

SEANAD ÉIREANN

*Déardaoin, 25 Deireadh Fómhair 2007.
Thursday, 25 October 2007.*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Paidir.
Prayer.*

Business of Seanad.

An Cathaoirleach: I have notice from Senator Shane Ross that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Enterprise, Trade and Employment to review his decision to refuse an employment permit in respect of a person (details supplied).

I have also received notice from Senator Dominic Hannigan of the following matter:

The need for the Minister for Education and Science to clarify her intentions in regard to the implementation of the recommendations contained in the McIver report of the steering group to the PLC review of 2003.

I have also received notice from Senator Jerry Buttimer of the following matter:

The need for the Minister for Education and Science to make a statement on the progress of the application for a new primary school in Rochestown in Cork.

I have also received notice from Senator David Norris of the following matter:

The need for the Minister for Justice, Equality and Law Reform to intervene in the case of a South African citizen (name supplied) who has applied for citizenship for himself, his wife and his daughter, each of whom is being processed inexplicably on a different timescale.

I have also received notice from Senator Frances Fitzgerald of the following matter:

The need for the Minister for Health and Children to outline her position on the regulation of cosmetic surgery clinics and cosmetic surgeons in light of the tragic death of a patient at the Advanced Cosmetic Clinic after treatment by a French surgeon.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I

have selected the matters raised by Senators Shane Ross, Dominic Hannigan and Jerry Buttimer and they will be taken at the conclusion of business. Senators David Norris and Frances Fitzgerald may give notice on another day of the matters they wish to raise.

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, Markets in Financial Instruments and Miscellaneous Provisions Bill 2007 — Second Stage, with the contributions of spokespersons not to exceed 15 minutes, those of all other Senators not to exceed ten minutes and on which Senators may share time.

Senator Frances Fitzgerald: That is agreed. I note the Garda has arrested a suspect in this country as part of an investigation into international child trafficking involving six police forces. Approximately 300 unaccompanied children have gone missing from the care of the Health Service Executive, which is very disturbing. We are planning a constitutional amendment on children.

The Leader will be aware of the concern about child care facilities and the changes that are being recommended to the funding of child care. Many community playgroups are concerned that the change in funding arrangements will effectively mean that parents will be forced back on to welfare. The increased costs will mean the working poor, as it were, will not be able to afford child care and a very disjointed service will be made available.

I also note the ESRI is publishing a report in which it outlines concerns about children sitting their junior certificate and working part-time, which impacts on their results. For all these reasons it would be an appropriate time to invite the Minister of State with responsibility for children, Deputy Brendan Smith, to the Seanad to discuss this range of topics, especially the constitutional amendment, so that we have some idea of what way the Government is thinking about the provisions of this amendment. Perhaps we could get some indication of the date as well.

Perhaps Senator Boyle might be able to clarify whether we are to have two, four or eight incinerators.

Senator Jerry Buttimer: Hear, hear.

Senator Dan Boyle: I would be very happy to do so at any opportunity.

Senator Jerry Buttimer: The Green Party is going up in smoke.

Senator Joe O'Toole: In terms of clarification, was the Cathaoirleach aware of the intention of Aer Lingus to cut the routes between Shannon and Heathrow? It appears that everybody in the

[Senator Joe O'Toole.]

world knew what was going on except the people who should have been told about it.

Senators: Hear, hear.

Senator Joe O'Toole: The Cathaoirleach will be aware I raise regularly in this House issues relating to the regions, especially the west. I do not understand what is going on in regard to Shannon Airport. This is the most political of all airports and the one that has taken more time than other airport, yet senior personnel in various Departments found it unnecessary to tell the political leadership, and the permanent Government appeared to keep this out of the sphere of political influence. Serious questions must be asked.

We know the Department of Transport and the Marine decided not to tell the Minister. We also know the Department of the Taoiseach decided not to tell the Taoiseach. We further know the Department of Transport and the Marine decided it was important enough to tell the civil servants in the Department of the Taoiseach but it was not important enough to tell any of the political leadership. We know that Aer Lingus found it important enough to communicate with the Dublin Airport Authority but that the Dublin Airport Authority, which was responsible for ensuring the viability of the Shannon Airport business plan, found it unnecessary to tell the Shannon Airport development group. Serious questions must be answered. We have been kept in the dark.

This is a bad day for politics if we have now reached the stage where the 226 people who are elected to the Dáil and Seanad to deal with these issues apparently know nothing about what is going on and these serious decisions are being taken in another sphere. Will the Leader raise with the Taoiseach the importance of clarifying all the issues? The Leader knows I am not raising this matter in any petty, party political fashion. This is as important to the Members on the Government side as it is to the Members of the Opposition. We should set up an *ad hoc* committee of the Houses or this House with compellability powers to call witnesses to find out who knew what, who told whom and why information was not passed on. I urge the Cathaoirleach to give this the most serious consideration.

The other matter I wish the Leader to arrange is for the Minister for Justice, Equality and Law Reform to explain his views on the self-regulation of the Law Society. One can look at this in two ways: either it is doing a superb job because it has unearthed important problems or it is not doing a good job because those problems arose in the first place. I do not know the answer. Many people are worried because this affects their houses and residences. It would be useful to debate the matter and receive clarification.

