendments Nos. 41 and 62 remove the specific obligations on decision-making assistants as these are now covered by the obligation in Seanad amendment No. 27 which covers all interveners. Seanad amendments Nos. 270 and 271 introduce additional provisions into section 82 concerning the obligations that will apply to general visitors and special visitors when seeking records relating to a person with capacity difficulties. They will need to have access to such records mainly when they are investigating a complaint received by the director in relation to a person with capacity difficulties. The amendments require the general visitor or special visitor to seek the consent of the person with capacity difficulties prior to seeking the records in question. The consent requirement can be dispensed with where the person has a decision-making representative or an attorney under an enduring power of attorney. This is for the following reason. If the special visitor or general visitor is examining a complaint, it may often be against a decision-making representative or an attorney. It would not be appropriate, therefore, for the person against whom a complaint is potentially being made to have the possibility to refuse access by the special visitor or general visitor to the records in question. The amendments require the special visitors and general visitors to store records safely and to dispose of them when no longer needed. To ensure that these restrictions are complied with, the director will be obliged to carry out an annual check to ensure that special visitors and general visitors are complying with these obligations.

Seanad amendments Nos. 272 and 273 provide for the same provisions and obligations on court friends as are specified in relation to general visitors or special visitors.

Seanad amendment agreed to.

Seanad amendment No. 17:

Section 2: In page 14, lines 17 and 18, to delete “in accordance with the provisions of this Act”.

Seanad amendment agreed to.

Seanad amendment No. 18:

Section 2: In page 14, to delete lines 35 to 39, and in page 15, to delete lines 1 to 8 and substitute the following:

“(a) one or both residing in or entering a designated centre or mental health facility,

or

(b) one or both residing in or entering an institution (of whatever kind) for purposes relating to—

(i) a physical or mental condition of the person concerned, or

(ii) the imprisonment, or the taking into lawful custody, of the person concerned.”.

Seanad amendment agreed to.

Seanad amendment No. 19:

Section 3: In page 15, lines 10 to 12, to delete all words from and including “(including” in line 10 down to and including “directive)” in line 12.

Seanad amendment agreed to.

Seanad amendment No. 20:

Section 4: In page 16, line 4, to delete “*Parts 6, 7,*” and substitute “*Parts 6,*”.

Seanad amendment agreed to.

Seanad amendment No. 21:

Section 4: In page 16, lines 4 and 5, to delete “and *Schedules 1 and 2*”.

Seanad amendment agreed to.

Seanad amendment No. 22:

Section 4: In page 16, line 23, to delete “relevant”.

Seanad amendment agreed to.

Seanad amendment No. 23:

Section 4: In page 16, line 26, to delete “relevant”.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 24 and 167 to 175, inclusive, are related and will be discussed together.

Seanad amendment No. 24:

Section 7: In page 17, to delete lines 3 and 4 and substitute the following:

“Repeals

7. (1) The Marriage of Lunatics Act 1811 is repealed.

(2) Subject to the provisions of *Part 6*, the Lunacy Regulation (Ireland) Act 1871 is repealed.”.

Deputy Kathleen Lynch: I will address Seanad amendments Nos. 24 and 167 to 175, inclusive. Seanad amendment No. 24 is a technical amendment. It moves the provisions repealing the Lunacy Regulation (Ireland) Act 1871 to section 7. It is considered good drafting practice for the legislation which is to be repealed to be included in the same section. No change of substance is involved. The Bill proposes to repeal, as previously agreed, the Marriage of Lunatics Act 1811. The Lunacy Regulation (Ireland) Act 1871 will be repealed with the exception of the transitional arrangements of Part 6 to allow all adult wards to be discharged from wardship and-or migrated to the new options.

Seanad amendments Nos. 167 to 175, inclusive, proposed a series of amendments to make more precise the process by which wards will be discharged from wardship. No change of policy is envisaged by these amendments.

Seanad amendments Nos. 167, 170 and 172 provide that the wardship court shall not review the capacity of a ward but rather make a declaration under section 46(1). These amendments are necessary because the existing provisions do not correctly describe what is envisaged. Where a person has been admitted to wardship without reference to his or her capacity, such as in the case of many minor wards, they should be able to be discharged from wardship without reference to their capacity. Instead, what the wardship court will do is to review the ward's case and, where only necessary, make a determination as to the ward's capacity. That will be done only where it deems it to be necessary. We want to make this as free-flowing as possible.

Seanad amendment No. 169 was in response to a request from Sinn Féin Senators that an application for a review of a ward's case could be made by a relative or friend of the ward who has had such personal contact with the ward that a relationship of trust exists between them. Seanad amendment No. 171 ensures that there is continuity in terms of the provisions in place for wards throughout the process of moving from wardship to discharge or to the new options. This amendment does not change in any way the deadlines already set out in the provisions. Wardship will be phased out for adults within three years of the commencement of Part 6. A minor ward will be entitled to a court hearing on his or her case no later than six months after his or her 18th birthday.

Seanad amendment No. 174 inserted a new section 47 that will allow the wardship court to continue its jurisdiction pending the discharge of a ward or the ward's migration to the new options foreseen under the Bill. This amendment will allow payments, for instance, to continue to be made pending the court hearing on a ward's case. It is important that people are not stuck without funds. Saving provisions were needed to ensure orders of the wardship court made before this Part is commenced remain valid even if the 1871 Act is repealed. This is to provide certainty in terms of payments to third parties, etc.

Seanad amendment No. 175 deletes section 49. The provisions of this Bill are essentially for adults. It is important that boundaries should not be blurred between the current arrangements and the arrangements foreseen under the Bill. To make this clear, the director of the decision support service's role will not have a role in minor wards. Matters relating to minor wards will continue to be handled by the office of the wards of court.

Deputy Colm Keaveney: It is important that we recognise what is happening in these amendments. A great effort has been made to correct language in our legislation. The stigma associated with mental health issues is a great stealer from families and it causes great harm. I, therefore, welcome the fact that we are rooting out archaic, dark, rotten language from our leg-

isolation, which is why I broadly support it. It is 145 years in the waiting. Shame on this House that during the reference period of the Republic it has failed to root out rotten, dark language that imposes stigma on people. The amendments impose liberty in terms of the capacity of someone to survive within a confined scenario. They are important and this is one of the blocks in the improvements in legislation that we, as a House, have to work together on to meet our international obligations. I welcome these significant amendments and I hope it is the start of something wonderful in the context of legislative language that rips out negativity, addresses stigma and gives people a sense of pride in saying, “Yes, I have a mental health issue and I wear it on my sleeve. To hell with stigma”.

Seanad amendment agreed to.

Seanad amendment No. 25:

Section 8: In page 17, line 8, to delete “*subsections (2) to (9)*” and substitute “*subsections (2) to (10)*”.

Seanad amendment agreed to.

Seanad amendment No. 26:

Section 8: In page 18, line 27, to delete “relevant”.

Seanad amendment agreed to.

Seanad amendment No. 27:

Section 8: In page 18, between lines 31 and 32, to insert the following:

“(10) The intervener, in making an intervention in respect of a relevant person—

(a) shall not attempt to obtain relevant information that is not reasonably required for making a relevant decision,

(b) shall not use relevant information for a purpose other than in relation to a relevant decision, and

(c) shall take reasonable steps to ensure that relevant information—

(i) is kept secure from unauthorised access, use or disclosure, and

(ii) is safely disposed of when he or she believes it is no longer required.”.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 28 to 40, inclusive, 42, 43, 149 to 159, inclusive, and 161 to 164, inclusive are related and will be discussed together.

Seanad amendment No. 28:

Section 10: In page 19, line 14, to delete “person” where it firstly occurs and substitute “person who has also attained that age”.

Deputy Kathleen Lynch: Seanad amendments Nos. 28 to 40, 42, and 43 align the provisions relating to decision-making assistants with those agreed by the Dáil for co-decision-makers. In response to a request from disability groups last month, amendment No. 29 will allow a person to appoint more than one decision-making assistant. Seanad amendment No. 31 inserts a new section 11 specifying the persons who are not eligible to be decision-making assistants. Seanad amendment No. 32 inserts a new section 12 on nullity while Seanad amendment No. 33 inserts a new section 13 relating to the disqualification of a decision-making assistant. The provisions are in line with those agreed by the Dáil for co-decision-makers. One of the principal changes is in Seanad amendment No. 43 which inserts a new section 12. This new section 12 will allow for complaints to be made against decision-making assistants to the director of the decision support service.

Seanad amendments Nos. 149 to 159 and Nos. 161 to 164 align the provisions relating to decision-making representatives with the more robust provisions agreed by the Dáil for co-decision-makers. Seanad amendment No. 152 inserts a new section 36 on persons who are not eligible to be decision-making representatives. Seanad amendment No. 153 inserts a new section 37 relating to the disqualification of a decision-making representative. Seanad amendment No. 162 inserts a new section 39 on the register of decision-making representation orders.

The principal changes occur in Seanad amendments Nos. 163 and 164. Seanad amendment No. 163 inserts a new section 40 setting out the provisions relating to the reporting obligations of a decision-making representative. These are in line with the provisions agreed for co-decision-makers. If a decision-making representative fails to submit a report or submits an incomplete report, the director will contact him or her on this issue. If he or she continues to fail to submit a complete report, the director will have the power to apply to the court for a determination on whether the decision-making representative should continue in the role.

Seanad amendment No. 164 inserts a new section 41 on the complaints mechanism that will apply where complaints are made against decision-making representatives. A person will be able to make a complaint where the representative is acting or proposing to act beyond the scope of the functions specified in the court order. A complaint will also be possible where the representative is not suitable such as where the representative is in conflict with the relevant person or is not able to perform the role. Where the director finds a complaint to be well-founded, he or she will be able to apply to the court for a determination on the matter.

Seanad amendment agreed to.

Seanad amendment No. 29:

Section 10: In page 20, to delete lines 11 to 18 and substitute the following:

“(5) An appointer may, in the decision-making assistance agreement, appoint more than one person as a decision-making assistant and may specify that the decision-making assistants shall act—

(a) jointly,

(b) jointly and severally, or

(c) jointly in respect of some matters and jointly and severally in respect of other matters.”.

Seanad amendment agreed to.

Seanad amendment No. 30:

Section 10: In page 20, to delete lines 19 to 42, and in page 21, to delete lines 1 to 32.

Seanad amendment agreed to.

Seanad amendment No. 31:

Section 11: In page 21, between lines 32 and 33, to insert the following:

“Persons who are not eligible to be decision-making assistants

11. (1) A person shall not be eligible for appointment as a decision-making assistant if he or she—

(a) has been convicted of an offence in relation to the person or property of the person who intends to appoint him or her,

(b) has been the subject of a safety or barring order in relation to the person who intends to appoint him or her,

(c) is an undischarged bankrupt or is currently in a debt settlement arrangement or personal insolvency arrangement or has been convicted of an offence involving fraud or dishonesty,

(d) is a person in respect of whom a declaration under section 819 of the Act of 2014 has been made or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,

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

(f) is a person who is—

(i) the owner or registered provider of a designated centre or mental health facility in which the person who intends to appoint him or her as decisionmaking assistant resides, or

(ii) residing with, or an employee or agent of, such owner or registered provider, as the case may be, unless the person is a spouse, civil partner, cohabitant, parent, child or sibling of the person who intends to appoint him or her as decision-making assistant,

(g) has been convicted of an offence under *section 31, 72, 73 or 128*, or

(h) previously acted as decision-making assistant for the person who intends to appoint a decision-making assistant and there was a finding by the court under this Part that he or she should not continue as decision-making assistant for that person.

(2) *Subsection (1)(c), (d) and (e)* shall not apply where it is proposed to give the person functions relating to personal welfare only.”.

Seanad amendment agreed to.

Seanad amendment No. 32:

Section 11: In page 21, between lines 32 and 33, to insert the following:

“Nullity

12. Where an event specified in any of *paragraphs (a) to (c)* occurs, a decision-making assistance agreement shall, with effect from the date on which the event occurs, be null and void to the extent that the decision-making assistance agreement relates to a relevant decision where there is, in respect of the relevant decision—

(a) a decision-making order, a decision-making representation order or a co-decision-making agreement in relation to the appointer,

(b) an advance healthcare directive made by the appointer and the appointer lacks capacity, or

(c) an enduring power of attorney or enduring power under the Act of 1996 made by the appointer that has entered into force.”.

Seanad amendment agreed to.

Seanad amendment No. 33:

Section 11: In page 21, between lines 32 and 33, to insert the following:

“Disqualification as decision-making assistant

13. (1) A decision-making assistant shall, with effect from the date on which an event specified in *paragraphs (a) to (c)* occurs or, in the case of an event specified in *paragraph (d)*, at the expiry of the period referred to in that paragraph, and unless the decision-making assistance agreement provides otherwise, be disqualified from being a decision-making assistant for the appointer where the decision-making assistant is the spouse of the appointer and subsequently—

(a) the marriage is annulled or dissolved either—

(i) under the law of the State, or

(ii) under the law of another state and is, by reason of that annulment or dissolution, not or no longer a subsisting valid marriage under the law of the State,

(b) either a decree of judicial separation is granted to either spouse by a court in the State or any decree is so granted by a court outside the State and is recognised in the State as having like effect,

(c) a written agreement to separate is entered into between the spouses, or

(d) subject to *section 2(2)*, the spouses separate and cease to cohabit for a continuous period of 12 months.

(2) A decision-making assistant shall, with effect from the date on which an event speci-

fied in *paragraph (a)* or *(b)* occurs or, in the case of an event specified in *paragraph (c)*, at the expiry of the period referred to in that paragraph, and unless the decision-making assistance agreement provides otherwise, be disqualified from being a decision-making assistant for the appointer where the decision-making assistant is the civil partner of the appointer and subsequently—

(a) the civil partnership is annulled or dissolved (other than where the dissolution occurs by virtue of the parties to that civil partnership marrying each other) either—

(i) under the law of the State, or

(ii) under the law of another state and is, by means of that annulment or dissolution not or no longer a subsisting valid civil partnership under the law of the State,

(b) a written agreement to separate is entered into between the civil partners, or

(c) subject to *section 2(2)*, the civil partners separate and cease to cohabit for a continuous period of 12 months.

(3) Subject to *section 2(2)*, a decision-making assistant shall, at the expiry of the period referred to in this subsection, and unless the decision-making assistance agreement provides otherwise, be disqualified from being a decision-making assistant for the appointer where the decision-making assistant is the cohabitant of the appointer and subsequently the cohabitants separate and cease to cohabit for a continuous period of 12 months.

(4) Subject to *subsection (5)*, where, subsequent to the appointment of a decision-making assistant—

(a) the decision-making assistant is convicted of an offence in relation to the person or property of the appointer or the person or property of a child of the appointer,

(b) a safety or barring order is made against the decision-making assistant in relation to the appointer or a child of the appointer,

(c) the decision-making assistant becomes an undischarged bankrupt or subject to a debt settlement arrangement or personal insolvency arrangement which is current or is convicted of an offence involving fraud or dishonesty,

(d) the decision-making assistant becomes a person in respect of whom a declaration under section 819 of the Act of 2014 has been made or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,

(e) the decision-making assistant becomes a person who is subject or is deemed to be subject to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014 by virtue of that Chapter or any other provisions of that Act,

(f) the decision-making assistant becomes—

(i) the owner or registered provider of a designated centre or mental health facility in which the appointer resides, or

(ii) a person residing with, or an employee or agent of, such owner or registered provider, as the case may be, unless the decision-making assistant is a spouse, civil

partner, cohabitant, parent, child or sibling of the appointer,

(g) the decision-making assistant is convicted of an offence under *section 31, 72, 73* or *128*, or

(h) the decision-making assistant—

(i) enters into a decision-making assistance agreement as a relevant person,

(ii) enters into a co-decision-making agreement as a relevant person,

(iii) has an enduring power of attorney or enduring power under the Act of 1996 registered in respect of himself or herself, or

(iv) becomes the subject of a declaration under *section 34(1)*, the decision-making assistant shall be disqualified from being a decision-making assistant for the appointer with effect from the date on which the decision-making assistant falls within any of *paragraphs (a) to (h)*.

(5) *Subsection (4)(c), (d) and (e)* shall not apply insofar as the decision-making assistant's functions under the decision-making assistance agreement relate to personal welfare.”.

Seanad amendment agreed to.

Seanad amendment No. 34:

Section 11: In page 21, line 34, to delete “The functions of a decision-making assistant shall be—” and substitute the following:

“In exercising his or her functions as specified in the decision-making assistance agreement, the decision-making assistant shall—”.

Seanad amendment agreed to.

Seanad amendment No. 35:

Section 11: In page 21, to delete lines 35 to 37 and substitute the following:

“(a) assist the appointer to obtain the appointer's relevant information,”.

Seanad amendment agreed to.

Seanad amendment No. 36:

Section 11: In page 21, line 38, to delete “to advise” and substitute “advise”.

Seanad amendment agreed to.

Seanad amendment No. 37:

Section 11: In page 22, line 1, to delete “to ascertain” and substitute “ascertain”.

Seanad amendment agreed to.

Seanad amendment No. 38:

Section 11: In page 22, line 2, to delete “to assist” and substitute “assist”.

Seanad amendment agreed to.

Seanad amendment No. 39:

Section 11: In page 22, line 4, to delete “to assist” and substitute “assist”.

Seanad amendment agreed to.

Seanad amendment No. 40:

Section 11: In page 22, line 5, to delete “to endeavour” and substitute “endeavour”.

Seanad amendment agreed to.

Seanad amendment No. 41:

Section 11: In page 22, to delete lines 6 to 14.

Seanad amendment agreed to.

Seanad amendment No. 42:

Section 11: In page 22, between lines 15 and 16, to insert the following:

“(5) A relevant decision taken by the appointer with the assistance of the decision-making assistant is deemed to be taken by the appointer for all purposes.”.

Seanad amendment agreed to.

Seanad amendment No. 43:

Section 12: In page 22, to delete lines 16 to 37 and in page 23, to delete line 1 to 4 and substitute the following:

“Complaints in relation to decision-making assistants

12. (1) A person may make a complaint in writing to the Director concerning one or both of the following matters:

(a) that a decision-making assistant has acted, is acting, or is proposing to act outside the scope of his or her functions as specified in the decision-making assistance agreement;

(b) that a decision-making assistant is unable to perform his or her functions under the decision-making assistance agreement;

(c) that fraud, coercion or undue pressure was used to induce the appointer to enter into the co-decision-making agreement.

(2) Following the receipt of a complaint under *subsection (1)*, the Director shall carry out an investigation of the matter which is the subject of the complaint and—

(a) where he or she is of the view that the complaint is well founded, make an

application to the court for a determination in relation to a matter specified in the complaint, or

(b) where he or she is of the view that the complaint is not well founded, notify the person who made the complaint of that view and provide reasons for same.

(3) A person who receives a notification under *subsection (2)(b)* may, not later than 21 days after the date of issue of the notification, appeal a decision of the Director that the complaint is not well founded to the court.

(4) The Director may, notwithstanding that no complaint has been received, on his or her own initiative carry out an investigation and make an application to the court for a determination in relation to any matter specified in *subsection (1)*.

(5) The court may—

(a) pursuant to an application to it under *subsection (2)(a)* or *(4)*, or

(b) pursuant to an appeal under *subsection (3)*, make a determination in relation to a matter specified in *subsection (1)* and may, if it considers it appropriate, determine that a decision-making assistant shall no longer act as such in relation to the appointer concerned.”.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 44, 45, 50 to 52, inclusive, 54 to 61, inclusive, 63 to 67, inclusive, 69 to 71, inclusive, 74, 78 to 81, inclusive, 83 to 89, inclusive, 91 to 104, inclusive, 107 to 114, inclusive, and 116 to 132, inclusive, are related and will be discussed together.

Seanad amendment No. 44:

Section 14: In page 23, line 23, after “section” to insert “and section 15”.

Deputy Kathleen Lynch: Amendments Nos. 44, 45, 50 to 52, inclusive, 54 to 61, inclusive, 63 to 67, inclusive, 69 to 71, inclusive, 74, 78 to 81, inclusive, 83 to 89, inclusive, 91 to 104, inclusive, 107 to 114, inclusive, and 116 to 132, inclusive, are essentially technical points to address some issues that need to be resolved in the provisions on co-decision making. Amendment No. 80 is intended to make clearer the remedies available to a third person if he or she unknowingly relies on a co-decision-making agreement which is later found to be null and void. My amendment proposes that the third party would not be prevented from recovering damages for any loss incurred as a result of unknowingly relying on a null and void co-decision-making agreement. Amendment No. 91 proposes an additional ground for objection to the registration of a co-decision-making agreement, namely that a false statement is included in the application to register the agreement. Amendment No. 104 proposes an additional provision that would allow the director to make inquiries when an incomplete report has been submitted and to satisfy himself or herself that the report is in order. This provision allows the director the flexibility to accept an incomplete report where the circumstances warrant it. Amendment No. 107 clarifies that the grounds for complaint against a co-decision maker includes if he or she is acting outside the scope of his or her functions. Amendment No. 116 specifies more precisely that the court can make a determination when an appeal has been made under the new subsection (3) and within the time limit of 21 days specified in that subsection.

Deputy Pádraig Mac Lochlainn: An issue has been brought to my attention by some of the stakeholders on facilitating the move of the decision support service to the Mental Health Commission. A number of NGOs advocate that a DSS should be set up as an independent statutory body with reporting responsibilities to the Department of Justice and Equality. Stakeholders have advised me they were not consulted about this move and do not support it. Who did the Minister of State consult with and did she take on board their concerns about this? Is she willing to reconsider their view that the decision support service should be set up as an independent statutory body similar to comparable bodies such as the National Disability Authority? I acknowledge that the Minister of State has engaged with stakeholders throughout the process. We have hundreds of amendments here again which some people criticise. I do not because I think it is a sign the Minister of State is listening and making changes. She has made changes on different Stages of the Bill; it will never reach a point of perfection but legitimate concerns have been brought to my attention. Is there time for reflection and change? If the Minister of State is adamant this is what she wants to do, will she set out the reasons why?

Deputy Colm Keaveney: The Minister of State dealt with this point in her contribution on a previous amendment in which she spoke of the work to take place in the immediate future with the Mental Health Commission. The language she used was interesting because it gives the House an opportunity to look at her ambition for the overall role of the Mental Health Commission and to build this aspect of legislation into its remit. I welcome that the work will take place in the immediate future and I hope it will give us an opportunity in the House to talk about the role of the commission and its capacity to fulfil the spirit of the provisions of the legislation. The Mental Health Commission is an appropriate location because it is a location where the correct language is used and where professionals within the sector play an important role. Therefore, it is probably the location best suited to fulfil the spirit of the legislation. Will the Minister of State explain what she meant when she said work has to take place? Work has to take place in general on the Mental Health Commission and its role. Such work will provide the House with an opportunity to underpin the required confidence that the spirit of the legislation will be upheld to its utmost.

Deputy Kathleen Lynch: Competence is the issue. Over the last two years, we have been told constantly that the Courts Service is not the appropriate place. People did not feel comfortable with the paternalistic approach taken to justice over the centuries by past Governments. There is a perception that the court system is concerned with the imposition of penalty. This legislation is essentially about liberation and allowing people to make decisions for themselves. When we looked at the ideal decision support service we decided it must be stand-alone and independent. Unfortunately, our big difficulty is our inability to create an additional stand-alone body because of a Government decision concerning all legislation. We decided that the Mental Health Commission was the right place because it has the expertise and understands the functioning of capacity. This is essentially what it does. Those Deputies concerned with mental health issues will be aware of its safeguarding role. It is an independent body that has never been afraid to criticise, say something should not have happened and suggest a way to fix it.

I spoke about the work that needs to be done. The Mental Health Commission will have to be rebranded in the coming months. The process of rebranding will involve negotiation but I imagine it will become the Mental Health Commission and the decision support service on capacity. It is an expert body and understands the situation better than any other group in the country. We all understand that. This will be about safeguarding people's rights. The Mental Health Commission has always had a human rights based position. This is very clearly where

this will be centred and we have spoken to the commission and it is very happy to take on the task. It is the group most likely to tell us we are doing the wrong thing, yet in this case it did not because it thinks it is a good fit.

I have spoken to other people with an intense interest in this area, who I will not mention now, as it would be unfair to do so. Yesterday, the morning after the Bill went through its final Stages in the Seanad, I spoke to an expert in the area who said the Mental Health Commission is the perfect fit. It will undergo substantial changes in the next couple of years, not in terms of what it does, but what it will be asked to do - its remit will be broadened. It was unhappy about the paternalistic nature of the imposition of penalty by the Courts Service so it is anxious to do this job. It will do a very good job. I understand the concern that all people with difficulties in capacity will be lumped into one area but it will be a separate entity attached to the Mental Health Commission and will not be subsumed by it.

Deputy Pádraig Mac Lochlainn: The organisations that have concerns about this are Talaght Trialogue and Recovery Experts by Experience. I understand that the Centre for Disability, Law and Policy in NUI Galway, the National Disability Service and Inclusion Ireland have advocated for an independent statutory body. I listened to what the Minister of State said and I understand this Government's policy of amalgamation of bodies. As Sinn Féin spokesperson on justice I have dealt with more legislation than most spokespersons. However, that is the nature of the justice and equality area. The Charities Regulatory Authority is a new body. The legal services regulatory authority that will soon be established will also be a new body. We would not stand for either of those bodies being subsumed into another agency. The independent policing authority is also a new body. Two pieces of legislation which came through this House in recent days provide for the establishment of independent authorities that, hopefully, will have the confidence of the people. While the policing authority is a step in the right direction, I have some concerns about it. Nevertheless, both bodies will be independent. I do not understand why the calls of the experts, the NGOs to which, as a Member of this House, I defer, for the decision support service, DSS, to be an independent statutory body cannot be delivered on given, as I have just outlined, this Government recently established the aforementioned bodies, and rightly so. They are new bodies being established in the justice area. I am sure that new bodies are also being established in other areas.

Is there a better way of doing this? I know that like me the Minister of State, Deputy Kathleen Lynch, respects and engages with the organisations I mentioned. Perhaps we should listen to them and make the DSS a stand-alone operation.

Deputy Colm Keaveney: We have always held the view that this legislation is far from perfect. The Minister of State stated earlier that work on the transfer of the decision support service, DSS, from the Courts Service to the Mental Health Commission will commence in the next couple of weeks. Perhaps she would elaborate further on that point. The Minister of State also said that the service user is to be given the choice of engaging with the Mental Health Commission or the Courts Service, which speaks for itself. As I said, this legislation is far from perfect. It is important, in the context of the process that will take place in the forthcoming months, that stakeholders are afforded an opportunity to engage on how the DSS will function and operate, taking into account the human rights and concerns of the citizen affected. It is also important that we know how this service is to be resourced by the commission. I am interested in hearing the Minister of State's response to those questions in the context of the very crafted reply she read out earlier in relation to a previous amendment. The upcoming process may afford an opportunity to assuage the fears of the stakeholders involved that the Mental Health

Commission, as opposed to the Courts Service, is the right location, in terms of its environment, language and culture, for the DSS.

Deputy Paul Murphy: The Minister of State said that location of the decision support service within the Mental Health Commission is a perfect fit, which contradicts the point she made earlier that the ideal would be a stand-alone agency but because the Government has committed to not creating any new agencies another appropriate location had to be found. It seems to me to be a very blunt tool that because the Government is committed to not creating any new agencies, despite that it, independent experts and so on recognise that in this case the ideal would be the establishment of an independent agency, the Minister of State's hands are in that regard tied. This would indicate that the Mental Health Commission is not a perfect fit. From the Minister of State's point of view it appears to be a second best option. Related to that is the lack of consultation with the key stakeholders who, despite having advocated for an independent agency, feel their views in that respect were not taken on board.

Deputy Kathleen Lynch: The two new bodies mentioned are self-funding, which is the central difference. For as long as I am involved in politics I will not allow the imposition of financial penalties in this area. I have a particular problem with the association of the Road Safety Authority with the Mental Health Commission. The fundamental difference is that the Road Safety Authority is self-financing, as are the two central agencies mentioned by the Deputy.

Deputy Pádraig Mac Lochlainn: The policing authority is not self-financing.

Deputy Kathleen Lynch: No, but it will remain part of the justice system. It will be independent but so, too, is the Mental Health Commission. Perhaps a future Government will decide that the DSS should be a stand-alone agency. Even if that were the case now, I would still be looking to the Mental Health Commission for direction in this regard. The mental health commissioners are the experts in this area. They understand what it means to be deprived of one's liberty and will and preference. There is no disagreement in regard to whether the DSS should be a stand-alone agency. A stand-alone agency is the ideal. Even if we were establishing such an agency now we would still be looking to the Mental Health Commission for direction in relation to the putting in place of the necessary experts, structures and so on. What is proposed is the best fit in the circumstances. We cannot all live in utopia: we must always deal in the circumstances in which we find ourselves at a particular time. What is proposed is the best fit. I understand the perceived difficulties-----

Deputy Pádraig Mac Lochlainn: Perhaps the Minister of State will tell us why it is the best fit. She has not told us thus far why the Mental Health Commission is the best fit.

Deputy Kathleen Lynch: The Mental Health Commission has the expertise in this area. As I said, even if we were in this legislation proposing the establishment of a new agency we would still be looking to the Mental Health Commission to do it for us. The Mental Health Commission has the expertise and knowledge required to do this. It has been doing this type of work since its establishment. The mental health commissioners are the ones who know what this means. They will also, in the context of the transfer of the DSS, address the issue of stigma, which is a huge problem in relation to mental health specifically. This Bill deals also with issues outside of the mental health area. As I said, the Mental Health Commission has the expertise in this area. It operates from a strictly human rights basis, which is what this legislation is about, centrally.

As I said, even if we were establishing a stand-alone agency we would be asking the Mental Health Commission to assist us in that regard. However, we cannot do what the Deputies propose.

Deputy Pádraig Mac Lochlainn: The Minister of State said in the Seanad that the ideal would be a stand-alone agency.

Deputy Kathleen Lynch: Yes.

Deputy Pádraig Mac Lochlainn: She also said that unfortunately the Government is committed to not create any new agencies.

Deputy Kathleen Lynch: Yes.

Deputy Pádraig Mac Lochlainn: The Minister of State is agreed that the ideal would be a stand-alone agency. As such, she is in agreement with the NGOs, civic society experts and so on. As I understand it the Minister of State has deferred that she would share their point of view.

Deputy Kathleen Lynch: No argument.

Deputy Pádraig Mac Lochlainn: The only reason the Minister of State has given for the non-establishment of a stand-alone agency is that the Government is committed to not creating new agencies. As I said the Charities Regulatory Authority and proposed legal services regulatory authority-----

Deputy Kathleen Lynch: They are self-financing.

Deputy Pádraig Mac Lochlainn: The policing authority is not self-financing, so that excuse is out the window. The other bodies I mentioned are subsidised by central government. Although they raise additional revenue through levies from the charities and legal services sectors, they do receive public money also. The Minister of State's excuse for why the DSS is not being established as a stand-alone agency is that the Government is committed to not creating new agencies. I have just mentioned three newly established agencies, legislation in respect of which recently passed through this House. There is no grounds for what the Minister of State is saying. I do not understand this. It is obvious she is being advised by departmental officials that the DSS should not be a stand-alone authority.

I sense that the Minister of State agrees with the stakeholders that a truly independent stand-alone agency would be preferable.

I have just torn apart the very reason the Minister of State gave in the Seanad and here today. It has been torn apart. She said no new agencies have been created by the Government. I identified three in the Department of Justice and Equality. She then said they were self-funding. They are not. The policing authority is not self-funding and the other two are only partially self-funding. The Minister of State stated in the Seanad:

The ideal would be a stand-alone agency. There is no disagreement about it. [Those were her words in the Seanad.] Unfortunately, the Government has committed not to create any new agencies. [That is not true.] Therefore, we had to find something more appropriate.

That is also not true because the Government has created new agencies and it has funded them and they will continue to be funded. I ask the Minister of State to challenge her officials

on this point. She should not press these amendments today. She should meet the representatives of the NGOs and acknowledge that the grounds she has given are just not there.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy is repeating himself.

Deputy Paul Murphy: I echo those points. It is a bit baffling-----

Deputy Kathleen Lynch: The Deputy is easily baffled.

Deputy Paul Murphy: -----that the Minister of State agrees that the best case scenario is an independent agency. The experts agree the best case scenario is an independent agency. The Minister of State then says the Government has decided it cannot set up any new agencies and therefore, unfortunately, it cannot do what is best. This approach does not seem to be focused or centred on the needs of those who are affected by the Bill.

I take the Minister of State's point about the expertise of the Mental Health Commission and the role it would play in the setting up of an independent body. That is fine and that expertise can be brought on board. However, the Minister of State stated in the Seanad, "I am conscious that the Mental Health Commission's current service users may be a different target group from the much broader client base of the decision support service". This not just an extension or continuation of the work of the Mental Health Commission. Many people will be affected by the decision support service who would not be affected by the Mental Health Commission. This again points to the logic of having an independent agency.

Will the Minister of State confirm the advocates and groups consulted on the issue and the representations made?

Deputy Colm Keaveney: I will try to be constructive. We have always said that the legislation was far from perfect. It has taken 145 years to get to a far from perfect situation. I do not want to be seen to be bailing out the Minister of State but I am conscious that we need to look at this matter from the point of view of the citizen.

The term "independent agency" has been used here today. There is an independent agency, which is the Mental Health Commission. It has a statutory, independent role.

Deputy Kathleen Lynch: It is very much independent.

Deputy Colm Keaveney: The question, therefore, concerns consultation. The Minister of State states that work has to take place with the Mental Health Commission in the immediate future. This may give the Minister of State an opportunity to address the concerns around the perception that there has been no engagement with stakeholders. The Mental Health Commission is an independent body which was set up in 2002. Its functions include the promotion, encouragement and fostering of high standards and good practice. That is its strategic core message and mission. In the interests of an affected citizen, I would much prefer that a culture of support, understanding and professionalism would be provided within or parallel to the Mental Health Commission rather than the cold, challenging stigma associated with the courts. This is the appropriate location but that is not where the debate is going.

This is about consultation.

Deputy Pádraig Mac Lochlainn: It is actually more than that; I will make a further point in a moment.

Deputy Colm Keaveney: I take at face value that the Minister of State consulted people, as she said, yesterday morning. The object of my intervention is to see if the Minister of State can assuage fears around the consultation process. What consultation will take place with the Mental Health Commission in the immediate future in order for it to underpin the best outcomes for citizens who will be affected by the legislation?

Deputy Kathleen Lynch: This Bill has been four years in gestation and we have had two years of consultation, which is why it has been amended repeatedly. The Bill is not the same as the one that first appeared. There is no resemblance. The Title has changed as has the concept underpinning the Bill. The term “best interests” was used in the Bill when it first appeared. We now talk about “will” and “preference”, which is an entirely different concept. We are going further in this Bill than any other country has gone. It is the most advanced capacity legislation.

We consulted stakeholders. When we consulted stakeholders on where to locate the decision support service, everyone told us not to locate it in the courts and we all understand why. The notion that the Mental Health Commission would be in any way tainted as not being independent is laughable.

Deputy Pádraig Mac Lochlainn: That is not what we said.

Deputy Kathleen Lynch: I am not saying they said it. The Mental Health Commission is truly independent. We have a job of work to do which will happen over the next six months. There will be a rebranding, which will benefit both sides. However, the Mental Health Commission has the expertise in terms of standards, functionality and human rights in this area. It has the expertise in terms of dealing with people who feel disenfranchised and not heard. The commission has the expertise and that is why this is the place to be.

Even if we were to put a stand-alone body in place, we would still be asking the commission to do it for us because it has the expertise. When I met those people yesterday morning, in a different context entirely, and asked them what they thought, they said it was perfect. These people truly are the experts on the legislation. They are not necessarily expert on the operational piece but they have been advising us constantly on the legislation. One of them told me retirement was now a possibility. There was no problem with its base.

I understand the problem of perception. We need to work to ensure the general perception around mental health is shifted. It needs to shift and is shifting. The fact that we are having this discussion is an advance and we have had several discussions.

The two bodies that were set up recently are self-financing. They may need seed capital-----

Deputy Pádraig Mac Lochlainn: The policing authority is not self-financing. It is not true.

Deputy Kathleen Lynch: The policing authority is attached to the Department of Justice and Equality. If one makes that argument about the policing authority, one clearly has to make the same argument about the decision support services. It will be attached to another body, which gets Government funding, but it is independent.

Deputy Pádraig Mac Lochlainn: The Minister of State is now saying the policing authority is not independent.

Acting Chairman (Deputy Bernard J. Durkan): The Minister of State, without interruption.

Deputy Kathleen Lynch: It will be independent in its operation but it is attached to another body. If we are to examine this issue again, I can tell Deputy Mac Lochlainn that the Bill will be left in the wilderness.

Acting Chairman (Deputy Bernard J. Durkan): I thank an tAire Stáit and ask her to move the adjournment.

Deputy Pádraig Mac Lochlainn: Hold on. It is 11.58 a.m. The clock is above us.

Acting Chairman (Deputy Bernard J. Durkan): Will the Deputy resume his seat?

Deputy Pádraig Mac Lochlainn: No. On a point of order, it is 11.58 a.m. It is not 12 noon.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy should resume his seat. I can see the time up here and it is this new clock that counts. If the Deputy wants to adjust the time as well, he can do so in his own time.

Deputy Pádraig Mac Lochlainn: There it is. It is 11.59 a.m.

Acting Chairman (Deputy Bernard J. Durkan): In your own time, Deputy.

Progress reported; Committee to sit again.

Topical Issue Matters

Acting Chairman (Deputy Bernard J. Durkan): 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) Robert Dowds - funding for stroke rehabilitation;(2) Deputy Bobby Aylward - the status of the 317 outstanding compensation claims by members of An Garda Síochána for injuries received in the line of duty;

(3) Deputy David Stanton - the Cost of Heart Failure in Ireland report and the need for a specialist heart failure unit in Cork; (4) Deputy Anthony Lawlor -

increasing the number of carriages on commuter trains travelling to and from County Kildare;(5) Deputy Joe Costello - the status of the construction of Gaelscoil Bharra in Cabra in Dublin 7;

(6) Deputies Eamonn Maloney and Ruth Coppinger - approval of funding for the cystic fibrosis treatment drug, Orkambi;

(7) Deputy Colm Keaveney - the 2016 Health Service Executive service plan and the improvement of child and adolescent mental health services;

(8) Deputy Clare Daly - the need for an independent investigation into the use of Shannon Airport by the military of the United States of America; and

(9) Deputy Mick Wallace - the need to inspect war planes of the United States of America using Shannon Airport.

The matters raised by Deputies Bobby Aylward, David Stanton, Robert Dowds and Eamonn

Maloney and Ruth Coppinger have been selected for discussion.

Deputy Pádraig Mac Lochlainn: I suppose we will have to wait a couple of minutes now until it is 12 noon. That is why people are not here.

12 o'clock

Acting Chairman (Deputy Bernard J. Durkan): It is now midday. The Deputy is being deliberately disruptive and he knows it.

Deputy Pádraig Mac Lochlainn: I am not being deliberately disruptive.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy is being deliberately disruptive.

Deputy Pádraig Mac Lochlainn: There were a few minutes left-----

Acting Chairman (Deputy Bernard J. Durkan): If the Deputy wishes to educate me further, he can do so in his own time.

Deputy Pádraig Mac Lochlainn: Now we are just sitting here wasting our time when we could be having a debate on the Bill. There is nothing happening. The Taoiseach is not here and we are just sitting here waiting.

Leaders' Questions

Deputy Michael McGrath: Motorists who have received their motor insurance renewal notices in the post in recent months have got quite a shock, with dramatic increases in the premiums being charged by insurance companies. In the past year premiums have gone up by 30% or more in some cases. On top of this, the insurers' representative body, Insurance Ireland, is predicting that motor insurance premiums are likely to increase by a further 25% next year. This means, for example, that a person with a premium of €400 per annum last year could be facing a premium of €650 or more next year. Many motorists are now facing an increase of between €250 and €300 per year. These increases are simply unsustainable as I am sure the Tánaiste will agree. They are placing increasing pressure on household budgets and on businesses, particularly those which depend on motor fleets to conduct their business. Evidence suggests that younger drivers and drivers with older cars are being particularly hard hit by these premium increases.