Senator Dominic Hannigan: While I am glad the threat of power cuts at Moneypoint appears to have been averted for the present, I am concerned that a matter as vital as our nation's electricity supply can be threatened by a disagreement between a German contractor and a Polish subcontractor. When the contracts were signed, penalty clauses should have been inserted to deter this type of instance from occurring.

While there is little ESB can do in the sense of getting involved in disputes between two companies, it is perhaps time an audit is carried out of all contracts that could have an impact on our electricity supply and energy security. Perhaps the Leader could pass on this request to the relevant Minister.

I am concerned by the disturbing evidence which is emerging of malpractice by solicitors in re-mortgaging their client's properties, a matter referred to by Senator O'Toole. This situation has arisen because conveyancing solicitors can give undertakings to financial institutions affirming that no loans are outstanding on their properties and that, in effect, the deeds have a clean bill of health. It is clear some solicitors are breaching their ethics and the law by seeking multiple loans on properties from financial institutions and doing God knows what with the money. I am glad the financial institutions have stated they will review their practices and loan portfolios. They need to learn lessons quickly because it is ordinary families who are losing out.

It is clear corners have been cut in this regard. Last year, one of the solicitors involved was found guilty of misconduct by the Law Society and fined €15,000, the maximum possible fine. This is a clear sign the offence was serious yet just two months ago the same solicitor received a €9 million loan from one of the banks. What is the ordinary hard-working family to think of this? Families are told to trust the lawyers, the banks and the Law Society and to be cautious how much they borrow for their mortgages. Yet, when it comes to the lawyers and banks, caution appears to be thrown to the wind. There is little scrutiny of these organisations. When things go wrong, it is ordinary families, house-owners and those who believe they own their houses who lose out.

I am concerned this is just the tip of the iceberg. A clear message must go out from the Government to these organisations: "Clean up your act or we will act".

An Cathaoirleach: The Order of Business can be a forum only for seeking debate on a matter. It cannot be used for expressions of opposing views. Senators can do this in an actual debate if the Leader provides that debate at a later date. I ask Members to observe this practice as best they can.

Senator Ned O'Sullivan: I ask the Leader to refer two matters to the Minister for the Envir-

onment, Heritage and Local Government. The first concerns salary and expense remuneration for county and town councillors who are members of regional water boards, of which there are many — I had the privilege of being chairman of the Shannon basin water board in its first year. It is extraordinary that whereas the officials who attend these board meetings are fully covered for expenses, in many cases the elected members are not. An anomaly has arisen whereby some county managers reimburse councillors for their out-of-pocket expenses. As these are important boards, I ask the Leader to pursue the matter with the Minister, who gave me a favourable response as late as yesterday.

The second matter I want referred to the Minister concerns the proposal to establish a liquified natural gas, LNG, terminal at Ballylongford on the Shannon estuary in north Kerry. This project, which is of great importance for the nation, will greatly enhance our energy options while providing badly needed employment in north Kerry and west Limerick, particularly in towns such as Listowel, Abbeyfeale and Newcastle West.

Senator Joe O'Toole: Why west Limerick?

Senator Jerry Buttimer: We have a new candidate.

An Cathaoirleach: Senator O'Sullivan, without interruption.

Senator Ned O'Sullivan: Will the Leader raise this matter with the Minister and invite him to the Chamber to brief us on this important project for the nation as well as north Kerry and west Limerick?

Senator Liam Twomey: The Cathaoirleach stated he wanted the Order of Business used by Members to seek debates. Last week the Minister for Justice, Equality and Law Reform came to the House but failed to give much of an explanation as to why murder rates have increased by 50% or why the Deputy Leader of the House thinks this is a pantomime. We want to use the House properly to get answers.

Yesterday Senator Eoghan Harris expressed a clear view on the matter. It is the type of contribution the House should debate. We should get answers from Ministers on the issues raised in the House. Senator Fidelma Healy Eames asked yesterday how many more solicitors were involved in causing problems for house purchasers and the banking system in general. We should raise such issues in the House but when we do so, nothing further is done.

The Deputy Leader should not treat the issues we are discussing as pantomime politics. It is not pantomime politics; it is very serious.

Senator Dan Boyle: The way you are dealing with it is. You should not insult the rest of the House.

An Cathaoirleach: Senators should speak through the Chair.

Senator Liam Twomey: If we want to raise issues, they should be dealt with in a serious manner and should be responded to by Ministers in the same manner. We should not be disrespectful to each other in this regard.

Senator Dan Boyle: Did the Senator listen to my contribution, which was a very serious one?

Senator Liam Twomey: If Senators raise issues in the House, Ministers should come back with proper answers. They should not just *ad lib* and give glib answers. This issue should be taken up with every Minister.

I served with Senator Boyle in the other House, where he was passionate about issues. It is amazing how quickly his role seems to have changed since he became part of the Government.

Senator Dan Boyle: My tone has not changed at all. The Senator should take care to read my contribution and to listen to Senator Quinn, who made exactly the same point.

An Cathaoirleach: We want order. Senators should not take the House to a lower level. I ask Senators to respect this House, which is the second Chamber in the Parliament.

Senator Maria Corrigan: A case came before the courts at the beginning of the week during which issues arose regarding the protection of and fulfilment of the rights of people with intellectual disability under existing legislation. Will the Leader invite the appropriate Minister to the Chamber to discuss these issues?

The Law Reform Commission spent considerable time in recent years reviewing and addressing some of the anomalies that exist within existing legislation. It issued a report last December concerning the law and vulnerable adults, and has made a number of recommendations. It specifically examined the issues of capacity and consent and also considered issues around guardianship and ward of court. This would be a valuable topic for the House to discuss.

A number of instances arise where people with disability, particularly those with a mild intellectual disability, do not have the opportunity to have their basic human rights realised under existing Irish law. I ask that this situation be addressed as soon as possible. The Chamber could play a role by inviting the Minister and leading the debate.

Visit of United States Delegation.

An Cathaoirleach: Before I call the next speaker, I am sure the House would wish to join me in welcoming a delegation from the National Conference of State Legislators of the United States, led by Representative Donna Stone. On my behalf and on behalf of all my colleagues in Seanad Éireann, I extend a warm welcome to you and offer sincere good wishes for a successful visit.

Order of Business (Resumed).

Senator Ivana Bacik: I propose an amendment to the Order of Business to enable the House to debate Private Members' motion No. 30 on the Order Paper. The motion, which is proposed by me and seconded by my colleague, Senator Norris, is to annul the Cockle (Fisheries Management and Conservation Regulations) (Waterford Estuary) 2007. To give a little background, the regulations were signed by the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, in the summer and have been laid before the House. However, a provision in the enabling legislation allows either House of the Oireachtas to annul any regulations made under the relevant legislation provided the annulment is done within 21 sitting days. By my calculation, this is the 11th sitting day since the regulations were signed. It is, therefore, becoming urgent that the House——

An Cathaoirleach: Is the Senator moving an amendment to the Order of Business?

Senator Ivana Bacik: Yes.

An Cathaoirleach: The proposal will be discussed later.

Senator Ivana Bacik: With respect, I would like to inform colleagues of the purpose of the motion because, on the face of it, this may not be clear. It relates to the Suir Estuary at Passage East, a special conservation area in County Waterford which many Senators will know. The regulation in question allows dredging for cockles within certain insufficiently restricted time periods. The national co-ordinator of Coastwatch Ireland, Karen Dubsy, has briefed me on the matter. Coastwatch Ireland has monitored the area and has found that enormous damage is being done to the seabed in the Waterford Estuary as a result of dredgers moving into the area on foot of this regulation and dredging up not only cockles but also other seabed life and matter. The practice is seriously damaging seabed life in the region and may be in breach of the Habitats Directive. If the Seanad agrees to annul the regulation, a more restrictive regulation could be introduced which, in keeping with European Union law, would prevent dredging for cockles in this manner.

I understand Ireland is out of line with other countries where dredging for cockles has been banned and cockle fishing is only allowed by hand. This does much less damage to the seabed, although it has resulted in cockles becoming very expensive. Virtually all cockles from Ireland are exported. The practice of dredging for cockles should not continue and the relevant regulation is too broad. I would be grateful if time were made available to debate the issue.

Senator Cecilia Keaveney: I raised the issue of dangerous dogs recently. Having examined the legislation on this issue in place in the North, I found that the relevant information is presented in a user friendly manner. Sometimes information is not presented clearly and people using the Internet may find the information they seek is presented in a less than user friendly manner. Providing simple features online, for example, a section on "Frequently Asked Questions", makes legislation much more user friendly. It is frequently argued that the Upper and Lower Houses fail to communicate our message to members of the public. I ask the Leader to bring to the attention of the Minister of State at the Department of the Taoiseach, Deputy Tom Kitt, the manner in which legislation on dangerous dogs is presented to members of the public in this jurisdiction.

With regard to the arrests of persons on suspicion of child trafficking, recent crime statistics indicate that the incidence of child neglect and abandonment is increasing at a faster rate than most other crimes. It would be useful to discuss this and other issues with the Minister of State with responsibility for children. He is new to the portfolio and has many interesting ideas. I am particularly interested in discovering what type of cross-Border engagement is taking place to ensure an all-Ireland approach is taken to child protection. For example, we need to make progress on developing an all-Ireland register of sex offenders and addressing trafficking in children on a cross-Border basis.

Senator Paudie Coffey: I second Senator Bacik's proposed amendment to the Order of Business to facilitate a debate on dredging for cockles in the Waterford Estuary, an area with a tradition of cockle picking where people are seriously concerned about the estuary's conservation. I fully support Senator Bacik's concerns in this regard.

The policy of the National Roads Authority on the provision of service and rest stations on national primary routes is a matter of national importance from a road safety perspective. The provision of such facilities on new motorways was not mentioned until 2005 when, in fairness to the then Minister for Transport, Deputy Cullen, he directed the National Roads Authority to review its policy on the matter. Following this review, proposals were made to provide rest stations on

new motorways and dual carriageways. However, significant deficits persist on other national primary routes, notably the N25 from Cork to Rosslare which has no facilities to allow heavy goods vehicles or large articulated trucks to pull in for a rest period. Under EU law, the drivers of such vehicles are required to take rest periods at specific intervals. Truck drivers and other travellers have no access to basic facilities such as toilets or restaurants.