Motor insurance premiums are increasing for a variety of reasons, including an increase in the number and cost of claims as well as a rise in the number of fraudulent claims. There is a lack of transparency around the way that many claims are being settled and the true financial performance of individual insurance firms in Ireland. It is remarkable that seven out of ten claims are settled by insurance companies without going to court and there is no register kept on the overall cost of those claims. There is a complete lack of information which is necessary if we are to get a proper handle on this situation.

The €1 billion plus bailout of Quinn Insurance and the collapse of Setanta Insurance has brought into sharp focus the need for the insurance sector to be properly regulated to ensure that firms are making proper provision for future claim liabilities. We have been here before. In the late 1990s, at a time when motor insurance premiums were spiralling, the Motor Insurance Advisory Board was set up. It issued its first report in April 2002, with 67 recommendations.

The implementation of many of those recommendations, including the setting up of the Personal Injuries Assessment Board, PIAB, led directly to six successive years in which premiums were reduced.

I am calling for the Motor Insurance Advisory Board to be re-established in order that we can have an independent examination of why premiums are increasing at the current unsustainable rate. The board would need to examine a range of issues, including how claims are settled, the true financial position of insurance companies in Ireland and the need for judicial guidelines to be introduced to bring greater consistency to awards. It should also review the operation of the PIAB and the role of the Motor Insurance Bureau of Ireland and the Insurance Compensation Fund when individual insurance companies get into difficulty. The Consumers' Association of Ireland has also called for the re-establishment of the Motor Insurance Advisory Board and I hope the Tánaiste will accede to this call today so that we can get an independent assessment of why motor insurance premiums have gone through the roof and are likely to increase even further in the coming years. We have been here before and I hope we have learned some lessons from experience.

The Tánaiste: I thank the Deputy for raising an issue which is important for many people. Anyone who owns a car is aware of the pressure from insurance companies in terms of rising premiums. That said, this is happening at a time when fuel prices have fallen substantially. In many cases, for example, people going back to work who are commuting in the greater Dublin area, notwithstanding the pressure caused by increased traffic volumes, have found that the overall cost of motoring has not risen substantially due to the significant reduction in the price of diesel and petrol. I am sure the Deputy has taken that into account.

Deputy Noel Grealish: What does that have to do with insurance premiums?

The Tánaiste: There are several factors which explain the rise in motor insurance premiums, one of which emanated from the European Union a number of years ago and involved the equalisation of charges for female and male drivers. As Deputy Michael McGrath will know, that equalisation process worked to the advantage of younger male drivers who tend, unfortunately, to feature more often in accident statistics. At the same time, a lot of women who had very safe, careful and claim-free driving histories ended up on the wrong side of the process. It could be argued that the equalisation process drove a general trend of price changes which contributed to the upward pressure on premiums.

The PIAB has been a significant force in settlements being reached which do not involve lengthy court cases. I am not sure if the statistics prove that the number of fraudulent claims has risen but there have certainly been a number of court cases where Facebook and other social media evidence was used to dismiss claims. In some cases, people had apparently suffered severe injuries but when their social media activity was shared with the court, some of them appeared to be extraordinarily fit and well and to have fully recovered from any injuries they may have sustained in accidents. In other instances it appears that accidents were pre-arranged. I am not sure whether such cases are indicative of an overall increase in fraudulent insurance claims and it is not clear whether Deputy Michael McGrath has evidence to back up his contention in that regard. It must be said, however, that the courts take such cases very seriously.

I have an open mind on the question of the re-establishment of the Motor Insurance Advisory Board. However, that mechanism was used quite a long time ago and the industry has changed considerably since. There have been a lot more amalgamations and mergers and the

industry is much more concentrated among a few players. There are also far fewer brokers than would have been the case at the time it was originally established and many people would have used brokers in shopping around for the best price. The difficulty nowadays is that a lot of best-price shopping is done online and, sometimes, the variations in the different online offers make it extremely difficult to work out the best price. While I do not have a particular problem with the Motor Insurance Advisory Board, it would be appropriate for the Dáil committee that covers this area to have a discussion on this issue with a view to scoping out the factors which lead to change and undertaking research into the impacts. The Deputy talked about younger drivers. The problem with them, from an insurance point of view, is that, unfortunately for themselves and the industry, they have a higher rate of accidents and, therefore, a higher risk. That is why they are bearing the brunt. The appropriate Dáil committee would be the venue to have this issue scoped and examined, with a view to bringing forward a modern mechanism for more up-to-date regulation which reflects the online nature of much of the industry nowadays, as opposed to what it was when the original board was established.

Deputy Michael McGrath: For somebody receiving a motor insurance renewal premium notice today showing an increase of €150 or €200, burying this issue in a Dáil committee is not a satisfactory answer. The truth of the matter is that we have been here before. The establishment of the Motor Insurance Advisory Board which examined independently the reasons premiums were rising so significantly in the late 1990s and early 2000s led to a series of recommendations which, when implemented, directly resulted in insurance premiums falling. The Tánaiste has raised a number of issues that essentially are irrelevant to this debate, including falling fuel prices. It is of little consolation to somebody who receives his or her motor insurance renewal notice in the post to see that the price of diesel on the nearest forecourt is down by a few cent. That is not the issue. Similarly, the changes introduced at EU level are not the reason insurance premiums have gone through the roof.

The Tánaiste: The Deputy is not familiar with the views of women on this issue.

Deputy Michael McGrath: The reality is that it does not explain the issue about which we are talking. The industry will state it is caused essentially by the rising cost of claims, but we do not have a handle on that issue because seven out of ten claims are settled outside the Personal Injuries Assessment Board, PIAB, and a court environment. Therefore, we do not have the published records and, in the absence of that information, it is very difficult to reach any definitive conclusion as to why the cost of premiums is escalating at its current rate. The bottom line for motorists watching at home who have received their renewal notices in the post or who are expecting to receive them in the next few months is that they are looking at increases of hundreds of euro. Shopping around is not the answer. People are doing this and finding that the quotations from all other firms have gone up correspondingly and that there is no saving to be achieved. The Minister for Finance raised the issue of the insurance sector generally with the Central Bank. The then Governor, Mr. Honohan, wrote to the Minister in August, to make a series of recommendations, including the introduction of judicial guidelines for when cases get to court in order that there would be a degree of consistency in the level of court awards made.

The Tánaiste would be doing consumers a service if, today in the House, she committed to re-establishing the Motor Insurance Advisory Board in order that it could sit down with all stakeholders to get a handle on the true facts and arrive at an understanding of what is driving the unsustainable level of increase in motor insurance premiums. I cannot for the life of me see why she would have a problem with this. Why would she not immediately commit to re-establishing the advisory board in order that we could identify the recommendations which

would make a real impact on the money in the pockets of consumers? The increase was 30% last year and the industry is predicting a further increase of 25% next year. This means that a bill of €400 will increase to €650 or €700, which is not sustainable. There are issues driving the increase which could be dealt with by way of legislation and other initiatives. Let us deal with it. Let us get the Motor Insurance Advisory Board back up and running in order that it could start to examine this issue quickly, not just refer it to another Dáil committee which, as the Tánaiste knows, would not have time to deal with it before the general election.

The Tánaiste: We should reflect before we re-establish another entity which was in place in different times before the industry changed dramatically. By the way, the Deputy would not dismiss the higher insurance premiums charged to women out of hand if he was a woman looking at her insurance bill.

Deputy Michael McGrath: That is not driving the increase.

Deputy Barry Cowen: The Deputy did not dismiss it.

Deputy Robert Troy: The Tánaiste is trying to divide us.

An Leas-Cheann Comhairle: Order, please.

The Tánaiste: Deputy Michael McGrath needs to talk to some of the women in his life who will tell him about it. Let me tell him: it is a very sore point.

The Deputy is saying the insurance companies are overcharging for motor insurance cover and that he wants to see motor insurance premiums come down. I have no difficulty in agreeing with him. He is his party's finance spokesperson. We provided for regulation, both prudential regulation and the regulation of the insurance industry, including motor insurance, within the Central Bank. At the last count, it was employing in or around 1,400 people, or it proposes to employ that number. Let us be reasonable about this. Some very fine studies have been carried out by the bands of economists who work on our behalf in the Central Bank. It is possible to arrange to have a study carried out to find out what the issues for the motor insurance industry are-----

Deputy Michael McGrath: That is what I suggested.

The Tánaiste: -----before we set up what the Deputy is proposing which, effectively, would be a quango. I do not have a problem with-----

Deputy Michael McGrath: It would not be a quango.

The Tánaiste: The PIAB, for instance, has done very good work, which I acknowledge, in cutting the cost of claims and keeping them out of court. However, with all of the people working in the Central Bank, we should be able, through the members of the finance committee, to receive a detailed report from the Central Bank-----

Deputy Michael McGrath: The Tánaiste is passing the buck; that is all she is doing.

The Tánaiste: I am sorry, but the Central Bank is the regulator in terms of both prudential regulation and the regulation of the insurance industry in general.

Deputy Barry Cowen: They are doing a great job.

The Tánaiste: They have all of the figures. I will write to the new Governor of the Central Bank to say this is a very important consumer issue.

Deputy Michael McGrath: The Minister for Finance, Deputy Michael Noonan, has already done that.

The Tánaiste: The Deputy talked about something slightly different in the case of the Minister, Deputy Michael Noonan. I am perfectly happy to and will write to the new Governor who only took up office two weeks ago to ask him, given that he has a lot of economists working for him, to undertake a detailed review of the matter, as the Central Bank has done in a series of other areas in quarterly reports that are published in the Central Bank's bulletin. We will receive that report and then make a decision on whether another new board is needed or whether an old one needs to be re-established.

We also have to take account of the current online nature of the insurance industry. On a final point, shopping around for insurance, even in a time of higher premiums, does pay.

Deputy Robert Troy: One might save a fiver.

The Tánaiste: The Deputy should not say to consumers that they should not shop around.

Deputy Michael McGrath: I did not say that.

Deputy Mary Lou McDonald: The single biggest failure of the Government has been its failure to reform the health system. In 2011 the Labour Party stated in its manifesto that in government it would deliver better, more effective care for every patient. The Fine Gael-Labour Party programme for Government described the coalition as the first in the history of the State that was committed to developing a universal health care system.

Deputy Robert Troy: More lies.

Deputy Mary Lou McDonald: The Government promised to create a single-tier health service, guaranteeing access to medical care based on need, not income. They were very big promises. Five years on, the hope it gave to hundreds of thousands of families has been cruelly dashed. Not only is the two-tier health system still in place, but the Government has, in fact, also made it worse, with 4,000 fewer nurses, 68,000 waiting for inpatient treatment and 400,000 for outpatient appointments. As if all of this was not enough, the Government has now imposed a service plan on the HSE that is €150 million short of what it requires. Mr. Tony O'Brien, the man it put in charge of the HSE, has told the Government that the health service has been starved of resources since 2011. Other senior medics have warned openly that the lack of funding for 2016 will hurt patient care. Given the scale of the failure to reform the health system in the past five years and given the hardship and suffering the Government's decisions have imposed on families right across the State, will it now apologise for that failure? Will it now admit it has no plan or vision for the health care system? Will it finally commit to providing the level of funding and staffing required to provide people with the health care they so urgently need?

The Tánaiste: The health service and its staff have considerable achievements to show, particularly in the context of four or seven years ago when they were subject to the trials and difficulties of an economy crashed by Fianna Fáil through the bank guarantee and the collapse of the construction industry and resources were tight. Notwithstanding that, as patients throughout the country will verify, once people gain admittance to our health services, the level

of attention and service from the doctors and nurses we employ in hospitals is world class and of a high standard.

Deputy Peadar Tóibín: If they manage to get in.

The Tánaiste: This does not mean the health service does not have problems or that it is not requesting additional funds. The scale of the challenge for the health service was acknowledged when, as part of the budget for next year, an extra €900 million was allocated to our health service. Performance reports indicate that waiting lists had reduced by the end of August. We are also developing a more responsive reporting structure for the HSE involving clinicians and consultants and we have a great deal of work done on the hospital groups. This means we now have reporting on hospitals on a regional basis. Furthermore, the Revised Estimate which is being published today provides an extra €20 million for mental health services. The provision of GP cards for children under six and for people over 70 has been warmly welcomed by parents and older people throughout the country. One of the biggest problems in our hospitals has been the issue of step-down facilities. Applications for the fair deal scheme are now being dealt with within a period of four weeks or less on average. These are significant achievements by our health services. We have also seen the development of more than 40 new primary care centres, where people can get a diagnosis and treatment for chronic illness without having to attend an acute hospital. They can also avail of ordinary GP services, after care services and other patient care services at these centres. Another 20 of these centres are in the process of construction. These facilities are changing the landscape of health care here. All of this is a tribute to those in the service, particularly to nurses, doctors and paramedical staff.

Deputy Mary Lou McDonald: That was a truly amazing answer. The achievement of the Government is: 4,000 fewer nurses. Bualadh bos. There are 68,000 people waiting for inpatient treatment. Well done; good job. There are 400,000 people waiting for outpatient appointments. This is before we come to the absolute chaos in accident and emergency units. The Tánaiste should not attempt to hide behind the valiant efforts of staff within the health system to get the Government off the hook. In fact, the achievements of staff in the health service stand in stark contrast to the abject failure of the Government. The contrast could not be more dramatic. I have no doubt that if any of those workers watched this exchange and heard what the Tánaiste said, they would, to say the least, find it ironic that the Tánaiste would laud them for their efforts, having left them so badly in the lurch.

The Tánaiste's claims about new money for health are entirely bogus. She knows well that only €97 million of the money referred to is new money and that most of that was already committed. She knows that funding for hospitals - this is a matter of public record - is €100 million less than required. She knows that there is €1.5 billion less in the health budget now than there was in 2008. She may also know there are campaigners for medical cards for chronically sick children outside the Dáil today. They do not buy or believe for a minute the Tánaiste's attempt at propaganda that the Government has made the system better. That is manifestly not the case.

The 405 patients who are on trolleys in hospitals today are not convinced either. Who could blame them? Thousands of people with chronic conditions who cannot get access to the treatment they badly need do not believe the Tánaiste either.

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

Deputy Mary Lou McDonald: In regard to the Government's largesse in respect of older

citizens, let me tell the Tánaiste something. The greatest concern raised by older citizens in respect of health is the prescription charge because it puts them to the pins of their collars and forces them to make a decision on any prescription as to which medicines they will take and which to leave behind. In many cases, they take advice from their pharmacists on that. Did the Tánaiste know that?

It being Christmas time and the season of goodwill, I am going to give the Tánaiste the opportunity to apologise to all of those people she has failed.

(Interruptions).

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

Deputy Mary Lou McDonald: Make no mistake, she has failed them.

Deputy Emmet Stagg: The Deputy has almost got through her script now.

Deputy Mary Lou McDonald: More importantly, the Tánaiste should do the decent thing and take the opportunity and accept the Government has got things badly wrong and should change course now. This means that it should provide resources, staff, a plan and a new beginning for the health service.

The Tánaiste: The Deputy may have sought to read her scripted remarks with some force, but she utterly lacked any sense of conviction, as if she would know, as a member of a party led by somebody who had to hop across to America for his private health treatment, or as if she would have any idea of what the health service in this country is about.

Deputy Mary Lou McDonald: I will send the Tánaiste a copy of our plan for the health service for Christmas for her to read.

A Deputy: On a point of order-----

An Leas-Cheann Comhairle: I am sorry, Deputy, but there are no points of order during Leaders' Questions.

The Tánaiste: The Deputy's condescension and patronising remarks towards the hard-working staff of the health service-----

Deputy Pádraig Mac Lochlainn: The Tánaiste is an absolutely disgraceful cynic. We are defending front-line staff. They have no sympathy for the Tánaiste and her nonsense today.

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

The Tánaiste: The Deputy's condescending and patronising remarks-----

Deputy Aengus Ó Snodaigh: The only person who is condescending and patronising is the Tánaiste.

Deputy Pádraig Mac Lochlainn: It is between condescension and cynicism.

The Tánaiste: The Deputy failed to recognise-----

An Leas-Cheann Comhairle: Please, Deputies.

The Tánaiste: Are you able to keep them under control, a Leas-Cheann Comhairle?

An Leas-Cheann Comhairle: I am not really.

Deputy Kevin Humphreys: Get on to the army council to keep them under control.

An Leas-Cheann Comhairle: This is Leaders' Questions. Deputy Mary Lou McDonald asked a question and the Tánaiste is replying.

The Tánaiste: Notwithstanding the Deputy's remarks about Christmas being the season of goodwill, which I presume were thrown into the comments in order to make a joke of people wanting to have a happy Christmas and season of goodwill-----

Deputy Aengus Ó Snodaigh: Cop on to yourself.

Deputy Pádraig Mac Lochlainn: The Tánaiste needs somebody to write a script for her.

The Tánaiste: The Deputies are so focused on aggression.

Deputy Jonathan O'Brien: The Tánaiste is embarrassing herself.

Deputy John Halligan: This is a serious issue.

The Tánaiste: What is their policy for the health service?

Deputy Mary Lou McDonald: It is here.

Deputy Pádraig Mac Lochlainn: There it is.

The Tánaiste: Their policy for the health service-----

Deputy Mary Lou McDonald: I have it.

Deputy Kevin Humphreys: Is that the man behind the wire?

An Leas-Cheann Comhairle: The Deputy cannot display those documents.

Deputy Dinny McGinley: The little red book.

Deputy Patrick O'Donovan: The Deputy cannot display books.

Deputy Mary Lou McDonald: In fairness, the Tánaiste asked and I have it here.

An Leas-Cheann Comhairle: A question was asked by the Deputy.

Deputy Olivia Mitchell: That is a complete abuse of the Dáil.

An Leas-Cheann Comhairle: Could we settle down, please?

Deputy Mary Lou McDonald: It is fully costed for the terms-----

Deputy Aengus Ó Snodaigh: The Tánaiste asked about it.

An Leas-Cheann Comhairle: The Tánaiste is giving a reply. Under Standing Orders, the

Deputy is not meant to display those documents.

Deputy Mary Lou McDonald: My apologies. It has been fully costed.

Deputy Dinny McGinley: We are not buying it.

The Tánaiste: It is not. There are no costs in it at all.

Deputy Mary Lou McDonald: It deals with bringing about proper universal access.

Deputy Dinny McGinley: We are not buying it from the Deputy.

Deputy Mary Lou McDonald: I can give it to the Tánaiste for Christmas. I insist.

Deputy Patrick O'Donovan: This is like the "Antiques Roadshow" at this stage.

An Leas-Cheann Comhairle: That is fantastic. I call on the Tánaiste to conclude.

The Tánaiste: That document has no costings in it at all.

Deputy Mary Lou McDonald: It does.

Deputy Pádraig Mac Lochlainn: Debate it.

The Tánaiste: It has no mechanism for paying.

Deputy Patrick O'Donovan: What page is it on?

Deputy Bernard J. Durkan: It is a bare document.

An Leas-Cheann Comhairle: Deputy Mary Lou McDonald should resume her seat.

Deputy Pádraig Mac Lochlainn: We can have a debate on it.

The Tánaiste: Let me conclude on this.

Deputy Pádraig Mac Lochlainn: Perhaps those opposite would like to debate the costings.

Deputy Dinny McGinley: It is fiction.

An Leas-Cheann Comhairle: Please, Deputies.

Deputy Pádraig Mac Lochlainn: Any place, any time.

An Leas-Cheann Comhairle: Please, Deputy.

Deputy John Deasy: The Deputies are looking for cheap advertising.

Deputy Pádraig Mac Lochlainn: That is no problem. We can make time to fully debate the costings.

Deputy Kevin Humphreys: Did the Deputies get approval for it?

An Leas-Cheann Comhairle: The Tánaiste should conclude. There should be no more interruptions.

Deputy Patrick O'Donovan: Insert it into the *RTE Guide*. It is a work of fiction.

An Leas-Cheann Comhairle: Please, no more interruptions.

Deputy Dinny McGinley: It is just as good as *Brooklyn*.

The Tánaiste: One of Sinn Féin's proposals, in a position where we are seeking to recruit hospital consultants, is to slash their wages.

Deputy Pádraig Mac Lochlainn: No.

The Tánaiste: In how many extra hospital consultants-----

Deputy Pádraig Mac Lochlainn: The Tánaiste has not read it.

The Tánaiste: -----would the Sinn Féin proposal result?

Deputy Dinny McGinley: Would they have extra taxes if earning more than €100,000?

Deputy Pádraig Mac Lochlainn: Go back to sleep, Dinny.

Deputy Aengus Ó Snodaigh: The Deputy-----

An Leas-Cheann Comhairle: I am sorry, but I ask the Deputies-----

Deputy Dinny McGinley: They would be chased out of the country if they were taxed like that.

(Interruptions).

Deputy Pádraig Mac Lochlainn: Half of west Donegal is in Australia thanks to the Fine Gael policies.

Deputy Dinny McGinley: Nonsense

(Interruptions).

Deputy Aengus Ó Snodaigh: At least the people would be here to pay taxes.

An Leas-Cheann Comhairle: Please settle down. I want to call Deputy Mick Wallace.

Deputy Aengus Ó Snodaigh: After the Government's actions, people have left the country.

The Tánaiste: A Leas-Cheann Comhairle-----

Deputy Kevin Humphreys: Deputy Aengus Ó Snodaigh should sit down and stop being a bully.

Deputy Aengus Ó Snodaigh: Some 250,000 people have left the country. The dole was cut also.

Deputy Dinny McGinley: Settle down. It is more than the dole that Sinn Féin would cut.

An Leas-Cheann Comhairle: I ask the Deputies to, please, settle down. I must call Deputy

Mick Wallace shortly.

Deputy Pádraig Mac Lochlainn: Deputy Dinny McGinley-----

Deputy Dinny McGinley: Hush.

Deputy Pádraig Mac Lochlainn: The Deputy can put his name on the ballot paper to be elected again and see how he gets on.

Deputy Dinny McGinley: When the Deputy is here in 35 years, he can-----

Deputy Pádraig Mac Lochlainn: Put your name down.

An Leas-Cheann Comhairle: The Tánaiste is going to conclude.

Deputy Pádraig Mac Lochlainn: I challenge Deputy Dinny McGinley to put his name on the ballot paper.

An Leas-Cheann Comhairle: Settle down, please.

The Tánaiste: We want to see more women in the Dáil precisely in order that we can avoid the kind of behaviour in which the Deputy opposite has just indulged.

Deputy Pádraig Mac Lochlainn: Is the Tánaiste serious?

The Tánaiste: A bar room brawler. You are a disgrace.

An Leas-Cheann Comhairle: I call Deputy Mick Wallace. May we, please, have some order?

Deputy Pádraig Mac Lochlainn: Has she ever seen a tape of herself during Leaders' Questions?

An Leas-Cheann Comhairle: I do not want any more disorder. Deputy Mick Wallace has the floor.

Deputy Dinny McGinley: A sound man.

Deputy Mick Wallace: In March 2003, a backbench Deputy stated here, "How can anyone say that an aeroplane loaded with military equipment flying through Shannon Airport to a war situation in Iraq, without a UN mandate, does not contribute to, if not represent, participation in that activity?" He went on to add that "one of those possible consequences is the possibility that Shannon and Ireland will become targets for terrorist counter-strikes". That individual was Deputy Enda Kenny, who is now the Taoiseach. In June 2006 a backbench Deputy stated "It is wrong for the Government to have a two-faced approach" and went on to say that "from the troop levels going through Shannon Airport and the worldwide documentation on extraordinary rendition, we know in our hearts it is wrong. It is regrettable the Government avoids discussing these proposals in a serious way." That was the Tánaiste.

The Tánaiste: I remember it well.

Deputy Finian McGrath: Put it in the manifesto.

Deputy Mick Wallace: When she started in politics, did the Tánaiste think she would be

deputy leader of a Government that promotes a war campaign that has led to the deaths of almost 2 million innocent civilians in Afghanistan and Iraq alone? Is the Tánaiste prepared to take any action to stop Shannon Airport being used to facilitate the war-mongering and violent ends of the US war machine? Across the water, there is a Labour leader who does not agree with war. He does not agree with the militarisation of the planet or the mindless destruction caused by the US military war machine and its western allies. Does the Tánaiste have any support for Jeremy Corbyn's position?

The Tánaiste: I opposed the war in Iraq and continue to seek, in so far as it is possible, a solution to the dreadful violence, in particular right across the Arab countries, the Middle East and Syria. My record relating to peace making, peace promotion and the ending of war is very clear and on a series of public records, including here. I worked in Africa and in the aftermath of the genocide in Rwanda to bring peace to that country, where the greatest genocide since that of the Jews in the Second World War took place. My record on peace making is very clear. I absolutely stand by it.

If the Deputy is asking whether I favour war, of course I do not favour war. Ireland is a neutral country.

Deputy John Halligan: It is not if we support the American war machine.

The Tánaiste: We restated our neutrality as recently as in the White Paper on Defence. As the Deputy well knows, we are committed to a process of triple lock with any decisions that involve our troops, who serve with distinction in peace making and conflict prevention right around the world. That is the record of the Government and the Deputy is seeking to make allegations that do not stand up.

Deputy Finian McGrath: They stand up. The Tánaiste is running away from them.

Deputy John Halligan: They do.

The Tánaiste: I stand over my record on promoting peace and peace making.

Deputy John Halligan: We do not know what atrocities some of those Americans carried out in Iraq having flown through Shannon Airport.

The Tánaiste: If the Deputy is suggesting there has been a policy change on my part, he is entirely wrong. It is important that all Deputies on all sides of the House should use their good offices to seek to make peace in Syria and Iraq as soon as possible in order that the people fleeing those war zones may return, as they wish, to their homes and begin to rebuild their lives.

Deputy Paul Murphy: That will not happen when warplanes are going through Shannon Airport.

The Tánaiste: As we come close to Christmas, it is an incredibly important task facing everyone who is involved with politics at this time.

Deputy Mick Wallace: The Tánaiste has said she is in favour of peace. She has been in government for five years. When Labour were in opposition, they were in favour of searching US military planes in case they were carrying arms and munitions through Shannon. Not one plane has been checked since the Government came to power. How can the Tánaiste say she is promoting peace and not war? Last year alone, we gave permits for US civilian charter planes

to carry 190 tonnes of bullets; they flew over Ireland to go to Afghanistan. Is that working for peace?

Is the Tánaiste prepared to stop Shannon Airport being used as a US military aircraft base? The dogs on the street know we are not neutral any more and we have taken sides. We facilitate the war-mongering of the Americans, as 2.5 million troops have passed through Shannon Airport, with arms and munitions of a quantity we cannot even imagine because we are not searching the planes. They have caused untold destruction. Conservative research has put the deaths of innocent civilians in Afghanistan and Iraq since 2001 at 2 million - 2 million innocent civilians. Many of those troops, bullets and bombs came through Shannon Airport. Why will the Government not search the planes and why will the Tánaiste not take a position on it? If she says that we are for peace and neutrality, we would not allow one of our airports to be used as a military base by anybody. We are allowing Shannon Airport to be used as a US military base to bomb the homes of people and destroy untold lives and countries. A total of 33 million people have been displaced today because of war and whether the Tánaiste likes it or not, the US military machine and the western allies are the cause of most of it. We are complicit by allowing them to use Shannon Airport to do so. Before the election, will the Tánaiste promise that if she is re-elected, she will insist on US military planes being searched? We need Shannon Airport to be a civilian airport again. The Irish people do not want it to be a military base for the US war machine.

The Tánaiste: Ireland is a neutral country. The Deputy may choose to interpret the role of the Irish Army, Irish peacekeepers and Irish gardai in a different way but what our armed forces are used for-----

(Interruptions).

The Tánaiste: Hold on, I did not interrupt Deputy Mick Wallace. What we do as a neutral country is take part in peacekeeping missions and conflict prevention missions around the world at the request of the United Nations, subject to the triple lock. To a degree, some of the language used by Deputy Mick Wallace is what would be called “dog whistle politics” in Australia. In other words, he is basically implying that there are utterly illegal actions by authorities in Ireland. He is suggesting that Shannon is a military airport, which is fanciful in the extreme. Does he understand what the consequences of his statements might be in terms of the safety of people in Ireland? I ask him to-----

(Interruptions).

The Tánaiste: In fairness to Deputy Mick Wallace-----

(Interruptions).

An Leas-Cheann Comhairle: This is Deputy Mick Wallace’s question.

The Tánaiste: In fairness to him, I am just saying it is to be considered in the language used by him about Irish airports, people, troops and facilities. If he has any information that leads

him to believe that Shannon has become a military airport, will he make that information available? I ask him to be careful. As an island nation, we are neutral and we use the Army and our troops for peacekeeping and conflict prevention. For the Deputy to suggest just for the sake of some potential media coverage that this is other than a neutral country may end up putting Irish people and institutions at risk, something I am sure he would not wish for.

(Interruptions).

Order of Business

The Tánaiste: It is proposed to take No. 15, motion re proposed approval by Dáil Éireann of the terms of the Framework Agreement on-----

Deputy Clare Daly: The Tony Blair Labour Party. That is what the Labour Party has been reduced to.

An Leas-Cheann Comhairle: We are on the Order of Business. I call the Tánaiste.

The Tánaiste: The Deputy should check out some of her own friends in England and what they got up to. Check them out.

(Interruptions).

An Leas-Cheann Comhairle: May we have order please?

The Tánaiste: It is proposed to take No. 15, motion re proposed approval by Dáil Éireann of the terms of the Framework Agreement on Comprehensive Partnership and Cooperation between the EU and its Member States and the Socialist Republic of Vietnam - back from committee; No. 16, motion re proposed approval by Dáil Éireann of the Planning and Development (Amendment) (No. 4) Regulations 2015 - back from committee; No. 16*a*, motion re proposed approval by Dáil Éireann of the ratification by Ireland of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage; No. 16*b*, motion re presentation and circulation of Revised Estimates 2016; No. 16*c*, technical motion re Joint Committee of Inquiry into the Banking Crisis; No. 16*d*, motion re Standing Orders 99, 111, 114A, 114B, 114C, 114D and 114E; No. 1*a*, Assisted Decision-Making (Capacity) Bill 2013 - amendments from the Seanad; and No. 8, Technological Universities Bill 2015 - Order for Second Stage and Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 5.30 p.m. today and shall adjourn on the conclusion of Topical Issues which shall be taken no later than 6 p.m.; Nos. 15, 16, 16*a*, 16*b*, 16*c* and 16*d* shall be decided without debate and any division demanded on No. 16*b* shall be taken forthwith; that the proceedings in relation to No. 1*a* shall, if not previously concluded, be brought to a conclusion after three hours and any amendments from the Seanad not disposed of shall be decided by one question which shall be put from the Chair and which shall, in relation to amendments to the Seanad amendments, include only those set down or accepted by the Minister for Justice and Equality; and the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 13 January 2016.

An Leas-Cheann Comhairle: There are four proposals to be put to the House today. Is the

proposal for dealing with the late sitting agreed to?

Deputy Joe Higgins: I do not agree that the Dáil should adjourn after Topical Issues. It is essential that the Government comes in, provides us with an explanation today and provides time for a debate on what the Simon Community reports this morning on the eve of Christmas, which is the shocking fact that 5,000 people are in emergency accommodation, including, scandalously, 1,500 children. What a shameful legacy the Tánaiste leaves as leader of the Labour Party as her term of government winds torturously to its end. This is what our people are enduring after five years of the Government.

An Leas-Cheann Comhairle: Does the Deputy wish to have a debate on this issue?

Deputy Joe Higgins: We need an explanation from the Government about the shocking fact of homelessness and people in emergency accommodation and, in particular, why the Labour Party, which undertook to fight for those who are in this situation, has failed so dismally. If statues in this Chamber could weep, that of James Connolly, which is behind my shoulder, would shed tears of anger and indignation that any party that still dares to call itself “Labour” would preside over such an incredible situation of suffering, while handing an essential human need to developers, vulture funds and profiteering landlords. I want the Government to account today for its failure.

Deputy Ray Butler: Is the Deputy taking a pension when he goes?

An Leas-Cheann Comhairle: We are having a brief discussion.

The Tánaiste: We have discussed this issue in this House on many occasions. We promised that 1,000 voided apartments and houses, most of them in Dublin city and county, would be given to people by the end of this year. I am pleased to tell the House that the number of voided apartments and houses given to families is 3,500. In addition, local authorities, particularly in the Dublin region, including in my area and Deputy Joe Higgins’s area, have bought up to 1,000 properties in which to house families. I am delighted to say that in the past few months families are getting fine new houses built to the highest standards.

Deputy Peter Mathews: It is not enough.

The Tánaiste: Deputy Joe Higgins, however, does not seem to be aware of this. Through the efforts of the community welfare service and the protocol with Threshold we have housed more than 5,500 families through renting and leasing arrangements.

Deputy Colm Keaveney: This is like Leaders’ Questions.

The Tánaiste: Through the housing assistance payment and the county councils that operate it, we have this year housed more than 5,500 families. Unfortunately, many of the Dublin local authorities are not operating it.

Deputy Robert Troy: This is a Second Stage speech.

Deputy Richard Boyd Barrett: They were housed already.

The Tánaiste: We have a housing problem, but we are making serious inroads into it.

Deputy Joe Higgins: What about the 5,000 on the streets?

Question, “That the proposal for the late sitting be agreed to,” put and declared carried.

Deputy Emmet Stagg: That was just an excuse for a rant.

Deputy Ray Butler: It is the pantomime season.

An Leas-Cheann Comhairle: Is the proposal for dealing with No. 15, motion re proposed approval by Dáil Éireann of the terms of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States and the Socialist Republic of Vietnam, back from committee, agreed to? Agreed. Is the proposal for dealing with No. 16, motion re proposed approval by Dáil Éireann of the Planning and Development (Amendment) (No. 4) Regulations 2015, back from committee, agreed to? Agreed. Is the proposal for dealing with No. 16*a*, motion re proposed approval by Dáil Éireann of the ratification by Ireland of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage agreed to? Agreed. Is the proposal for dealing with No. 16*b*, motion re presentation and circulation of Revised Estimates for 2016 agreed to? Agreed. Is the proposal for dealing with No. 16*c*, technical motion re Joint Committee of Inquiry into the Banking Crisis agreed to? Agreed. Is the proposal for dealing with No. 16*d*, motion re Standing Orders 99, 111, 114A, 114B, 114C, 114D and 114E, without debate, agreed to? Agreed. Is the proposal for dealing with No. 1*a*, Assisted Decision-Making (Capacity) Bill 2013 - Amendments from the Seanad, agreed to?

Deputy Mary Lou McDonald: No. This is very important legislation and the proposal is to guillotine the debate. That is the wrong thing to do. This issue has come up consistently during the term of this Government which was so critical of its predecessors for the practice of guillotining debates.

Deputy Emmet Stagg: Perhaps the Deputy might send some of her party members in to debate it when it happens.

Deputy Mary Lou McDonald: It is important legislation.

Deputy Aengus Ó Snodaigh: We would debate it if we are given time.

Deputy Emmet Stagg: There is time. The Minister of State was here on her own and there was nobody from the Deputy’s party, Fianna Fáil or the Independents here.

An Leas-Cheann Comhairle: There is no need for this crossfire.

Deputy Barry Cowen: The Leas-Cheann Comhairle should create some order.

Deputy Mary Lou McDonald: There is a need to allow the scope and capacity to have a full and complete deliberation on the legislation.

The Tánaiste: There has been huge progress made. The Deputy has obviously not been party to any of the discussions on the Assisted Decision-Making (Capacity) Bill. Members of her party have been involved. Huge progress was made by agreement.

Deputy Aengus Ó Snodaigh: The Government guillotined the debate.

The Tánaiste: I imagine that the time given to it is absolutely ample. In some cases this week, there has been hardly anybody present-----

Deputy Aengus Ó Snodaigh: The Government should lift the guillotine.

The Tánaiste: At times, there has been no more than one person from the Deputy's party, while at other times nobody from the party.

Deputy Robert Troy: It is the same for the Labour Party.

Deputy Emmet Stagg: Deputy Gerry Adams has a statement to make.

The Tánaiste: This Bill is very important for people involved with mental health issues.

Deputy Aengus Ó Snodaigh: The Tánaiste should lift the guillotine.

The Tánaiste: The Sinn Féin Deputies should not try to make a political football of it.

Question, "That the proposal for dealing with No. 1a, Assisted Decision-Making (Capacity) Bill 2013 - Amendments from the Seanad, be agreed to," put and declared carried.

An Leas-Cheann Comhairle: Is No. 4, the proposal that the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 13 January 2016, agreed to?

Deputy Joe Higgins: No. I would like clarification from the Tánaiste before this is agreed.

Deputy Patrick O'Donovan: The Deputy should go home.

Deputy Joe Higgins: Why is the Dáil not being brought back at 2 p.m. on Tuesday, 12 January? The provision proposed today conveniently allows the Taoiseach escape not just Leaders' Questions on the Tuesday but also questions to the Taoiseach, perhaps one, two or three weeks before the demise of this the 31st Dáil.

Deputy Brendan Howlin: And the Deputy's demise.

Deputy Robert Troy: And a lot of the Labour Party's Members.

Deputy Joe Higgins: The leader of the Dáil and the country should be facilitating the representatives of the people-----

Deputy Mary Mitchell O'Connor: This is wasting time.

Deputy Joe Higgins: -----to answer very serious questions after the Christmas break and before a general election.

Deputy Emmet Stagg: We have missed the Deputy's questions in the past couple of months.

Deputy John Deasy: The statues will not mind about that.

Deputy Joe Higgins: I propose an amendment to the Government's proposal-----

Deputy Ray Butler: Is it Christmas Day?

Deputy Joe Higgins: -----that the Dáil shall adjourn until 2 p.m. on Tuesday, 12 January 2016.

Deputy Emmet Stagg: All for another day.

Deputy Patrick O'Donovan: Will Deputy Joe Higgins be here?

Deputy Mary Mitchell O'Connor: This is a waste of time.

Deputy Joe Higgins: I might be in the dungeons still trying to sort out the Government's banking problems.

Deputy Ray Butler: The Deputy will have a couple of pensions to sort them out with. How many pensions will the Deputy have when he retires? One from the European Union, one from here and where else?

The Tánaiste: The dates have been arranged to convenience the successful completion and publication of the report of the banking inquiry. There has been general agreement on all sides of the House about the selection of that date.

Deputy Bernard J. Durkan: Deputy Joe Higgins can do his own one.

Question, "That the amendment to proposal No. 4 be agreed to," put and declared lost.

Question, "That the proposal for the adjournment of the Dáil be agreed to," put and agreed to.

The Tánaiste: Notwithstanding the somewhat heated atmosphere in the past hour or two, I wish everybody a very happy and peaceful Christmas with their families, relatives and friends.

Deputy Robert Troy: I thank the Tánaiste.

The Tánaiste: I also wish people a happy and prosperous new year.

Deputy Robert Troy: The Tánaiste is awfully kind.

The Tánaiste: Many people will retire from the Dáil after the next general election, including Deputy Joe Higgins.

Deputy Barry Cowen: When is the general election?

The Tánaiste: Next year will bring several changes for many people. It is appropriate that Members should have a rest and a bit of down time with their families. One of the things about being a woman Tánaiste and one of the limited number of women in this Chamber is that having more women in the House has led to a greater emphasis on family friendly policies and nothing could be as family friendly-----

Deputy Colm Keaveney: As a bed on the street.

Deputy Robert Troy: And cuts to the one-parent family allowance.

The Tánaiste: -----for most people as Christmas. It is also a difficult time for people who have suffered bereavement or illness during the year. For Members and others throughout the country who have suffered bereavement or other loss, Christmas is a time for quite sad contemplation of the person or people who have gone. I wish everybody a happy Christmas and a very successful new year for those who will be out talking to the people of Ireland.

Next year will be the anniversary of the 1916 Rising. I refer to the opening sentence of the Proclamation-----

Deputy Robert Troy: None of us will have an opportunity to speak on the Order of Busi-

ness.