The National Roads Authority does not have a policy on the provision of service and rest stations on national primary routes and many local authorities are also silent on the issue. Heavy goods vehicles illegally pull in on the hard shoulder of these roads and the Garda traffic corps turns a blind eye to the practice because proper facilities are not available to drivers. This is unacceptable. I call for the provision of basic facilities and services on national primary routes for members of the travelling public. I am sure the Leader will agree the Minister for Transport and the Marine must come before the House for an urgent debate on this matter.

Senator Dan Boyle: With regard to the request for a debate on waste management and incineration, I would be pleased if the House were to hold such a debate. It may be of interest to Senators to note that statements made in the Other House yesterday arose from a natural confusion between 400,000 tonnes of waste and the construction of four incinerators. As the Minister for the Environment, Heritage and Local Government, Deputy John Gormley, indicated in the House last week, two thermal treatment plants may be required if the 400,000 tonnes of waste produced cannot be dealt with by other means by 2016. These plants could be incinerators or another type of thermal treatment facility. This position remains Government policy.

Senator Fidelma Healy Eames: Is the Green Party in favour of incineration?

Senator Dan Boyle: No.

Senator Jerry Buttimer: Will we have two, four, six or eight incinerators?

Senator Dan Boyle: I refer Senators to the Official Report and the proceedings on an Adjournment debate on the issue last week.

Senator Jerry Buttimer: We heard the Taoiseach speak on the issue in the Other House yesterday.

An Cathaoirleach: I ask Senators to allow Senator Boyle to continue without interruption, please.

Senator Dan Boyle: I explained the confusion which has arisen regarding the two sets of figures.

Senator Jerry Buttimer: The confusion is in government.

Senator Dan Boyle: If Members are not prepared to accept the record of the proceedings of the House, perhaps the Minister should return to the Chamber to repeat the statement he made last week.

Senator Jerry Buttimer: He should tell the Taoiseach.

Senator Dan Boyle: It appears some things must be repeated three or four times before Senators understand the position.

Senator Frances Fitzgerald: It is the Taoiseach who requires an explanation.

An Cathaoirleach: To be fair to speakers and to the Leader, interruptions should not be made across the floor as the Leader may find it impossible to respond to matters raised on the Order of Business. Senators will then complain that the Leader did not reply to a query they raised but I would not blame him if he is interrupted. If interruptions do not stop, I will suspend proceedings. Senators who wish to discuss issues with one another should use a room adjacent to the Chamber.

Senator Dan Boyle: I thank the Cathaoirleach. As I stated, I would welcome a debate on waste management and incineration. If other parties in the House want to eliminate incineration as an option, it would constitute a departure from their policy positions. I would welcome an all-party approach to this issue.

On Senator Bacik's proposal to amend the Order of Business, the Senator indicated informally that she intended to raise the issue of recent regulations on dredging and certain information was obtained on her behalf. The order signed by the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, has been superseded by a transfer of powers between Departments. Aquaculture is now the responsibility of the Minister for Agriculture, Fisheries and Food, Deputy Mary Coughlan. The order in question was one of three orders relating to Dundalk, Waterford and Tramore, respectively, which were done on the basis of information supplied by the National Parks and Wildlife Service of the Department of the Environment, Heritage and Local Government. A licence similar to that issued for the Waterford Estuary was issued for Dundalk, while an application for a similar licence was refused for Tramore. In light of this, I ask the Senator to await the outcome of ongoing negotiations between Coastwatch Ireland, on the one hand, and Bord Iascaigh Mhara and the National Parks and Wildlife Service, on the other, and allow for a review

[Senator Dan Boyle.]

of the order which will continue in its current form.

Senator Paschal Donohoe: Yesterday, the House discussed the great sight that was many members of our Polish community voting in their national election. By casting their votes, they expressed their opinions on how they want their country to look, who should be in government and so on. The only Minister or Minister of State who has not been called before the House is the Minister of State with responsibility for integration policy. Will the Leader invite the Minister of State for a debate on matters in his portfolio? Just as one group expressed its opinion, we should debate what we want Ireland to look and feel like. Traditionally, Senators expressed their opinions on the meaning of citizenship and the social fabric. The House is well placed to return to that tradition due to the significant changes taking place in Ireland.

My constituency has the largest number of so-called newcomers as a percentage of the total population and they have made a positive contribution to the social, economic and religious lives of our community. We must all play our parts in creating a plan to harness that contribution to the long-term benefit of everyone. Will the Leader ask the Minister of State to explain to the House the work he is doing and the process he has set in place so that we may have an input?

I concur with Senators Bacik and Coffey on the cockle matter.

Senator Eoghan Harris: In no contentious spirit, I ask for guidance from the Cathaoirleach and the party leaders. The Cathaoirleach referred to the abuse of the Order of Business. While I accept that he must interpret the rules — I welcome that he is a firm Cathaoirleach, as I believe in order as a teacher — I am an inveterate reader of Dáil and Seanad debates. In preparation, I have worked my way through the Seanad debates as far back as the 1930s and have been struck by the Seanad's high profile. Most of the matters that are important to the public are raised on the Order of Business.

Senator David Norris: Hear, hear.

Senator Eoghan Harris: We discuss connecting with the public and the Oireachtas is anxious to have a high public profile, but one cannot have a bureaucracy in which everyone behaves well and still holds topical discussions. Last year, Senator O'Toole and others on the Committee on Procedure and Privileges investigated the establishment of a topical hour as in the Bundestag.

The Oireachtas is like an iceberg. The heavy work is done beneath the surface through committees, Ministers and so forth, but the public connects with the tip, namely, the daily topical

business. Can we not discuss murders? Senator Fitzgerald commenced with a matter discussed widely around town, that is, the coverage in "Oireachtas Report" of Senator Regan's statement on crime. Can we consider a system that would allow the House to debate topical issues everyday without pressure and in which the Cathaoirleach would be free to interpret the rules? Everyone rushes because they fear being caught by the gavel. Instead of cheating, why can we not have a topical hour honestly and openly?

Senators: Hear, hear.

An Cathaoirleach: Our hands are tied by the CPP, which has discussed this matter and changed the times. During the Order of Business, we debate what will take place. I allow latitude to people making valid points, but this can be done without speeches. Mobile telephones are not allowed in the House, which has hopefully improved the situation in which the media used to face mobile telephone interference with the PA system while an important point was being made. My hands are tied. Unless the CPP makes changes, I cannot.

The Leader replies to questions as well as he can. I compliment him on the number of times he has arranged the attendance of Ministers during important statements this session. While important contributions are made during debates on legislation, they are not picked up on by the media as much as the first events of the morning.

Senators: Hear, hear.

An Cathaoirleach: We must move on. The matter may be debated by the CPP, on which all groups have representatives. If it decides on changes, I will be a party to them.

Senator Paul Coghlan: The default of a number of prominent solicitors is a serious matter. The protection of clients' funds is of paramount importance. Like Senator O'Toole, I do not want to be critical of the Law Society, but the regulatory regime must be examined if people managed to play fast and loose with funds or granted undertakings and increased borrowings against them. The society's powers could be increased, an independent body could be established or there could be an overarching arrangement involving an outside agency and the society. It is feared that there are many more cases and I would welcome the Leader's input during a debate in this regard.

I support Senator O'Toole regarding Shannon Airport. It appears there was a conspiracy, but irrespective of whether it involved people asking not to be told or the Sir Humphreys ensuring that people did not know, it is no way to run the business of Government. I support the call for a committee of the House or a joint committee to examine the matter. If civil servants behave in that way, parliamentarians should not tolerate it.

Senators: Hear, hear.

Senator Fidelma Healy Eames: Doomed.

Senator Tony Kett: I support Senator Corrigan regarding this week's District Court decision to dismiss the case of the alleged sexual assault of a 20 year old disabled girl because she failed a competency test. That the laws are such that one loses protection upon entering adulthood at 18 years is a disgrace. When the House passed the Disability Act 2005, I believed we were levelling the playing pitch for all disabled people. As there is an anomaly, perhaps I was naive. I encourage the Leader to ask the Minister for Justice, Equality and Law Reform to consider this urgent matter.

Will the Leader invite the Minister of State with responsibility for disability issues and mental health to revisit the Act in the House to determine the progress made? Two years ago, many fine commitments were given and it would be nice to know how much progress Departments have made in proofing their decisions and sectoral plans against disabilities by the dates set out.

Senator Pearse Doherty: Ba mhaith liom plé a dhéanamh ar dhá cheist a d'árdaigh mé anseo sa Seanad cheana. Yesterday I raised the student support Bill and the delay in students' being able to acquire grants from local authorities or VECs. I appreciate the difficult job the Leader does in trying to facilitate debates for all the requests he has received. I commend him for allocating time for some of the debates I have requested. I did not seek a debate on education, although one would be welcome to discuss the broad issue of education. My question was whether this Bill will come before the Seanad before Christmas, whether the measures will be in place by September 2008 so that students will not have to go through the same rigmarole as this year and whether there will be discussion with the USI before the Bill is presented to this House or the Dáil.

My second question is an issue I raised last week and the week before, namely the new child care funding arrangements. Senator Fitzgerald addressed it this morning. This is a serious issue and this is the third week running I have requested a debate. I appreciate that the Leader has agreed a debate will happen here but would like to impress on him the urgency of the matter. The office of the Minister of State at the Department of Health and Children with special responsibility for children has issued a letter to over 1,000 voluntary community child care groups informing them that if they do not return statutory declarations by next Friday, funding will be discontinued. These declarations are forms that the parents of the children attending the child care facilities have to fill in identifying their social welfare incomes, PPS numbers and other private information they do not want to hand to com-

munity and voluntary groups. That threat must be lifted and I ask for a debate on this issue next week. Next week it will be November and the Leader has said we will be sitting three days a week. If so, we need to make that time available so that we have the debate and ask the Minister to lift this threat to more than 1,000 community child care facilities in the 26 counties.

Senator Ann Ormonde: I support the cause of the NRA and its brief in facilitating services along many routes. I have experienced the routes mentioned today. I also support the call for the Minister of State, Deputy Conor Lenihan, to come here concerning his new brief on integration and how he will proceed with that. As Minister of State at the Department of Health and Children with responsibility for older people, Deputy Hoctor has responsibility for dealing with ageism and it would be good if the Leader could make time for her to come here and outline her intentions on how that will be administered.