The Tánaiste: -----which addresses “Irishmen and Irishwomen” and wish not just the men but particularly the women of Ireland a very successful and happy new year.

I o'clock

Deputy Michael McGrath: On behalf of Fianna Fáil, I echo the Tánaiste’s sentiments and wish everyone a very happy Christmas and the best of luck for 2016.

Time is tight and I know Deputies want to come in, but I want to raise two Bills with the Tánaiste, the first of which is the gambling control Bill 2015. The former Minister for Justice and Equality, Deputy Alan Shatter, published a Bill in July 2013 proposing to establish an office of gambling control. This is a serious issue because more than €1 billion is placed in bets annually in Ireland. It is becoming easier to place bets, as much gambling takes place online. Problem gambling can devastate families and lives. The matter needs to be dealt with and yet it has not been given the serious attention it deserves. The initial Bill of 2013 seems to have fallen by the wayside. There is a new Bill, which I understand is included in section B. I take it, therefore, that it will not be dealt with in the lifetime of this Dáil. Will the Tánaiste clarify that matter?

The Education (Admission to Schools) Bill 2015 was published last April, but it has not progressed since. It proposes important reforms to the schools’ admissions policy but is listed in Schedule D. Will that Bill be debated here before the general election is called?

The Tánaiste: I understand both Bills will be taken next year.

Deputy Mary Lou McDonald: I also wish everybody a very happy Christmas, including the Tánaiste.

The Tánaiste: Thank you.

Deputy Mary Lou McDonald: Notwithstanding our jousts in this Chamber and my unending frustration with her answers or lack thereof, I wish her a happy Christmas. I also wish a happy Christmas to, and thank, all the staff in the Houses of the Oireachtas for their unending patience with each and every one of us. I am sure that all the people who watch us with despair, dismay or delight - depending on their viewpoint - will probably be happy that the political season pauses for a couple of weeks and they then can look forward to the election.

I want to raise the issue of the Constitutional Convention. The Tánaiste said a lot about women but we have been waiting two and a half years for a debate that was promised on the role of women, as agreed by the Constitutional Convention. That delay is outrageous. The Taoiseach repeatedly gave a concrete commitment that we would have outstanding matters from the Constitutional Convention debated in the Dáil before the Christmas recess and yet here we are still awaiting a debate on the role of women and votes outside the State - a crucial issue in respect of Presidential elections - as well as Dáil reform, economic, social and cultural rights. Those are big issues.

The fact that we have been waiting this long is not only frustrating for Members of the Oireachtas who participated in the convention and a lost opportunity to debate these matters, it is also something of an insult to the citizens who gave their time and effort to participate in this process in good faith. I cannot for the life of me understand the inordinate delay. It is not

acceptable that we will now rise for the Christmas recess with each of these issues outstanding.

The Tánaiste: As recently as yesterday, the Taoiseach gave a commitment that there will be a full debate on the convention early in the new year session. Let us celebrate, however, the achievement of which the convention was a part, that is, the decision to have the marriage equality referendum. The people assented to it and that message went right around the world.

As it is the season of goodwill, the Deputy should not always concentrate - as she tends to do, unfortunately - on the totally negative. She should see something good occasionally in this country. Marriage equality was something very positive and good. I wish to thank all the staff, in particular.

An Leas-Cheann Comhairle: I add my own good wishes to everybody. Guím beannachtaí na Nollag agus athbhliain faoi mhaise oraibh go léir. I am sorry we are out of time on the Order of Business. We must continue to the next item.

Prohibition of Hydraulic Fracturing Bill 2015: First Stage

Deputy Richard Boyd Barrett: I move:

That leave be granted to introduce a Bill entitled an Act to provide for a prohibition on the issue of consent, licences or permits for the exploration, prospecting or leases or other permissions to facilitate Hydraulic Fracturing projects or the exploitation of shale gas from within the State, together with the development of any infrastructure or facilities required for Hydraulic Fracturing within the State, and includes a prohibition on the pursuit by any Minister, or State Agency or Body on behalf of the State engaging in Hydraulic Fracturing within the State, or to hold or otherwise act on as if they held any consent, licence or permit for the exploration, prospecting or leases or other permissions to facilitate Hydraulic Fracturing projects or the exploitation of shale gas from within the State, including development of any infrastructure or facilities required for Hydraulic Fracturing within the State. The prohibitions referred to include a prohibition extending to the territorial waters of the State.

World leaders have expressed their determination to tackle the issue of runaway climate change and, to some extent, these sentiments were echoed by the Government. Following the Paris climate summit, there was a determination to reduce CO2 emissions and fossil fuel use to try to prevent a climate disaster. This week, the Minister for Communications, Energy and Natural Resources, Deputy Alex White, introduced his White Paper on the future of low-carbon energy. The Government is determined to move to an 80% to 95% reduction in CO2 emissions by 2050. There is an even more ambitious target to reduce it by 100% by the end of the century. The question is whether these are just noble aspirations and grand objectives, or will they be matched with real and bold action on the ground. Many people looking at the threat, imminence and reality of climate change doubt whether the aspirations of the Paris summit can actually be met. If they are to be met, however, there is certainly no doubt that this must be done with bold and radical action. In that context, it is worrying to see some of the commentary on the Minister's White Paper. It was described in *The Irish Times* today by the noted environmental journalist, Frank McDonald, as a "lame" paper, lacking in detail, high in aspiration but low on concrete action.

The Bill wants the Government, or any future Government after the next general election, to take bold action to contribute to preventing further climate change and reduce fossil fuel use, by banning fracking. Forget about reports, investigations, sitting on the fence and fudging

things - it should just be banned. We do not need an EPA report, like the current one, to tell us that if we bring up shale gas through hydraulic fracturing we will add to fossil fuel use and we will increase carbon emissions. As there is no doubt about this, there is nothing to investigate.

In order to prevent runaway climate change, two thirds of the world's known oil and gas reserves have to stay in the ground. Meanwhile, however, hydraulic fracturing is seeking new gas and oil reserves. There is simply no place for shale gas, that may be discovered by fracking, in the attempt to reach a carbon-free future. If the words are to be matched with deeds, I urge the Minister and any political party standing before the people in the coming election to commit now to banning fracking. They should pass this Bill and rule out this option for generating energy in the future.

I had a rather disturbing experience at the Oireachtas Joint Committee on the Environment, Culture and the Gaeltacht last week when the EPA came in to report on its investigation on fracking. When I asked whether the report would inform us whether fracking was a danger to human health, they said, "No." This begs the question as to what the hell the report was for. CDM Smith and Amec, two companies which are up to their necks in their involvement with global oil and gas companies, were the lead agencies in carrying out the investigation into fracking. They are part of the pro-fracking Marcellus Shale Coalition. Is the EPA investigation not hopelessly compromised by a conflict of interest when it is being carried out by firms that are involved in the oil and gas industry and that have a vested interest in developing fracking? I ask the Government to commit to banning fracking, supporting the Bill and ending the charade that is the EPA investigation. We do not need it and it is hopelessly compromised. We need a ban on fracking if we are serious about dealing with climate change and protecting human health.

An Leas-Cheann Comhairle: Is the Bill opposed?

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): No.

Question put and agreed to.

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

Deputy Richard Boyd Barrett: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Framework Agreement between the European Union and the Socialist Republic of Vietnam: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That Dáil Éireann approves the terms of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part, signed at Brussels on 27th June 2012, a copy of which was laid before Dáil Éireann on 7th December 2015.

Question put and agreed to.

Planning and Development (Amendment) (No. 4) Regulations 2015: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That Dáil Éireann approves the following Regulations in draft:

Planning and Development (Amendment) (No. 4) Regulations 2015,
copies of which were laid in draft form before Dáil Éireann on 9th December 2015.

Question put and agreed to.

UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That Dáil Éireann approves the ratification by Ireland of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, copies of which were laid before Dáil Éireann on 15th December 2015.

Question put and agreed to.

Presentation of Estimates: Motion

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

That, notwithstanding Standing Order 159 of the Standing Orders of Dáil Éireann relative to Public Business, Revised Estimates for the Public Services for the year ending 31st December 2016 be presented to the Dáil and circulated to members and be referred to Select Committees or sub-Committees, as appropriate, pursuant to Standing Orders 82A(3)(c) and (6)(a) and 159(3) and paragraph (8) of the Orders of Reference of Select Committees.

Question put and agreed to.

Joint Committee of Inquiry into the Banking Crisis: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That, notwithstanding anything in Standing Orders, when the final report of the Joint Committee of Inquiry into the Banking Crisis is circulated to members in accordance with Standing Order 107G, the Ceann Comhairle shall, at the first available opportunity, interrupt the proceedings of the Dáil, whereupon a member of the Government or Minister of State shall, without notice, move a motion to publish the report in accordance with section 40(1)(a) of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 and Standing Order 107G, which shall be taken without debate.

Question put and agreed to.

Standing Orders: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That, pursuant to Standing Order 99(1)(a), the Committee on Procedure and Privileges

recommends that the Standing Orders of Dáil Éireann relative to Public Business be amended as follows:

(a) New functions of CPP

In Standing Order 99, by the insertion of the following subparagraphs after paragraph (1)(g):

(h) perform the functions conferred on it by Standing Orders 114B and 114C in relation to giving effect to Article 15.10 of the Constitution in so far as that Article provides for the protection of the official documents of the Dáil and the private papers of its members, and

(i) perform the functions conferred on the Part 10 committee and the Part 11 committee by the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, pursuant to Standing Orders 114D and 114E.”;

(b) Amendment of Standing Order 111

In Standing Order 111, by the insertion of “, except as otherwise provided for in these Standing Orders” after “without the express leave or order of the Dáil”;

and

(c) Official documents, private papers and confidential communications

By the adoption of the following additional Standing Orders and Schedule to the Standing Orders:

Standing Order 114A

114A. (1) Unless the context otherwise requires:

(a) an “official document” in Standing Order 114B means an official document for the purposes of that Standing Order, and in Standing Order 114D means an official document as defined in section 112(1) of the 2013 Act;

(b) any reference to Standing Order 114B includes a reference to the Schedule to these Standing Orders;

(c) a “private paper” in Standing Order 114C means a private paper for the purposes of that Standing Order;

(d) the “2013 Act” in this Standing Order and in Standing Orders 114D and 114E means the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013; and

(e) in Standing Order 114C and the Schedule to these Standing Orders “office-holder” means the Taoiseach, the Tánaiste, a Minister of the Government, a Minister of State, or a member who is the Attorney-General.

(2) The conferral of protection on a document by or by virtue of Standing Order 114B or 114C does not waive or prejudice the entitlement of any person (including the Dáil or any of its Committees) to invoke any other privilege or immunity, for example, legal professional privilege or public interest immunity, that may attach, or may arguably attach, to the

document.

(3) In the Schedule to these Standing Orders, an “officer of the Dáil” means the Ceann Comhairle, the Leas-Cheann Comhairle, any temporary Chairman, the Chairman or vice-Chairman of any Committee of the Dáil, the Clerk, and the Clerk-Assistant, and the clerk of any Committee of the Dáil, and anything done by or to some person on a member’s staff in that person’s capacity as such is to be treated as having been done by or to the member.

(4) A document which is an official document for the purposes of Standing Order 114B or a private paper for the purposes of Standing Order 114C, must be treated as confidential, and is required by these Standing Orders to be kept confidential.

(5) In Standing Orders 114B and 114C “document” imports the definition contained in section 2(1) of the 2013 Act, and extends to a copy of the document at any remove.

Standing Order 114B

114B. (1) This Standing Order is made for the purposes of giving effect to Article 15.10 of the Constitution in so far as it provides for the protection of the official documents of the Dáil.

(2) For the purpose of this Standing Order, official documents are all documents in the custody of, or belonging to, the Dáil or a Committee of the Dáil, or over which the Dáil or Committee exercises control, and which:

(a) are or have been prepared for the purposes of, or purposes incidental to, transacting any business of the Dáil or of such a Committee,

(b) are or have been created by or pursuant to these Standing Orders, or to an order or direction of the Dáil or of such a Committee,

(c) are or have been given in evidence to the Dáil or to such a Committee, or

(d) are or have been presented or submitted to the Dáil or to such a Committee:

unless the document has been, or is presently to be, laid before the Dáil or has been, or is presently to be, otherwise lawfully placed in the public domain.

(3) (a) The categories of documents in the Schedule to these Standing Orders are, subject to subparagraph (d) of this paragraph, to be treated as falling within the scope of paragraph (2)(a) or (2)(b).

(b) The Committee on Procedure and Privileges may, subject to this Standing Order, designate other categories of documents that are to be treated as falling within paragraph (2)(a) or (2)(b), and may at any time vary or revoke that designation.

(c) Any designation, variation, or revocation referred to in subparagraph (b) of this paragraph must be published as soon as practicable after it is made.

(d) Documents proffered to the clerk of a Committee of the Dáil but which the Committee declines to receive, and documents given to such a Committee but which have ceased by decision of the Committee in accordance with statute to be documents of that Committee, are not, and are to be treated as never having been, official documents, un-

less they qualify on some other ground.

(4) The Clerk must not afford access to, or allow disclosure of, an official document unless, and to the extent that, that access or disclosure is provided for in or under paragraph (5) or (6) or otherwise in or under these Standing Orders.

(5) (a) At any time, access to a specified official document, or specified official documents, may be afforded, or disclosure of it or them allowed, whether generally or for a specific purpose, and whether unconditionally or on terms:

(i) by Resolution of the Dáil; or

(ii) by the Committee on Procedure and Privileges on behalf of the Dáil.

(b) Should the Dáil be adjourned for any period longer than a week, the function exercisable by the Committee on Procedure and Privileges or the Dáil under subparagraph (a) may be exercised by the Ceann Comhairle who must report his or her having done so to the Dáil once it reassembles.

(c) The Committee on Procedure and Privileges, the Dáil, or the Ceann Comhairle must, in exercising their powers under subparagraphs (a) or (b), have regard to:

(i) the extent to which the document or documents relates or relate to a matter of public importance or public interest;

(ii) the rights and interests of any person affected; and

(iii) any other relevant circumstances.

(6) (a) The grant of access to, or the disclosure of, an official document afforded by or on behalf of the Dáil or a Committee of the Dáil, to the Houses of the Oireachtas Commission or its staff, for the purpose of enabling either that Commission or the Houses of the Oireachtas Service to discharge its statutory functions:

(i) does not require any consent provided for in or under paragraph (5), any leave or order under Standing Order 111, or any other permission under these Standing Orders however described;

(ii) does not place the document in the public domain, or otherwise impinge on its confidentiality; and

(iii) does not deprive the document of its status as an official document.

(b) A member who has possession of, or access to, an official document in accordance with these Standing Orders or by other lawful authority may use, without any consent provided for in or under paragraph (5) or otherwise in or under these Standing Orders, the official document for the purposes of, or purposes incidental to, transacting any business of the Dáil or of a Committee of the Dáil, once that use is contemplated by these Standing Orders, and even if the document comes into the public domain as a result.

(7) The leave or order contemplated by Standing Order 111 must not in respect of an official document be granted or made other than in accordance with this Standing Order.

(8) A member must not, except as provided for in or under paragraph (5) or (6) or otherwise in or under these Standing Orders, disclose in public any official document or the contents of that document. Disclosure by any member, in breach of this paragraph, of an official document or its contents, is *prima facie* an abuse of privilege.

(9) (a) This Standing Order's protection extends to documents in the custody of, or belonging to, both Houses of the Oireachtas or a Joint Committee, or over which both Houses or a Joint Committee exercise control, provided that the terms of this Standing Order affording that protection have a counterpart in the Standing Orders of the Seanad.

(b) The grant of access to, or disclosure of, an official document described in subparagraph (a) may be allowed or afforded where:

(i) the provision in this Standing Order for affording that access or allowing that disclosure has a counterpart in the Standing Orders of the Seanad; and

(ii) if consent provided for in or under paragraph (5) or otherwise in or under these Standing Orders is required for that access or disclosure, concurring consents are granted by both Houses.

Standing Order 114C

114C. (1) This Standing Order is made for the purposes of giving effect to Article 15.10 of the Constitution in so far as it provides for the protection of the private papers of members.

(2) For the purpose of this Standing Order, the private papers of a member are all documents concerning which the member has a reasonable expectation of privacy, and:

(a) which are prepared for the purposes of, or purposes incidental to:

(i) transacting any business of the Dáil or any Committee of the Dáil; or

(ii) the member's role as public representative; but

(b) which are not:

(i) where the member is an office-holder, documents relating to the member's functions as office-holder (whether those documents are held by the member, by the office-holder's Department or Office, by any of his or her special advisers, or by some other person); or

(ii) lawfully in the public domain.

(3) A reference to a member in this Standing Order includes:

(a) where the context admits, a former member in his or her capacity as a former member, and

(b) where the context requires, a deceased member, as well as his or her executors or administrators in their capacity as executors or administrators.

(4) A member is entitled to refuse a request for access to, or disclosure of, any of his or her private papers, and if the request is made in the first instance to the Dáil, to any of its Committees, or to the Clerk, the Clerk must refuse the request and without delay inform the member

that it has been made.

(5) A member must not disclose in public the private paper of any other member or the contents of that private paper other than with the express consent of that other member. Disclosure by any member, in breach of this paragraph, of another member's private paper or its contents, is *prima facie* an abuse of privilege.

Standing Order 114D

114D. (1) This Standing Order is made to give further effect to Part 11 of the 2013 Act in respect of the official documents of the Dáil.

(2) On the approval of this Standing Order by the Dáil, the Committee on Procedure and Privileges stands appointed as the Part 11 committee provided for in Part 11 of the 2013 Act.

(3) The Part 11 committee may at any time, either of its own motion or on application by any member, give, vary, or revoke a direction pursuant to section 113(1) of the 2013 Act specifying the categories of documents which are to be official documents, and any such direction, variation, or revocation must be published as soon as practicable after it is made.

(4) Where a document is held jointly by the Dáil and the Seanad, that document is not an official document of either House for the purposes of the 2013 Act unless there is in force a direction of the Part 11 committees of both Houses that the category of documents to which the document belongs stands designated as official documents.

(5) (a) The Part 11 committee may consider an application for access to, or disclosure of, an official document or official documents, and may make a recommendation to the Dáil in respect of that application.

(b) The Dáil may, subject to subparagraph (c), by Resolution consent fully or in part to such an application, and that Resolution is the consent in writing of the Dáil given in accordance with these Standing Orders as contemplated by section 114(1)(a) of the 2013 Act.

(c) Access to, or disclosure of, an official document of both Houses requires the concurring consents in writing of both Houses.

(d) A consent under subparagraph (b) may either be general or for a specific purpose, and may be unconditional or on terms.

Standing Order 114E

114E. (1) This Standing Order is made to give further effect to Part 10 of the 2013 Act in respect of the private papers and confidential communications of any member.

(2) On the approval of this Standing Order by the Dáil, the Committee on Procedure and Privileges stands appointed as the Part 10 committee provided for in Part 10 of the 2013 Act.

(3) The Part 10 committee may prepare guidelines and protocols as contemplated by section 108 of the 2013 Act and recommend their adoption by the Dáil.

SCHEDULE:

Categories of document designated by these Standing Orders for the purposes of Standing Order 114B(2)(a) and (b):

- (a) Imeachtaí Dháil Éireann (“clerk sheets”).
- (b) Briefings regarding legislation or other proceedings before the Dáil.
- (c) Working papers of the Dáil or any of its Committees.
- (d) The following documents in respect of Dáil Committee meetings –
 - (i) agendas,
 - (ii) briefings,
 - (iii) minutes, and
 - (iv) transcripts.
- (e) Research papers prepared by the Library and Research Service, or any replacement for that facility, at the instance of the Dáil or a Committee of the Dáil.
- (f) Advices to members from officers of the Dáil or members of the joint staff.
- (g) Opinions, advice, recommendations, or the results of consultations, considered by the Dáil or a Committee of the Dáil, or prepared for that consideration.
- (h) Documents constituting or evidencing communications between members and officers of the Dáil, or communications between officers of the Dáil.
- (i) Documents constituting or evidencing communications between officers of the Dáil or members of the joint staff, on the one hand, and any office-holder or his or her Department or Office, and any officers, staff, or agencies of the Government, on the other, in direct relation to any of the business referred to in Standing Order 114B(2)(a).
- (j) Documents constituting or evidencing communications from a Committee of the Dáil that solicit information for the purposes of Committee business and any response (not being one the Committee has declined to receive, or one the documents constituting which have ceased by decision of the Committee in accordance with statute to be documents of the Committee) forwarded to and accepted by the Committee.
- (k) Documents created in relation to how parliamentary business is regulated between parties or groups as provided for in these Standing Orders including with regard to the appointment of members to a Committee.
- (l) Documents concerning disciplinary issues relevant to the Dáil or its Committees.
- (m) Without limiting the next preceding category, documents constituting or evidencing communications pursuant to statute between an officer of the Dáil or a member of either House of the Oireachtas, on the one hand, and a Committee of the Dáil, on the other, in relation to the conduct or alleged conduct of a member of the Dáil.

(n) A response by a non-member to matter in the nature of being defamatory received by or on behalf of the Committee on Procedure and Privileges in accordance with these Standing Orders until that Committee decides that the terms of the response are such that it should be published or laid before the Dáil.

(o) Drafts not intended for publication of official documents.

(p) In respect of a document falling outside Standing Order 114B(2) solely because it is in the public domain or has been laid before the Dáil or is presently to be published or so laid, drafts not intended for publication or not intended to be so laid.

(q) Documents relating to an assent referred to in Article 15.8.2° of the Constitution and to any sitting of the Dáil pursuant to that assent.”.”.

Question put and agreed to.

Parliamentary Assembly of the European Council: Appointment of Representatives

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I wish to inform the House that the following persons have been selected and nominated as representatives from Ireland to the Parliamentary Assembly of the European Council until the end of 2016: Deputy Joe O'Reilly, leader of the delegation; Deputy Michael McNamara; Deputy Olivia Mitchell; and Senator Terry Leyden. The nominated alternates are Senator Jim D'Arcy; Senator Catherine Noone; Deputy Seán Crowe; and Senator Rónán Mullen.

Assisted Decision-Making (Capacity) Bill 2013: From the Seanad (Resumed)

The Dáil went into Committee to resume consideration of Seanad amendment No. 44:

Section 14: In page 23, line 23, after “section” to insert “and *section 15*”.

Deputy Pádraig Mac Lochlainn: Obviously, the issue of consultation is a source of concern and many independent agencies have already been established by the Government. The best way to put these concerns is to quote what the respected Senator Jillian van Turnhout said during the Seanad debate:

... it places the service within the remit of the Department of Health rather than the Department of Justice and Equality. Since legal capacity matters should probably be regarded as a matter for the Department of Justice and Equality, I question this move. Could this lead to confusion because decision support issues might be confused with mental health issues? Since the remit of the decision support service is much broader than mental health, I wonder about establishing it under the Mental Health Commission.

I would have thought that this function would have been better established as an independent authority similar to the National Disability Authority with reporting responsibilities to the Department of Justice and Equality.

This move has been made at the very last minute in drafting the Bill without consultation, but we will leave it there, as we have had this discussion already. The points the Senator made are very important. Placing this authority within the Mental Health Commission is not the best fit. This is no reflection on the commission. The Senator has made some key points and expressed them better than I have today. The issue goes beyond consultation and the need for an

independent authority. We know that other independent agencies have been established. I can reiterate the points made. The problem is that the reporting mechanism is under the Department of Health rather than the Department of Justice and Equality. These are legal capacity matters which should not be confused with mental health matters. Senator Jillian van Turnhout made very strong points which have not yet been addressed.

Deputy Ruth Coppinger: I want to raise the same issue. I have received a considerable amount of correspondence about this part of the legislation. I spoke earlier to the legislation before it went to the Seanad. However, this issue has only arisen because of the change made latterly by the Government. Groups such as the Centre for Disability Law and Policy in NUI Galway, the National Disability Authority, Inclusion Ireland and many civil society and stakeholder organisations that have an interest in the legislation have all expressed dismay that instead of it being dealt with as a legal issue by the Department of Justice and Equality, it has been switched to the Mental Health Commission. In addition, the service will now not be an independent statutory body with reporting responsibilities to the Department of Justice and Equality. Obviously, this matter was discussed in the Seanad and the Minister of State spoke about it. I read the transcript and get the impression that she is a little embarrassed about the change because she said:

The ideal would be a stand-alone agency. There is no disagreement about it. Unfortunately, the Government has committed not to create any new agencies. Therefore, we had to find something more appropriate.

From this I am guessing that the Government stated, “Oh God, we can’t create another quango because every time we do that the public disagrees.” In addition, Fine Gael believes the Government should not create different public bodies. If we need a public body, we need one. What is Irish Water in that case? The Government had no problem in establishing an enormous quango that nobody wanted. It is not on principle that the Government cannot create new independent stand-alone agencies.

I ask the Minister of State to listen. The process of consultation with groups has to be taken seriously and many concerns have been expressed. It is also an issue of stigmatising. There are other issues that are not related to mental health. It would be in the best interests of all concerned if the Minister of State reconsidered.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I will be brief because I have said as much as I need to say on this issue. The Bill provides that while the decision support service will, in the first instance, lay its report before the Minister for Health, it will also lay it before the Minister for Justice and Equality because the Minister for Justice and Equality has responsibility for the legislation. The Minister for Health simply has responsibility for the Mental Health Commission. That is how it will be done. It is not as if it will be one Department or the other. It is simply the case that the Department of Justice and Equality has responsibility for the legislation and the Minister for Health has responsibility for the Mental Health Commission. The report will then be laid before the Houses of the Oireachtas.

Deputy Pádraig Mac Lochlainn: The Minister of State acknowledges that it would be best if the service was independent. Of course, we cannot do this because we have established that the Government does not establish new agencies but amalgamates them. Accordingly, we, unfortunately, have to amalgamate this proposed body with the Mental Health Commission. Why did the Minister of State say this in the Seanad and here today when I pointed out Government

has established new agencies? The Minister of State also claimed those agencies in question are self-funding, but I have explained the policing authority is not self-funding, while the other two agencies referred to are partially funded by the State. Does she still believe it would be best practice to establish this as an independent authority? Does she acknowledge that the Government has established new agencies? Does the Minister of State not find it alarming that all of the bodies that Deputy Ruth Coppinger and I listed earlier would like this to be an independent authority? The Minister of State indicated not just today, but previously, that it would be desirable to have an independent authority but, unfortunately, the reason she gave is the Government does not establish new agencies, it amalgamates them. I have pointed out the Government has established at least three agencies. Is there room for reflection on this? Does she take on board the points made by Senator Jillian van Turnhout in the Seanad that the difficulty here is the Minister of State is conflating different issues by putting them under the Mental Health Commission?

While it is no reflection on the Mental Health Commission, I do not believe in sticking bodies under the one agency and that amalgamating them is the best practice. It certainly is not the best practice in this case. It is not my opinion but that of non-governmental organisations and experts which deal with this area. They feel it is poor practice and not the way to go. They have not been consulted about a serious decision.

Deputy Colm Keaveney: I do not disagree with the previous speakers about the strategy on the amalgamation of quangos or the merging of one into the other. I do not feel it addresses the spirit of the legislation either. It would be best served in this debate if we all declared submissions made on the legislation. We all receive objections to legislation and amendments but we rarely see correspondence of support stating a proposal would work and is good. There is a disproportionate perception because one receives a quantum of disagreement on one proposal but there is silence on the other side of the debate. It would be helpful if the Minister of State would comment on that.

It would also be helpful if she would categorically declare that there will be a strategic review of the role of the Mental Health Commission. Again, like Pádraig Deputy Mac Lochlainn, I do not dispute its independence. It is the appropriate location for this agency, based on its expertise, culture, resources, understanding, language and empathy. I am not too sure about setting up a new, distinct, stand-alone agency when we already have an independent stand-alone with expertise in this area. It is a point of difference but it is important for this aspect of the debate that the Minister of State gives some hope around the issue of the role of the Mental Health Commission. We all agree it is independent; there is no dispute about that. However, how will it fit in best and what is the long-term review for it in the context of the concerns raised?

Deputy Kathleen Lynch: I am not certain how much more I can emphasise this. The reason I was quoted as saying that was because I said it and I said it again in here this morning. Deputy Pádraig Mac Lochlainn does not have to quote the debate from the Seanad because I said it here this morning. The reason I said it is because I keep hearing about new politics and how we should do politics differently. I believe in having a personal view and being open and honest about what I believe. That is what I practise both in here and outside. It might not sit well with some people but that is what I practise.

In the Chamber, it was sought that the proposed body would be situated within the Department of Justice and Equality. To me, that would have been the wrong place to have it. It was wrong to have it in the courts and it would be wrong to have it within the Department of Justice

and Equality. It would send out all the wrong signals.

Deputy Colm Keaveney is correct that the Mental Health Commission is the most independent of bodies. It is the expert body in terms of deprivation and allowing people to be heard. It is the most independent group I know. This will need rebranding and negotiations in the next six months to figure out exactly how this will fit better than we can envisage now. We will be doing an extensive and comprehensive review paper on the Mental Health Commission and have permission to draw up a general scheme. In the process, there will be questions of what more can it do and what could be done differently. I would not deign to tell the commission because I respect its independence but if it wishes it can have a consultation process around how this will be managed better under its remit. That is as much as we can do on this.

Seanad amendment put and declared carried.

Seanad amendment No. 45:

Section 14: In page 23, to delete line 33 and substitute the following:

“(b) is able to perform his or her functions under the co-decision-making agreement.”.

Seanad amendment agreed to.

Seanad amendment No. 46:

Section 14: In page 24, line 10, to delete “*subsection (7)*” and substitute “*subsection (7) (a)*”.

Seanad amendment agreed to.

Seanad amendment No. 47:

Section 14: In page 24, line 13, to delete “*subsection (7)*” and substitute “*subsection (7) (a)*”.

Seanad amendment agreed to.

Seanad amendment No. 48:

Section 14: In page 24, line 17, to delete “*subsection (7)*” and substitute “*subsection (7) (b)*”.

Seanad amendment agreed to.

Seanad amendment No. 49:

Section 14: In page 24, line 24, to delete “of” where it secondly occurs.

Seanad amendment agreed to.

Seanad amendment No. 50:

Section 14: In page 24, line 26, to delete “(or the person signing on his or her behalf)” and substitute “, or the person signing on his or her behalf”.

Seanad amendment agreed to.

Seanad amendment No. 51:

Section 14: In page 25, line 2, to delete “step-child.”.

Seanad amendment agreed to.

Seanad amendment No. 52:

Section 14: In page 25, line 7, to delete “of the relevant person”.

Seanad amendment agreed to.

Seanad amendment No. 53:

Section 15: In page 25, line 16, to delete “or” where it firstly occurs and substitute “or is”.

Seanad amendment agreed to.

Seanad amendment No. 54:

Section 15: In page 25, to delete lines 25 to 31 and substitute the following:

“(f) is a person who is—

(i) the owner or registered provider of a designated centre or mental health facility in which the person who intends to appoint him or her as co-decision-maker resides, or

(ii) residing with, or an employee or agent of, such owner or registered provider, as the case may be, unless the person is a spouse, civil partner, cohabitant, parent, child or sibling of the person who intends to appoint him or her as co-decision-maker.”.

Seanad amendment agreed to.

Seanad amendment No. 55:

Section 15: In page 25, line 32, to delete “*section 128*” and substitute “*section 31, 72, 73 or 128*”.

Seanad amendment agreed to.

Seanad amendment No. 56:

Section 15: In page 25, line 37, to delete “contains only” and substitute “relates only to”.

Seanad amendment agreed to.

Seanad amendment No. 57:

Section 16: In page 26, lines 2 to 5, to delete all words from and including “(1) A” in line 2 down to and including line 5.

Seanad amendment agreed to.

Seanad amendment No. 58:

Section 16: In page 26, line 6, after “functions” to insert “as specified in the co-decision-making agreement”.

Seanad amendment agreed to.

Seanad amendment No. 59:

Section 16: In page 26, line 11, to delete “them” and substitute “the appointer’s will and preferences”.

Seanad amendment agreed to.

Seanad amendment No. 60:

Section 16: In page 26, to delete lines 12 to 14 and substitute the following:

“(c) assist the appointer to obtain the appointer’s relevant information,”.

Seanad amendment agreed to.

Seanad amendment No. 61:

Section 16: In page 26, to delete line 15 and substitute the following:

“(d) discuss with the appointer the known alternatives and likely outcomes of a relevant decision,”.

Seanad amendment agreed to.

Seanad amendment No. 62:

Section 16: In page 26, to delete lines 19 to 26.

Seanad amendment agreed to.

Seanad amendment No. 63:

Section 16: In page 26, to delete lines 34 to 39, and in page 27, to delete lines 1 to 3 and substitute the following:

“(7) Where—

(a) after an application has been made under *section 18* to register a co-decision-making agreement but before registration of the agreement, or

(b) after registration of a co-decision-making agreement, the co-decision-maker or any person specified in *section 18(3)* has reason to believe that the appointer’s capacity has—

(i) deteriorated to the extent that he or she lacks capacity in relation to the relevant decisions which are the subject of the co-decision-making agreement even

with the assistance of a co-decision-maker, or

(ii) improved to the extent that he or she has capacity in relation to the relevant decisions which are the subject of the co-decision-making agreement, he or she shall promptly inform the Director of that belief.”.

Seanad amendment agreed to.

Seanad amendment No. 64:

Section 16: In page 27, to delete lines 4 to 8 and substitute the following:

“(8) In this Part, a reference to a relevant decision being made jointly means that a co-decision-maker—

(a) shall acquiesce with the wishes of the appointer in respect of the relevant decision, and

(b) shall not refuse to sign a document referred to in *section 20(3)*, unless it is reasonably foreseeable that such acquiescence or signature, as the case may be, will result in serious harm to the appointer or to another person.”.

Seanad amendment agreed to.

Seanad amendment No. 65

Section 16: In page 27, line 10, to delete “in relation to those specified in respect of him or her” and substitute “the relevant decisions specified”.

Seanad amendment agreed to.

Seanad amendment No. 66:

Section 17: In page 27, line 16, after “in” to insert “any of”.

Seanad amendment agreed to.

Seanad amendment No. 67:

Section 17: In page 27, line 18, to delete “it” and substitute “the co-decision-making agreement”.

Seanad amendment agreed to.

Seanad amendment No. 68:

Section 17: In page 27, line 24, after “attorney” to insert “or enduring power under the Act of 1996”.

Seanad amendment agreed to.

Seanad amendment No. 69:

Section 17: In page 27, line 26, after “in” where it firstly occurs to insert “any of”.

Seanad amendment agreed to.

Seanad amendment No. 70:

Section 17: In page 28, to delete lines 7 and 8 and substitute the following:

“(a) the civil partnership is annulled or dissolved (other than where the dissolution occurs by virtue of the parties to that civil partnership marrying each other) either—

(i) under the law of the State, or

(ii) under the law of another state and is, by means of that annulment or dissolution not or no longer a subsisting valid civil partnership under the law of the State.”.

Seanad amendment agreed to.

Seanad amendment No. 71:

Section 17: In page 28, lines 18 and 19, to delete “the appointment of a co-decision-maker” and substitute “the registration of a co-decision-making agreement”.

Seanad amendment agreed to.

Seanad amendment No. 72:

Section 17: In page 28, to delete lines 27 and 28 and substitute the following:

“(d) the co-decision-maker becomes a person in respect of whom a declaration under section 819 of the Act of 2014 has been made or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act.”.

Seanad amendment agreed to.

Seanad amendment No. 73:

Section 17: In page 28, line 31, after “Chapter” to insert “or any other provisions of that Act”.

Seanad amendment agreed to.

Seanad amendment No. 74:

Section 17: In page 28, to delete lines 32 to 37 and substitute the following:

“(f) the co-decision-maker becomes—

(i) the owner or registered provider of a designated centre or mental health facility in which the appointer resides, or

(ii) a person residing with, or an employee or agent of, such owner or registered provider, as the case may be, unless the co-decision-maker is the spouse, civil partner, cohabitant, parent, child or sibling of the appointer.”.

Seanad amendment agreed to.

Seanad amendment No. 75:

Section 17: In page 28, line 38, to delete “*section 128*” and substitute “*section 31, 72, 73 or 128*”.

Seanad amendment agreed to.

Seanad amendment No. 76:

Section 17: In page 29, line 2, after “attorney” to insert “or enduring power under the Act of 1996”.

Seanad amendment agreed to.

Seanad amendment No. 77:

Section 17: In page 29, line 4, to delete “an order under *Part 5*” and substitute “a declaration under *section 34(1)*”.

Seanad amendment agreed to.

Seanad amendment No. 78:

Section 17: In page 29, line 6, to delete “shall” and substitute “should”.

Seanad amendment agreed to.

Seanad amendment No. 79:

Section 17: In page 29, line 11, to delete “contains” and substitute “relates to”.

Seanad amendment agreed to.

Seanad amendment No. 80:

Section 17: In page 29, to delete lines 12 to 23 and substitute the following:

“(8) Where a co-decision-making agreement which stands registered becomes null and void in whole or to the extent that it relates to one or more relevant decisions, the co-decision-maker or, in the case of nullity pursuant to *subsection (6)(h)(iii) or (iv)*, his or her attorney, decision-making-representative or the court, as the case may be, shall notify the Director of such nullity and the particulars relating thereto.

(9) The nullity of a co-decision-making agreement or of a relevant decision contained therein shall not operate to prevent a person who relied on the agreement or the relevant decision from recovering damages in respect of any loss incurred by him or her as a result of that reliance.”.

Seanad amendment agreed to.

Seanad amendment No. 81:

Section 18: In page 30, lines 20 and 21, to delete “the functions of a co-decision-maker” and substitute “his or her functions as specified in the co-decision-making agreement”.

Seanad amendment agreed to.

Seanad amendment No. 82:

Section 18: In page 30, line 35, to delete “his or her” and substitute “their”.

Seanad amendment agreed to.

Seanad amendment No. 83:

Section 18: In page 31, line 7, to delete “details of the notice given” and substitute “a copy of any notice given”.

Seanad amendment agreed to.

Seanad amendment No. 84:

Section 19: In page 31, line 12, to delete “whether—” and substitute “whether the following criteria are met:”.

Seanad amendment agreed to.

Seanad amendment No. 85:

Section 19: In page 31, to delete lines 15 and 16 and substitute the following:

“(c) the co-decision-maker is eligible for appointment within the meaning of *section 15*.”.

Seanad amendment agreed to.

Seanad amendment No. 86:

Section 19: In page 31, line 25, to delete “satisfied” and substitute “of the view”.

Seanad amendment agreed to.

Seanad amendment No. 87:

Section 19: In page 31, line 34, to delete “satisfied” and substitute “of the view”.

Seanad amendment agreed to.

Seanad amendment No. 88:

Section 21: In page 32, line 37, to delete “in respect of” and substitute “to make”.

Seanad amendment agreed to.

Seanad amendment No. 89:

Section 21: In page 33, line 1, to delete “in respect of” and substitute “to make”.

Seanad amendment agreed to.

Seanad amendment No. 90:

Section 21: In page 33, line 7, to delete “or falls under *paragraphs (a) to (h) of section 15(1)*” and substitute “or is not eligible for appointment by virtue of *section 15*”.

Seanad amendment agreed to.

Seanad amendment No. 91:

Section 21: In page 33, between lines 7 and 8, to insert the following:

“(g) that a false statement is included in the application to register the co-decision-making agreement;”.

Seanad amendment agreed to.

Seanad amendment No. 92:

Section 21: In page 33, line 10, after “*subsection (2)*,” to insert “which has been made in the period specified in *subsection (1)*,”.

Seanad amendment agreed to.

Seanad amendment No. 93:

Section 23: In page 34, line 28, to delete “whether—” and substitute “whether the following criteria are met.”.

Seanad amendment agreed to.

Seanad amendment No. 94:

Section 23: In page 34, line 30, to delete “falls” and substitute “does not fall”.

Seanad amendment agreed to.

Seanad amendment No. 95:

Section 23: In page 34, line 31, to delete “effectively”.

Seanad amendment agreed to.

Seanad amendment No. 96:

Section 23: In page 34, line 32, to delete “effectively”.

Seanad amendment agreed to.

Seanad amendment No. 97:

Section 23: In page 34, line 34, to delete “and”.

Seanad amendment agreed to.

Seanad amendment No. 98:

Section 23: In page 35, line 9, to delete “the matters in” and substitute “the criteria set out in”.

Seanad amendment agreed to.

Seanad amendment No. 99:

Section 23: In page 35, lines 9 and 10, to delete “does not, or no longer continues to, apply,” and substitute “does not apply,”.

Seanad amendment agreed to.

Seanad amendment No. 100:

Section 23: In page 35, line 16, to delete “the matters in” and substitute “the criteria set out in”.

Seanad amendment agreed to.

Seanad amendment No. 101:

Section 23: In page 35, lines 16 and 17, to delete “does not, or no longer continues to, apply,” and substitute “does not apply,”.

Seanad amendment agreed to.

Seanad amendment No. 102:

Section 23: In page 35, lines 20 and 21, to delete “does not, or no longer continues to, apply,” and substitute “does not apply,”.

Seanad amendment agreed to.

Seanad amendment No. 103:

Section 24: In page 35, line 38, to delete “notice” and substitute “notification”.

Seanad amendment agreed to.

Seanad amendment No. 104:

Section 24: In page 35, to delete lines 40 to 42 and substitute the following:

“(4) Where a co-decision-maker fails to comply with a notification under *subsection (3)*, the Director shall—

(a) in the case of the submission of an incomplete report and following any necessary enquiries to satisfy himself or herself that the report is substantially in accordance with this section and regulations made under *section 28*, accept the report as if it were in compliance with this section and the relevant regulations, or

(b) make an application to the court for a determination as to whether the co-decision-maker should continue as co-decision-maker for the appointer.”.

Seanad amendment agreed to.

Seanad amendment No. 105:

Section 24: In page 35, line 43, to delete “*subsection (4)*” and substitute “*subsection (4) (b)*”.

Seanad amendment agreed to.

Seanad amendment No. 106:

Section 25: In page 36, line 16, after “and” where it firstly occurs to insert “, subject to *section 14(6)*”.

Seanad amendment agreed to.

Seanad amendment No. 107:

Section 27: In page 38, to delete lines 1 to 3 and substitute the following:

“(a) that the co-decision-maker has acted, is acting, or is proposing to act outside the scope of his or her functions under the co-decision-making agreement;”.

Seanad amendment agreed to.

Seanad amendment No. 108:

Section 27: In page 38, line 7, to delete “the” where it firstly occurs and substitute “an”.

Seanad amendment agreed to.

Seanad amendment No. 109:

Section 27: In page 38, line 9, to delete “the” and substitute “an”.

Seanad amendment agreed to.

Seanad amendment No. 110:

Section 27: In page 38, line 11, to delete “the” where it firstly occurs and substitute “an”.

Seanad amendment agreed to.

Seanad amendment No. 111:

Section 27: In page 38, line 14, to delete “the” where it firstly occurs and substitute “an”.

Seanad amendment agreed to.

Seanad amendment No. 112:

Section 27: In page 38, line 18, after “investigation” to insert “of the matter which is the subject of that complaint”.

Seanad amendment agreed to.

Seanad amendment No. 113:

Section 27: In page 38, between lines 23 and 24, to insert the following:

“(3) A person who receives a notification under *subsection (2)(b)* may, not later than 21 days after the date of issue of the notification, appeal a decision of the Director that the complaint is not well founded to the court.”.

Seanad amendment agreed to.

Seanad amendment No. 114:

Section 27: In page 38, line 25, after “to” to insert “the”.

Seanad amendment agreed to.

Seanad amendment No. 115:

Section 27: In page 38, line 28, to delete “*subsection (2)*” and substitute “*subsection (2)(a)*”.

Seanad amendment agreed to.

Seanad amendment No. 116:

Section 27: In page 38, to delete lines 29 and 30 and substitute the following:

“(b) pursuant to an appeal under *subsection (3)*.”.

Seanad amendment agreed to.

Seanad amendment No. 117:

Section 27: In page 38, lines 31 and 32, to delete “which was the subject of a complaint to the Director”.

Seanad amendment agreed to.

Seanad amendment No. 118:

Section 28: In page 38, lines 36 and 37, to delete all words from and including “make” in line 36 down to and including line 37 and substitute “prescribe by regulations the following matters:”.

Seanad amendment agreed to.

Seanad amendment No. 119:

Section 28: In page 38, line 38, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 120:

Section 28: In page 38, line 39, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 121:

Section 28: In page 39, line 2, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 122:

Section 28: In page 39, line 5, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 123:

Section 28: In page 39, line 7, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 124:

Section 28: In page 39, line 9, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 125:

Section 28: In page 39, line 11, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 126:

Section 28: In page 39, line 13, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 127:

Section 28: In page 39, line 16, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 128:

Section 28: In page 39, to delete line 22.

Seanad amendment agreed to.

Seanad amendment No. 129:

Section 28: In page 39, line 23, to delete “prescribing”.

Seanad amendment agreed to.

Seanad amendment No. 130:

Section 29: In page 39, line 25, after “Where” to insert “, under this Part,”.

Seanad amendment agreed to.

Seanad amendment No. 131:

Section 30: In page 39, lines 35 and 36, to delete “notice of the nullity of a co-decision-making agreement or of a relevant decision which is the subject of a co-decision-making agreement,” and substitute “notification of nullity pursuant to *section 17(8)*,”.

Seanad amendment agreed to.

Seanad amendment No. 132:

Section 31: In page 40, line 7, to delete “shall be guilty of” and substitute “commits”.

Seanad amendment agreed to.

Seanad amendment No. 133:

Section 31: In page 40, lines 21 to 23, to delete all words from and including “a” where it secondly occurs in line 21 down to and including “disabilities,” in line 23 and substitute “a designated centre or mental health facility,”.

Seanad amendment agreed to.

Seanad amendment No. 134:

Section 33: In page 41, line 9, to delete “application,” and substitute “application, and”.

Seanad amendment agreed to.

Seanad amendment No. 135:

Section 33: In page 41, line 11, to delete “applicant),” and substitute “applicant).”.

Seanad amendment agreed to.

Seanad amendment No. 136:

Section 33: In page 41, to delete lines 12 to 16.

Seanad amendment agreed to.

Seanad amendment No. 137:

Section 33: In page 42, line 16 to 18, to delete all words from and including “power” in line 16 down to and including “*section 58*” in line 18 and substitute “enduring power of attorney or enduring power under the Act of 1996”.

Seanad amendment agreed to.

Seanad amendment No. 138:

Section 33: In page 42, line 22, to delete “and which, to the applicant’s knowledge, still has any force or effect” and substitute “of which the applicant has knowledge”.

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 139, 165, 166, 251 and 295 are

related and may be discussed together.

Seanad amendment No. 139:

Section 33: In page 42, to delete lines 23 to 37.

Seanad amendment agreed to.

Seanad amendment No. 140:

Section 33: In page 42, to delete line 40 and substitute “commenced, and”.

Seanad amendment agreed to.

Seanad amendment No. 141:

Section 33: In page 43, to delete lines 1 and 2.

Seanad amendment agreed to.

Seanad amendment No. 142:

Section 33: In page 43, line 9, after “attorney” to insert “, attorney under the Act of 1996”.

Seanad amendment agreed to.

Seanad amendment No. 143:

Section 33: In page 43, line 11, after “attorney” to insert “, attorney under the Act of 1996”.

Seanad amendment agreed to.

Seanad amendment No. 144:

Section 33: In page 43, line 21, after “attorney” to insert “, attorney under the Act of 1996”.

Seanad amendment agreed to.

Seanad amendment No. 145:

Section 33: In page 43, line 23, after “attorney” to insert “, attorney under the Act of 1996”.

Seanad amendment agreed to.

Seanad amendment No. 146:

Section 34: In page 44, line 4, to delete “Subject to *subsection (3)*, the” and substitute “The”.

Seanad amendment agreed to.

Seanad amendment No. 147:

Section 34: In page 44, line 10, to delete “application” and substitute “declaration”.

Seanad amendment agreed to.

Seanad amendment No. 148:

Section 34: In page 44, to delete lines 20 to 22.

Seanad amendment agreed to.

Seanad amendment No. 149:

Section 35: In page 45, line 12, to delete “suitable person” and substitute “suitable person who has attained the age of 18 years”.

Seanad amendment agreed to.

Seanad amendment No. 150:

Section 35: In page 45, to delete lines 17 to 20 and substitute the following:

“(3) In making a decision-making order or decision-making representation order in relation to personal welfare, the court shall have regard to the terms of any advance healthcare directive made by the relevant person and shall—

(a) ensure that the terms of the order are not inconsistent with the directive, and

(b) where a decision-making representative is appointed, ensure that his or her functions are not inconsistent with the directive or the relevant powers exercisable by any designated healthcare representative under the directive.

(4) In making a decision-making order or decision-making representation order, the court shall have regard to the terms of any enduring power of attorney made by the relevant person or enduring power under the Act of 1996 made by him or her and shall—

(a) ensure that the terms of the order are not inconsistent with the terms of the enduring power of attorney or enduring power under the Act of 1996, and

(b) where a decision-making representative is appointed, ensure that his or her functions are not inconsistent with—

(i) the functions of an attorney under an enduring power of attorney, or

(ii) the duties and obligations of an attorney under the Act of 1996.”.

Seanad amendment agreed to.

Seanad amendment No. 151:

Section 35: In page 47, to delete lines 8 to 17.

Seanad amendment agreed to.

Seanad amendment No. 152:

Section 36: In page 47, between lines 17 and 18, to insert the following:

“Persons who are not eligible to be decision-making representatives

36. (1) Subject to *subsection (2)*, a person shall not be eligible for appointment as a decision-making representative if he or she—

(a) has been convicted of an offence in relation to the person or property of the relevant person or the person or property of a child of that person,

(b) has been the subject of a safety or barring order in relation to the relevant person or a child of that person,

(c) is an undischarged bankrupt or is currently in a debt settlement arrangement or personal insolvency arrangement or has been convicted of an offence involving fraud or dishonesty,

(d) is a person in respect of whom a declaration under section 819 of the Act of 2014 has been made or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,

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

(f) is a person who is—

(i) the owner or registered provider of a designated centre or mental health facility in which the relevant person resides, or

(ii) residing with, or an employee or agent of, such owner or registered provider, as the case may be, unless the person is a spouse, civil partner, cohabitant, parent, child or sibling of the relevant person, or

(g) has been convicted of an offence under *section 31, 72, 73 or 128*.

(2) *Subsections (1)(c), (d) and (e)* shall not apply as respects the appointment of a person as a decision-making representative in respect of relevant decisions concerning personal welfare matters only.”.

Seanad amendment agreed to.

Seanad amendment No. 153:

Section 36: In page 47, between lines 17 and 18, to insert the following:

“Disqualification as decision-making representative

37. (1) A decision-making representative shall, with effect from the date on which an event specified in *paragraphs (a) to (c)* occurs or, in the case of an event specified in *paragraph (d)*, at the expiry of the period referred to in that paragraph, be disqualified from being a decision-making representative for the relevant person where the decision-making representative is the spouse of the relevant person and—

(a) the marriage is annulled or dissolved either—

(i) under the law of the State, or

(ii) under the law of another state and is, by reason of that annulment or dissolution, not or no longer a subsisting valid marriage under the law of the State,

(b) either a decree of judicial separation is granted to either spouse by a court in the State or any decree is so granted by a court outside the State and is recognised in the State as having like effect,

(c) a written agreement to separate is entered into between the spouses, or

(d) subject to *section 2(2)*, the spouses separate and cease to cohabit for a continuous period of 12 months.

(2) A decision-making representative shall, with effect from the date on which an event specified in *paragraph (a)* or *(b)* occurs or, in the case of an event specified in *paragraph (c)*, at the expiry of the period referred to in that paragraph, be disqualified from being a decision-making representative for the relevant person where the decision-making representative is the civil partner of the relevant person and—

(a) the civil partnership is annulled or dissolved (other than where the dissolution occurs by virtue of the parties to that civil partnership marrying each other) either—

(i) under the law of the State, or

(ii) under the law of another state and is, by means of that annulment or dissolution not or no longer a subsisting valid civil partnership under the law of the State,

(b) a written agreement to separate is entered into between the civil partners, or

(c) subject to *section 2(2)*, the civil partners separate and cease to cohabit for a continuous period of 12 months.

(3) Subject to *section 2(2)*, a decision-making representative shall, at the expiry of the period referred to in this subsection, be disqualified from being a decision-making representative for the relevant person where the decision-making representative is the cohabitant of the appointer and the cohabitants separate and cease to cohabit for a continuous period of 12 months.

(4) Subject to *subsection (5)*, where, subsequent to the appointment of a decision-making representative—

(a) the decision-making representative is convicted of an offence in relation to the person or property of the relevant person or the person or property of a child of the relevant person,

(b) a safety or barring order is made against the decision-making representative in relation to the relevant person or a child of the relevant person,

(c) the decision-making representative becomes an undischarged bankrupt or subject to a debt settlement arrangement or personal insolvency arrangement which is current or

is convicted of an offence involving fraud or dishonesty,

(d) the decision-making representative becomes a person in respect of whom a declaration under section 819 of the Act of 2014 has been made or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,

(e) the decision-making representative becomes a person who is subject or is deemed to be subject to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014 by virtue of that Chapter or any other provisions of that Act,

(f) the decision-making representative becomes—

(i) the owner or registered provider of a designated centre or mental health facility in which the relevant person resides, or

(ii) a person residing with, or an employee or agent of, such owner or registered provider, as the case may be, unless the decision-making representative is a spouse, civil partner, cohabitant, parent, child or sibling of the appointer,

(g) the decision-making representative is convicted of an offence under *section 31, 72, 73 or 128*, or

(h) the decision-making representative—

(i) enters into a decision-making assistance agreement as a relevant person,

(ii) enters into a co-decision-making agreement as a relevant person,

(iii) has an enduring power of attorney or enduring power under the Act of 1996 registered in respect of himself or herself, or

(iv) becomes the subject of a declaration under *section 34(1)*,

the decision-making representative shall be disqualified from being a decision-making representative for the relevant person with effect from the date on which the decision-making representative falls within any of *paragraphs (a) to (h)*.

(5) *Subsections (4)(c), (d) and (e)* shall not apply to a decision-making representative insofar as he or she exercises functions under the decision-making representation order in relation to the personal welfare of the relevant person.

(6) Where a decision-making representative becomes disqualified under this section, he or she or, in the case of disqualification pursuant to *subsection (4)(h)(iii) or (iv)* his or her attorney, decision-making representative or the court, as the case may be, shall notify the Director of such disqualification and the particulars relating thereto.

(7) Where a decision-making representative becomes disqualified, a relevant decision made solely by him or her after his or her disqualification shall be null and void.

(8) *Subsection (7)* shall not operate to prevent a person who relied on a relevant decision referred to in that subsection from recovering damages in respect of any loss incurred by him or her as a result of that reliance.”.

Seanad amendment agreed to.

Seanad amendment No. 154:

Section 36: In page 47, between lines 17 and 18, to insert the following:

“Performance of functions of decision-making representative

38. (1) In exercising his or her functions as specified in the decision-making representation order, a decision-making representative shall, insofar as this is possible, ascertain the will and preferences of the relevant person on a matter the subject of, or to be the subject of, a relevant decision and assist the relevant person with communicating such will and preferences.

(2) A decision-making representative shall make a relevant decision on behalf of the relevant person and shall act as the agent of the relevant person in relation to a relevant decision.”

Seanad amendment agreed to.

Seanad amendment No. 155:

Section 36: In page 47, between lines 17 and 18, to insert the following:

“Remuneration and expenses

39. (1) Except where the court otherwise orders, a decision-making representative for a relevant person shall be entitled to be reimbursed out of the assets of the relevant person in respect of his or her fair and reasonable expenses which are reasonably incurred in performing his or her functions as such decision-making representative.

(2) Where the court so directs in a decision-making representation order, the decision-making representative shall be entitled to reasonable remuneration in relation to the performance of his or her functions as such decision-making representative and which functions are carried out in connection with his or her trade or profession, or in other exceptional circumstances specified in the order, and such remuneration shall be paid from the assets of the relevant person.”

Seanad amendment agreed to.

Seanad amendment No. 156:

Section 36: In page 47, to delete lines 18 to 40, to delete pages 48 and 49 and in page 50, to delete lines 1 to 31.

Seanad amendment agreed to.

Seanad amendment No. 157:

Section 37: In page 51, between lines 27 and 28, to insert the following:

“(6) A decision-making representation order may provide for the giving of such security by the decision-making representative to the court as the court considers appropriate in relation to the proper performance of the functions of such decision-making representative.”

Seanad amendment agreed to.

Seanad amendment No. 158:

Section 38: In page 52, to delete lines 1 to 26.

Seanad amendment agreed to.

Seanad amendment No. 159:

Section 38: In page 52, line 27, to delete “A decision-making representative” and substitute the following:

“Subject to the terms of any advance healthcare directive made by the relevant person and subject to relevant powers exercisable by any designated healthcare representative appointed under the directive, a decision-making representative”.

Seanad amendment agreed to.

Seanad amendment No. 160:

Section 38: In page 53, lines 11 and 12, to delete “the relevant person pursuant to this section” and substitute “a relevant person”.

Seanad amendment agreed to.

Seanad amendment No. 161:

Section 38: In page 53, to delete lines 17 and 18.

Seanad amendment agreed to.

Seanad amendment No. 162:

Section 39: In page 53, between lines 18 and 19, to insert the following:

“Register of decision-making representation orders

39. (1) The Director shall establish and maintain a Register (in this Part referred to as “the Register”) of decision-making representation orders.

(2) The Register shall be in such form as the Director considers appropriate.

(3) The Director shall make the Register available for inspection by—

(a) a body or class of persons prescribed by regulations made by the Minister for this purpose, and

(b) a person who satisfies the Director that he or she has a legitimate interest in inspecting the Register.

(4) The Director may issue an authenticated copy of a decision-making representation order, or part thereof, on the Register on payment of a fee prescribed by regulations made by the Minister to—

(a) a body or class of persons prescribed by regulations made by the Minister for this purpose, and

(b) a person who satisfies the Director that he or she has a legitimate interest in obtaining a copy.”.

Seanad amendment agreed to.

Seanad amendment No. 163:

Section 39: In page 53, between lines 18 and 19, to insert the following:

“Reports by decision-making representative

40. (1) Subject to *subsection (2)*, a decision-making representative shall, within 12 months after the making of the decision-making representation order appointing him or her, and thereafter at intervals of not more than 12 months, prepare and submit to the Director a report in writing as to the performance of his or her functions as such decision-making representative during the relevant period.

(2) The court may direct that a report be submitted to the Director within such shorter period or within such shorter intervals than those specified in *subsection (1)*.

(3) Every such report submitted to the Director shall be in such form as may be prescribed by regulations made by the Minister and shall include details of all transactions relating to the relevant person’s finances which are within the scope of the decision-making representation order and details of all costs, expenses and remuneration claimed by or paid to the decision-making representative during the relevant period.

(4) A decision-making representative who has restrained the relevant person at any time during the relevant period shall include in the report details of each such restraint and the date on which, and the place where, such restraint occurred.

(5) Where a decision-making representation order authorises a decision-making representative to make decisions in relation to a relevant person’s property and affairs, the decision-making representative shall within 3 months of his or her appointment as decision-making representative, submit to the Director a schedule of the relevant person’s assets and liabilities and a projected statement of the relevant person’s income and expenditure.

(6) Where a decision-making representation order authorises a decision-making representative to make decisions in relation to a relevant person’s property and affairs, the decision-making representative shall keep proper accounts and financial records in respect of the relevant person’s income and expenditure and shall—

(a) submit the accounts and records as part of a report to the Director under this section, and

(b) make available for inspection by the Director or by a special visitor, at any reasonable time, such accounts and records.

(7) Where a decision-making representative fails to submit a report in accordance with this section or submits an incomplete report or fails to comply with *subsection (5)* or *(6)*, the Director shall notify the decision-making representative of that failure or incomplete-

ness and give the decision-making representative such period of time as is specified in the notification to comply or submit a complete report.

(8) Where a decision-making representative fails to comply with a notification under *subsection (7)*, the Director shall—

(a) in the case of the submission of an incomplete report and following any necessary enquiries to satisfy himself or herself that the report is substantially in accordance with this section and regulations made by the Minister, accept the report as if it were in compliance with this section and the relevant regulations, or

(b) make an application to the court for a determination as to whether the decision-making representative should continue as decision-making representative for the relevant person.

(9) Pursuant to an application to it under *subsection (8)(b)*, the court may determine that a decision-making representative who has not complied with this section shall no longer act as decision-making representative for the relevant person concerned.

(10) In this section “relevant period” means the period of time to which the report relates which shall be the period of time between the date of the decision-making representation order or the date of submission of the previous report, as the case may be, and the date immediately preceding the date of submission of the report concerned.”.

Seanad amendment agreed to.

Seanad amendment No. 164:

Section 39: In page 53, between lines 18 and 19, to insert the following:

“Complaints in relation to decision making representatives

41. (1) A person may make a complaint in writing to the Director concerning one or more of the following matters:

(a) that a decision-making representative has acted, is acting, or is proposing to act outside the scope of his or her functions as specified in the decision-making representation order;

(b) that a decision-making representative is not suitable, having regard to the matters referred to in *section 35(4)*, to be a decision-making representative.

(2) Following the receipt of a complaint under *subsection (1)*, the Director shall carry out an investigation of the matter which is the subject of that complaint and—

(a) where he or she is of the view that the complaint is well founded, make an application to the court for a determination in relation to a matter specified in the complaint, or

(b) where he or she is of the view that the complaint is not well founded, notify the person who made the complaint of that view and provide reasons for same.

(3) A person who receives a notification under *subsection (2)(b)* may, not later than 21

days after the date of issue of the notification, appeal a decision of the Director that the complaint is not well founded to the court.

(4) The Director may, notwithstanding that no complaint has been received, on his or her own initiative carry out an investigation and make an application to the court for a determination in relation to any matter specified in *subsection (1)*.

(5) The court may—

(a) pursuant to an application to it under *subsection (2)(a)* or *(4)*, or

(b) pursuant to an appeal under *subsection (3)*,

make a determination in relation to a matter specified in *subsection (1)* and may, if it considers it appropriate, determine that a decision-making representative shall no longer act as such in relation to the relevant person concerned.”

Seanad amendment agreed to.

Seanad amendment No. 165:

Section 43: In page 55, between lines 19 and 20, to insert the following:

“(a) in section 1 by inserting the following definition:

“ ‘relevant person’ has the meaning it has in the *Assisted Decision-Making (Capacity) Act 2015*;”.”

Seanad amendment agreed to.

Seanad amendment No. 166:

Section 43: In page 55 to delete lines 28 to 36 and substitute the following:

“(b) in section 28 by inserting after subsection (3) the following:

“(3A) Where the proceedings the subject matter of the application under this section concern an application under *Part 5* of the *Assisted Decision-Making (Capacity) Act 2015* relating to the matter referred to in *section 34(1)* of that Act—

(a) paragraphs (c) and (e) of subsection (2) shall not apply, and

(b) where the applicant is a relevant person, paragraph (a) shall not apply.”,

(c) in section 28(5)—

(i) in paragraph (d) by deleting “aid.” and substituting “aid, and”, and

(ii) by inserting after paragraph (d) the following:

“(e) who is a patient, within the meaning of the Mental Health Act 2001, for the purpose of providing that person with legal representation before a tribunal in proceedings under that Act.”,

(d) in section 33, by inserting after subsection (7) the following:

“(7A) Where a legal aid certificate has been granted to an applicant who is a relevant person who does not satisfy the criteria in respect of financial eligibility specified in section 29, the Board may seek to recover some or all of the costs of providing the legal aid to the relevant person concerned.”,

and

(e) in section 37(2), by inserting after paragraph (fb) the following:

“(fc) make provision for the mechanism for recovery of the costs referred to in section 33(7A);”.

Seanad amendment agreed to.

Seanad amendment No. 167:

Section 45: In page 56, line 10, to delete “An application for the review of the capacity of a ward” and substitute “An application for a declaration under *section 46(1)* in respect of a ward”.

Seanad amendment agreed to.

Seanad amendment No. 168:

Section 45: In page 56, line 13, to delete “or”.

Seanad amendment agreed to.

Seanad amendment No. 169:

Section 45: In page 56, between lines 13 and 14, to insert the following:

“(b) a relative or friend of the ward who has had such personal contact with the ward over such period of time that a relationship of trust exists between them, or”.

Seanad amendment agreed to.

Seanad amendment No. 170:

Section 45: In page 56, line 17, to delete “review the capacity of a ward” and substitute “make a declaration under *section 46(1)* in respect of a ward”.

Seanad amendment agreed to.

Seanad amendment No. 171:

Section 45: In page 56, to delete lines 20 to 22 and substitute the following:

“(3) Where a ward reaches the age of 18 years after the period specified in *subsection (2)(b)*, the wardship court shall, within 6 months of the ward reaching that age, make a declaration under *section 46(1)* in respect of the ward.”.

Seanad amendment agreed to.

Seanad amendment No. 172:

Section 46: In page 56, line 24, to delete “after reviewing the capacity of the ward” and substitute “on an application being made to it under *section 45(1)*, or pursuant to *section 45(2)* or *(3)*”.

Seanad amendment agreed to.

Seanad amendment No. 173:

Section 46: In page 57, line 16, to delete “, following the review of the capacity of a ward,”.

Seanad amendment agreed to.

Seanad amendment No. 174:

Section 47: In page 57, to delete lines 22 to 27 and substitute the following:

“**Saver**

47. (1) The repeal of the Lunacy Regulation (Ireland) Act 1871 by *section 7* shall not affect the validity of any order—

(a) made by the wardship court within its jurisdiction, and

(b) which was in force immediately before the commencement of this Part.

(2) Pending a declaration under *section 46(1)*, the jurisdiction of the wardship court as set out in sections 9 and 22(2) of the Courts (Supplemental Provisions) Act 1961 shall continue to apply.”.

Seanad amendment agreed to.

Seanad amendment No. 175:

Section 49: In page 58, to delete lines 7 to 15.

Seanad amendment agreed to.

Seanad amendment No. 176:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“**Interpretation - Part 7**

50. (1) In this Part—

“disqualified”, in relation to an attorney, means the attorney becomes a person referred to in section 58 or a person that the court determines under this Part shall no longer act as attorney for the donor concerned;

“donor” has the meaning given to it in *section 51(1)*;

“donor under the Act of 1996” means a person who has created an enduring power under the Act of 1996;

“prescribed” means prescribed by regulations made by the Minister under *section 71*;

“trust corporation” has the meaning it has in *section 30* of the Succession Act 1965 but shall not include a designated centre or mental health facility in which the donor resides.

(2) In this Part “person”, in relation to an attorney, includes a trust corporation but only to the extent that the authority conferred under the enduring power of attorney relates to property and affairs.”.

Seanad amendment agreed to.

Seanad amendment No. 177:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Enduring power of attorney - general

51. (1) Subject to the provisions of this section and *sections 52, 54* and *55*, a person who has attained the age of 18 years (in this Act referred to as “donor”) may appoint another person who has also attained that age (in this Act referred to as “attorney”) on whom he or she confers either or both of the following:

(a) general authority to act on the donor’s behalf in relation to all or a specified part of the donor’s property and affairs; or

(b) authority to do specified things on the donor’s behalf in relation to the donor’s personal welfare or property and affairs, or both; which may, in either case, be conferred subject to conditions and restrictions.

(2) The authority referred to in *subsection (1)* shall be known as an enduring power of attorney and shall be conferred in writing in an instrument which is in compliance with this Part and regulations made under *section 71*.

(3) A donor may, in an enduring power of attorney, appoint a person who shall act as attorney for the donor in respect of the relevant decisions specified therein in the event that an attorney on whom authority is conferred dies or is unable to act or is disqualified from acting as attorney.

(4) An enduring power of attorney shall not enter into force until—

(a) the donor lacks capacity in relation to one or more of the relevant decisions which are the subject of the power, and

(b) the instrument creating the enduring power of attorney has been registered in accordance with *section 61*.

(5) Where an enduring power of attorney is expressed to confer general authority in respect of all or a specified part of the donor’s property and affairs, it operates to confer, subject to any restrictions provided in the power or in this Part, authority to do on behalf of the donor anything which the donor can lawfully do by attorney.

(6) A person is suitable for appointment as an attorney if he or she is able to perform the functions of attorney as specified in the enduring power of attorney.”.

Seanad amendment agreed to.

Seanad amendment No. 178:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Content of instrument creating an enduring power of attorney

52. (1) An instrument creating an enduring power of attorney shall include the following statements:

(a) by the donor that he or she—

(i) understands the implications of creating the power,

(ii) intends the power to be effective at any subsequent time when he or she lacks capacity in relation to one or more relevant decisions which are the subject of the power, and

(iii) is aware that he or she may vary or revoke the power prior to its registration;

(b) by a legal practitioner that, after interviewing the donor and making any necessary enquiries, he or she—

(i) is satisfied that the donor understands the implications of creating the power,

(ii) is satisfied that the donor is aware that he or she may vary or revoke the power prior to its registration, and

(iii) has no reason to believe that the instrument is being executed by the donor as a result of fraud, coercion or undue pressure;

(c) by a registered medical practitioner that in his or her opinion at the time the power was executed, the donor had the capacity to understand the implications of creating the power;

(d) by a healthcare professional of a class that shall be prescribed, that in his or her opinion at the time the power was executed, the donor had the capacity to understand the implications of creating the power; and

(e) by the attorney, that he or she—

(i) understands the implications of undertaking to be an attorney for the donor and has read and understands the information contained in the instrument,

(ii) understands and undertakes to act in accordance with his or her functions as specified in the instrument creating the enduring power of attorney,

(iii) understands and undertakes to act in accordance with the guiding prin-

principles,

(iv) understands and undertakes to comply with the reporting obligations under *section 67*, and

(v) understands the requirements in relation to registration of the power.

(2) An instrument creating an enduring power of attorney shall include the following:

(a) the name, date of birth and contact details of the donor;

(b) subject to *subsection (3)*, the signature of the donor and the date that he or she signed the power;

(c) the name, date of birth and contact details of the attorney;

(d) the signature of the attorney and the date that he or she signed the enduring power of attorney;

(e) the signatures of the 2 witnesses referred to in *subsection (4)(a)*.

(3) An instrument creating an enduring power of attorney may be signed on behalf of the donor by a person who has attained the age of 18 years and who is not the attorney or a witness referred to in *subsection (4)(a)* if—

(a) the donor is unable to sign the instrument,

(b) the donor is present and directs that the instrument be signed on his or her behalf by that person, and

(c) the signature of the person is witnessed in accordance with *subsection (4)(b)*.

(4) (a) The donor, or the person signing on his or her behalf in accordance with *subsection (3)*, and the attorney shall sign the instrument creating the enduring power of attorney in the presence of each other and in the presence of 2 witnesses—

(i) each of whom has attained the age of 18 years,

(ii) of whom at least one is not an immediate family member of the donor or the attorney, and

(iii) neither of whom is an employee or agent of the attorney.

(b) Each of the witnesses referred to in *paragraph (a)* shall witness the signature of the donor (or the person signing on his or her behalf) and the signature of the attorney by applying his or her own signature to the instrument creating the enduring power of attorney.

(5) Where a donor proposes to remunerate an attorney for performing his or her functions as attorney, the instrument creating the enduring power of attorney shall specify the proposed remuneration and the functions to which it relates.

(6) In this section, “immediate family member” means—

- (a) a spouse, civil partner, or cohabitant,
- (b) a child, son-in-law or daughter-in-law,
- (c) a parent, step-parent, mother-in-law or father-in-law,
- (d) a brother, sister, step-brother, step-sister, brother-in-law or sister-in-law,
- (e) a grandparent or grandchild,
- (f) an aunt or uncle, or
- (g) a nephew or niece.”.

Seanad amendment agreed to.

Seanad amendment No. 179:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Notice of execution of an enduring power of attorney

53. (1) The donor shall, as soon as practicable after the execution of the instrument creating the enduring power of attorney, give notice, in such form as shall be prescribed, of such execution to the following persons:

- (a) a spouse or civil partner of the donor;
- (b) the cohabitant (if any) of the donor;
- (c) any children of the donor who have attained the age of 18 years;
- (d) any decision-making assistant for the donor;
- (e) any co-decision-maker for the donor;
- (f) any decision-making representative for the donor;
- (g) any designated healthcare representative for the donor;
- (h) any other attorney for the donor or attorney under the Act of 1996 in respect of the donor;
- (i) any other person or persons as may be specified by the donor in the instrument creating the enduring power of attorney as a person or persons to whom notice shall be given under this section and *section 60(3)*.

(2) Where there are fewer than 3 persons to whom notice may be given pursuant to *subsection (1)*, the donor shall specify 2 persons in the instrument creating the enduring power of attorney as persons to whom notice shall be given under this section and *section 60(3)*.”.

Seanad amendment agreed to.

Seanad amendment No. 180:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Scope of authority - personal welfare decisions

54. (1) Where an enduring power of attorney confers authority in relation to personal welfare, the power does not authorise an attorney to do an act that is intended to restrain the donor unless there are exceptional emergency circumstances and—

(a) the donor lacks capacity in relation to the matter in question or the attorney reasonably believes that the donor lacks such capacity,

(b) the attorney reasonably believes that it is necessary to do the act in order to prevent an imminent risk of serious harm to the donor or to another person, and

(c) the act is a proportionate response to the likelihood of the harm referred to in *paragraph (b)* and to the seriousness of such harm.

(2) For the purposes of this section, an attorney restrains a donor if he or she—

(a) uses, or indicates an intention to use, force to secure the doing of an act which the donor resists,

(b) intentionally restricts the donor’s liberty of voluntary movement or behaviour, whether or not the donor resists,

(c) administers a medication, which is not necessary for a medically identified condition, with the intention of controlling or modifying the donor’s behaviour or ensuring that he or she is compliant or not capable of resistance, or

(d) authorises another person to do any of the things referred to in *paragraph (a)* to *(c)*.

(3) An attorney who restrains a donor shall cease the restraint immediately upon the restraint no longer being necessary in order to prevent an imminent risk of serious harm to the donor or to another person.

(4) *Subsections (1) to (3)* shall not be construed to prejudice the generality of section 69 of the Mental Health Act 2001 or of rules made under that section.

(5) A donor shall not, in an enduring power of attorney, include a relevant decision—

(a) relating to refusal of life-sustaining treatment, or

(b) which is the subject of an advanced healthcare directive made by him or her.

(6) To the extent that an enduring power of attorney includes a relevant decision specified in *subsection (5)*, the power shall be null and void.”.

Seanad amendment agreed to.

Seanad amendment No. 181:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Scope of authority – property and affairs

55. (1) An attorney may act under an enduring power of attorney relating to property and affairs for the attorney’s benefit or that of other persons to the extent provided for in the power, where specific provision to that effect is made in the power and subject to any conditions or restrictions contained in the power.

(2) An attorney may not dispose of the property of the donor by way of gift unless specific provision to that effect is made in the enduring power of attorney.

(3) Where an enduring power of attorney authorises the disposal of the donor’s property by way of gift, the attorney’s power to make such gifts shall, in addition to being subject to any conditions or restrictions in the enduring power, be limited to—

(a) gifts made on customary occasions to persons (including the attorney) who are related to or connected to the donor and in relation to whom the donor might be expected to make gifts, and

(b) gifts to any charity to which the donor made or might be expected to make gifts,

provided that the value of the gift is reasonable having regard to all the circumstances and in particular the extent of the donor’s assets and any financial obligations.”.

Seanad amendment agreed to.

Seanad amendment No. 182:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Application to joint and joint and several attorneys

56. (1) A donor may, in an enduring power of attorney, appoint more than one attorney and may specify that the attorneys shall act—

(a) jointly,

(b) jointly and severally, or

(c) jointly in respect of some matters and jointly and severally in respect of other matters,

and, in default of the power so specifying, the attorneys shall be deemed to have authority to to act jointly.

(2) Where 2 or more persons have authority to act jointly as attorneys, then, in the case of the death, lack of capacity or disqualification of any one or more of them, the remaining attorney or attorneys may continue to act, whether solely or jointly, as the case may be, unless the enduring power expressly provides to the contrary.”.

Seanad amendment agreed to.

Seanad amendment No. 183:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Persons who are not eligible to be attorneys

57. (1) A person shall not be eligible for appointment as an attorney under an enduring power of attorney if he or she—

(a) has been convicted of an offence in relation to the person or property of the person who intends to appoint an attorney,

(b) has been the subject of a safety or barring order in relation to the person who intends to appoint an attorney,

(c) is an undischarged bankrupt or is currently in a debt settlement arrangement or personal insolvency arrangement or has been convicted of an offence involving fraud or dishonesty,

(d) is a person in respect of whom a declaration under section 819 of the Act of 2014 has been made or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,

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

(f) is a person who is—

(i) the owner or the registered provider of a designated centre or mental health facility in which the intending donor resides, or

(ii) residing with, or an employee or agent of, such owner or registered provider,

unless the person is a spouse, civil partner, cohabitant, parent, child or sibling of the intending donor, or

(g) has been convicted of an offence under *section 31, 72, 73 or 128*.

(2) *Subsection (1)(c), (d) and (e)* shall not apply where it is proposed to confer authority only in relation to personal welfare matters.”.

Seanad amendment agreed to.

Seanad amendment No. 184:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Disqualification of attorney

58. (1) An attorney shall, with effect from the date on which an event specified in any of *paragraphs (a) to (c)* occurs or, in the case of an event specified in *paragraph (d)*, at the expiry of the period referred to in that paragraph, and unless the instrument creating the enduring power of attorney provides otherwise, be disqualified from being an attorney for the donor where the attorney is the spouse of the donor and subsequently—

(a) the marriage is annulled or dissolved either—

(i) under the law of the State, or

(ii) under the law of another state and is, by reason of that annulment or dissolution, not or no longer a subsisting valid marriage under the law of the State,

(b) a decree of judicial separation is granted to either spouse by a court in the State or any decree is so granted by a court outside the State and is recognised in the State as having like effect,

(c) a written agreement to separate is entered into between the spouses, or

(d) subject to *section 2(2)*, the spouses separate and cease to cohabit for a continuous period of 12 months.

(2) An attorney shall, with effect from the date on which an event specified in *paragraph (a)* or *(b)* occurs or, in the case of an event specified in *paragraph (c)*, at the expiry of the period referred to in that paragraph, and unless the instrument creating the enduring power of attorney provides otherwise, be disqualified from being attorney for the donor where the attorney is the civil partner of the donor and subsequently—

(a) the civil partnership is annulled or dissolved (other than where the dissolution occurs by virtue of the parties to that civil partnership marrying each other) either—

(i) under the law of the State, or

(ii) under the law of another state and is, by means of that annulment or dissolution not or no longer a subsisting valid civil partnership under the law of the State,

(b) a written agreement to separate is entered into between the civil partners, or

(c) subject to *section 2(2)*, the civil partners separate and cease to cohabit for a continuous period of 12 months.

(3) Subject to *section 2(2)*, an attorney shall, at the expiry of the period referred to in this subsection, and unless the instrument creating the enduring power of attorney provides otherwise, be disqualified from being an attorney for the donor where the attorney is the cohabitant of the donor and subsequently the cohabitants separate and cease to cohabit for a continuous period of 12 months.