Senator David Norris: I support Senator Harris's point. It is obvious, and I have said it many times, we should play to our strengths. It is nonsense to say our hands are tied by the CPP. The CPP is supposed to represent the views of the elected Members. On this issue it clearly does not. When Senator Harris spoke a murmur of agreement passed across the Chamber so let us have some action. Last session I mounted a long campaign and eventually squeezed a measly ten minutes extra for the Order of Business but we are still in trouble. Senator Harris is right, we should play to our strengths.

I share Senator Fitzgerald's concerns and am glad she raised this question of child trafficking. As a result of this morning's disclosures we know that 320 children, many from African countries, entrusted to the care of the HSE in care facilities have gone missing. Two of them, teenage girls, turned up in brothels. That is an astonishing to have happened.

I welcome the establishment of the committees. It was high time they were established. I am glad my colleagues have put me again on the Committee on Foreign Affairs. I call for a debate on the situation in Cuba particularly in light of the extraordinary attack by President George W. Bush in the last 24 hours. He is man of extraordinary effrontery and a stranger to truth. He unexpectedly and unwittingly hit a correct note when he said there was a gulag on Cuba. There is, and he should know because he is its proprietor. It is called Guantanamo Bay. The United States harbours terrorists, including a terrorist who blew up a civilian aircraft in Cuban airspace, and arrested the agents who are trying to protect civilians against that.

An Cathaoirleach: Does the Senator seek a debate on that?

Senator David Norris: Let us have a debate on Cuba——

An Cathaoirleach: Does the Senator seek a debate on that?

Senator David Norris: That was the general drift of my remarks. I noted that Senator Coffey seconded Senator Bacik's motion but in case that was not in order I am happy to do it. Like the call for an extension of the Order of Business and a recognition of its signal importance, there was agreement throughout the House by members of different parties that this is an important matter and I am happy to second it.

An Cathaoirleach: There are 60 Senators in the House, all entitled to make contributions on the Order of Business, but we have only 40 minutes and my hands are tied. I can let somebody ramble for the 40 minutes, but what happens to everybody else? I have no intention of doing that. In a short time I will have to cut in and leave out people who could not speak yesterday or today because people have overrun their speaking time.

Senator David Norris: If that happens I will call a vote every day on the Order of Business. It is nonsense to say our hands are tied by the CPP. Let us get at the CPP and untie them. It is an abuse of democracy and I will not stand for it.

An Cathaoirleach: That motion was agreed by this House. Senator Norris has the right to call a vote each morning if he wishes. I cannot stop him.

Senator David Norris: No, the Cathaoirleach cannot.

Senator Brian Ó Domhnaill: I support the call today and other days for the Minister for the Environment, Heritage and Local Government to come to the House to discuss implementing a plan through our local authorities for the protection and development of beaches. I come from County Donegal, which has some of the nicest and most unspoilt beaches in Europe. However we do not have enough funding through our local authorities to promote and develop those beaches and provide them with the ancillary facilities required, including bins, lifeguards, lifebelts and signage. I would like a general discussion with the Minister on the potential of our beaches and their development on a par with beaches on mainland Europe.

Senator Jerry Buttimer: Given that a proposal on a zero alcohol limit for drivers could come before us, I ask for a debate on the regeneration of rural Ireland in the context of the national development plan. I say that without condoning drink driving or drug use by drivers. We need a serious debate on the regeneration of rural Ireland which, in the past ten years, has suffered an erosion of population, services and transport.

Last week Senator Kelly and I raised Government aviation policy. This morning it seems the Government does not know what questions to ask of its civil servants and there is no accountability on the provision of information to Ministers. In light of the situation, has the Leader made any progress on asking the Minister for Transport to come to this House? It is imperative for the Cork and Shannon airport authorities that we debate this issue. Government aviation policy is flying without wings and going nowhere.

Senator Boyle raised the issue of incineration on the Adjournment last week. There must be Government clarity on its policy regarding incineration. Yesterday, the Taoiseach said in the Dáil that four, not two, incinerators would be required. We must have a debate on this, and replace the Government's pantomime with reality.

An Cathaoirleach: Senator Ross is the last speaker I will call.

Senator Shane Ross: The issue I wish to raise has been addressed already by Senator Coghlan and Senator O'Toole, that is, Aer Lingus, the DAA and Shannon. This has wider implications for all Members of the House. What Aer Lingus does is not our business; it is out in the private sector. However, the Byzantine manoeuvres of civil servants, supposedly to protect their Ministers, could concern us. We debated the Shannon issue in the past two weeks but we were doing it in the dark because we have incomplete information. It is very serious if civil servants are deciding of their own accord to filter information to their Ministers because it might be politically embarrassing for them to find out about something or it might impinge on the empires which civil servants administer.

Even worse is the attitude of the DAA, and that is a matter for this House. The DAA took the unilateral decision to tell Aer Lingus something confidentially. The DAA for all its faults, and God knows it has plenty, is answerable to the Government because the Government is the shareholder. The DAA apparently decided not to give anybody but Aer Lingus information that is political dynamite but which also has an enormous effect on the Shannon region. This issue should be taken on board by the Leader of the House. We are being rendered, to some extent, political eunuchs. Not only is power leaving this House, but information is not being given to it. There is no point debating this issue if civil servants are deliberately hiding information from their Ministers and are not held accountable for it. It is most important, not that the Minister visit the House, but that the committee on transport addresses this issue immediately. It is equally important that necessary information is not withheld from the House when we are debating issues of this nature.