(4) Subject to *subsection (5)*, where, subsequent to the appointment of an attorney—

(a) the attorney is convicted of an offence in relation to the person or property of the donor or the person or property of a child of the donor,

(b) a safety or barring order is made against the attorney in relation to the donor or a child of the donor,

(c) the attorney becomes an undischarged bankrupt or subject to a debt settlement arrangement or personal insolvency arrangement which is current or is convicted of an offence involving fraud or dishonesty,

(d) the attorney becomes a person in respect of whom a declaration has been made under section 819 of the Act of 2014 or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,

(e) the attorney becomes a person who is subject or is deemed to be subject to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014 by virtue of that Chapter or any other provisions of that Act,

(f) the attorney becomes—

(i) the owner or the registered provider of a designated centre or mental health facility in which the intending donor resides, or

(ii) a person residing with, or an employee or agent of, a person referred in to *sub-paragraph (i)*,

unless the person is a spouse, civil partner, cohabitant, parent, child or sibling of the intending donor,

(g) the attorney is convicted of an offence under *section 31, 72, 73 or 128*,

(h) the attorney—

(i) enters into a decision-making assistance agreement as a relevant person,

(ii) enters into a co-decision-making agreement as a relevant person,

(iii) has an enduring power of attorney or an enduring power under the Act of 1996 registered in respect of himself or herself, or

(iv) becomes the subject of a declaration under *section 34(1)*,

or

(i) the attorney is a trust corporation and the trust corporation is dissolved, the attorney shall be disqualified from being an attorney for the donor with effect from the day on which the attorney falls within any of *paragraphs (a) to (i)*.

(5) *Subsections (4)(c), (d) and (e)* shall not apply to an attorney insofar as authority is conferred on him or her under the enduring power of attorney in relation to personal welfare matters.

(6) Where an attorney becomes disqualified under this section, he or she, or in the case of disqualification pursuant to *subsection (4)(h)(iii) or (iv)*, his or her attorney, decision making-representative or the court, as the case may be, shall notify the Director of such disqualification and the particulars relating thereto.

(7) Where an attorney becomes disqualified, a relevant decision made solely by him or her after his or her disqualification shall be null and void.

(8) *Subsection (7)* shall not operate to prevent a person who relied on a relevant decision referred to in that subsection from recovering damages in respect of any loss incurred by him or her as a result of that reliance.”.

Seanad amendment agreed to.

Seanad amendment No. 185:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Function of court prior to registration

59. On application to it by any interested party, the court may, where it has reason to believe that the donor of an enduring power of attorney lacks capacity in relation to one or more relevant decisions, exercise any power which would become exercisable under *section 69(3)* on the registration of the instrument creating an enduring power of attorney and may do so whether or not the attorney concerned has made an application to the Director for registration of the instrument.”

Seanad amendment agreed to.

Seanad amendment No. 186:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Application for registration of instrument creating enduring power

60. (1) Where an attorney has reason to believe that the donor lacks capacity in relation to one or more relevant decisions which are the subject of the enduring power of attorney, the attorney shall, as soon as is practicable, make an application, in compliance with this Part and regulations made under *section 71*, to the Director to register the instrument creating the enduring power of attorney.

(2) An application to register an instrument under *subsection (1)* shall be made in such form and accompanied by such fee as shall be prescribed.

(3) The attorney shall, at the same time as he or she makes an application under *subsection (1)*, give notice, in such form as shall be prescribed, of the application and give a copy of the instrument creating an enduring power of attorney to the following persons:

- (a) the donor;
- (b) a spouse or civil partner (if any) of the donor;
- (c) the cohabitant (if any) of the donor;
- (d) any children of the donor who have attained the age of 18 years;
- (e) any decision-making assistant for the donor;
- (f) any co-decision-maker for the donor;
- (g) any decision-making representative for the donor;
- (h) any designated healthcare representative for the donor;
- (i) any other attorney for the donor or attorney under the Act of 1996 in respect of the donor;

(j) any other person specified by the donor under *section 53*.

(4) An attorney may, before making an application to register an instrument creating an enduring power of attorney, apply to the court for a determination on any question as to the validity of the power.

(5) Where an attorney has made an application to register an instrument creating an enduring power of attorney, then pending determination of the application, the attorney, or if more than one attorney has been appointed to act jointly or jointly and severally, as the case may be, any one of them, may take action under the power—

(a) to maintain the donor or prevent loss to the donor's assets,

(b) to the extent permitted by the enduring power, to make a relevant decision which cannot reasonably be deferred until the application has been determined, or

(c) to maintain the attorney or other persons in so far as that is permitted under the power.

(6) Following the taking of an action pursuant to *subsection (5)*, an attorney shall report to the Director—

(a) what action he or she took,

(b) the reasons as to why the action could not be deferred until after the registration of the instrument creating the enduring power of attorney,

(c) any measures he or she took to encourage the donor to participate in the action taken, and

(d) the outcome of the action.

(7) An application to register an instrument creating an enduring power of attorney shall be accompanied by—

(a) the instrument creating the enduring power of attorney,

(b) a statement by a registered medical practitioner and a statement by such other healthcare professional of a class as shall be prescribed that in their opinion the donor lacks capacity in relation to one or more relevant decisions which are the subject of the enduring power,

(c) details of any existing decision-making assistance agreement, co-decision-making agreement, decision-making order, decision-making representation order, power of attorney (whether an enduring power or otherwise and whether registered or not) or advance healthcare directive in respect of the appointer,

(d) a copy of any notice given pursuant to *subsection (3)*,

(e) a copy of any notice given pursuant to *section 53*, and

(f) the prescribed fee.

(8) Where there is more than one attorney appointed under an enduring power of

attorney, any two or more of the attorneys may make a joint application to register the instrument.”.

Seanad amendment agreed to.

Seanad amendment No. 187:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Registration of an instrument creating an enduring power of attorney

61. (1) On receipt of an application under *section 60*, the Director shall review the application and any objections received under *section 63* and shall carry out such reasonable enquiries as he or she considers necessary in order to establish whether the following criteria are met:

(a) the enduring power of attorney and the instrument creating it are in accordance with *sections 51, 52, 54 and 55*,

(b) the attorney is a suitable person within the meaning of *section 51(6)*,

(c) the attorney is eligible for appointment within the meaning of *section 57* or not disqualified by virtue of *section 58*,

(d) notice has been given in accordance with *section 53* and *section 60(3)*, and

(e) the application is in accordance with *section 60*.

(2) Where, after reviewing an application under *section 60*, the Director is satisfied that the application is in order, he or she shall, subject to *section 63*, register the instrument creating the enduring power of attorney.

(3) Where, after reviewing an application under *section 60*, the Director forms the view that one or more of the criteria in *paragraphs (a) to (e)* of *subsection (1)* are not satisfied, he or she shall notify the attorney and the donor of his or her view, provide reasons for that view and give the attorney and the donor an opportunity, within a reasonable timeframe specified by the Director, to respond.

(4) Following a review of any response received pursuant to *subsection (3)*, the Director shall—

(a) where he or she is of the view that the criteria set out in *paragraphs (a) to (e)* of *subsection (1)* are satisfied, register, subject to *section 63*, the instrument creating the enduring power of attorney, or

(b) where he or she remains of the view that one or more of the criteria set out in *paragraphs (a) to (e)* of *subsection (1)* is not satisfied, refuse to register the instrument creating the enduring power of attorney and notify the attorney and the donor of that fact and the reasons for his or her view.

(5) An attorney whose application under *section 60* is refused may, not later than 21 days after the date of issue of the notification of refusal by the Director, appeal the refusal to the court.

(6) Upon an appeal under *subsection (5)*, the court may—

- (a) require the Director to register the instrument creating the enduring power of attorney,
- (b) affirm the decision of the Director, or
- (c) make such other order or declaration as it considers appropriate.

(7) Following registration of an instrument creating an enduring power of attorney, the Director shall send an authenticated copy of the instrument to the attorney and the donor.

(8) A document purporting to be a copy of instrument creating an enduring power of attorney which has been authenticated by the Director shall be evidence of the contents of the instrument and the date upon which it was registered.”.

Seanad amendment agreed to.

Seanad amendment No. 188:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Effect and proof of registration

62. (1) The effect of the registration of an instrument creating an enduring power of attorney is that—

(a) no revocation of the enduring power of attorney by the donor shall be valid unless the court confirms the revocation under *section 65(6)*,

(b) no disclaimer of the enduring power shall be valid except on notice to the donor and with the consent of the court, and

(c) the donor may not extend or restrict the scope of the authority conferred by him or her in the enduring power and no consent or instruction given by the donor after registration of the instrument shall, in the case of a consent, confer any right and in the case of an instruction, impose or confer any obligation or right on or create any liability of the attorney or other persons having notice of the consent or instruction.

(2) *Subsection (1)* applies for so long as the instrument is registered whether or not the donor has for the time being capacity.”.

Seanad amendment agreed to.

Seanad amendment No. 189:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Objections to registration

63. (1) Any of the persons referred to in *section 60(3)*, or any other person who appears to the Director to have sufficient interest or expertise in the welfare of the donor, may, no later than 5 weeks from the date on which notice is given in accordance with

that provision, notify the Director that he or she objects to the proposed registration.

(2) An objection under *subsection (1)* shall be in such form and shall be accompanied by such fee as shall be prescribed by regulations made under *section 71* and may be made on one or more of the following grounds:

(a) that the enduring power of attorney or instrument creating it is not in accordance with *section 51, 52, 54 or 55*;

(b) that the notice requirement of *section 53 or section 60(3)* was not complied with;

(c) that the donor does not lack capacity;

(d) that fraud, coercion or undue influence was used to induce the donor to execute the instrument creating the enduring power of attorney;

(e) that a false statement is included in the instrument creating the enduring power of attorney or the application to register the instrument;

(f) that the attorney is not a suitable person within the meaning of *section 51(6)*.

(3) Where the Director receives an objection in accordance with *subsection (2)*, made within the period specified in *subsection (1)*, he or she shall—

(a) review the objection,

(b) consult with the attorney and, where the Director considers it is appropriate to do so, the donor, and

(c) consult with such other persons as he or she considers relevant,

and shall—

(i) where he or she is of the view that the objection is not well founded, notify the person who made the objection of his or her view, provide reasons for that view and proceed, subject to *section 61(1)*, to register the instrument concerned, or

(ii) where he or she is of the view that the objection is well founded, notify the person who made the objection of his or her view and make an application to the court for a determination on the matter and for a determination as to whether the enduring power should be registered.

(4) The court, pursuant to an application made to it under *subsection (3)(ii)*, may—

(a) require the Director to register the instrument creating the enduring power of attorney,

(b) declare that the instrument creating the enduring power of attorney should not be registered, or

(c) make such other declaration or order as it considers appropriate.

(5) A person who makes an objection under *subsection (1)* may, not later than 21 days after the date of issue of the notification by the Director under *subsection (3)(i)*, appeal a decision to register the instrument concerned to the court.

(6) Upon an appeal under *subsection (5)*, the court may—

- (a) require the Director to remove the instrument concerned from the Register,
- (b) affirm the decision of the Director, or
- (c) make such other declaration or order as it considers appropriate.”.

Seanad amendment agreed to.

Seanad amendment No. 190:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Register of enduring powers

64. (1) The Director shall establish and maintain a register (in this Part referred to as “the Register”) of instruments creating an enduring power of attorney.

(2) The Register shall be in such form as the Director considers appropriate.

(3) The Director shall make the Register available for inspection by—

(a) a body or class of persons prescribed by regulations made under section 71 for this purpose, and

(b) any person who satisfies the Director that he or she has a legitimate interest in inspecting the Register.

(4) The Director may issue an authenticated copy of an enduring power, or part thereof, on the Register on payment of the prescribed fee to—

(a) a body or class of person prescribed by regulations made under section 71 for this purpose, and

(b) a person who satisfies the Director that he or she has a legitimate interest in obtaining a copy.

(5) The Director shall keep a record of any body or person that has inspected the Register or received an authenticated copy from him or her.”.

Seanad amendment agreed to.

Seanad amendment No. 191:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Revocation and variation of enduring power

65. (1) An enduring power of attorney may be varied or revoked by the donor, where the instrument creating the enduring power of attorney has not been registered and where the

donor has capacity to make the variation or revocation, as the case may be.

(2) A variation or revocation under *subsection (1)* shall be done in such form as shall be prescribed.

(3) Subject to *section 52(3)*, a revocation or variation of an enduring power of attorney shall be signed by the donor and his or her signature shall be acknowledged by 2 witnesses and *section 52(4)* shall apply with the necessary modifications.

(4) A variation or revocation of an enduring power of attorney shall be accompanied by the following statements:

(a) by the donor, that he or she understands the implication of varying or revoking the enduring power, as the case may be;

(b) by a legal practitioner that, after interviewing the donor and making any necessary enquiries, he or she—

(i) is satisfied that the donor understands the implication of varying or revoking, as the case may be, the enduring power, and

(ii) has no reason to believe that the variation or revocation, as the case may be, is the result of fraud, coercion or undue pressure on the donor;

(c) by a registered medical practitioner that in his or her opinion, at the time of the variation or revocation, as the case may be, the donor had the capacity to understand the implication of the variation or revocation;

(d) by such other healthcare professional as shall be prescribed that in his or her opinion, at the time of the variation or revocation, as the case may be, the donor had the capacity to understand the implication of the variation or revocation; and

(e) by the attorney, that he or she is aware of the variation or revocation and undertakes to act accordingly.

(5) Subject to *subsection (6)* a donor may, after an instrument creating an enduring power of attorney has been registered, revoke the enduring power where he or she has capacity to do so.

(6) A revocation referred to in *subsection (5)* is not valid unless an application is made to the court and the court is satisfied that—

(a) the donor has done whatever is necessary in law to effect an express revocation of the enduring power of attorney and had capacity at the time of the purported revocation, and

(b) the donor has given notice to the attorney of the revocation.”.

Seanad amendment agreed to.

Seanad amendment No. 192:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Disclaimer by attorney

66. (1) An attorney may disclaim an enduring power of attorney where the instrument creating it has not been registered subject to his or her giving notice of such disclaimer, to the donor.

(2) Where an instrument creating an enduring power of attorney has been registered, the enduring power created by the instrument may only be disclaimed by an attorney with the consent of the court.”.

Seanad amendment agreed to.

Seanad amendment No. 193:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Reports by attorney

67. (1) An attorney under an enduring power of attorney which confers authority in relation to property and affairs shall, within 3 months of the registration of the instrument appointing him or her as attorney, submit to the Director a schedule of the donor’s assets and liabilities and a projected statement of the donor’s income and expenditure.

(2) An attorney under an enduring power of attorney which confers authority in relation to property and affairs shall keep proper accounts and financial records in respect of the donor’s income and expenditure and shall—

(a) submit such accounts and records as part of a report to the Director under this section, and

(b) make available for inspection by the Director or by a special visitor, at any reasonable time, such accounts and records.

(3) An attorney shall, within 12 months after registration of the instrument appointing him or her as attorney, and thereafter at intervals of not more than 12 months, prepare and submit to the Director a report in writing as to the performance of his or her functions as such attorney during the relevant period.

(4) Every report submitted to the Director pursuant to this section shall be in such form as shall be prescribed by regulations made under *section 71* and shall include details of all costs, expenses and remuneration paid to and claimed by the attorney in the relevant period together with such other matters as are prescribed.

(5) An attorney who has restrained the donor at any time during the relevant period shall include in the report details of each such restraint and the date on which, and the place where, such restraint occurred.

(6) Where an attorney fails to submit a report in accordance with this section or submits an incomplete report or fails to comply with *subsection (1)* or *(2)*, the Director shall notify the attorney of that failure or incompleteness and give him or her such period of time as is specified in the notification to comply or submit a complete report.

(7) Where an attorney fails to comply with a notification under *subsection (6)*, the

Director shall—

(a) in the case of the submission of an incomplete report and following any necessary enquiries to satisfy himself or herself that the report is substantially in accordance with this section and regulations made under *section 71*, accept the report as if it were in compliance with this section and the relevant regulations, or

(b) make an application to the court for a determination as to whether the co-decision-maker should continue as attorney for the donor.

(8) Pursuant to an application to it under *subsection (7)(a)*, the court may determine that an attorney who has not complied with this section shall no longer act as attorney for the donor concerned.

(9) In this section “relevant period” means the period of time to which the report relates which shall be the period of time between the date of registration of the instrument creating the enduring power of attorney or the date of submission of the previous report, as the case may be, and the date immediately preceding the date of submission of the report concerned.”.

Seanad amendment agreed to.

Seanad amendment No. 194:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Complaints in relation to attorneys

68. (1) A person may make a complaint in writing to the Director concerning one or more of the following matters:

(a) that an attorney has acted, is acting, or is proposing to act outside the scope of his or her functions as specified in the instrument creating the enduring power of attorney;

(b) that an attorney is not a suitable person within the meaning of *section 51(6)*;

(c) that fraud, coercion or undue pressure was used to induce a donor to appoint an attorney.

(2) A person may, in respect of an attorney under the Act of 1996, make a complaint in writing to the Director concerning one or more of the following matters:

(a) that an attorney under the Act of 1996, is acting or is proposing to act outside the scope of the enduring power under the Act of 1996;

(b) that an attorney under the Act of 1996 is unable, for whatever reason, to perform his or her duties and obligations as construed in accordance with that Act;

(c) that fraud, coercion or undue pressure was used to induce a donor under the Act of 1996 to appoint an attorney under the Act of 1996.

(3) Following the receipt of a complaint under *subsection (1)* or *(2)*, the Director shall carry out an investigation of the matter which is the subject of that complaint and—

(a) where he or she is of the view that the complaint is well founded, make an application to the court for a determination in relation to a matter specified in the complaint, or

(b) where he or she is of the view that the complaint is not well founded, notify the person who made the complaint of that view and provide reasons for that view.

(4) A person who receives a notification under *subsection (3)(b)* may, not later than 21 days after the date of issue of the notification, appeal a decision of the Director that the complaint is not well founded to the court.

(5) The Director may, notwithstanding that no complaint has been received, on his or her own initiative carry out an investigation and make an application to the court for a determination in relation to any matter specified in *subsection (1) or (2)*.

(6) The court may—

(a) pursuant to an application to it under *subsection (3)(a) or (5)*, or

(b) pursuant to an appeal under *subsection (4)*,

make a determination in relation to a matter specified in *subsection (1) or (2)* and may, if it considers it appropriate, determine that—

(i) an attorney shall no longer act as such in relation to the donor concerned, or

(ii) an attorney under the Act of 1996 shall no longer act as such in relation to a donor under the Act of 1996.

(7) The reference to “attorney” in *sections 78 and 79* shall, for the purposes of this section, be construed as including an attorney under the Act of 1996.

(8) The reference to “relevant person” in *sections 78, 79 and 82* shall, for the purposes of this section, be construed as including a donor under the Act of 1996.”

Seanad amendment agreed to.

Seanad amendment No. 195:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Applications to court

69. (1) Where the Director makes an application to the court for a determination on whether the instrument creating an enduring power of attorney should be registered, the court may, notwithstanding that—

(a) the enduring power of attorney or the instrument creating it does not comply with *section 51 or section 52*, or

(b) the application to register the instrument was not in accordance with *section 60*, register the instrument where it is satisfied that—

(i) the donor intended the power to be effective during any period when the donor lacks capacity,

(ii) fraud, coercion or undue pressure was not used to induce the donor to appoint an attorney,

(iii) the attorney is suitable within the meaning of *section 51(6)* to be the donor's attorney, and

(iv) it is desirable in the interests of justice to register the enduring power.

(2) In determining whether an attorney is suitable within the meaning of *section 51(6)*, the court, in addition to any other matters which it considers relevant shall have regard to—

(a) the relationship and degree of connection between the donor and the attorney,

(b) the degree of involvement which will be required on the part of the attorney in the care of the donor,

(c) the willingness of the attorney to carry out his or her functions under the enduring power, and

(d) any conflict of interest which may arise.

(3) Where an instrument creating an enduring power of attorney has been registered, the court may, whether on application by the donor, the attorney, the Director or an interested party—

(a) determine any question as to the meaning or effect of the power,

(b) give directions with respect to—

(i) a relevant decision relating to the personal welfare of the donor made or about to be made by the attorney,

(ii) the management or disposal by the attorney of the property and affairs of the donor, and

(iii) the remuneration or expenses of the attorney, whether or not in default of or in accordance with any provision of the enduring power, including directions for the repayment of excessive, or the payment of additional, remuneration,

and

(c) consent to a disclaimer by the attorney of enduring power.

(4) Where the court gives a determination under *subsection (3)(a)*, a direction under *subsection (3)(b)* or a consent under *subsection (3)(c)*, it shall cause the Director to be notified of such direction or consent and the Director shall monitor the giving of effect by the attorney to such direction or consent as the case may be.”.

Seanad amendment agreed to.

Seanad amendment No. 196:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Removal of instrument from the Register

70. (1) The Director shall remove from the Register an instrument creating an enduring power of attorney where—

(a) there has been a revocation in accordance *section 65(6)*, or

(b) subject to *subsection (2)*, the attorney appointed under the instrument becomes disqualified.

(2) Where there is more than one attorney appointed under an enduring power of attorney or where the donor has specified a person who shall act as attorney for him or her in the event that the attorney on whom the authority is conferred dies or is unable to act or is disqualified, then in the circumstances described in *subsection (1)*, the Director shall note on the Register in connection with the power concerned the revocation or disqualification, as the case may be.”.

Seanad amendment agreed to.

Seanad amendment No. 197:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Regulations

71. The Minister, having regard to the requirements of this Part, shall prescribe by regulations the following matters:

(a) the form of an instrument creating an enduring power of attorney;

(b) the form of notice under *section 53* of execution of an instrument creating an enduring power of attorney;

(c) the class of healthcare professionals under *sections 52(1)(d)*, *60(7)(b)* and *65(4)(d)*;

(d) the form of application under *section 60(2)* to register an instrument;

(e) the form of notice under *section 60(3)* of an application to register an instrument;

(f) the form of a report under *section 67* to be submitted by an attorney to the Director;

(g) the form of an objection under *section 63(2)* to the registration of an instrument creating an enduring power of attorney;

(h) the form of variation or revocation under *section 65(2)* of an enduring power of attorney;

(i) the bodies or classes of persons under *sections 64(3)* and *(4)* who may inspect the

Register and receive an authenticated copy of an enduring power of attorney;

(j) the fees to be paid in connection with—

(i) an application to register an enduring power of attorney,

(ii) an objection to an application to register an enduring power of attorney,

(iii) the issue of an authenticated copy of an enduring power of attorney.”.

Seanad amendment agreed to.

Seanad amendment No. 198:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Offences in relation to enduring powers of attorney

72. (1) A person who uses fraud, coercion or undue influence to force another person to make, vary or revoke an enduring power of attorney commits an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.

(2) A person who, in an instrument creating an enduring power of attorney, in an application for registration of an enduring power of attorney, or in connection with such an application, makes a statement which he or she knows to be false in a material particular commits an offence and shall be liable—

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

(b) on conviction on indictment, to a fine not exceeding €15,000 or imprisonment for a term not exceeding 2 years, or both.

(3) The reference in *subsection (1)* to coercion or undue influence includes any case where a person’s access to, or continued stay in, a designated centre or mental health facility, is contingent (whether in whole or in part) on the person having to, or being led to believe that he or she has to, create, vary or revoke an enduring power of attorney.”.

Seanad amendment agreed to.

Seanad amendment No. 199:

Section 50: In page 58, between lines 17 and 18, to insert the following:

“Transitional provisions

73. (1) Subject to *sections 68(2), 68(3), 68(4), 68(5), 68(6), 68(7) and 68(8)*, this Part shall not apply to—

(a) an enduring power of attorney under the Act of 1996,

(b) an attorney under the Act of 1996, and

(c) a donor under the Act of 1996.

(2) From the date of commencement of this Part—

(a) a person shall not create an enduring power of attorney under the Act of 1996,
and

(b) the Act of 1996 shall not apply to an enduring power of attorney created after that date.”.

Seanad amendment agreed to.

Seanad amendment No. 200:

Section 50: In page 58, to delete lines 20 to 35, and in page 59, to delete line 1.

Seanad amendment agreed to.

Seanad amendment No. 201:

Section 51: In page 59, to delete lines 2 to 20.

Seanad amendment agreed to.

Seanad amendment No. 202:

Section 52: In page 59, to delete lines 21 to 37, to delete pages 60 to 62, and in page 63, to delete lines 1 to 22.

Seanad amendment agreed to.

Seanad amendment No. 203:

Section 53: In page 63, to delete lines 25 to 39, and in page 64, to delete lines 1 to 22.

Seanad amendment agreed to.

Seanad amendment No. 204:

Section 54: In page 64, to delete lines 23 to 41, and in page 65, to delete lines 1 to 21.

Seanad amendment agreed to.

Seanad amendment No. 205:

Section 55: In page 65, to delete lines 22 to 38.

Seanad amendment agreed to.

Seanad amendment No. 206:

Section 56: In page 66, to delete lines 3 to 10.

Seanad amendment agreed to.

Seanad amendment No. 207:

Section 57: In page 66, to delete lines 11 to 36.

Seanad amendment agreed to.

Seanad amendment No. 208:

Section 58: In page 66, to delete lines 37 and 38, and in page 67, to delete lines 1 to 38.

Seanad amendment agreed to.

Seanad amendment No. 209:

Section 59: In page 68, to delete lines 1 to 20.

Seanad amendment agreed to.

Seanad amendment No. 210:

Section 60: In page 68, to delete lines 21 to 35.

Seanad amendment agreed to.

Seanad amendment No. 211:

Section 61: In page 69, to delete lines 3 to 40, and in page 70, to delete lines 1 to 24.

Seanad amendment agreed to.

Seanad amendment No. 212:

Section 62: In page 70, to delete lines 25 to 38, and in page 71, to delete lines 1 to 17.

Seanad amendment agreed to.

Seanad amendment No. 213:

Section 63: In page 71, to delete lines 20 to 39, and in page 72, to delete lines 1 to 15.

Seanad amendment agreed to.

Seanad amendment No. 214:

Section 64: In page 72, to delete lines 16 to 40, and in page 73, to delete lines 1 to 15.

Seanad amendment agreed to.

Seanad amendment No. 215:

Section 65: In page 73, line 22, to delete “*sections 67 and 68*” and substitute “*section 67*”.

Seanad amendment agreed to.

Seanad amendment No. 216:

Section 67: In page 75, line 22, to delete “in accordance with *subsection (6)*” and substitute “referred to in *subsection (6)(a)*”.

Seanad amendment agreed to.

Seanad amendment No. 217:

Section 67: In page 75, line 29, to delete “*subsection (6)*” and substitute “*subsection (6)(b)*”.

Seanad amendment agreed to.

Seanad amendment No. 218:

Section 67: In page 75, line 38, to delete “(or the person signing on his or her behalf)” and substitute “or the person signing on his or her behalf.”.

Seanad amendment agreed to.

Seanad amendment No. 219:

Section 67: In page 76, line 34, to delete “step-child.”.

Seanad amendment agreed to.

Seanad amendment No. 220:

Section 67: In page 76, line 39, to delete “of the relevant person”.

Seanad amendment agreed to.

Seanad amendment No. 221:

Section 69: In page 78, line 29, to delete “specific”.

Seanad amendment agreed to.

Seanad amendment No. 222:

Section 69: In page 78, line 31, to delete “the refusal” and substitute “the advance health-care directive”.

Seanad amendment agreed to.

Seanad amendment No. 223:

Section 69: In page 78, line 33, to delete “specific”.

Seanad amendment agreed to.

Seanad amendment No. 224:

Section 69: In page 78, line 34, after “directive” to insert “and”.

Seanad amendment agreed to.

Seanad amendment No. 225:

Section 69: In page 78, line 35, to delete “the refusal” and substitute “the advance health-care directive”.

Seanad amendment agreed to.

Seanad amendment No. 226:

Section 69: In page 78, line 39, to delete “an advance healthcare directive” and substitute “a refusal of treatment set out in an advance healthcare directive”.

Seanad amendment agreed to.

Seanad amendment No. 227:

Section 69: In page 78, line 41, to delete “if”.

Seanad amendment agreed to.

Seanad amendment No. 228:

Section 70: In page 79, lines 19 and 20, to delete all words from and including “shall” in line 19 down to and including line 20 and substitute “shall not be eligible to be a designated healthcare representative if—”.

Seanad amendment agreed to.

Seanad amendment No. 229:

Section 70: In page 79, to delete lines 27 to 32 and substitute the following:

“(d) the individual is—

(i) the owner or the registered provider of a designated centre or mental health facility in which the directive-maker resides, or

(ii) a person residing with, or an employee or agent of, such owner or registered provider,

unless the individual is a spouse, civil partner, cohabitant, parent, child or sibling of the directive-maker, or”.

Seanad amendment agreed to.

Seanad amendment No. 230:

Section 70: In page 79, lines 38 and 39, to delete all words from and including “subsequent” in line 38 down to and including line 39 and substitute “subsequent to the designation of an individual as a designated healthcare representative—”.

Seanad amendment agreed to.

Seanad amendment No. 231:

Section 70: In page 80, to delete lines 5 to 10 and substitute the following:

“(c) the individual becomes—

(i) the owner or the registered provider of a designated centre or mental health facility in which the directive-maker resides, or

(ii) a person residing with, or an employee or agent of, such owner or registered provider,

unless the individual is a spouse, civil partner, cohabitant, parent, child or sibling of the directive-maker.”.

Seanad amendment agreed to.

Seanad amendment No. 232:

Section 70: In page 80, to delete line 11.

Seanad amendment agreed to.

Seanad amendment No. 233:

Section 70: In page 80, line 16, to delete “directive-maker,” and substitute “directive-maker, or”.

Seanad amendment agreed to.

Seanad amendment No. 234:

Section 70: In page 80, between lines 16 and 17, to insert the following:

“(e) the individual is unable, for whatever reason, to exercise the relevant powers,”.

Seanad amendment agreed to.

Seanad amendment No. 235:

Section 70: In page 80, to delete lines 17 to 19 and substitute the following:

“that individual shall not, from the date on which he or she falls within any of *paragraphs (a) to (e)*, be permitted to exercise relevant powers.”.

Seanad amendment agreed to.

Seanad amendment No. 236:

Section 70: In page 80, to delete lines 22 to 24 and substitute the following:

“(5) Unless otherwise provided in the advance healthcare directive, a designated healthcare representative shall not, with effect from the date on which an event specified in any of *paragraphs (a) to (c)* occurs or, in the case of an event specified in *paragraph (d)*, at the expiry of the period referred to in that paragraph, be permitted to exercise

relevant powers where the representative is the spouse of the directive-maker and—”.

Seanad amendment agreed to.

Seanad amendment No. 237:

Section 70: In page 80, to delete lines 36 to 38 and substitute the following:

“(6) Unless otherwise provided in the advance healthcare directive, a designated healthcare representative shall not, with effect from the date on which an event specified in *paragraphs (a) or (b)* occurs or, in the case of an event specified in *paragraph (c)*, at the expiry of the period referred to in that paragraph, be permitted to exercise relevant powers where the representative is the civil partner of the directive-maker and—”.

Seanad amendment agreed to.

Seanad amendment No. 238:

Section 70: In page 80, to delete line 39 and substitute the following:

“(a) the civil partnership is annulled or dissolved (other than where the dissolution occurs by virtue of the parties to that civil partnership marrying each other) either—

(i) under the law of the State, or

(ii) under the law of another state and is, by means of that annulment or dissolution not or no longer a subsisting valid civil partnership under the law of the State.”.

Seanad amendment agreed to.

Seanad amendment No. 239:

Section 70: In page 81, to delete lines 3 to 6 and substitute the following:

“(7) Subject to *section 2(2)* and unless otherwise provided in the advance healthcare directive, a designated healthcare representative shall not, with effect from the expiry of the period referred to in this subsection, be permitted to exercise relevant powers where the representative is the cohabitant of the directive-maker and the cohabitants separate and cease to cohabit for a continuous period of 12 months.”.

Seanad amendment agreed to.

Seanad amendment No. 240:

Section 70: In page 81, to delete lines 7 to 9.

Seanad amendment agreed to.

Seanad amendment No. 241:

Section 71: In page 82, lines 7 and 8, to delete “invalidating the advance healthcare directive to the extent that it relates to” and substitute “prohibiting”.

Seanad amendment agreed to.

Seanad amendment No. 242:

Section 71: In page 82, line 8, after “representative” to insert “from”.

Seanad amendment agreed to.

Seanad amendment No. 243:

Section 71: In page 82, lines 19 and 20, to delete “(whether by reason of lack of capacity or otherwise) or declines to act,” and substitute “, for whatever reason, to exercise the relevant powers,”.

Seanad amendment agreed to.

Seanad amendment No. 244:

Section 71: In page 82, line 21, to delete “qualified” and substitute “eligible”.

Seanad amendment agreed to.

Seanad amendment No. 245:

Section 73: In page 83, line 10, to delete “shall be guilty of” and substitute “commits”.

Seanad amendment agreed to.

Seanad amendment No. 246:

Section 73: In page 83, line 18, to delete “so shall be guilty of” and substitute “so commits”.

Seanad amendment agreed to.

Seanad amendment No. 247:

Section 73: In page 83, lines 25 to 27, to delete all words from and including “a” where it secondly occurs in line 25 down to and including “disabilities,” in line 27 and substitute “a designated centre or mental health facility”.

Seanad amendment agreed to.

Seanad amendment No. 248:

Section 74: In page 85, line 12, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 249:

Section 75: In page 86, line 25, to delete “under *section 58*”.

Seanad amendment agreed to.

Seanad amendment No. 250:

Section 75: In page 86, to delete line 27 and substitute the following:

“(b) any decision-making order or decision-making representation order in respect of the directive-maker,”.

Seanad amendment agreed to.

Seanad amendment No. 251:

Section 75: In page 86, to delete lines 29 to 38, and in page 87, to delete lines 1 to 5.

Seanad amendment agreed to.

Seanad amendment No. 252:

Section 77: In page 87, line 26, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 253:

Section 77: In page 87, line 29, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

An Ceann Comhairle: Amendments Nos. 254 and 255 are related and may be discussed together.

Seanad amendment No. 254:

Section 78: In page 88, between lines 29 and 30, to insert the following:

“(h) to provide information and guidance to organisations and bodies in the State in relation to their interaction with decision-making assistants, co-decision-makers, decision-making representatives, attorneys and designated healthcare representatives,”.

Deputy Kathleen Lynch: Seanad amendments Nos. 165 and 166 are interesting. They amend the Civil Legal Aid Act 1995 to ensure people whose capacity is to be challenged or assessed in court have an automatic right to representation by the Legal Aid Board and the board has the right to charge but only to the limit of the fee set by the Legal Aid Board. If one is entitled to free legal aid, then well and good, and the same criteria will apply. There is nothing to prevent people who wish to use their own legal team from doing so. These amendments ensure those who do not have that facility are represented. It is also important that representation at mental health tribunals will also transfer to the Legal Aid Board. These are significant amendments.

Seanad amendments Nos. 254 and 255 provide for minor amendments to the functions of the director of the decision support service. Seanad amendment No. 254 proposes a new function for the director to inform and guide organisations, including State organisations, when dealing with the range of interveners specified under the Bill. This issue came up regularly regarding the educational process that needs to be undertaken. He or she will have to provide information and guidance on dealing with attorneys, decision-making representatives, etc. The

intention is that, as a result of this information and guidance, organisations will know exactly when to provide information to interveners.

Seanad amendment No. 255 allows the decision support service to charge fees for its services. It is appropriate that the service has this possibility, in line with international practice. Some of the functions that it will undertake will be time-consuming. Some of the organisations with which it will interact will be very wealthy. Where a vulnerable person or a family has limited means, the possibility will be available for the fees to be waived.

Seanad amendment agreed to.

Seanad amendment No. 255:

Section 78: In page 89, between lines 1 and 2, to insert the following:

“(3) The Director, with the consent of the Minister, may, and if directed by the Minister to do so and in accordance with the terms of the direction, shall prescribe by regulations the fees to be paid to him or her and when they fall due in respect of—

- (a) the performance of functions,
 - (b) the provision of services, and
 - (c) the provision of information and guidance,
- by him or her under the Act.

(4) Without prejudice to the generality of *subsection (3)*, the Director’s power under that subsection to prescribe fees includes the power to provide for exemptions from the payment of fees, in different circumstances or classes of circumstances or in different cases or classes of cases.”.

Seanad amendment agreed to.

Seanad amendment No. 256:

Section 80: In page 90, line 5, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 257:

Section 80: In page 90, line 5, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 258:

Section 80: In page 90, to delete lines 8 and 9 and substitute the following:

“(3) A person appointed to be Director shall be a member of the staff of the Mental Health Commission.”.

Seanad amendment agreed to.

Seanad amendment No. 259:

Section 81: In page 90, lines 13 to 15, to delete all words from and including “(1) A” in line 13 down to and including line 15 and substitute the following:

“(1) A person who is a member of the staff of the Director shall be a member of the staff of the Mental Health Commission and the provisions of Part 3 of the Act of 2001 shall apply to such staff.”.

Seanad amendment agreed to.

Seanad amendment No. 260:

Section 81: In page 90, line 17, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 261:

Section 81: In page 90, line 24, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 262:

Section 81: In page 90, line 25, to delete “Minister” where it firstly occurs and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 263:

Section 81: In page 90, line 29, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 264:

Section 81: In page 90, line 29, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 265:

Section 81: In page 90, to delete lines 31 to 34.

Seanad amendment agreed to.

Seanad amendment No. 266:

Section 81: In page 90, line 35, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 267:

Section 81: In page 90, line 39, to delete “Minister” where it firstly occurs and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 268:

Section 81: In page 90, line 40, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 269:

Section 82: In page 91, line 18, to delete “Minister” where it firstly occurs and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 270:

Section 82: In page 91, to delete lines 28 to 39 and substitute the following:

“(6) Subject to *subsections (7) and (8)*, for the purposes of enabling the Director to perform his or her functions, he or she may direct a special visitor or general visitor to—

(a) at any reasonable time, examine and take copies of any health, personal welfare or financial record held in relation to a relevant person by any person, body or organisation, and

(b) interview a relevant person in private or otherwise than in public.”.

Seanad amendment agreed to.

Seanad amendment No. 271:

Section 82: In page 92, between lines 3 and 4, to insert the following:

“(8) Prior to taking an action pursuant to *paragraph (a) of subsection (6)*, the special visitor or general visitor, as the case may be, shall seek the consent of the relevant person to the taking of such action, unless the Director dispenses with this requirement where—

(a) there has been a declaration under *section 34(1)(b)* in respect of the person, or

(b) an enduring power of attorney has been registered in respect of the person.

(9) A special visitor or general visitor shall not—

(a) attempt to obtain information that is not reasonably required for the purposes referred to in *subsection (6)*, or

(b) use such information for a purpose that is not in accordance with this section.

(10) A special visitor or general visitor shall take reasonable steps to ensure that any information obtained pursuant to this section is—

(a) kept secure from unauthorised access, use or disclosure, and

(b) safely disposed of when he or she believes it is no longer required.

(11) The Director shall, on an annual basis, carry out checks to ascertain if special visitors and general visitors are complying with *subsections (9) and (10)*.”.

Seanad amendment agreed to.

Seanad amendment No. 272:

Section 83: In page 92, to delete lines 12 to 24 and substitute the following:

“(3) Subject to *subsections (4) and (5)*, for the purposes of assisting a relevant person in relation to an application under *Part 5*, a court friend may—

(a) at any reasonable time, examine and take copies of any health, personal welfare or financial record held in respect of the relevant person by any person, body or organisation, and

(b) interview the relevant person in private or otherwise than in public.”.

Seanad amendment agreed to.

Seanad amendment No. 273:

Section 83: In page 92, between lines 26 and 27, to insert the following:

“(5) Prior to taking an action pursuant to *paragraph (a) of subsection (3)*, the court friend shall seek the consent of the relevant person to the taking of such action, unless the Director dispenses with this requirement where—

(a) there has been a declaration under *section 34(1)(b)* in respect of the person, or

(b) an enduring power of attorney has been registered in respect of the person.

(6) A court friend shall not—

(a) attempt to obtain information that is not reasonably required for the purposes referred to in *subsection (3)*, or

(b) use such information for a purpose other than provided for in that subsection.

(7) A court friend shall take reasonable steps to ensure that any information obtained pursuant to this section is—

(a) kept secure from unauthorised access, use or disclosure, and

(b) safely disposed of when he or she believes it is no longer required.

(8) The Director shall, on an annual basis, carry out checks to ascertain if court friends are complying with *subsections (6) and (7)*.”.

Seanad amendment agreed to.

Seanad amendment No. 274:

Section 85: In page 93, line 14, to delete “Board” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 275:

Section 85: In page 93, line 19, to delete “Board” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 276:

Section 85: In page 93, line 20, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 277:

Section 85: In page 93, line 20, to delete “Board” and substitute “Commission”.

Seanad amendment agreed to.

Seanad amendment No. 278:

Section 85: In page 93, line 23, to delete “Board” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 279:

Section 85: In page 93, line 29, to delete “Board” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 280:

Section 85: In page 93, line 30, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 281:

Section 85: In page 93, line 31, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 282:

Section 85: In page 93, line 32, to delete “Board” and substitute “Commission”.

Seanad amendment agreed to.

Seanad amendment No. 283:

Section 85: In page 93, line 34, to delete “Board” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 284:

Section 85: In page 93, line 34, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 285:

Section 85: In page 93, line 37, to delete “drawing to the Board’s and the Minister’s attention” and substitute “drawing to the attention of the Mental Health Commission and the Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 286:

Section 85: In page 94, line 1, to delete “Board” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 287:

Section 85: In page 94, line 2, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 288:

Section 85: In page 94, line 3, to delete “Minister” and substitute “Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 289:

Section 86: In page 95, to delete line 6.

Seanad amendment agreed to.

Seanad amendment No. 290:

Section 86: In page 95, line 29, to delete “Board” and substitute “Mental Health Commission and Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 291:

Section 86: In page 95, line 31, to delete “Minister after consultation with the Minister for Health and the Board” and substitute “Minister for Health after consultation with the Minister and the Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 292:

Section 86: In page 96, line 23, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 293:

Section 87: In page 97, to delete lines 6 to 9.

Seanad amendment agreed to.

Seanad amendment No. 294:

Section 89: In page 97, line 25, to delete “Courts Service” and substitute “Mental Health Commission”.

Seanad amendment agreed to.

Seanad amendment No. 295:

Section 128: In page 110, between lines 35 and 36, to insert the following:

“Amendment of Act of 2001

128. The Act of 2001 is amended—

(a) in section 17(1), by deleting paragraph (b) and substituting the following:

“(b) arrange for the assignment of a legal representative to represent the patient concerned unless he or she proposes to engage one,”

and

(b) in section 33(3) by deleting paragraph (c).”.

Seanad amendment agreed to.

Seanad amendment No. 296:

Section 129: In page 111, line 3, after “shall” to insert “, in consultation with the Minister for Health”.

Seanad amendment agreed to.

Seanad amendment No. 297:

Schedule 1: In page 112, to delete lines 1 to 38, to delete page 113, and in page 114, to delete lines 1 to 22.

Seanad amendment agreed to.

Seanad amendment No. 298:

Schedule 2: In page 115, to delete lines 1 to 8.

Seanad amendment agreed to.

Deputy Kathleen Lynch: I do not want to hold up proceedings but I thank the Deputies opposite who have taken an interest in the Bill. It is technical, long and complex and has been amended dramatically. It is not the same Bill as originally presented. From time to time, it must have seemed cumbersome and difficult to come to terms with. I appreciate their interest because no legislation should go unchallenged through the Parliament. It makes us think differently and makes us understand things a little bit better.

I thank those who have taken an intense and long interest in this legislation, some of whom are in the Public Gallery today. They have followed and driven the Bill and advised us all along. We are deeply grateful to all of those people. For the organisations that have been waiting on it, it has been a long time coming. As Deputy Keaveney rightly points out, we are repealing the Lunacy Regulation (Ireland) Act 1871 and the Marriage of Lunatics Act 1811. It seems difficult to comprehend now that at the time, legislation that recognised there was a difficulty in some people's lives was considered to be revolutionary. We think differently now, are in a different space and understand more, which is why this legislation is so important. It will allow people to make decisions for themselves even if those decisions are not ones we would make ourselves. It is hugely important to understand that people who may have limited capacity in one area can have complete capacity in another. This defines the level of capacity and is hugely important to allow people to express their will and preference on any given issue. It is also time based.

I am sure the officials from the Department of Justice and Equality who have worked on this for the past four years have been very frustrated by it from time to time but nevertheless have been entirely committed to a good outcome. We are very well served by officials who work in our Departments. For the most part they are invisible and they do not come out and make statements to the papers - or, at least, they do not put their names to them if they do. That is a joke by the way. The people of Ireland can be truly grateful that they work on their behalf. When there is collaboration to do something right and proper, one sees the talent we have in this country coming to the fore. I thank them all because so many people are waiting on this legislation.

I will tell a story I have told in the Seanad. A family came to see me recently - someone they loved very much was awaiting a wardship hearing. The person was an adult and did not want to have that hearing. They had certain limits but were perfectly capable of making decisions and living as complete a life as any one of us. The judge wrote to him and suggested he look for an adjournment because this legislation was coming in. This judge was enlightened and it shows that people we do not even know about were waiting for this legislation and watching it with great interest. Sometimes we think we are talking in a bubble in here but an awful lot of people watch what we are doing.

I wish everyone a very happy Christmas. I hope it will be peaceful and not too many crises will arise. As someone working in the Department of Health, I can state that we always dread Christmas week.

I again congratulate on her appointment the first woman in the history of this parliament to become deputy head usher. I foresee great things for her. It is amazing that women now hold such decision-making positions in this country. The next election will see far more of that.

Deputy Colm Keaveney: I welcome the Minister of State's comments. Many human rights advocacy groups have been calling for this legislation. As the Minister of State has said, it has been 144 years in the melting pot, and irrespective of the nuance of the language, it was as complex then as it has been for the team in the Department of Justice and Equality who have managed to get to this juncture through their dedication, commitment and action. I want to be associated with those acknowledgments.

Progress on the Bill was slow - it was subject to many amendments. We have always said it is far from perfect. I do not think any legislation that has ever gone through this House has been perfect, so it is no reflection on the people who have engineered to get to this juncture. It must be borne in mind that the Bill is being introduced on the back of many bad policy decisions in the area of disability. There are long waiting lists for services, social welfare and protections have been attacked for people with disability and the health service is overwhelmed with demands. There is also a concern around congregated settings and the abysmally slow and underfunded reforms required in that area. That is not to distract from the principle and spirit of the legislation. I am delighted and hope that this will put to an end a dark chapter of abysmal and unacceptable language in our legislation and will contribute greatly to the area of mental health. It is language which causes stigma. We have to do an important job in this House to improve how we deliver our message to ensure we insult nobody and do not contribute to stigmatisation. We have to do the best we can to honour the faithful commitment that we as Oireachtas Members give to our constituents with the honour of our office.

I acknowledge the hard work to date and wish the Minister of State a happy Christmas. I acknowledge the work and commitment of Phil, who has been a shining light since 2011, and one of the finest public servants in this House. I give her a bualadh bos.

Deputy Kathleen Lynch: I should also have mentioned that Department of Health officials worked very hard on this on the advanced health care directives.

Seanad amendments reported.

An Ceann Comhairle: Agreement to the Seanad amendments is reported to the House. A message will be sent to Seanad Éireann acquainting it accordingly.

Technological Universities Bill 2015: Order for Second Stage

Bill entitled an Act to provide for the dissolution of certain institutes of technology and for the transfer of their functions, assets, liabilities and staff to new institutes of technology to be established; to provide for the dissolution of certain institutes of technology and the transfer of their functions, assets, liabilities and staff to the Dublin Institute of Technology; to provide for the reform of the governing authorities of the institutes of technology and the Dublin Institute of Technology; to provide for the establishment of technological universities; to provide for the functions and governance of technological universities; to provide for the transfer of functions,

assets, liabilities and staff from certain institutes of technology to technological universities; to provide for the consequential amendment of certain other enactments and to provide for related matters.

Minister for Education and Skills (Deputy Jan O’Sullivan): I move: “That Second Stage be taken now.”

Question put and agreed to.

Technological Universities Bill 2015: Second Stage

Minister for Education and Skills (Deputy Jan O’Sullivan): I move: “That the Bill be now read a Second Time.”

It is an enormous honour to bring the Technological Universities Bill 2015 before the House. This Bill will allow us to expand university-level opportunities to students across Ireland. Those institutions will be linked to industry and will have an enormous impact on our capacity to create and retain jobs in regions such as the south east and north west. The main purpose of the Bill is to give effect to one of the key planks of the Government’s National Strategy for Higher Education to 2030 - the modernisation of the institute of technology sector through the establishment of technological universities.

In addition, the Bill provides for a number of important reforms to the governance and operation of the existing institutes of technology. I thank the Joint Committee on Education and Social Protection and its Chair, Deputy Joanna Tuffy, for undertaking pre-legislative scrutiny on the general scheme of the Bill in April 2014. Many of the committee’s recommendations have been taken into account during the drafting of the Bill before the House today.

2 o’clock

The National Strategy for Higher Education to 2030, published in 2011, provides a framework for the development of the higher education sector to 2030. The Government has made considerable progress in implementing the recommendations set out in the strategy. In doing so, it has significantly advanced the goal of achieving a modernised, more flexible and responsive higher education system, one that is accountable for high-quality performance across the full range of higher education activities. The strategy recommended significant reforms so as to position the institute of technology sector to better meet national objectives. In particular, it recommended consolidation within the sector and a pathway to technological university status for those consolidated institutes of technology. In other words, it made clear that we should allow them to demonstrate a high level of performance that would allow them to become technological universities.

The Higher Education Authority published a four-stage process and criteria for applicant groups of institutes of technology wishing to apply to become technological universities. Initially, three consortiums of institutes of technology expressed an interest in merging and applying to become technological universities. This happened as part of the landscape process undertaken by the Higher Education Authority in 2012 and approved by then Minister for Education and Skills, Deputy Ruairí Quinn. Two of these consortiums have successfully passed stage three of the four-stage process. These are TU for Dublin, comprising DIT, IT Tallaght and IT Blanchardstown, and the Munster technological university, comprising Cork Institute of Technology and the Institute of Technology, Tralee. Both consortiums are working towards

full merger in 2016.

There has been a great deal of comment in this House and elsewhere on the technological university for the south east, comprising IT Carlow and WIT. As previously discussed in this House, a preliminary facilitation process has been under way since September this year and there has been strong engagement in that process by both parties. This process is building on the earlier work carried out by Mr. Michael Kelly who concluded that technological university status was an achievable goal in the south east. I take the opportunity to record my thanks to Mr. Kelly for the part he has played in bringing us closer to delivering university level education to the south east.

The current facilitation process involves a series of meetings and is an important building block in building trust between the parties. The facilitator has not yet scheduled all of her meetings because she wants to allow all of the participants the space to reflect on their discussions and complete the work they have committed to carrying out. I am satisfied that this process is likely to finish in January and I will happily provide a further update to the House at that time.

Earlier this year the Connacht-Ulster Alliance, made up of GMIT, Sligo IT and Letterkenny IT, also expressed an interest in merging and applying to become a technological university. I recently approved this application to proceed to the next stage. In line with the process for designation as a technological university, stage two of the process involves the preparation of a plan by the Connacht-Ulster Alliance to meet the criteria for designation as a technological university. I look forward to seeing further progress being made for that region also.

The mergers outlined cannot proceed until the Technological Universities Bill has been enacted and the relevant provisions commenced. Therefore, this Bill, in providing the legislative underpinning for those institutes of technology which have established partnerships and wish to merge, represents an essential milestone in the modernisation and reform agenda for higher education institutions. Institutes of technology which do not choose to follow the evolutionary path set out in the national strategy for higher education and the Bill will continue to make an important contribution to higher education within regional clusters. I note that we have some excellent institutes of technology, including that in my home city, which have decided not to pursue technological university status. It is important that we acknowledge that they will remain strong and important institutions within the overall landscape of higher education in Ireland.

The national strategy recommended that the governance structures of all higher education institutions be reformed to ensure they would be fit for purpose and have the expertise relevant to the governance of a modern higher education institution. The Bill, therefore, provides for new and modernised governance structures in the institutes of technology, as well as for other reforms to allow them to become more flexible and responsive to their environment. The institutes of technology have played a very significant role in the development and expansion of higher education in Ireland in the last half century and will continue to do so. DIT has an even longer history. The Bill marks a new era in their development and will bring huge benefits for their students, communities and Irish society.

Having set out the policy context underpinning the development of the Bill, I now turn to its contents. The Bill comprises 117 sections, and is divided into seven Parts, together with two Schedules.

Part 1, sections 1 to 6, inclusive, contains standard provisions on citation and commencement, interpretation, orders, expenses, offences and consequential amendments.

Part 2, sections 7 to 19, inclusive, provides for the merging of consortiums of institutes of technology. Chapter 1 provides for the merging of Dublin Institute of Technology with the Institute of Technology, Blanchardstown and the Institute of Technology, Tallaght, while Chapter 2 provides for the merging of Cork Institute of Technology and the Institute of Technology, Tralee. As I have noted, each of these consortiums has already been assessed by an international expert panel and found to be on a clear trajectory to meet the very robust performance and quality criteria that have been set down for merging institutes which wish to apply for the new technological university status.

Chapter 3 of Part 2 provides a mechanism for the merging of other consortiums of institutes of technology which may apply to the Minister to be merged and the applications of which will be assessed by an expert panel before a final decision is made by the Minister. It is through this mechanism that prospective mergers in the south east and Connacht-Ulster will take place.

Part 3, sections 20 to 54, inclusive, provides for the functions and governance of technological universities, the making of applications by merged institutes to become technological universities, the establishment of technological universities and the incorporation of institutes of technology into technological universities.

Section 22 sets out the general functions of a technological university which reflect the distinct mission of a technological university described in the national strategy for higher education to 2030. These functions include awarding degrees, providing programmes of education and training, engaging in research, collaborating with other higher education institutions and regional stakeholders in business, enterprise and the professions and serving the community and the public interest.

Sections 24 and 25 provide for the membership, terms of office, method of appointment and gender balance of the governing body of a technological university. A governing body will have between 11 and 20 members, including the president of the technological university, a chairperson, staff and student representatives, nominees of the Minister for Education and Skills and relevant education and training boards and between three and eight other external members. The external members will be appointed in accordance with a competency framework agreed with An tÚdarás, the Higher Education Authority. These provisions will ensure technological universities will have fit-for-purpose governing bodies in line with the recommendations of the national strategy for higher education.

Sections 26 and 27 provide for the appointment of the president and other staff of a technological university, while sections 28 and 29 provide that each technological university shall have an academic council. The functions and membership of these academic councils reflect the enterprise focus of technological universities, including promoting the involvement of business, enterprise, the professions and related stakeholders in the design and delivery of programmes of education and training and research.

Chapters 6 and 7 of Part 3, sections 30 to 37, inclusive, relate to a range of governance issues, including the preparation of strategic development plans, equality statements, budgets, accounts and annual reports, as well as matters relating to borrowing, the setting of fees and the establishment of companies.

Chapters 8 and 9 of Part 3, sections 38 to 47, inclusive, describe how the merged institutes established under Part 2 can become technological universities.

Section 38 sets out the specific eligibility criteria with which a merged institute established under Part 2 must comply before it can become a technological university by order of the Minister under section 40. The criteria set out a robust performance threshold for institutions wishing to become technological universities, are based on those published by the HEA as part of the landscape process and include criteria relating to the composition of the student body of the merged institute, the composition of the academic staff of the merged institute, the doctoral level education and research activities of the merged institute and the ability of the merged institute to perform the functions of a technological university, with particular reference to its governance structures, links with regional stakeholders, quality assurance and enhancement, mobility of staff and students and collaboration with other higher education institutions.

Sections 39 to 43 set out the process for the making of an application to become a technological university and the information which must be included in such an application. They also provide for the appointment of an independent, expert advisory panel to examine the application and the provision by that panel of a report and recommendation to the HEA and the subsequent provision by the HEA of the report, its views on the report and any other relevant information to the Minister.

Section 44 provides for the making of a proposed decision by the Minister while section 45 provides that the Minister may impose conditions on a merged institute where the merged institute does not comply with all of the criteria set out in section 38.

Chapter 10 of Part 3, sections 48 to 54, provides a mechanism for the incorporation of an institute of technology into a technological university.

Part 4, sections 55 and 56, provides for the hearing of appeals against certain decisions of the Minister under the Bill by an independent appeals board.

Part 5, sections 57 to 86, sets out a range of transitional provisions consequent upon the making of orders under Parts 2 and 3, which will ensure that functions, assets, liabilities, staff and so forth of dissolving bodies are appropriately transferred. Of particular note are sections 63 and 79, which provide for the transfer of the staff to the relevant merged institute or technological university. Those sections preserve the conditions of remuneration of transferring staff, while sections 64 and 80 also provide that staff remain members of the relevant superannuation schemes.

Sections 65, 66 and 81 provide for the appointment by the Minister of the first governing bodies of the institutes established under Parts 2 and 3. In each case, it is provided that the Minister will appoint a chairperson, two external members nominated by the Minister and a nominee of the relevant education and training boards as members of the first governing body of the institutes concerned. The president of the institute concerned shall also be a member. Within six months, the first governing body of each merged institute is required to agree a competency framework with the HEA for the appointment of external members, establish procedures for the election of staff representatives and the appointment of external members and conduct elections and make appointments to the governing body.

Sections 69, 70, 71, 72, 84, 85 and 86 provide for the continuation of arrangements relating to awarding the international education mark, quality assurance and enhancement and access,

transfer and progression where an institute is being dissolved and its functions and so forth are being transferred to another body.

Part 6, sections 87 to 114, provides for a number of amendments to the governance arrangements of Dublin Institute of Technology and the institutes of technology under the Dublin Institute of Technology Act 1992 and the Regional Technical Colleges Act 1992, respectively. Of particular note are sections 90 and 103, which replace section 6 of each of those Acts with new sections setting out revised arrangements for the membership, terms of office, method of appointment and gender balance of the governing bodies of DIT and the institute of technology. These revised arrangements will be along the same lines as those which will apply to technological universities under section 25. Section 104 sets out procedures for the appointment of the first new governing body of each institution under the revised arrangements.

In addition, Part 6 amends those Acts to revise the arrangements relating to the appointment and membership of the academic councils of those institutions; revise and clarify the procedures for the recruitment and selection of staff; repeal provisions which provide that certain members of staff may not be removed from office without the consent of the Minister; revise and clarify arrangements relating to the determination of budgets and the borrowing of money; revise the manner in which an inspector can be appointed to report into matters relating to the operation of DIT or an institute of technology and amend certain provisions relating to the appointment of a commission by the Minister to carry out such functions of the governing body of DIT or an institute of technology as the Minister determines; and insert revised Second Schedules relating to the operation of the governing bodies of the relevant institutions into each Act.

Part 7, section 115 to 117, provides for consequential amendment to other Acts to take account of the establishment of technological universities.

Schedules 1 and 2 provide for a range of matters relating to the governing bodies and presidents of technological universities, respectively.

I would also like to bring to the attention of Members my intention to address a number of additional issues through the introduction of amendments to the Bill during Committee Stage. I propose to introduce amendments on Committee Stage to provide for the granting of degree-awarding powers, with the exception of doctoral degree level awards, to all the institutes of technology. At present, institutes of technology have been delegated authority from Quality and Qualifications Ireland, QQI, to make awards. This delegation extends to master's degree level or doctoral degree level, depending on the institution and field of study involved. In contrast, the universities, as well as Dublin Institute of Technology and the Royal College of Surgeons in Ireland, RCSI, are awarding bodies in their own right and, therefore, have the authority to make their own awards at all levels of the national framework of qualifications. The granting of degree-awarding authority to all the institutes of technology would put them on an equal footing with the universities, DIT and the RCSI. It would, therefore, create a single, coherent quality assurance and qualifications space among public higher education institutions and it will support the future growth of institutes of technology as equal partners in the higher education landscape.

It is also my intention to introduce amendments related to the Universities (Amendment) Bill, which is currently at an advanced stage of drafting. That Bill will provide for the amendment of the Universities Act 1997 to provide the Minister for Education and Skills with powers to give directions to universities in respect of the remuneration of public servants and the num-

ber of public servants employed and to appoint authorised officers to investigate the contravention of such directions.

It is intended, once that Bill is settled, to insert similar provisions into this Bill to ensure the Minister has similar powers in respect of the technological universities.

This Bill currently sets out a range of transitional arrangements that apply where a body is dissolved under the Act and its functions, staff and so forth are transferred to another institution. It is currently being examined whether additional transitional arrangements are required and, if so, they will be introduced as amendments during the passage of the Bill.

This Bill is another important step in advancing the national strategy for higher education but it will mean much more to the regions of Ireland than just another step in a national strategy. The establishment of multi-campus technological universities will be of great benefit to their regions and to Ireland. Technological universities will have a distinct mission to provide high-quality, enterprise-focused higher education and research. I hope Members will agree that this is an important Bill. I look forward to listening to their views today and further debate as the Bill progresses through the Houses of the Oireachtas.

I commend this Bill to the House.

Deputy Charlie McConalogue: I thank the Minister for her opening remarks and for outlining the various sections and measures contained in the Bill. It is important to say that, overall, Fianna Fáil supports the concept of a technological university and the development of a new layer in our education system. We were very happy to participate in the pre-legislative scrutiny process which took place in March 2014. This involved widespread consultation on the proposals with stakeholders within the institute of technology sector as well as the university sector.

It is exceptionally disappointing that it has taken this long for the Bill to come before the House. The pre-legislative scrutiny took place in March 2014. There has been significant development over the past four or five years, progressing towards this point. It is unfortunate, as we come to the last two or three weeks of the term of this Government, that the Bill has only been published in the past few days. It is now likely that it will only reach Second Stage. Undoubtedly, it will be left for the next Government to take it up and proceed further with it.

This is further evidence of the kicking to touch of a number of issues within the third-level sector over the past four or five years. There has been an issue with overall funding at university and institute of technology level. Decisions over the past three or four years on its future direction have been continuously delayed. As of yet, we do not have the publication of the Cassells report and, according to media reports, it is unlikely to come before the election. The Minister might give us an indication in that regard because a proper debate is needed and the report should have been published so that it could be discussed. However, it has been continually delayed and pushed down the road and this is unacceptable.

Neither have we seen serious consideration of how we will fund the mergers. It is being done on a shoestring. The Minister and her predecessor have said that the merger of institutes of technology must be done within existing resources but the primary consideration should be academic. The aim should be to improve the quality of teaching within the sector and the range of academic courses available to students. In order to achieve that, those institutions who wish to merge will require additional funding so that staffing ratios can be improved and the options for students increased. However, that issue has not been considered as the process has devel-

oped. It is only now, at the end of this Dáil term, that we are getting the opportunity to discuss the legislation.

My party will be tabling amendments to the Bill on Committee Stage and we will tease out the issues in detail then. A number of issues have been raised by various stakeholders and these will have to be addressed as the Bill proceeds through the Houses. The Minister will be aware that staff in the institutes of technology have serious reservations about the development of technological universities and their role as the process unfolds. There has been industrial unrest at the institutes of technology in Waterford, Cork, Tralee and Blanchardstown. Much of the unrest centres on the need for additional consultation by the Department, the Higher Education Authority and the institutes of technology with staff as to how this will develop and what it will mean for them.

It must be noted that the institutes of technology have been under severe pressure in the last three or four years because of the funding crisis. We have seen an increase in casualisation and a significant disimprovement in the pupil-teacher ratio. We have gone from a situation where the institutes were at the better end of the scale with low pupil teacher ratios to one where they are now at the upper end of the scale, which has resulted in significant pressure being placed on staff. Alongside that, staff are now faced with the prospect of what they see as forced mergers and this is a cause for legitimate concern.

While the students unions are broadly supportive of the Bill, they have proposed a number of amendments to it. These cover the definition of students and student unions in section 2, the procedures for dealing with disputes between technological universities and student unions in section 22 and the extension and protection of academic freedom to students as well as staff. Their suggested amendments also seek to ensure that there are three student members on the governing bodies, a minimum number of students on the academic council and ensuring student input to the advisory panels adjudicating on applications for designation as technological universities. I am sure all parties in this House will be in a position to consult with the student bodies on their concerns and proposals for improving the Bill.

Consideration must also be given to the fact that mergers must be completed before a technological university bid can be given the sign off. The institutes of technology will have to come together and formally merge before being given a verdict on their application for technological university status. This means that, having gone through the merger process, there is no guarantee for the institutes that they will be awarded technological university status. They could be left in a situation where a merger has happened, and many of the constituent institutes will feel that they have lost some of their autonomy in that process, but they are not part of a technological university. Some of their autonomy and ability to serve those in their catchment area will be lost but the ultimate goal of becoming a technological university not achieved. This must be given further consideration during the debate on this legislation. We must provide clarity of process so that the institutes do not feel that they could be left in limbo.

It is crucial that the constituent institutes of any technological university which emerges will continue to have significant influence. They must be able to continue to serve their catchment areas, as they have done to date. The development of the regional technical colleges and their subsequent transition into institutes of technology in 2006 has brought about a transformation in educational outcomes and provision in the regions and this must be preserved. They have contributed enormously to the increase in the number of students who progress to and graduate from third level education. The institutes of technology are genuinely concerned about their

ability to retain the autonomy and influence that has enabled them to provide the wide range of options across different disciplines to students in their areas. While they certainly see the potential for technological university status to enhance their ability to improve their academic offering to students within their locality, they also have a number of genuine concerns. They are worried about mission creep, for example, and the possibility of further consolidation which will reduce their ability to serve their catchment area. They are fearful of being dominated by the larger entity. The health service provides a good example of this, with the development of hospital groups. This has resulted in a number of regional hospitals being put under pressure within the wider hospital group and has led to many services being centralised. The ability of the smaller local hospitals to continue to serve the local population is being diminished. There is a genuine concern within the institutes of technology that a similar dynamic could come into play in the context of mergers and the move to technological university status.

We must also discuss the financial pressure on the institutes of technology. While this is not directly related to the Bill before us today, it is an important issue in the context of their engagement and participation. I wish to refer to an example from my own county of Donegal. The funding structure that was put in place by the HEA, particularly in the context of multi-campus institutes, puts many of the more peripheral institutes under severe pressure in terms of continuing to provide the services they have provided to date. This has been on the Minister's desk and will come across her desk again.

It is crucial that we examine how multi-campus institutions can be facilitated in terms of the funding model. There has been increasing pressure in the past three or four years with the result that a number of institutions have been working off their reserves. It is an unsustainable position and not one which can be isolated from the policy development in regard to mergers and working towards technological university status.

I will leave it at that. I look forward to the Bill being further taken through the various Stages, even if, unfortunately, it will be in a new Dáil term. Hopefully, this will work out in a way that sees our very successful institute of technology sector further developed and sees the facilities available to young people and learners of all ages enhanced and developed within their localities.

Deputy Jonathan O'Brien: I am not sure if it will be left to the next Dáil to see the passage of this Bill because we are coming back after Christmas.

Deputy Jan O'Sullivan: We will try to do something in January as well.

Deputy Jonathan O'Brien: I am sure the Minister is eager to get the Bill passed before the Dáil rises. We will have to wait and see how long Committee Stage takes.

As the Minister is aware, Sinn Féin has a long-standing position of support for the introduction of technological universities in this State. However, that is not to say this is a position of unqualified support. We are broadly supportive of the concept of having legislation to allow the development of technological universities to proceed. Indeed, Senator David Cullinane has a strong record of supporting the development and consultation process around a technological university for the south-east. The Oireachtas report on which he was rapporteur, entitled *The South East Economic Development Strategy*, looked at strategies to address decades of regional underdevelopment. It identified a technological university in the south east as a critical factor in attracting inward investment and fostering growth in that region.

In moving that project forward, it remains the case that it is incredibly important that every effort is made to work collaboratively. However, that is not just the case with this initiative or with the management of the two institutions in that particular case. For technological universities to be introduced, and for them to be worthwhile, it is imperative that the staff who are expected to deliver are involved in the processes or consulted. This year, we have seen industrial action from institute of technology staff because of the proposed mergers. Only this week, there was a ballot on industrial action by members of the Teachers Union of Ireland which was overwhelmingly supported. While we welcome the legislation and are broadly supportive of it, we also recognise the valid and well-founded fears of trade union members and those working in academia that the mergers and rationalisation will result in reduced course provision that will not be of benefit to students, staff or the wider community. If mergers are to go ahead, they must be adequately resourced. That aside, in the opinion of some people, the Minister has failed to set out any significant reason as to why a merger is an essential component of achieving technological university status. In that context, they find it very difficult to see this initiative as being more than a fig leaf for cost-cutting.

The institute of technology sector is suffering from chronic under-funding. It is for that reason there was a 92% vote in favour of industrial action by institute of technology members of the TUI in their recent ballot. The staff in these institutions have seen a cut of over one third of the funding and an increase of almost one third in the number of students, with a reduction of staff totalling almost 10%. They are expected to work miracles on a shoestring budget and are stretched to, and beyond, capacity in many cases. The answer to those extremely negative resourcing issues is not to push bodies into a process that results in more cuts while leaving them with a better sounding name. It is our view that this legislation in its current form does not have the full confidence of many of the essential stakeholders.

We are also concerned with the manner in which the legislation has been dealt with, specifically around the late publication and the fact that one of the programme for Government commitments was to consider bringing in a technological university in the south east. Now, in the final weeks of the Government, we are seeking legislation that, in my opinion, will be rushed through regardless of what I or any other Opposition Member has to say about it.

We have seen previous concerns raised by members of the Committee of Public Accounts who said the mergers of the Munster institutes of technology had not been publicly costed, with over €3 million going on pay and professional fees alone. I am not convinced the matter of high costs has been dealt with sufficiently. While it is okay for management, the staff on the ground who will be expected to deliver the front-line courses are not being factored in and have not been included in the discussions in any meaningful manner. At the same time, they shoulder the burden and the negative aspect of cost-cutting across the board, which displays a worrying lack of foresight at Government and departmental level.

The criteria for becoming a technological university were set out in 2012 by the Higher Education Authority and require two or more institutes of technology to merge before a final application can be made. Many critics of the model being presented have said that it is just a cover for cuts and more concerned with rationalisation. Given how the institute of technology sector has been managed recently, it is hard to disagree with that. It also appears there is still the core issue of institutes of technology having to merge with no guarantee of achieving technological university status. We could end up with a merged entity which is awaiting designation as a technological university and yet still fails to meet the very strict criteria laid down.

I note that TUI members in both CIT and IT Tralee, whom I have met personally on a number of occasions, are currently engaged in industrial action against the mergers. The TUI branches in the Cork colleges oppose the Bill and have asked us to vote against it on Second Stage today. Their particular concerns are the merger of institutes being a precondition of re-designation as a technological university, with no guarantee that re-designation of the merged entity will actually happen, even when the required criteria are met. They have noted their particular opposition to the Bill as they have no confidence in the Munster technological university, MTU, process, with particular reference to the following: the Higher Education Authority policy approach; the international panel report; the financial commitment of the Government; the local engagement process; the strategic process and its educational merit; and the point that elimination of course duplication contradicts the current mission of regional provision for both institutes. Those are their concerns.

While we are in favour of a legislative framework that will allow technological universities to be established, and we will vote to allow this Bill to go forward on Second Stage, I put the Minister on notice that we will withdraw our support for the Bill if our concerns and those of the staff of the institutes of technology are not addressed in a meaningful way on Committee Stage and Report Stage. In the absence of proper resourcing, unfortunately, it looks as if this is just something that Government Members can use in certain constituencies to say they are providing people with a technological university without actually looking at how that is going to happen in practice, what shape it has or what kind of working conditions or education will go with it. The prospective merger between Carlow and Waterford ITs has been plagued by difficulties and in no way looks ready to happen in the short term given the funding issues the Government has consistently failed to address. One has only to look at the academic requirements for staff, the percentage requirements for research students at postgraduate level and mature student targets to know that much of this will be unrealisable in the absence of funding being put in place.

A range of other issues also need to be addressed in this Bill, from the unavoidable resourcing issue to matters such as definitions, academic freedom and the level of representation on the governing body and academic councils of the technological universities for both staff and students, not to mention the matter of the function of the academic councils. We have serious concerns that the academic councils will be exploited by business interests and that the framing of the Bill is complicit in allowing this to happen. Academic freedom needs to be protected and supported by means of secure tenured employment and by maintaining ministerial inquiry in cases of dismissal. The idea that can have true academic freedom without a secure system of employment is incredibly naive.

This is even more important when we look at the increased casualisation of third level employment alongside the increasing neo-liberalisation of the sector. It used to be the case that people complained about being on one-year contracts, but now nine-month contracts are being given to people and people are being put on hourly pay. It would be interesting to know how many PhD graduates have to sign on during the summer. Some in third level faculties, who should know better, are employing PhD graduates on the JobBridge scheme. This is an outrage. The Government has failed to support those students in their studies most of the time and has failed to support them in their graduate life. There is nothing in this Bill that will address the systemic precarious issues in the third level sector. We do not believe there should be any forced mergers. If mergers are forced where they are not wanted, this undermines the Government view they have academic benefits. This should not be just a simple exercise in cost cutting. It also would be useful to have a more detailed debate on Committee Stage regarding the

fate that awaits institutes of technology that do not want to merge, one of which is in the Minister's constituency. The trade unions have raised many concerns that technological universities will be able to set their own employee pay and conditions, leading to unhealthy competition and an end to collective bargaining.

There are also big question marks over the protection of the pay and pensions of teaching staff in the technological universities. The Government has not proven itself particularly willing to protect teaching pay in the past, no matter the part of the education sector. People are right, therefore, to raise this matter. We also have broader concerns around the inclusion of the term "staff association" alongside trade unions, as bodies to be recognised in the terms of employment. Staff associations have a long history of being used by companies and businesses that have no interest in dialogue with their workers. They are used as an excuse to disengage from trade union negotiations. This is something that must be addressed on Committee Stage if the Bill is to have our support.

We also have a serious concern regarding the ability of the technological university to set its own fees for students, subject to the HEA review process, particularly in light of what may come down the road with a long-awaited report due on funding in third level. If third level education is not funded appropriately from the Exchequer, we could face a situation where students enter institutes of technology that are not fit to perform their functions, with teaching being at breaking point and students coming out and in debt to the tune of €20,000 or more. There is also an idea being put about that all courses need to be streamlined and merged so they are not duplicated. While there is merit to the idea that courses should not be overly duplicated, it must be acknowledged that the Government has cut funding to the bone and that not every student can afford to go to another town to attend a third level institute. Many students simply do not have that option.

As stated previously, Sinn Féin gives qualified support to this Bill. We agree with the idea of technological universities, but the legislation in its current form has problems. We will bring forward a range of amendments to address these matters on Committee Stage and will withdraw our support for the Bill if these are not addressed adequately.

An Ceann Comhairle: The next speaker is Deputy Paul Murphy, who is sharing his time with Deputy Richard Boyd Barrett.

Deputy Paul Murphy: I will start by paying tribute to the institutes of technology and their staff. These institutes are drastically under-funded, but they continue to provide access to higher education for many people who would traditionally be excluded. This is true for the Institute of Technology, Tallaght, in my constituency and others.

One point that must be mentioned in the context of this Bill is the extent of the savage cuts implemented in this sector over the course of the crisis, first under the Fianna Fáil-Green Party coalition and continued under the current Government. Funding for the sector has been cut by a massive 35% between 2008 and 2015 and as a result the number of lecturers in the ITs has fallen by almost 10%, more than 500 whole-time posts. At the same time, student numbers have risen by more than 30%. Therefore there has been a significant increase of approximately one third in the student-teacher staff ratio, above the OECD average of 16:1 to a high of 20:1.

In Tallaght, there have been cuts of 40% since 2008, student numbers have increased by an amount equivalent to the national rate and staff numbers have reduced by 10%. A consequence

of this is that the resources of the ITs and the working conditions of the staff are being stretched to breaking point. One third of TUI members at second level and a similar number at third level are in temporary part-time employment. We have a massive extension of so-called “flexicurity”, precarious employment in third level institutions of people who are preparing people for their future. It is no wonder, therefore, there was such a significant turnout of 56% and such a significant “Yes” vote to industrial action on Monday, with 92% voting for industrial action on the issues of the severe funding difficulties and the horrific cuts that have taken place.

That is a context to this Bill. We welcome the idea that ITs should be able to apply for and get technological university status, but the kind of change proposed in this Bill cannot take place in the context of cuts and rationalisation. The concern of many of those involved is that the Bill may just become another rationale for further cuts, using the amalgamation process to drive a cuts process. Simply put, amendments must be made to the Bill to ensure it cannot become a Trojan horse for rationalisation and the elimination of programme provision. Otherwise, we will not support the Bill on a later Stage.

Institutes of technology should not have to amalgamate before applying for technological university status. They should be able to apply as stand-alone institutes. There has been a transformation and development in terms of ITs and the programmes they offer and they should be permitted to apply individually. It is a difficulty that ITs are expected to amalgamate and then apply for technological university status, with no guarantee they will get that. This would be the worst of all worlds for them, that they have amalgamated but have not the status. Therefore, the requirement for amalgamation should be withdrawn.

For this process to happen properly, additional resources need to be put into the sector. The estimated cost in Dublin for carrying out the amalgamation is almost €24 million over three years and there is clearly little or no money available from the Higher Education Authority, HEA, to fund the process. The suggestion that the cost be met from further efficiency cuts, or “efficiencies” is unacceptable in the current climate. That translates, in reality, to a process of cuts.

A second issue we would like to raise is the question of dissolution of institutes of technologies. The Bill effectively provides for the dissolution of the institutes at Tallaght, Blanchardstown, Cork and Tralee, with Tallaght and Blanchardstown to be amalgamated with Dublin Institute of Technology. There is no further process envisaged in the Bill other than the issuing of an order by the Minister setting a “dissolution day”. It has been argued that given that an international panel has already assessed the case for the amalgamations in Dublin and Munster, no further process is necessary. Given that we now have the legislation setting out the terms and conditions for being a technological university, surely individual institutions should be allowed to look again at the issue. This is particularly important given the opposition of staff in many of the institutes of technology to forced amalgamations. The Teachers Union of Ireland, TUI, is about to ballot members for industrial action on this specific issue, as there is significant disquiet about the lack of consultation and engagement with staff. In light of this, there should be provision in the Bill for the institutions to collectively trigger the process prior to the Minister issuing an order and only after agreement has been reached with staff on the terms of the amalgamation.

The third point I raise is that it is clear in reading the Bill that it is unnecessarily slavish to the needs of business and enterprise. This is in line with an approach that is generally happening across education but in clause after clause, the needs of enterprise and industry are

acknowledged and privileged over what the Bill refers to as “other stakeholders”. There is a stark contrast between the number of times the word “enterprise” appears relative to terms such as “community”. The Bill would have us believe that business and community interests are the same thing. Technological universities are to serve the community and public interest by, in the first instance, “supporting the development of business and enterprise at local, regional and national levels”.

A strong illustration of the slavishness to business relates to the provisions for the academic councils, which are traditionally composed of academic staff and are forums for debate and the making of decisions on all matters related to academic programmes and research activity. Their main focus is on upholding academic standards. The Bill as it stands indicates “the majority of members of the academic council shall be members of the academic staff of the technological university”. That clearly raises the prospect of non-academics from outside the institutes being members of the academic council and the prospect that those with unduly narrow views of education will come to have influence over the structure and content of our higher education programmes. All those committed to a broad view of education should oppose such moves.

The Bill also proposes with regard to membership of academic councils that they would be “a member of the academic staff with sufficient experience, in the view of the technological university, of business, enterprise or a profession”; and “members of the academic staff with sufficient experience, in the view of the technological university, of collaboration with business, enterprise, the professions and related stakeholders in the region in which the campuses of the technical university are located for a purpose as referred to”. This is a concrete example of the privileging of the needs of business and the placing of business at the centre of these technological universities. Our education system is not a tool of the business community. Education is a public good and it should be retained as such. It should not be limited to preparing students to adapt to the demands of employment and remaining competitive in the labour market. The immediate needs of employers are not a good basis for designing a curriculum. What concerns industry is what is relevant to industry and the interests and concerns of employers and big business in particular. It is not necessarily the same for society or students. We must remain committed to a view of education as a vehicle to enhance the capacity of citizens to learn, develop critical thinking and contribute to a society that provides a good life for all. This will involve being critical of the practices of business and students should be prepared in their education to do so.