Senator Donie Cassidy: I was pleased with the massive response to the debate on suicide prevention that took place in the House yesterday. However, many speakers did not have time to make their contributions and I will revisit the issue and allocate time for it to be discussed again before the Christmas recess. I thank the Senators for their considered and meaningful contributions, which I am sure will be helpful to the Minister in planning how to address this important challenge.

Senators Fitzgerald, Keaveney, Coghlan and Doherty expressed their serious concern about international child trafficking and the related serious challenges facing us. I will allocate time for a debate on this and will discuss it at the leader group meeting next Wednesday to ensure an early date. Senators O'Toole, Coghlan and Ross expressed their serious concerns about Aer Lingus and Shannon. Every Member of the House is concerned about the plight of the people of Shannon and the west. We will do what we can to assist in this matter. Aer Lingus is a worldwide brand name and the airline has huge potential for the future, and we wish to support it also. However, it would be wise to wait until the Minister receives the report and if there are other issues of which the House was unaware, they will have to be addressed. When the report is published I will invite the Minister back to the House to have a further discussion on this important matter.

Senators O'Toole and Hannigan referred to the Law Society and the various alleged breaches by members of that society which are reported in this morning's newspapers. The most important issue from the Law Society's point of view, as I said yesterday, is trust. Down through the years people have trusted solicitors, barristers, auctioneers and other professionals. They have been family and trusted friends. Generations of solicitors have handled the legal affairs of our forefathers in an honourable and decent way. Only a few have breached that trust and we cannot condone that. As in the case of the insurance inquiry, the experts are the people in the Law Society. They must urgently introduce corrective measures and we will assist them in any way we can. We will also assist the Minister in helping the Law Society. When it is opportune I will allocate time to discuss this. I will also take the advice of the newly appointed spokespersons who will be appointed to the various committees with regard to whether it should be dealt with in the committees as well as in the House.

Senator Hannigan expressed strong opinions about the ESB dispute. I will convey his views to the Minister. Senator O'Sullivan made two relevant points which every Member of the House can support, particularly with regard to the difficulties experienced by members of local authorities. They are expected to give a service. The officials are quite properly remunerated for their expertise and their time but the public represen-

tatives are not and should not be disenfranchised. I will take up this issue with the Minister and report back to the Senator. I also support the proposal regarding the Ballylongford gas station. The people of north Kerry and west Limerick are waiting with bated breath for this. They are well represented by Senator O'Sullivan on the issue.

I have known Senator Twomey for some time and have great respect for his expertise, ability and talent. I assure him I have done everything I can as Leader to have as many issues dealt with as possible. From 14 November the House will sit for three days each week and will sit for four days when necessary. The issues on which Senators are seeking debates will be addressed. The committee system will be in place from next week. That will be addressed before the conclusion of business in the House today, and Members will be appointed to the committees. I assure Senator Twomey that any matter prioritised by his party's leader in the House is receiving the utmost attention. If Fine Gael wishes to raise something of great importance, I am sure Senator Fitzgerald will facilitate Members in raising it in Fine Gael's Private Members' time. Where that is not possible, I will endeavour to facilitate the leader of the Fine Gael group, even if that entails sitting a few hours later in the evenings or for an extra day. I have no difficulty with that.

I was Leader of the House from 1997 to 2002 and in that time debate was never stifled. The House even sat until five o'clock one morning, and Senator Norris was the final speaker on one of those occasions. I take seriously the calls of Members for debates and statements but I expect in return, as happened yesterday, that Senators are properly and well prepared to make meaningful contributions when time is allocated for debates. In regard to the amendment proposed by Senators Bacik, Coffey and Norris to the Order of Business, the Minister of State at the Department of Finance is waiting to come into the House.

Senator Keaveney called for legislation to be made more friendly. I will consider her proposal with a view to seeing what can be done.

Senators Coffey and Ormonde called on the NRA to arrange for services to be provided on the routes which are transforming Ireland under the national development plan. As Senator Buttimer noted, the face of Ireland is changing because of the major infrastructure investments being made. While services are essential on longer routes, new challenges are arising from the opening of motorways, particular in the midlands, in that villages such as Tyrellspass, Kilbeggan and Miltownpass are losing their passing trade. Senators on the Joint Committee on Transport might make it their priority to help the people who elected them by investigating ways of linking some of these villages to service areas so that existing restaurants and filling stations can be extended.

[Senator Donie Cassidy.]

Senator Boyle called for a debate on waste management, for which I can allow time. Senator Donohoe sought a debate which the Minister of State at the Department of Community, Rural and Gaeltacht Affairs with responsibility for integration policy. I have no difficulty in arranging that.

Senators Norris and Harris were in agreement for the second time, which is a wonderful achievement. They want the profile of this House to reach its full potential. I will raise the matter with the Committee on Procedure and Privileges to ascertain what progress can be made on it. I have no difficulty in meeting this challenge because if Dáil proceedings can be broadcast on TG4 for one hour every Thursday morning, why can we not have 40 minutes—

Senators: Hear, hear.