A fourth point to be raised relates to governing bodies. The proposal as currently outlined in sections 25, 65, 66, 81 and 104 is unsatisfactory, as these sections see a diminished role for the Minister and the establishment of a system of self-regulation, which may diminish public accountability. Following the first appointment of governing bodies, the Minister’s role will be reduced to the appointment of two external members. Levels of staff representation on any new bodies arising from this legislation should be no less than current levels, at least, at two academics and one non-academic person. Given that the technological universities will be formed from amalgamated institutes of technologies, staff and student representation should be expanded to provide for representation from all relevant institutes that have been amalgamated. It is also the case that as currently written, there is no provision for trade union representation on governing bodies.

The last point I want to raise relates to collective bargaining and the threat that is potentially contained in the legislation as currently written. As the Minister knows, all staff currently working in institutes of technology are covered by national collective agreements covering the

whole sector. The Bill in section 27(2) provides with respect to trade unions that the staff of a technological university shall be employed on such terms and conditions as may be determined by the technological university, subject to the approval of An tÚdarás, given with the consent of the Minister etc. The implication of this is that staff working in different technological universities could have different terms and conditions. It is clearly implied. This is different from the heads of the Bill as published, which contained head 55, and stated “The Minister may, in relation to the performance by a technological university of its functions, give a direction in writing to that technological university requiring it to comply with a (a) policy decision made by the Government or the Minister in so far it relates to the remuneration or numbers of public servants employed in that technological university, or (b) collective agreement entered into by the Government or the Minister.” It also indicates that “a technological university shall comply with a direction under this section”. That provision in the heads of Bill does not appear in the Bill as published. It is legitimate for people to have a concern that collective bargaining is being undermined and there can be a fragmentation with respect to terms and conditions of those currently working in the institutes of technology. There could potentially be a race to the bottom and competition between institutes that forces wages and conditions down across the sector. This would weaken the position of a union representing academic staff across the different technological universities, which is completely unacceptable.

The Minister must retain at least a similar role to now in ensuring similar pay and conditions apply across all new institutions created by this legislation. Otherwise there is the prospect of differential pay and conditions, making it less attractive to work in some technological universities, undermining their ability to attract the high calibre staff they need to provide a high quality education. Finally we note that staff who transfer to new amalgamated institutions are only guaranteed their current levels of remuneration and not their current conditions of employment. We support the demand of the TUI that transfer of undertakings regulations should be applied to ensure people are transferred in total with respect to pay and conditions.

I generally welcome the idea of technological universities and institutes of technology being able to apply to be technological universities. It cannot be a Trojan Horse for further cuts or the undermining of worker rights and conditions. It cannot be a Trojan Horse for the undermining of collective bargaining.

An Ceann Comhairle: Before calling Deputy Boyd Barrett, as I will be leaving the Chair shortly, I will avail of the opportunity to wish a happy Christmas and prosperous new year to all the staff. These include the reporters in front of me; the ushers; members of the press, whom I never see because they are seated behind and over my head; officials around the Houses; members of an Garda Síochána; staff working in the restaurant and bars; staff in the communications area; my fellow Members; and members of the Government. It will be an exciting new year for everybody. I apologise for interrupting proceedings but I will be leaving before the Deputy finishes.

3 o'clock

Deputy Richard Boyd Barrett: I wish the Ceann Comhairle a very happy Christmas and wish him the very best for the new year. I wish all my fellow Deputies, or adversaries, on the other side of the Chamber a happy Christmas.

Deputy Jan O’Sullivan: We are Deputies too.

Deputy Richard Boyd Barrett: Deputies and adversaries. I wish all the Oireachtas staff, who make life bearable for us in here even if we possibly make it unbearable for them at times, a happy Christmas.

The idea of a technological university is one to which everyone would subscribe. Everyone would subscribe to the idea that it should be an option available to the institutes of technology to allow them to upgrade to being technological universities. This is a laudable objective but the people at the coalface - the teaching staff in the institutes of technology - are deeply concerned and suspicious about the real import of this Bill given what has been happening on the ground in the institute of technology sector for the past seven years under the impact of relentless cuts and austerity. They fear that this is just a process of rationalisation where rationalisation is a euphemism for more cuts and consolidation to cover up those cuts and enforce more cuts and more attacks on the quality and conditions in the institutes of technology as they affect the teaching staff and students. This will not enhance the experience or quality of the education or the situation for teaching staff, who are key in delivering the education to students.

As has already been rehearsed by other Deputies, the institutes of technology have been hammered since 2008. There has been a 35% cut worth €190 million between 2008 and 2015 resulting in critical low levels of staffing at a time when student numbers have jumped very significantly. We have seen a 32% rise in student numbers in that period. Incredibly, at a time when we have seen a major increase of effectively one third in the number of students, we have seen a 9.5% cut in the staffing levels. We have many more students but far fewer staff and cuts in funding across the board in the institute of technology sector. This is having a devastating impact on the staff who are suffering precarious employment. About one third of those working in the institutes of technology are in precarious positions, suffer income poverty and are severely stressed trying to do their jobs. It is also leading to a detrimental situation for students - larger class size and less access to laboratories, tutorials, student support and general quality of education.

This is the reality against which the noble objective now being set out must be measured. It seems to be a hallmark of this Government to engage in noble objectives, grand plans that sound wonderful in announcements and ambitions that are coming down the road. One then looks at the grim reality of services, infrastructure and so on that have been hacked to pieces. When I look at this plan for technological universities, I cannot help but think that it sounds a bit like centres of excellence in the health service, which is a beautiful idea championed by this Government. The Government will downgrade, reform, restructure or close the smaller local hospitals and merge them into groups and have centres of excellence. It sounds beautiful but then one looks at the reality, which is a euphemism for cuts and fewer services. I am just making the comparison with what has happened to the health service and saying that this sounds like it. If the Government does not provide the resources and staff, all the wonderful restructuring turns into a nightmare of cuts and a degrading of services. This is unquestionably what is happening in the health service.

Looking at this, it is difficult to see how it can be anything other than that. If the resources are not provided, if staffing levels are not dramatically improved and if the cuts are not reversed, what we will get is a repeat of the fiasco and disaster that the Government slogan “more for less” in the health area has produced. We got a lot less for less in the health service. How could it be otherwise in this process of mergers and rationalisation, notwithstanding the wonderful and noble aspirations for technological universities, if it is against a background of butchered resources, staffing and services?

I pay tribute to the teachers. I was informed about a lot of this coming from the picket line in Dún Laoghaire Institute of Art, Design and Technology, IADT, where teachers were on strike recently. It did not take them long to get across to me how stressed, overworked, desperate and despairing they were regarding the situation in which they were working. It is not just reading off the documents we got from the Teachers Union of Ireland, TUI, it is also about the teachers on the picket line. They do not want to be on strike. There would be industrial action in Dublin but for the agreement at the LRC in July. We have had industrial action more recently across the country and the TUI is saying with a huge mandate that it will go on strike if the Minister enforces mergers without addressing its concerns on all of these issues. It is the last thing it want to do but it is at its wits' end. Against a background of being battered with cuts for the past seven years, it strongly suspects that it will be more of the same and that none of the assurances it sought in its engagement with the Government, the Department and relevant Oireachtas committee in respect of the heads of Bill on a range of areas, with which the Minister is familiar, will materialise. These include collective agreements arising out of the Haddington Road agreement to safeguard conditions over the transfer of undertakings so that staff members carry over their conditions into any merged entity; the complete failure to have proper consultation and to guarantee that no mergers will go ahead until there is consensus and agreement and all the concerns of the teaching staff have been met; and the need for a proper case to be set out on any mergers towards technological universities that will guarantee the quality and standard of the education and the regional access that is required. This latter aspect is a hallmark of the institutes of technology, so that they provide access to third level education for people who in many cases cannot afford to travel to study and who need third level education near to where they live, as Deputy O'Brien mentioned. Do we need to underline that point against the background of the housing crisis, which affects students among many others? They are desperately trying to find housing. Many assurances are required and most important, the resources, staffing and so on to ensure that this aspiration for technological universities, laudable as it might be, is not simply a recipe for more cuts, rationalisation and so on, that degrade the quality and experience of education in these technological universities.

How can there be academic freedom in the new institutions if people do not know they are going to have a job in a year's time because they live in fear? That is not conducive to academic freedom and freedom of expression, which is the hallmark of third level education because staff are too terrified to say anything in case their contract is not renewed. Against a background where 33% of people employed in third level education are in precarious situations and that figure has been growing, the workers and the unions say it should be approximately 95% permanent tenured employment if there is to be security for the teachers and the necessary academic freedom so teachers feel confident to express their views and say what they think, which is what universities are all about. There should be adequate representation of workers, trades unions and students on the governing bodies of these institutions in proportion to the number of these institutions that may be merged so there is academic and student leadership of the universities. That is what is needed to make something more than a university in name.

As Deputy Paul Murphy said, when one considers all the references to enterprise and industry and so on in the Bill "slavish" is the right word. The Bill is saying the technological universities must serve the interests of business and enterprise. I would put it the other way around: business should support third level education, which it is not doing. Why should the universities, which educate our young people, providing a service to society and the public, be slaves to business, which does not reciprocate and where Government policy ensures it does not reciprocate? Why do the businesses not pay some taxes to fund third level education? They

are its chief beneficiaries. The extraordinary profits the multinationals make per employee in this country are off the Richter scale. This is to a significant extent explained by transfer pricing, contract manufacturing and intricate tax avoidance schemes. These companies make unbelievable profits from the young people we paid to educate and who have, through their own endeavours, reached a point where they can make enormous profits for these companies, which do not feel any need to reciprocate and pay a bit of bleeding tax.

Deputy Jan O’Sullivan: They pay a bit.

Deputy Richard Boyd Barrett: They do everything in their power to avoid it. The dogs on the street know it, with the double Irish, and now the knowledge box - any old excuse - and they constantly lobby the Ministers about ways to get out of tax. They are employing accountants left, right and centre to come up with new and intricate mechanisms, in many cases facilitated by the political establishment, to avoid paying tax. Talk about cutting one’s nose off to spite one’s face. The cumulative result is skills shortages because we do not have enough educated people to feed the monster of multinationals.

Deputy Jan O’Sullivan: Is the Deputy against jobs?

Deputy Richard Boyd Barrett: No. I am for these companies, which make enormous profits from our young people, putting something back into educating the young people from whom they extract such profits, rather than us paying for the education, and students and teachers contributing to producing educated young people and letting these lads run off with the goodies.

Deputy Jan O’Sullivan: We have increased tax over the past five years.

Deputy Richard Boyd Barrett: I am deadly serious about this.

Deputy Jan O’Sullivan: I know the Deputy is and so am I.

Deputy Richard Boyd Barrett: We should be standing up for ourselves and telling these multinationals that they will have to cough up a bit of money to pay for the educated workforce from which they make so much money, with profits that are off the Richter scale. That is not a hyperbolic description of their profits. Based on the productivity per worker in Ireland, it is all made here. Could they please contribute something towards these chronically underfunded universities, where students are on miserable grants?

I say no to student loans. Has the debt economy not done us enough damage without inflicting the debt economy on our students so they will come out of third level education owing €20,000 or €30,000 to the banks? What an outrageous suggestion. The Minister should get rid of the fees and make the multinationals pay their taxes to fund our third level education.

Deputy Joe Costello: That was an excellent contribution from Deputy Boyd Barrett. He was very passionate as usual. I have to agree with him that there should be no student loans and that the corporate sector should make a substantial contribution to our third level institutions because more and more they locate themselves in the vicinity of third level institutions to obtain the best in research and qualified students who graduate from the colleges.

It is, however, very important to recognise the contribution that the international sector has made to Ireland. That was one of the major contributors in a period when there was nothing in the country over the past seven or eight years. Foreign direct investment was maintained at an

all-time high although many punters were saying that the country was going down the tubes. The foreign direct investment and the Irish diaspora sectors were out front in ensuring that direct investment was maintained at a strong level.

I welcome the legislation and see it as a glass half full rather than a glass half empty. I do not want to see cuts and I do not believe the legislation is being introduced in any way to effect cuts to the third level sector. It is being introduced on the basis of rationalisation. When we consider the history of the institute sector we see why that is necessary. Many of the Members will remember that the regional colleges were developed at more or less the same time as we joined the European Union. We were very fortunate that the strategy and foresight of the people who were in government at the time saw the importance of having a necklace of institutes of technology, which were called regional colleges, around the country. The colleges in question were located at Letterkenny, Sligo, Mayo, Tralee, Cork, Waterford, Dún Laoghaire and Louth. They were built not just with the goodwill of the EU but also with funding it provided. The EU helped to build and staff the colleges, as well as paying the students. It was a win-win situation so that by the time the computer IT revolution hit across the globe, Ireland was best placed - more than any other country in the world - to have students graduating from these colleges who were fit for the new job markets then coming on stream.

That is the real reason foreign direct investment interests have been so willing and enthusiastic to come to Ireland. From the very beginning they became embedded in the process. One can see how so many of those IT companies have been here for over 20 years. We had wonderful work experience both in terms of qualified students entering the workplace and the ability to source experience, as well as the development of laboratory and other academic facilities in those colleges.

It was essential that somewhere down the line there would be a consolidation of those colleges which are located throughout the country. When that was happening, the Dublin Institute of Technology required its own consolidation because it consisted of six faculties scattered across the city, three of them in my own constituency, namely, Bolton Street College of Engineering, the College of Catering in Cathal Brugha Street and the College of Marketing and Design in Mountjoy Square. That consolidation process, which has been ongoing for a long period, is about to extend to the new Grangegorman campus.

When I first entered politics and was elected to the local authority in 1991, I became chairman of the City of Dublin VEC and held the position until 1999. At that time, the Dublin Institute of Technology came under the aegis of the City of Dublin VEC. It was not a stand-alone college. The 1992 Act was necessary to enable the Dublin Institute of Technology to operate as a third-level college on a stand-alone basis. The process allowed it to thrive through consolidating the various faculties. The college then began seeking a common campus so that all the faculties could come together. It has taken all that time, since 1992, to achieve it. No attempt was made to build the DIT campus at Grangegorman before the current Government took office.

In 1993, I recall that the National Museum was seeking a new site to expand from its location beside Leinster House in order to display all the social paraphernalia that had been accumulated over the years to indicate that aspect of the country's legacy. Dr. Pat Wallace was the museum's director at that point. Discussions on the possible location were held between the then Taoiseach, Albert Reynolds, and the then Minister for Arts, Heritage and the Gaeltacht and our current President, Michael D. Higgins. Mr. Higgins came to me to inquire whether there was a suitable location in my constituency - which there was - for both projects. The National

Museum is now located at Collins Barracks, which was then being emptied of soldiers, and the DIT campus is now in Grangegorman. Unfortunately, for very many reasons, nothing was built in that period but the consolidation of the DIT is now taking place at last and who would not say that is a good thing?

We should take the extra step to consolidate the institutes of technology into a single technological university for the city of Dublin, including Blanchardstown and Tallaght with the DIT. That makes sense to my mind. As well as cutting costs, it would avoid duplicating services. It would bring together staff, students and facilities in order to develop a co-ordinated, whole-of-city technological university, allowing further diversification on a streamlined basis. That is a desirable way forward that would enhance the quality of education and service, as well as providing more diverse resources to meet the educational needs of students and the community at large.

Universities should be embedded in their communities and not just for third-level purposes. Wherever there is an institute of education or a university, one can see the *pro rata* intake of third-level students in those areas. However, third-level institutions should be involved at every level of the education system, including primary and secondary, thus providing pathways towards the courses and facilities on their doorstep. That is the way forward. It is time we discussed having community-based universities as well as primary and secondary schools. If that was done, the quality of education would be so much better, as would the quantity of the intake.

The Bill represents a desirable way forward. I understand that the Minister's next step will be to examine the south-east sector and the Connacht-Ulster alliance, as well as seeing what can be done to consolidate the provision of technological expertise in the future university framework. I commend the Bill to the House.

Deputy John Paul Phelan: I commend the Minister on introducing this legislation. It is a pity we are discussing it on a Thursday evening before Christmas because this is one of the most significant proposed changes to the way in which our education system has operated for many years. It is very much to be welcomed. Effectively, it is about introducing a new type or category of third-level institution for the future.

I must declare a number of vested interests in this legislation. As a representative for Carlow-Kilkenny, I have an existing institute of technology in my constituency. As somebody who studied in an institute of technology in Waterford, I also have a keen interest in that institution. From the start, this new categorisation was included in the programme for Government and it is welcome that we are now discussing the terms of the legislation that will allow these new institutions to come into play.

I do not want to rehash everything that has been said by previous speakers. However, the Minister referred to the ongoing, arduous efforts in the south-east region, including the current facilitation process which is hopefully coming to a conclusion. I hope the Minister will get an opportunity in January to tell the House about the outcome of that process. For the south-east region more than for any other region, this is a particularly critical matter. The region has just shy of 500,000 people and it is pretty much the only region without an existing university, which has been a constant bone of contention. It is also the region with the highest average rates of unemployment even at the height of the boom, the lowest disposable household income even at the height of the boom and the lowest third level education attendance rates of any region of the country even at the height of the boom. The argument for establishing a technologi-

cal university in the south-east region is strong.

Section 38 outlines the criteria for such a designation. I started in Waterford Regional Technical College in September 1997. I am not sure if it was a regional technical college or an IT at the time because, in a rather typical display of fudging by the now Leader of the Opposition and then Minister for Education and Science, Waterford Regional Technical College was to be upgraded to IT status. However, there was a clamour from other regional technical colleges around the country and the names of all institutions were changed at the drop of a hat by Deputy Martin regardless of any meeting of criteria as far as I can remember - I was only 18 at the time and was not particularly involved in political decisions, although I would have been interested. I know it caused much disquiet in the institute in Waterford that when it had reached the standard, the Minister took a decision that all regional technical colleges would simply have their names changed. That is why section 38 is so important. It sets out in detail the teaching and educational criteria for a designation as a technological university in future. The process needs to be transformative in terms of education and not just about changing the name on the door, which is what Deputy Martin did in 1997.

Deputy O'Brien correctly made this point. In my region across Wexford, Waterford, Carlow, Kilkenny and into Tipperary many families are not in a position to send their children to universities in Dublin or outside the region because they cannot afford to do so. Having a university in their own region where the costs of sending their children to it would be greatly reduced, is a significant factor. The institutes of technology and the regional technological colleges before them have been a great success because they gave an opportunity for a third level education to thousands of people who would not otherwise have had the opportunity. The technological university status can have a similar impact into the future for many thousands of people in regions of the country who would not be in a financial position to move away from home to go to a university.

Deputy Paul Murphy spoke about the academic councils of the new technological universities. He expressed alarm and concern over the prospect of non-academics on academic councils. I say, "Alleluia" to the prospect of having some non-academics on academic councils. Deputy Murphy also happened to single out for special mention that there is no direct provision for trade unionists to be appointed to academic councils while at the same time saying that they should not contain representatives of business. I believe the legislation is correct in not singling out any specific groups for inclusion or exclusion. If we are talking about a new structure for education, there should be an alignment with the needs of industry into the future. That is a fact of life and it is something I would welcome.

Deputy Murphy expressed alarm that this legislation might be a Trojan horse for rationalisation, whatever that phrase means. I do not suspect it is anything of the sort. However, there is obviously a need, whether it is in this city or in other regions in the country where there are existing institutes of technology and where some duplication takes place, for an overall body responsible for development of third level education in a technological sense under this new technological university heading. It makes absolute sense and I fully support it.

Following the process the Minister mentioned in her earlier contribution, Professor Donnelly, the president of Waterford Institute of Technology and, Dr. Mulcahy, the president of Carlow Institute of Technology, are endeavouring to ensure that a bid can happen for the south east region. It is much overdue and is something the region badly needs. It has the potential to be a major economic driver for the future of the five counties that make up the region, which

for far too long have lagged behind academically and in terms of household incomes despite the perception that exists in other parts of the country that everything is always much better on the east coast than in other parts of the country. Even at the height of the Celtic tiger, the south-eastern economic indicators were much lower than in most other parts of the country. The possibility of a technological university has the potential to provide a huge economic stimulus and to attract much-needed foreign direct investment as well as local investment to ensure we have a thriving region economically as well as socially into the future.

That is why I fully support the legislation. I commend the Minister on her work and her endeavours so far. I commend the Bill to the House.

Deputy Brendan Smith: As Deputy John Paul Phelan said, this legislation requires detailed and critical scrutiny. I disagree with his remarks on what the former Minister for Education and Science, Deputy Martin, did in the context of supporting the regional technological colleges and the institutes of technology. During the period he held the office that the Minister, Deputy Jan O'Sullivan, holds now, there was huge investment and growth in that sector. If two colleges had the same status, it would not be appropriate to have one designated as an institution of technology and the other as a regional technological college. In the late 1960s and the early 1970s when the regional technological colleges were established, they all had the same status and description. It would cause problems from the point of view of interacting with partners in education on the international scene to have different titles for colleges providing the same level of education.

I broadly welcome the Bill, as did my party spokesperson, Deputy McConalogue. However, he flagged a number of issues he would like to see amended on Committee Stage. We need to reconsider the requirement for existing institutes to merge if they wish to be considered for designation as technological universities. Deputy McConalogue made a practical and useful suggestion in that regard.

I do not believe we should have a university or an institute of technology in every county. We know that is not feasible and we would demean our whole third level education sector if we took that route. The institutes of technology have been very successful and great credit is due to a succession of Ministers, who ensured they got substantial funding to allow them grow and develop, and also to the leaders within the institutes. That goes back to the principals or directors of the regional technical colleges, as well as the many public representatives who served on the boards of those colleges through the vocational education committees, VECs. They often do not get credit for the contribution they made to education at local and regional level.

Deputy Costello referred to the possibility of the merger of the different institutes in the Dublin area, as well as the Connacht-Ulster Alliance. I want to refer to the other part of Ulster which would be regarded as the north east. For my county, Cavan, part of it is in the north west, while other parts are regarded as being in the north east. Monaghan is very much designated as being in the north east. I cannot see Dundalk Institute of Technology readily accommodated in a particular cluster, either regionally or geographically. While I admit I quickly went through this legislation, I did not see provision made for co-operation with similar educational institutes north of the Border. We all talk about growing the all-Ireland economy with greater co-operation between North and South. The Acting Chairman, Deputy Wall, and I participate in the Joint Committee on the Implementation of the Good Friday Agreement. We meet different groups who all support growing the all-Ireland economy, as well as growing synergies between North and South, be it in improving infrastructure and in the provision of health and education

services.

There is a wonderful opportunity to ensure greater co-operation between third level colleges and universities in the North of Ireland and in the South. However, from the last figures available, proportionally there are fewer students from the North of Ireland in universities and institutes of technology in the South than would have been in the past. I know more people on the island are thankfully participating in further and third level education than in the past. Proportionately, however, the number of students going from North to South or South to North has actually declined. That is a deficit we need to address. If Dundalk Institute of Technology provides particular courses not readily available north of the Border, there is no point in some university or institute of technology north of the Border trying to provide the same course and competing for students. Resources will always be scarce both North and South to deal with demands on the provision of health and education services, as well as infrastructure. There is great scope for us to provide education services much more on a North-South and on an all-Ireland basis. I hope on Committee Stage the Minister will make some provision to ensure such co-operation is effected. I am sure the Minister will be told by the Department, universities and institutes of technology that this is not practical as the third level sector in the North is funded differently. Every Department, statutory agency, university or institute of technology lives in their own world, in a silo. We need to get this out of society for the better of everybody, as well as a better return for the taxpayer and for the student who will benefit with being provided with education as near to home as possible. If a Cavan student needs to access a particular course which is only available in Enniskillen rather than in Navan, then there is no reason the student cannot go North or *vice versa*.

We still have too much of a partitionist mentality when it comes to the delivery of services. We have had the opportunity since May 1998, when we overwhelmingly endorsed the Good Friday Agreement to put new administrative political structures in place in this island, to start to look at the delivery of services on an all-Ireland basis. We have not been doing enough in this regard. When the Minister is bringing forward legislation, which will put a new type of higher level education facility in place, this is the time to look at the provision of services on an all-Ireland basis. I hope the Minister will take that opportunity.

The institutes of technology have never been given credit for the great contribution they made to ensure children from more disadvantaged backgrounds got access to third level education. From the statistics for first-year entrants in Dundalk Institute of Technology, quite a number of them were the first members of their families to have the opportunity to go to third level education. There has been a distinct policy by the institutes of technology to ensure extra assistance and access programmes to ensure children from a background where education may not have been a priority in the past due to financial circumstances, or where parents did not get the opportunity to go on to further or third level education, get to third level. Thankfully, today we have much better third level participation of young people from more disadvantaged backgrounds. That is extremely important.

Today, the Minister's office would have received correspondence from Deputy Kirk. Last night in Leinster House, several Oireachtas Members from the north east met with members of the Teachers Union of Ireland, TUI, branch from Dundalk Institute of Technology. The delegation put forward a compelling case for additional financial assistance needed by the institute. They outlined how there is a deficit in the provision of technology for some particular courses. There are some courses which it will be difficult for them to deliver if there is not some investment in technology available to them. Deputy Kirk's request has been made to the Minister on

behalf of the Oireachtas Members from the north east, Cavan, Monaghan, Louth and Meath, of all parties and none. We are seeking a meeting with the Minister to support the case made by the TUI branch in Dundalk Institute of Technology. Its members outlined the significant growth in its student population, which is welcome, and the projected increase in enrolments. It must also be factored in that the population in Louth and Meath has grown considerably over the past 15 years. Quite a number of students from north County Dublin also attend Dundalk Institute of Technology, along with a large student population from Cavan and Monaghan. I hope the Minister will be able to give some assistance to Dundalk early in the new year. The members of staff who we met last night are extremely impressive and committed to their work. They stressed to us that it is not a trade union pitching for better conditions for themselves but advocating for better conditions and better delivery of education services for the students under their care.

Deputy Costello spoke about the Connacht-Ulster Alliance which makes sense with Letterkenny, Galway-Mayo and Sligo Institutes of Technology. However, for the north east and Dundalk, one is dealing with the Border. That is why I am anxious that the whole area of North-South co-operation is advanced. We can all talk about co-operation but we need to be adventurous, ambitious and deliver services to students. Whatever part of Ulster a student comes from, he or she should not be a stranger south or north of the Border. My party's education spokesperson, Deputy McConalogue, will put forward several amendments in this regard on Committee Stage and I hope some of his proposals will be implemented.

It is important legislation and the whole area of technological universities is a welcome development. Again, I do not believe we should have a technological university in every county. The area of further education does not get enough credit for the contribution it makes and has made over the past several years. I know that Cavan Institute, a college of further education in my county, has given many students the opportunity to go on to institutes of technology or universities and complete their primary degree courses and, in many instances, many of those students have gone on to complete a master's degree. That progression from further education through to third level is vitally important. The further education sector is also one that needs to be adequately funded. The further education sector and the colleges of further education were put in place to meet the emerging needs of the economy in those local areas. I agree with Deputy John Paul Phelan's point that the institutes of technology or the colleges of further education should have a good working relationship and close collaboration with industry in their area. When I chaired the board of management of the then Cavan College of Further Studies we were cognisant of ensuring that courses that tapered in with some local industries were provided, where we had some particular strengths, and young people were equipped with skills to meet the job opportunities that might arise in their own areas.

An area that is worth considering is the agricultural colleges. While I have not given this any detailed thought, it should be noted that they are also a great resource. I was involved in Ballyhaise Agricultural College in my own county some years ago. It linked up with Dundalk Institute of Technology and provided a degree course in food and farming. The young students could do their first year in Ballyhaise Agricultural College, and some of them may not have had the points to go directly into an agricultural science course, but they were able, on successful completion of the relevant certificate in agriculture at the agricultural college, to go on to Dundalk Institute of Technology and complete a degree course in food science or food and farming. Many of those people are now gainfully employed in our agrifood industry, which has experienced substantial growth during the past decade. The agricultural colleges are an im-

portant resource and they should not be left out of the further and higher education sector, nor should they be left to stand alone. There may be an opportunity to develop a greater synergy between the agricultural colleges and the institutes of technology.

Deputy Eamonn Maloney: I welcome the Bill and the Minister should be commended on bringing it forward. I listened to her opening statement on the monitor. I do not agree with everything she said but I agree with most of it. In many respects what is being provided for in this Bill in the third level education sector is historic. Collectively, if we succeed in achieving what the Minister wants to achieve in the technology sector together with the raising of the status and quality of education in that sector, this will have been a good day's work.

There are many divisions in our society, be it in health or other areas, but the sector that most reflects the divisions in society is the education areas, and there are many examples of it. Deputy Smith rightly pointed out that since the institutes of technology have evolved they have offered students from working class areas the opportunity to have their first introduction to third level education. I am one of the lucky ones because there is a very good institute of technology, Institute of Technology, Tallaght, in the constituency that I represent, which is the third largest centre of population in the country. It is worth noting that 30 years ago within the wider community in Tallaght - approximately 100,000 people live there - only a little more than 2% of students who left second level school went on to third level. Today that figure is 22%. It has taken the best part of 30 years to raise the percentage of students from working class areas who go on to a third level institution. I repeat the point Deputy Smith made, namely, that those students are the first members of their family, having regard to their parents and grandparents, to get their foot in the door of a third level institution. We still have a long way to go in terms of the difficulty that was illustrated by other Members, in that, if one's parents are lucky enough to have the required disposable income, one is pretty much guaranteed from birth to get a place in a third level institution and one is guaranteed a better standard of living and a better education. Those are the types of barriers we should be trying to break down. We should make third level education not a privilege for some in society but open for all in society who complete their second level education.

The Institute of Technology, Tallaght has done tremendous work in the manner in which it has developed during the 20 plus years that it has been established. Its catchment area is not only south Dublin, it also has an intake of students from Kildare and further afield. It has a very good reputation and has made great progress in the quality and variety of courses it offers. It has quite high standards, which is a positive development. There is a strong attachment to the institute because of what it has managed to do for many families in giving many working class students the opportunity to get a third level education.

One or two Deputies became very exercised about the cuts in education. I acknowledge there were cuts in education across the board. Unfortunately, that is history. Sometimes when people speak in this House they choose to forget what happened in 2007 and 2008 as if the collapse in the economy never happened. When the Minister was being criticised about the cuts in education neither of the Deputies referred to the fact that there was no cut in the €100 million subsidy that is given to private schools. It may have something to do with the fact that those two Deputies, who come from the great and the good, the privileged, went to private schools. I did not see them becoming exercised about calling for the abolition of the €100 million that goes to those small number private schools, which could be distributed among the institutes of technology about which they got so agitated. However, that is the nature of politics.

4 o'clock

There are areas of the Bill on which the Minister and I will not agree but the debate on this sector has now started on a different level with the publication of this Bill. I am being parochial about the Dublin scenario with DIT, ITB and ITT. Many of the differences relate to governance of the overarching body and the fear that the IoT in Tallaght would be subsumed into DIT and would not have the autonomy it has. Obviously, it will lose some power when they amalgamate but the fear among the staff in Tallaght is that they will be moved into a much larger institution and their institution will lose its identity. They also want to protect the quality of the education they provide. I understand that and I am sure the Minister does also because in any amalgamation in the education sector or other sectors, there are vested interests and it is understandable that the staff do not want to be pushed back. That is for another day and I am sure when amendments are tabled, we all will have a few comments to make about that on Committee Stage.

Minister for Education and Skills (Deputy Jan O'Sullivan): I thank everybody who contributed to the debate and, in particular, for a broadly supportive response from the various shades of the Opposition. We are all committed to the notion that there should be an opportunity to develop technological universities and it should be supported. Deputies Boyd Barrett and Murphy suggested this is all about cuts. I reassure them it is about opportunity and not about cuts. It is about giving regions an opportunity to bring IoTs together to ensure they achieve the status of a technological university. There have been cuts in the higher education sector, as there have been across all sectors, not only in education but in other Departments. As Deputy Maloney said, that was because of the economic crash and the fact that we simply did not have money. I managed to increase the education budget this year, a little more than last year's slight increase. Should I be lucky to return to this position, I would want that to continue in the next budget given the importance of education. That has been stressed by many speakers.

I assure Members this legislation is anything but a plot on the Government's part to introduce cutbacks. It has been talked about for a long time, particularly in the south east, where, as Deputy John Paul Phelan said, there has been a sense that a higher education institution with the status of a university was needed, as this would, therefore, increase employment levels and address issues of concern in the region. I am delighted we are making progress there and I expect a report in January from the person working with the two institutions in the region to address issues. Considering where we were even a year and a half ago, we have come a long way regarding the south east.

The provision of a technological university is of great concern in that region but opportunities also present in other regions in this regard and we have received representations on these. The reason mergers are being provided for is we want universities, ultimately, with a critical mass. We would like larger institutions that will have the appropriate number of students, researchers and PhD students and that will meet all the criteria that need to be reached before technological university status can be achieved. The IoTs knew from the beginning that mergers were part of this process.

I would like to make Deputy Boyd Barrett aware that this process is voluntary. We are not forcing people to come together. Some regions have decided to do this while others have decided against it. As Deputy Smith said, Dundalk IT is not participating while Athlone IT and Limerick IT, near where I live, are not either. They are working on clusters in regions but I take the Deputy's point about the North-South discussions. I have had meetings with the Northern Ireland Minister for Education, John O'Dowd, and, in particular, the Minister for Employment

and Learning, Mr. Stephen Farry, about cross-Border co-operation on higher education. Mr. Farry was particularly interested in the Letterkenny-Derry axis but, obviously, the Deputy is interested in the axis in his own area. I do not know whether anything relating to that could be inserted in this legislation but it is part of the discussions in education meetings in the context of North-South dialogue. We are trying to facilitate cross-Border movement in education where appropriate.

A number of Members were concerned about staff and ensuring pay, pension and other conditions are protected. I referred to the relevant sections in that regard in my opening contribution but I am sure we will tease all those issues out on Committee Stage. I also agree consultation is needed. We have impressed on the IoTs that they need to constantly talk to their staff and students to make sure they are in the loop about what is happening and that they are genuinely consulted and listened to. I want that process to continue. Those issues have been raised. With regard to security of tenure in the IoT sector, I expect the Cush report shortly. He is looking into making jobs more secure in the higher education sector. The Peter Ward report on this issue in the primary and, particularly, the post-primary sector was published last year and we are implementing that. The Cush report is about job security in the higher education sector and I am told I am likely to get the report in January. We need to implement that as well. We have made a small move giving hourly paid lecturers the status of assistant lecturer but, clearly, there are issues, particularly for the unions that represent workers. We will have an opportunity to address them.

A number of Members raised the issue of engaging with business. Engaging with the local economic community makes a great deal of sense. It does not preclude engaging with other elements of the community. Many IoTs have courses related to the caring professions, hospitality sector and the arts, and, therefore, it is not only about business. Those who have had job opportunities in their regions because IoTs specifically engaged with business regarding their needs have witnessed high quality jobs coming in and, therefore, I do not make apologies to the two Deputies who referred to this issue. It is right that there should be engagement with enterprise in the region because that is how a region ensures it creates the maximum opportunity for those who live in it. Technological universities will have a strong role in that regard. Engagement with local enterprise is a way to address that. It is not only about multinationals. Many indigenous companies are in the food sector, for example, and they engage with higher and further education institutions. That is important in ensuring we have cross-sectoral and intergovernmental engagement to ensure opportunities to access education and a satisfying and well paid career are created and skills gaps are prevented. I do not make any apologies for that. Deputies Costello, Maloney and Smith all spoke of opportunity, especially for sectors of the population that do not traditionally go to college. I want to ensure we do not dilute the fact that people go to college because there is an institute of technology in the area, such as Tallaght for example. We do not want people to have the sense of an institute being more distant than what is currently available. The local and regional population is to be encouraged by these mergers. This is part of our engagement with the institutes.

Yesterday I launched the National Plan for Equity of Access to Higher Education, the fund for which we have assigned an extra €300 million this year. This will improve the transfer from further education to higher education. It will also ensure that under-represented socio-economic groups, Travellers and people with disabilities increase their representation going on to higher education generally. The institutes of technology and future technological universities are playing an important role in that. We have specific targets in that plan. We want to ensure

more equity of access across the sector.

I will now turn to the multi-campus issue. Deputies referred costs for students if they have to move away from their own region. The whole point of the plan is that there will continue to be campuses in the same places where the institutes of technology currently are - there may in fact be more campuses in some places than we now have - and students can attend in regions where there will be technological universities. They will be functioning, multi-campus entities. An example of a multi-campus in my own area is the Limerick Institute of Technology which amalgamated with the Tipperary Institute. It means there are LIT campuses in Tipperary as well as in Limerick. It should not put barriers in the way of students regarding the cost of living away from home. I hope I have addressed most of the issues raised by Members. We will have the opportunity to debate the legislation further on other stages of the Bill. I hope to get the legislation through during the lifetime of this Dáil. I will look for committee time when we have completed Second Stage. It is a very important piece of legislation, referred to by some members as historic, and it offers an opportunity for a new type of university in a number of regions in the State. The legislation is the basis for moving forward. It is important that all Members have the opportunity to fully tease it out the issues around governance and security for staff. While the Bill should not be rushed through, if there is time it would be a positive step if the legislation could be completed during the current Dáil. I thank all of the people who contributed.

Nearly every Member who has stood to speak today has imparted Christmas wishes and I too wish the Members, staff, ushers, the Ceann-Comhairle and the acting chairs a very happy Christmas. We will return to this Bill in January 2016. Go raibh míle maith agaibh.

Question put and agreed to.

Technological Universities Bill 2015: Referral to Select Committee

Minister for Education and Skills (Deputy Jan O'Sullivan): I move:

That the Bill be referred to the Select Committee on Education and Skills pursuant to Standing Order 82A(3)(a).

Question put and agreed to.

Message from Seanad

An Ceann Comhairle: Seanad Éireann has passed the Criminal Justice (Burglary of Dwellings) Bill 2015, without amendment, and the Finance (Tax Appeals) Bill 2015, without amendment.

Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matter in respect of which notice has been given under Standing Order 27A and which has been selected for discussion. The name of the Member is Deputy Bobby Aylward - the status of the 317 outstanding compensation claims by members of An Garda Síochána for injuries received in the line of duty.

Deputy Bobby Aylward: I thank the Ceann-Comhairle for choosing this important matter for discussion during Topical Issues. I had hoped that the Minister for Justice, Deputy Fitzgerald would be in attendance. I have been continuously stonewalled by her and the Department

of Justice on this issue when I have raised it previously.

A retired garda attended one of my advice clinics in September 2015 and conveyed a concerning situation about a compensation claim which has been sitting in the Department of Justice for two years awaiting further assessment. Without going in to personal details this relatively young garda had suffered malicious injury in the line of duty. According to a document produced by this retired garda, the Garda Síochána chief medical officer passed the case on to the Department of Justice and Equality in January 2014. This has been confirmed by the Minister for Justice in her response to a Parliamentary Question tabled by me.

The original application for compensation was lodged five years ago in 2010 and Garda authorities forwarded the report on the claim in January 2014. It has remained sitting in the Department of Justice awaiting further assessment. It has also been confirmed by the Minister in response to my Parliamentary Question that, as at the end of October 2015, there were 317 outstanding applications for Garda compensation for assessment by the Department of Justice and Equality. I asked the Minister to supply further details on the years in which the applications were received and where the applications currently sit in the assessment process. The Minister refused to provide information and said that such information could only be obtained by the expenditure of a disproportionate amount of staff, time and resources. I was wholly dissatisfied with the response from the Minister. It raised more questions than it answered and it appears the devil is in the detail.

I made further enquiries into the matter via Parliamentary Questions. I asked the Minister to spell out how many gardaí in Carlow, Kilkenny and the south east are waiting for their payments to be processed. Unfortunately, once again she has refused to provide that information. The Minister cited the lack of computerised records as a reason why she could not provide the figures. This highlights clearly how An Garda Síochána has been starved of vital resources. The lack of computerisation should not be an issue in this day and age. The retired garda who approached me is a relatively young man. I do not make any apologies for that.

Deputies Costello, Maloney and Smith spoke about the issue of opportunity for sectors of the population that traditionally have not gone to college. People in areas such as Tallaght have gone to college because there is an institute of technology in the area, and I want to ensure that continues. In terms of these mergers, we want to ensure the local and regional population is encouraged by them and does not have a sense that education is more distant than currently. That is very much part of how we are engaging with the different institutes.

Yesterday I launched the strategy for access to higher education. We have assigned an additional €3 million to it this year to increase the access fund and improve the transfer from further to higher education. We want to ensure the attendance at higher education of under-represented socio-economic groups, people with disabilities and Travellers is increased. Institutes of technology play an important role in this, as the technological universities will in the future. We have specific targets in that plan and we want to ensure more equity of access.

Some Deputies spoke about the multi-campus issue being more costly for students if they have to travel from their own region. The point of it is that additional campuses will be added to existing institute of technology campuses. The purpose of this is that in regions where the technological universities will be, there will be other campuses students can attend. They will be functioning multi-campus entities. An example from my own area is the amalgamation of Limerick Institute of Technology and the Tipperary Institute. There are now campuses of the

institute in Tipperary as well as in Limerick. That is an example of a multi-campus institution. It should not put barriers in the way of students in terms of the cost of living away from home.

There were some other issues but I think I have referred to most that have been raised. We will have the opportunity to debate the legislation further on other Stages. I hope to get the Bill through in the lifetime of this Dáil and I will look for committee time as soon as we finish Second Stage. It is very important legislation. Some have called it historic. It gives the opportunity for a new type of university in a number of regions in the country. This legislation is the basis for moving forward so it is important that everybody here has the opportunity to tease it out because clearly there are issues around governance and security for staff. There are many issues that must be dealt with fully. I am not saying we will rush it through but if we have time, it would be a positive to complete the legislation during the life of the current Dáil. I thank those who have contributed.

Everybody who has spoken here today has wished everybody a happy Christmas. I wish Members, staff, ushers, the Acting Chairmen who assist the Ceann Comhairle and everybody else a very happy Christmas. We will return to the Bill in January.

Question put and agreed to.

Technological Universities Bill 2015: Referral to Select Committee

Minister for Education and Skills (Deputy Jan O’Sullivan): I move:

That the Bill be referred to the Select Sub-Committee on Education and Skills pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) of the Standing Orders relative to Public Business.

Question put and agreed to.

Messages from Seanad

Acting Chairman (Deputy Jack Wall): Seanad Éireann has passed the Criminal Justice (Burglary of Dwellings) Bill 2015, without amendment, and the Finance (Tax Appeals) Bill 2015, without amendment.

Topical Issue Debate

Garda Compensation

Acting Chairman (Deputy Jack Wall): Is the Minister, Deputy Varadkar, taking the first Topical Issue matter?

Deputy Leo Varadkar: I am taking all Topical Issue matters. I should be getting some sort of allowance.

Deputy Bobby Aylward: I thank the Ceann Comhairle for selecting this very important matter for discussion. I had hoped the Minister for Justice and Equality, Deputy Frances Fitzgerald, would be in attendance as I have been continually stonewalled by her and her Department on this issue. A retired garda attended one of my advice clinics in September and conveyed a concerning situation surrounding a compensation claim which has been sitting in

the Department of Justice and Equality for two years awaiting further assessment. I will not go into personal details but this relatively young garda suffered malicious injury in the line of duty. According to a document which he produced, the Garda chief medical officer had passed it on to the Department of Justice and Equality in January 2014. This was confirmed by the Minister in a response to a parliamentary question.

The original application for compensation was made in 2010, which was five years ago. Garda authorities forwarded their report on the claim in January 2014 and it has remained in the Department awaiting further assessment. It was also confirmed by the Minister in her response to my parliamentary question that at the end of October 2015 there were 317 outstanding applications for Garda compensation under assessment by the Department of Justice and Equality. I asked the Minister for further details on the years in which these applications were received and their current stage of assessment. The Minister refused to provide the information, stating “such information could only be obtained by the expenditure of a disproportionate amount of staff time and resources”.

I was wholly unsatisfied with the response received from the Minister, which raised more questions than it answered. It seems that the devil lies in the detail here. For this reason, I made further inquiries into the matter via parliamentary questions. I asked the Minister to spell out how many gardaí in Carlow, Kilkenny and the south east are waiting for their claims to be processed. Unfortunately, she refused to provide that information to me once again, citing the lack of computerised records as a reason she could not provide the figures.

This again highlights clearly how the Garda has been starved of vital resources. The lack of computerisation should not be an issue in this day and age. The retired garda who first approached me is a relatively young man. I do not make any apologies for that.

Deputy Costello and subsequently Deputies Maloney and Smith to some extent all talked about the issue of opportunity, particularly for sectors of the population that do not and have not traditionally gone to college. I want to ensure that in areas like Tallaght, for example, where people went to college because they had an institute of technology in their area, we do not dilute that in any way. We want to ensure that the local and regional population is encouraged by these mergers and does not in any way have a sense that the institutions are more distant from them than what they currently have, so that is very much part of how we are engaging with the different institutes.

I launched yesterday the strategy for access to higher education. We have assigned €3 million extra for that this year to increase the access fund, to improve the transfer from further education to higher education, an issue to which reference was made earlier, and to ensure that under-represented socio-economic groups but also other under-represented groups like people with disabilities and Travellers increase their percentage of attendance at higher education generally. Institutes of technology are playing an important role in that regard, as will technological universities into the future, and we have specific targets in that plan. We want to ensure that there is more equity of access across the sector.

I will refer to the multi-campus issue as well because people talked about it being costlier for students if they have to go away from their own region. The whole point of this is that they will continue to have the campuses in the different places where the institutes of technology are currently and in fact more campuses in some places than we currently have. The purpose of this is therefore to provide for places that students can attend in different parts of the regions

where there will be technological universities. They will be functioning multi-campus entities.

It is not a technological university, but an example in my own area is Limerick Institute of Technology's amalgamation with Tipperary Institute, so that now there are campuses of the institute in Tipperary as well as Limerick. It is just an example of multi-campus institutions, and that should not put barriers in the way of students in terms of the cost of living away from home.

Other issues were raised but I believe I have referred to most of them. We will have the opportunity to further debate the legislation as it goes through other Stages. I hope to get it passed in the lifetime of this Dáil. I will look for committee time as soon as we finish Second Stage because this is very important legislation. Some Deputies have said that it is in some ways historic, and I believe it is. It gives the opportunity for a new type of university in Ireland in a number of regions in the country, and this legislation is the basis for how we move forward. It is important that everybody here has the opportunity to tease it out because clearly there are issues around governance and security for staff. There are a lot of issues and we need to ensure that we deal with them fully. I am not saying that we would rush it through; however, if we have time, it would be a positive if we could complete the legislation during the life of the current Dáil.

I thank all of those who have contributed. Nearly everybody who has stood up here today has wished everybody a happy Christmas. I too wish the Members and the staff - the ushers and everybody else, indeed the Deputy Chairmen who assist the Ceann Comhairle - a very happy Christmas. We will return to this Bill in January. Go raibh míle maith agaibh.

Question put and agreed to.

Technological Universities Bill 2015: Referral to Select Committee

Minister for Education and Skills (Deputy Jan O'Sullivan): I move:

That the Bill be referred to the Select Sub-Committee on Education and Skills pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) of the Standing Orders relative to Public Business.

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Message from Seanad

Acting Chairman (Deputy Jack Wall): Seanad Éireann has passed the Criminal Justice (Burglary of Dwellings) Bill 2015, without amendment. Seanad Éireann has passed the Finance (Tax Appeals) Bill 2015, without amendment.

Topical Issue Debate

Garda Compensation

Acting Chairman (Deputy Jack Wall): Is the Minister, Deputy Varadkar, taking this Topical Issue matter?

Minister for Health (Deputy Leo Varadkar): I am taking them all. I should get some sort of allowance.

Deputy Bobby Aylward: I thank the Ceann Comhairle for selecting this very important matter for discussion during Topical Issue time. I had hoped that the Minister for Justice and Equality, Deputy Frances Fitzgerald, would be in attendance as I have continuously been stonewalled by her and the Department of Justice and Equality on this issue, which I have raised a couple of times.

A retired garda attended one of my advice clinics in September of this year and conveyed a concerning situation regarding a compensation claim which has been sitting in the Department of Justice and Equality for two years awaiting further assessment. I will not go into personal details, but this relatively young garda suffered malicious injury in the line of duty. According to a document which this retired garda produced, the Garda chief medical officer had passed the claim on to the Department of Justice and Equality in January 2014. This was confirmed by the Minister for Justice and Equality in her response to a parliamentary question which I tabled.

The original application for compensation was lodged in 2010. That is five years ago. Garda authorities forwarded the report on the claim in January 2014 and it has remained sitting in the Department of Justice and Equality ever since, awaiting further assessment. It was also confirmed by the Minister in response to my parliamentary question that as of the end of October 2015, there were 317 outstanding applications for Garda compensation under assessment by the Department of Justice and Equality. I asked the Minister for further details on the years in which these applications were received and the current state of assessment on which they currently sit. The Minister refused to provide the information, stating that “such information could only be obtained by the expenditure of a disproportionate amount of staff time and resources”. I was wholly unsatisfied with the response received from the Minister. It raised more questions than it answered, and it seemed the devil lies in the detail here.

For this reason I made further inquiries into the matter via parliamentary questions. I asked the Minister to spell out how many gardaí in Carlow, Kilkenny and the south east are waiting for their claims to be processed. Unfortunately, she refused once again to provide that information to me. The Minister cited a lack of computerised records as a reason she could not provide these figures. This again clearly highlights how the Garda have been starved of vital resources. The lack of computerisation should not be an issue in this day and age.

The retired garda who first approached me was a relatively young man. I am gravely concerned about these gardaí, many of whom, I am told, are elderly, who are struggling financially while awaiting payment of their compensation claims in respect of which the Department of Justice and Equality is dragging its feet. The least we can do for gardaí injured while on duty is ensure their compensation claims are processed without delay, irrespective of the outcome of the claim. No person, particularly older retired members who have been significantly injured while on duty, should be forced to wait years to have his or her claims reviewed and decided on.

I am calling for a review of the manner in which compensation claims for serving and retired members of An Garda Síochána are processed. This is a serious matter. I understand more than 900 gardaí have lodged claims for compensation, 317 of which have been processed by An Garda Síochána and are now with the Department of Justice and Equality. I would like an explanation from the Minister on the reason this process is so lengthy. As I said many of those awaiting compensation, who have mortgages and are in dire straits financially, were injured while on duty. The Department needs to speed up the process in this regard and ensure these people are given their just rewards.

Will the Minister for Health, Deputy Varadkar, relay to the Minister for Justice and Equality the fact I would like these claims brought to a conclusion as quickly as possible?

Minister for Health (Deputy Leo Varadkar): I thank the Deputy for raising this matter which I am taking on behalf of my colleague, the Minister for Justice and Equality, Deputy Frances Fitzgerald, who is elsewhere on Government business.

Under the Compensation Acts 1941 and 1945, a member of An Garda Síochána maliciously injured on duty can make an application for compensation. It is the responsibility of the Minister for Justice and Equality to approve or refuse such applications, having regard to the circumstances of the case and the legislation. This assessment is discharged by designated officials of the Department and is informed by medical reports and previous court judgments in Garda compensation cases.

Before a decision to approve can be taken and the matter progressed to the High Court, certain conditions must be met. The injury being claimed for must not be minor in nature and confirmation must be received from the Garda Commissioner that the incident occurred on duty and that it was not caused as the result of wilful default or negligence on the Garda member's part. A full report from the Garda chief medical officer is also sought in addition to information from the applicant's legal representatives, often including independent medical assessments. Inevitably, this can be a long process, even in relatively simple cases. Unfortunately, in some cases, this has added to the amount of time spent processing applications before a decision to approve or refuse is made.

As of the end October 2015, the number of applications being assessed in the Department of Justice and Equality, namely, those applications in respect of which the necessary information has been received from the Garda authorities to allow a decision to approve or refuse to be made, was 317. The current total now is 286. The Minister intends that this number will continue to reduce over the coming months and has instructed her officials to take steps to ensure this is the case.

Deputy Bobby Aylward: I thank the Minister for the reply but it is not good enough. According to the Minister, the number of applications currently awaiting assessment in the Department has reduced from 317 to 286. The garda who contacted me lodged his claim five years ago. His claim has been with the Department of Justice and Equality since 2014, which is almost 18 months ago. The Garda authorities report and medical reports in respect of this claim have been made available to the Department, so there is no reason for it to be delayed.

I understand 900 claims have been made, 286 of which are now awaiting assessment in the Department. This means there are approximately 700 claims awaiting processing by the Garda authorities. I am calling on the Minister to speed up this process. As I said, the gardaí involved have mortgages and other loans and some of them are unable to work. They are dependent on their compensation and it is not good enough that they have to wait years for it. In regard to the Minister's statement that the number of cases currently awaiting assessment has reduced to 286, five years is too long to have to wait for payment of compensation. The Minister needs to ensure this process is speeded up so that these gardaí can be provided with their compensation quicker, in particular given all of their medical records have been made available to the Department.

Deputy Leo Varadkar: As I said in my opening remarks, the assessment of each applica-

tion for compensation is dependent on receipt of reports from the Garda authorities, including the Garda chief medical officer, and on receipt of information from the applicant's legal representatives. On average, both of these parts of the process take up more time than the decision-making process undertaken within the Department. Nonetheless, the Minister has assured me that she is very conscious of the current caseload under the Garda Compensation Acts and the pressing need to reduce the number of outstanding cases in her Department.

The Minister has asked her officials to take steps to address this situation as a matter of urgency. It is also the intention to bring transparency to this process through the collation of statistics relating to the compensation process, which will then be published on the Department's website. I cannot comment on any individual case as I do not have access to any individual's information. I acknowledge the Deputy's concern and interest in this matter and while the Dáil may be rising today, I will be seeing the Minister for Justice and Equality over the next few days and I will make her aware that the Deputy raised this issue in the House and ask that she contact the Deputy directly in relation to the matter.

Hospital Services

Deputy David Stanton: I thank the Ceann Comhairle for selecting this issue. I also thank the Minister, Deputy Varadkar, for coming to the House to deal with the need for a specialist heart failure unit in Cork, an issue I have raised a number of times in recent weeks.

Last Tuesday, 15 December, I attended the launch of the report entitled *The Cost of Heart Failure in Ireland*, which was produced under the auspices of the Irish Heart Foundation and presented by Mr. Brendan Kennelly of NUIG, who is a health economist. It makes for graphic reading. According to that report, the cost to Irish society of heart failure is €660 million per annum, which is a concern. The report also states that heart failure can be addressed at community level. The direct cost of heart failure to the HSE is €158 million. Some 90,000 people are affected and a further 160,000 have impending heart failure. Heart failure hospital admissions accounted for 8% of HSE inpatient bed days in 2012. The total annual bed days taken up for heart failure is more than 230,000 and the average length of stay is 11 days. The condition accounted for more than 40% of all cardiovascular disease bed days and 35% of inpatient stays during 2012. One in five people over the age of 40 will develop heart failure in their lifetime and it is set to become an epidemic due to an ageing population.

The report also estimates that nearly 4,500 patients are admitted to public hospitals with heart failure as their primary diagnosis each year, while heart failure accounts for 30% of all readmissions related to cardiovascular disease. Dr. Angie Brown of Irish Heart Foundation said at the launch that during 2012, 537 people had died as a result of heart failure. It is a huge health concern in Ireland and, worryingly, only 7% of people can identify the common signs of heart failure, with people often mistaking them for the signs of ageing.

There are currently 12 heart failure units operating across the country, six of which are located in Dublin at St. Vincent's hospital, Tallaght hospital, St. James's Hospital, the Mater hospital, Beaumont Hospital and Connolly hospital. There is also one heart failure unit in Drogheda, Wexford, Galway, Cavan, Sligo and Limerick. There is no heart failure unit in the south, which is the reason I have raised this issue today. Cork University Hospital provides a tertiary referral service for cardiology and cardiothoracic surgery to the southern region. I am told that there were to be two heart failure units in Cork, one in CUH and the other in the Mercy

hospital but that this was put on hold in 2010-2011 to focus on the development of a unit in CUH. A limited heart failure clinic was established in Cork University Hospital in April 2008 from within existing resources. However, this service is very limited in scope because of a lack of dedicated resources. It operates from the rapid access chest pain clinic, RACPC, located at level 3C, cardiac renal centre, CUH. Between ten and 15 follow up heart failure patients are reviewed per week. There is no dedicated inpatient heart failure service and no new heart failure patient referrals have been accepted to the clinic since August 2011.

Due to nursing and wider resource challenges and the negative impact the heart failure clinic was having on chest pain clinic activity and patient wait times, a dedicated heart failure service was a key priority of the HSE national acute medicine programme and the CUH service plan in 2011. I was advised by the HSE that the recruitment embargo prevented its implementation in CUH. How is it that opening of the units in other parts of the country were not affected by the recruitment embargo? As I said, there is no heart failure unit across the southern region. Will funding for various positions be made available or has such funding already been made available but was not spent? It would be a serious matter if that was the case. I would like an answer to that question. I understand that submissions on a heart failure unit have been made in respect of the 2016 service plan and that resources for a unit in CUH is the number one priority in this submission. I was advised by the Minister recently that he is not in a position to commit funding. I reiterate that this is a very serious matter. The service could save money because many of these issues can be dealt with in the community. I look forward to the Minister's response and hope it is positive.

Deputy Leo Varadkar: I thank Deputy Stanton for raising this subject and for giving me the opportunity to speak on it in the House. The tertiary referral service for cardiology and cardiothoracic surgery in the south is provided at Cork University Hospital, CUH. This includes extensive interventional cardiology services and a 24-7 cardiac catheterisation laboratory. In 2010, following an €85 million investment, the cardiac renal centre opened at CUH. This facility spans some 13,000 sq. m over six floors and was a very significant service development for the region. In 2008, CUH established a heart failure clinic. I am aware of the limitations of the current service. However, funding and service development priorities for the region must be considered in the context of the strategic plan for the south-south west hospital group. It will be up to the group to decide on its priorities for developments in the years to come.

Speaking more broadly, I welcome the publication of the report, *The Cost of Heart Failure in Ireland*. This report advises on future policy and direction for heart failure services. As the report acknowledges, more than half our hospitals have dedicated inpatient and outpatient heart failure services. However, it also notes that these services are not distributed evenly across the country. The report's findings will inform the HSE's national clinical programme for heart failure in its work on service development. This work will build on its previous service developments. Integrated management programmes covering primary care and hospital services are very important for the successful treatment of heart failure. They can produce significant reductions in hospitalisation for patients and achieve better quality of life and outcomes.

The Department of Health's *Changing Cardiovascular Health: Cardiovascular Health Policy 2010-2019* was launched in 2010. Following this, the HSE established three key clinical cardiac programmes, namely, the acute coronary syndrome programme, the stroke programme and the heart failure programme. Through these, significant improvements have been made on access to acute treatment for coronary disease.

The HSE's national clinical programme for heart failure aims to reorganise the way heart failure patients are managed by: identifying heart failure early, in the primary care setting or in general practice ideally; intervening early by supporting GPs in primary care; developing specialist care teams, so expertise is available at primary and secondary care level, to manage and prevent deterioration, including acute exacerbations and emergency presentations; and developing the heart failure cardiac rehabilitation service nationally, for self-management support to patients and secondary prevention of deterioration and complications.

It is intended that in 2016 there will be a national needs assessment of heart failure cardiac rehabilitation services. A significant amount of important work for patients living with heart failure has been done under the programme and I am confident, with the momentum that will be generated by this report, that this will continue.

Deputy David Stanton: The Minister might let me know, now or another time, if funding was available in the past for this particular unit and, if so, why it was not spent. If it was not spent, that is another story.

The Minister has admitted that this service in CUH is very limited. The whole of the south of Ireland does not have the kind of service that is available in Dublin and that is quite worrying. In the long term, this service would save money and, more important, lives. As I said earlier on, 90,000 people currently suffer from heart failure. Some 160,000 are at risk of impending heart failure. It is estimated that we will have more than 10,000 new cases of heart failure each year. Only 7% of people can identify the common symptoms of heart failure and one in four people with symptoms will wait a week or more to seek medical advice or will not seek medical advice at all. Some 84% of people have incorrectly thought people with heart failure live longer than those with cancer or who have suffered a heart attack or stroke. Heart failure causes more deaths than breast cancer and bowel cancer.

This centre is needed urgently in CUH to serve the southern region. Will the Minister use his influence and resources to set it up? It will, in the long run, save money and, more important, lives. I was amazed to learn that the whole south of the country does not have this service while other parts of the country do have it. There are six such units in Dublin. Why was it not done in Cork? More important, however, is that we should now get it done. I urge the Minister to make contact with the hospital group and to support it and give it what it needs to get the service established as soon as possible.

At the launch of the report, a heart failure patient spoke about the difference that the availability of a heart failure unit made to his life. This unit is in Dublin and is led by Professor Ken McDonald, who also spoke at the launch. This is something which should be done urgently. It is very important and it would save money and lives.

I thank the Minister for being here and wish him and the Leas-Cheann Comhairle a happy Christmas.

An Leas-Cheann Comhairle: Go raibh míle maith agat, a Theachta.

Deputy Leo Varadkar: I do not know if funding was made available in the past or whether it was spent. If it was made available, I have not been so informed but it may have been some time ago.

The recruitment embargo no longer exists and some 4,000 staff were hired in the health

service in the past year. We are not back to where we were but we are not far off it. At the rate we are going, we will be there in the next year or two. It is acknowledged that the heart failure clinic in CUH established in 2008 is very limited. It was established using existing resources and operates from the rapid access chest pain clinic in the cardiac renal centre. I am told that between ten and 15 follow-up heart failure patients are reviewed each week.

As is always the case, health care always faces competing demands. The next Topical Issue concerns funding for stroke rehabilitation and the one after it concerns approving a medicine for a particular type of cystic fibrosis. It is never a case of whether to do something or not but rather opportunity cost and prioritisation. In the context of the budget for that particular region, it will be up to the hospital group to assess all of its different needs and priorities across the region, prioritise them and work out which ones will be done first. I have no doubt that all these things will be done in time but everything cannot be done now. I only wish it was so.

I acknowledge Deputy Stanton's particular interest in this issue. He has spoken to me about it privately on other occasions. I am sure it will be done but I cannot say exactly when. I return the compliment and wish him the best for the Christmas and new year break.

Health Services

Deputy Robert Dowds: Guím Nollaig shona ar an Leas-Cheann Comhairle agus ar an Aire, chomh maith le gach duine eile anseo sa Teach. I thank the Ceann Comhairle for choosing this matter for discussion and the Minister for being present.

The Minister got in first by saying there are so many demands in different areas of health, which clearly is true but I wish to make two initial comments. I acknowledge that there have been improvements in the services available for stroke victims in the past number of years, in particular in the past three years. I also acknowledge that it is difficult to deal with everything. However, good interventions for stroke victims, especially younger victims, pay off. These interventions bring a benefit to the State and I think the Minister would accept that point.

Stroke is the third most common cause of death in Ireland but audits have shown huge shortcomings in the nation's stroke services. Approximately 2,000 people die from stroke each year and it accounts for more deaths than breast cancer, lung cancer and bowel cancer combined. Proper rehabilitation in the community could make a major difference to these patients and, ultimately, save the State many millions of euro. Research carried out by the Economic and Social Research Institute and the Royal College of Surgeons in Ireland found that 54% of stroke survivors, approximately 3,000 people per year, could benefit from early supported discharge programmes. This would reduce hospital bed days by 24,000 and lead to a saving annually of between €2 million and €7 million.

Early supported discharge is used in many countries worldwide. It involves an intensive approach to rehabilitation. Unfortunately, it is not usually available in Ireland. The report notes that if it were to be properly introduced here, there would need to be a major investment in community staff such as physiotherapists, speech and language therapists, occupational therapists and community nurses. If the additional staff were to be provided, the tools they use would have to be greatly advanced and modernised. In the Baggot Street centre where survivors are trained to get back to work, the IT equipment is totally out of date. Patients need constant physiotherapy and while this is driven on a personal level, it is greatly assisted if facilities are also

provided in rehabilitation centres. These centres should not be using exercise equipment that is faulty or out of date, which is sometimes the case. Recovery methods are only effective when instruments are in good working order and up to date.

Stroke survivors say that the best thing after a stroke is getting out of hospital but they can only do this with proper assistance and community care. Centres like the one on Baggot Street do great work but are not accessible to everyone. There is a real need for community centres across the country to have proper and adequate staffing in order to continue the rehabilitation process. Without proper assistance, too many people are losing the chance to regain as much of their strength, speech and mobility as possible.

Less than half those of working age return to work after a stroke and most of these either leave soon after or take on a reduced role. In order for these statistics to improve, the Government needs to invest more in stroke rehabilitation services and infrastructure. This investment will allow stroke survivors get back to a normal life, both professional and personal.

Deputy Leo Varadkar: I thank Deputy Dowds for providing me with the opportunity to speak on the subject of rehabilitation services for stroke survivors. The aims of the HSE's national clinical programme for stroke are to improve the quality, access and cost-effectiveness of stroke services in Ireland and I am pleased to report that significant improvements in stroke services have been made, as Deputy Dowds has acknowledged.

Emergency thrombolysis is provided now to patients in all regions of the country by improved hospital and ambulance protocols, health professional training and the appointment of new physicians. There is national 24/7 access to safe stroke thrombolysis, the rate of which has increased from 1% in 2006 to a current rate of 11.6%. This exceeds the national target of 9% and is among the best in national rates worldwide.

Access to stroke unit care has been shown to improve stroke patient outcomes through reduced rates of death, dependency and shorter lengths of stay. Since the commencement of the national clinical programme for stroke, nine new stroke units have been opened, bringing the total number of stroke units in acute hospitals to 22. New care pathways have also been developed to standardise stroke management. Early rehabilitation, including speech and language therapy, physiotherapy and occupational therapy are key parts of the care provided in these units. This is a major improvement from the first national stroke care audit report in 2006, which reported that there was only one stroke unit in the entire country.

As it stands, fewer stroke patients are dying in hospital, with the rate having dropped from 16.1% in 2009 to 15.1% in 2013. This represents an average of 36 fewer deaths a year. There are fewer stroke patients being discharged to nursing homes, which is an indication of reduced disability outcomes after a stroke and more stroke patients are being discharged home directly from acute hospitals. The average length of stay in hospital for stroke has fallen from ten days in 2009 to nine days in 2013. This is estimated to have saved 19,000 bed days in the 2011 to 2014 period.

The Deputy mentioned early supported discharge services for stroke patients which aim to accelerate discharge home from hospital and provide rehabilitation in the home setting. Three early supported discharge services for stroke patients have been established at the Mater Misericordiae University Hospital and HSE north Dublin, Galway University Hospital and Tallaght hospital. Excellent clinical outcomes and very high patient and care satisfaction rates are

reported across all three sites. The average bed days saved per patient range between 6 and 12.6 days across sites.

My Department is conscious of the business case for early supported discharge submitted to my Department by the HSE's national clinical care programme for stroke and the Irish Heart Foundation. This advocates a phased roll-out of early supported discharge services. It was considered as part of the development of the HSE's national service plan for 2016 but unfortunately, there was no scope to develop this initiative due to other funding demands. My Department will take account of the additional resources needed to expand this initiative gradually in the context of next year's Estimates process. These additional resources will then be considered as part of the HSE's service planning process next year. Funding for stroke rehabilitation is provided in the overall allocation to the HSE for acute hospitals and community services.

Deputy Robert Dowds: I am glad that the Minister is committed to improving the services for stroke victims. Given our improved economic situation, the faster that can be rolled out the better, particularly for younger people who have a better chance of making a fuller recovery. I would also suggest that more targeting is required in this area because some people will need more support at home than others. For example, people who live on their own would need more support than those who live in family situations.

There is also a requirement for additional funding to provide psychiatric help for stroke victims because the impact of stroke is not just physical; it can have a major impact on people's state of mind too. At the moment, one third of stroke survivors have no access to physiotherapy, half cannot get any speech and language or occupational therapy and only one in ten get psychological help. More than one in three stroke survivors have to pay for their own rehabilitation and 60% of them are financially worse off after their stroke. Less than half of those of working age return to work after suffering a stroke and most of these people either leave soon after or take on a reduced role. In that context, any improvements in the services provided to stroke victims would have a positive impact. Given that around 40% of stroke sufferers have reported that their close relationships were damaged in the aftermath of stroke, improvements in services will not only have hugely beneficial effects for the individuals themselves but also for those with whom they associate.

Deputy Leo Varadkar: Again, I thank the Deputy for raising this important issue. I worked for a period of time in care and medicine for the elderly and have a limited knowledge and a particular interest in stroke. The Deputy was in the Chamber for the previous discussion on heart failure which is another area in which we should do a lot more. We know that there are very cost effective interventions in the area of heart failure that we are not making at the moment but we simply cannot do everything. The same applies to stroke. There have been enormous improvements in stroke services in the last ten or 15 years and further development of those services would certainly be cost effective and not terribly expensive. However, the first priority must always be to maintain existing services and then with any additional funding available - which in any year and in any country, no matter how rich, is limited - one must prioritise those areas which will cost the least and be the most effective. We are very disappointed that we cannot proceed with a national roll-out of early supported discharge for stroke in 2016, which we would have loved to do. Unfortunately, it is not possible. However, it will be possible to ensure that stroke telemedicine is available and provided to all hospitals in the country, thus ensuring that we can maintain and improve on our thrombolysis and thrombectomy rates.

Medicinal Products Availability

Deputy Eamonn Maloney: I dare say there is not a citizen in this State who is not conscious of cystic fibrosis, given its prevalence in this country. I understand that we have the highest rate of cystic fibrosis in the world but I cannot explain why that is the case. We are all aware of how this condition affects the individual and by extension, their families.

In terms of science and research, we all welcome the new Orkambi drug which has been developed to treat the condition. Evidence from the United States indicates that it can significantly improve the quality of life of cystic fibrosis sufferers. Anything which alters this horrific condition for sufferers has to be welcomed.

The big issue for all of us, particularly the Minister and the HSE, is the cost of this drug, given that it is so expensive. The drug is currently being assessed. When will that assessment be presented to the Minister?

Deputy Ruth Coppinger: “Can someone please tell me why my life and the lives of CF patients in Ireland have a price tag on them?” That question was asked by Jillian McNulty, who has written to the pharmaceutical authorities in Ireland describing how her life was transformed while partaking in a trial of Orkambi over two years and how her condition has gone backwards and deteriorated since the trial ended. As we have the highest rate of cystic fibrosis in the world, with one in 19 people carrying one copy of the gene that causes cystic fibrosis, this is a major issue in Ireland. The Orkambi combination of drugs is beneficial for 60% of CF people, resulting in a 40% reduction in worsening symptoms and hospital admissions for those partaking in the trial. It results in an increase in lung function, an increase in weight and an increase in people’s quality of life, delaying the need for lung transplants and lengthening life expectancy.

What exactly is the stance of the Government? Dismay was caused by the initial reaction of the HSE to the potential cost of Orkambi. How much value is the Government placing on the lives of cystic fibrosis patients? Orkambi was reportedly going to cost €92 million, which was compared to the cost of running Temple Street Hospital for a year. With only a few hundred people benefitting, it could not be afforded. I find that quite incredible. Irish Water, a company that nobody wants and nobody needs and a complete waste of money, spent €83 million on consultants last year, yet €90 million cannot be found for these patients.

We have to tackle the issues of the cost of drugs, who owns the drug companies, who conducts the research and the way people’s lives are being placed in jeopardy by the profiteering of these companies. As my speaking time is running out, I will try to deal with this issue in my supplementary question. We have to deal with these companies that are profiteering from people’s misery.

Deputy Leo Varadkar: I thank the Deputies for raising this important issue. Decisions on which medicines are licensed for use in Ireland and which are reimbursed by the taxpayer are made on objective, scientific and economic grounds by the HSE on the advice of the National Centre for Pharmacoeconomics, NCPE. The NCPE conducts health technology assessment of pharmaceutical products for the HSE and can make recommendations on reimbursement to assist the HSE in its decision-making and negotiation process. The HSE has statutory responsibility for decisions on pricing and reimbursement of medicinal products under the community drug schemes in accordance with the provisions of the Health (Pricing and Supply of Medical Goods) Act 2013. It is appropriate that these decisions be scientific and that an evidence-based

approach be taken to determining the extent to which patients would benefit from treatment with expensive new drugs, whether the drug is effective and what a fair price would be.

As the Deputies will be aware, ivacaftor and lumacaftor, marketed as Orkambi, is a combination drug for the treatment of CF in patients with two copies of a specific CF gene mutation. The drug was approved by the US Food and Drug Administration in July 2015 and by the European Medicines Agency less than a month ago on 19 November 2015. I am not aware of any public health service that currently reimburses it.

Orkambi's manufacturer, Vertex Pharmaceuticals, submitted a rapid review application to the NCPE on 26 November. This rapid review represents the first step in a pricing and reimbursement application. The company is expected to submit a full pricing and reimbursement application to the HSE's primary care reimbursement service in the very near future, although it has not yet done so. Based on pricing details in the rapid review file, the HSE estimates that reimbursement could cost approximately €90 million per year. Given the considerable budget impact, the NCPE is likely to require that a full health technology assessment of the drug be carried out before a recommendation is made. This is the normal process for approving expensive new technologies or medicines, and Orkambi will be assessed fairly and in the same way as other such drugs or technologies. As part of this work, the scientific evidence will be assessed independently and objectively to see if the suggested benefits in terms of life expectancy, quality of life, improved lung function and reduced hospital admissions stack up and, if so, to what extent.

Since early 2013, the HSE has reimbursed more than €60 million for CF patients receiving ivacaftor, marketed as Kalydeco, and there are now approximately 140 patients being treated with this drug. Over the next decade, the HSE expects to spend well over €200 million on this patient group alone. The HSE has also invested in other CF services. The Lieben building at Limerick University Hospital has been developed and commenced operations in November, providing a dedicated outpatient facility and nine isolation rooms. The HSE has made a total of €9 million available in 2015-16 for this facility, of which almost €2 million relates to the CF facility itself. A new CF facility also opened in the last couple of weeks at Cork University Hospital, funded through the voluntary Build for Life programme to the tune of €2 million and a further almost €1 million from HSE.

While I appreciate that some may take the view that the taxpayer should reimburse every licensed medicine for whatever price the drug company demands, the interests of the public, the health service and all patients require that we only reimburse the most effective medicines, and do so at a fair price. In the past, the carrying out of health technology assessments and subsequent informed discussions with manufacturers have ensured that the best value was achieved and health funding was used in the most effective way. In the last 18 months, this system has resulted in savings against the initial price submissions by companies of €19 million a year, and that saving is ongoing and recurs every year. The interests of neither patients nor the taxpayer are best served by just agreeing to whatever price a manufacturer deems appropriate on whatever evidence it happens to put forward. The opportunity cost is enormous, and overpaying for any new drug costs lives in itself, as the money thus used could have gone into other services such as ambulances, which would save lives, maternity services, which would save lives and prevent disabilities, and cancer screening, which would save lives, to give just three examples. I could equally give examples from the two Topical Issue debates prior to this. Deputy Dowds made a very strong case for greater investment in early supported discharge in cases of stroke, which would save lives and prevent disability. Before that, Deputy Stanton made the case for

more investment in heart failure treatment, which would benefit many people at a very modest cost.

I appreciate and fully understand that people suffering from cystic fibrosis will be anxious for an early and positive decision in regard to reimbursement for this drug. However, it would not be appropriate for me to appear to prejudice decisions that are matters for the HSE in the first instance, under legislation passed by the Oireachtas in 2013. I trust the Deputies will understand my position on the matter.

Deputy Eamonn Maloney: I am in agreement with the Minister. I am on the record, as a member of the Oireachtas Joint Committee on Health and Children, as stating that the taxpayer should not be held to ransom by the pharmaceutical companies, as we have been in the past. I hope this is a view all Members hold. These companies exist and operate to make as much money as possible, and that is their primary concern.

I remember a discussion in the health committee with the Minister's predecessor in regard to attempts that were to be made on a European-wide basis to try to control the cost of drugs, which I believe would be an effective way of doing this.

5 o'clock

In reference to the Minister's final paragraph, I do not expect him to prejudice what the HSE may decide, but can he provide any information that may give comfort to those living with this condition as to when the assessment may be done?

Deputy Ruth Coppinger: The Minister does not need to tell me about the pharmaceutical industry and how it is profiteering from people. In the United States currently, one company has raised the price of an AIDS drug by 5,000%. It costs \$1 dollar to produce the drug, but the cost has been increased from \$13.50 to \$750. That is the kind of profiteering these companies engage in.

The company that makes Orkambi made the point that if it reduced the price of Orkambi and related drugs for minority illnesses, it could be swallowed up by bigger drug companies. We see from this that ordinary people are being held hostage by the profiteering of these companies under our capitalist system. That is why I am a socialist and why I believe health should be a priority. I believe research should be conducted in a unified manner, with results shared by different companies. It would be best if it was funded by the Government and it and our health service should also be funded by progressive taxation.

If a member of the Minister's family was ill, he would be moving heaven and earth to ensure this drug became available. The Minister must negotiate to reduce the price. The HSE seemed to come out with a prejudged decision that frightened and upset a lot of families with a cystic fibrosis sufferer. This is not good enough. The cost should not be €90 million, but we could compare that with the €7 billion in interest we are paying on a debt that was not the debt of the ordinary people of this country. We need a completely different type of health service. The pharmaceutical companies that are provided with big tax incentives should be taken over and run in the interest of ordinary people.

Deputy Leo Varadkar: On Deputy Maloney's question, I am advised by the NTP that it plans on doing the health technology assessment in the first quarter of 2016, with a view to making a recommendation report in the second quarter. I will ask for that to be expedited, al-

though there are other technologies and drugs in the pipeline also. However, it is important that everyone is treated equally and that no one group is given priority over another disease group. That would be unfair, but I know that is not what the Deputy is asking for. When the report is presented, the evidence will be assessed to see if it stacks up and a fair price will be calculated. This will then go to the HSE national drugs committee which will then try to negotiate a fair price for the medicine.

Deputy Coppinger referred to the possibility that the HSE may have prejudged the decision. I have spoken to the director general about that matter and we both agree this should not be prejudged and that the new technology and medicine should get a fair hearing and assessment, as has been the case in the past for any other new technology. Therefore, it is not being ruled out without being assessed properly. I am happy to clarify that is not the case. The Deputy asked what value the Government puts on the lives of people. The only fair thing for the Government to do is to put an equal value on the life of everyone. That is the only way resources can possibly be apportioned. Even the richest and most socialist countries in the world have limited resources. The important thing is to treat everybody equally and to value every life equally.

I totally agree with her on the conduct of the drug companies. We know what they do. They overcharge and use patients as pawns. In some countries - not here to the best of my knowledge - they even hire PR companies to coach and encourage patients to advocate on their behalf. I do not believe that has happened here, but it has allegedly happened in other countries. These people also pay themselves massive salaries, draw down massive profits and pay massive dividends. They are people whose bonus every year is based on how much they can overcharge a small country. They target small countries and get the small country to set the high price and then offer bigger countries slight discounts. This is a case of greed incorporated. While I am not a socialist, dealing with some of these companies would bring out whatever socialist instincts may be buried in me.

I believe that in the future these matters should be dealt with at European level and that we should task the European Medicines Agency with the role of deciding which drugs should be reimbursed and then use the buying power of a Union of 500 million people to ensure we get a fair price so that we can treat more people. Perhaps we could then set aside some funds to do some of the other things raised here today.

Finally, as the last man standing today on this the last day of the session and the last sitting of the year, I believe it is customary to say a few words of thanks to Deputies, the ushers and the other staff of the House. It has been a busy and interesting year and much good work has been done. On behalf of the Government and the whole House, I want to extend sincere thanks to all the staff in this building for the hard work they have done in the past year. I wish them all a very happy Christmas and a good new year.

Deputy Ruth Coppinger: Hear, hear.

Message from Seanad

An Leas-Cheann Comhairle: Seanad Éireann has passed the Mental Health (Amendment) Bill 2008, without amendment, and the Bankruptcy (Amendment) Bill 2015, without amendment.

The Dáil adjourned at 5.10 p.m. until 2.30 p.m. on Wednesday, 13 January 2016.