Senator Donie Cassidy: —provided Senators keep their contributions to one and a quarter minutes? This is one of the two Houses of the Oireachtas and we are all proud to be Members of it. The level of our debate is worthy of being broadcast on television.

Senator Doherty spoke about student fees. I will see what I can do in that regard. As the Senator will be aware, we have a big advantage in the South of Ireland compared to the North, where Sinn Féin and the DUP—

Senator Pearse Doherty: My question was not about student fees. For the second day in a row, I asked a direct question about the student support Bill. When will the legislation be brought before the House?

An Cathaoirleach: Allow the Leader to reply.

Senator Donie Cassidy: Students in the Twenty-Six Counties have a considerable advantage but those in County Donegal who used to attend colleges in the North of Ireland may be at a relative disadvantage. We have to be consistent in these matters. I can allow time to debate the matter.

Senator Pearse Doherty: I am not seeking a debate. I asked when the legislation would be brought.

Senator Donie Cassidy: I can accede to the request to invite the Minister of State at the Department of Community, Rural and Gaeltacht Affairs, Deputy Conor Lenihan, to discuss immigration, and for the Minister of State at the Department of Health and Children, Deputy Hoctor, to attend to discuss ageism. I will also attempt to meet Senator Norris's request for a debate on Cuba.

Senator Ó Domhnaill wants the Minister for the Environment, Heritage and Local Government to come to the House for a debate. That is a timely request. This House has always had full and thorough discussions with the Minister's Department.

Senator Buttimer called for a debate on the national development plan. The Government side would welcome such a debate with open arms because it would be an opportunity to let our constituents know about the transformation which has taken place over the past ten years. We could also find out where we will be going in the next five years. Some €43 billion, or 5.5% of GDP, will be invested during that period in major infrastructure including roads, sewerage and water services and broadband.

Senator David Norris: The Metro.

Senator Donie Cassidy: Ireland does not end one mile outside Dublin.

Senator Fidelma Healy Eames: Well said.

Senator Donie Cassidy: I understood that Senator Buttimer was referring in particular to rural Ireland. I am pleased to inform the House that a debate will be arranged as a matter of urgency. The Senator also called for debates on aviation policy and incineration.

An Cathaoirleach: Senator Bacik has proposed an amendment to the Order of Business, "That No. 10 be taken today." Is the amendment being pressed?

Senator Ivana Bacik: Yes. I am grateful to Senator Boyle for providing some sort of answer but the procedure has not been addressed sufficiently.

Amendment put.

The Seanad divided: Tá, 19; Níl, 29.

Tá

Bacik, Ivana.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.

Kelly, Alan.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
Prendergast, Phil.
Quinn, Feargal.
Ross, Shane.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callanan, Peter.
Callely, Ivor.
Cannon, Ciaran.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Glynn, Camillus.
Hanafin, John.
Harris, Eoghan.

Keaveney, Cecilia.
Kett, Tony.
Leyden, Terry.
MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
Wilson, Diarmuid.

Tellers: Tá, Senators Bacik and Norris; Níl, Senators de Búrca and Wilson.

Amendment declared lost.

Order of Business agreed to.

An Cathaoirleach: I remind members of the Committee of Selection that a meeting will take place immediately after the Order of Business.

Markets in Financial Instruments and Miscellaneous Provisions Bill 2007: Second Stage.

Question proposed: "That the Bill be now read a Second Time."

Minister of State at the Department of Finance (Deputy Noel Ahern): I will begin my introduction of the Bill by mentioning that, although the Bill was published last April, a certain urgency has now come into play regarding the time available for completion of its passage through the Oireachtas. This is due to two factors. Sections 5 and 8 are required, and stated in the text, to have effect as from 1 November next and, to avoid the Bill being fatally compromised on grounds of retrospective legislation, it must be enacted by that date. It will be necessary to bring forward in this House an important amendment to section 19, which will inevitably result in its referral back to the Dáil for final confirmation. Given these exceptional circumstances, I must call on the good will of the House to expedite the passage of the Bill in line with the time constraint I have just mentioned.

The market in financial instruments directive, or MiFID, as it is now generally called, is one of the most significant pieces of EU financial services legislation agreed in recent times. It applies to both investment firms and credit institutions when providing investment services. The directive harmonises and modernises the EU-wide legislative framework for investment firms, promoting greater cross-border competition in particular. Thus, MiFID should, over time, lead to lower fees and make it easier and cheaper for customers, including retail customers, to buy and sell shares.

The aim of the MiFID is to create a pan-European market in investment services across the 30 Member States of the European Economic Area. In particular, it will simplify the regulation of firms that provide investment services on a cross-border basis in the EEA by providing them with an effective single passport which will allow them to provide such services across the EEA solely on the basis of authorisation by their home country regulator. The MiFID's predecessor, the 1993 investment services directive, or ISD, was only partly successful in providing a single passport, mainly because the effectiveness of its passport had been undermined by member states imposing their own investor protection requirements at local level. Therefore, investment firms which wanted to operate throughout the EEA would have had to comply with the unique investor protection rules in every member state.

This difficulty has been overcome in MiFID by incorporating harmonised, EU-wide investor protection provisions into the directive. These include standardised rules on the dissemination of quotes and on pre and post-trade transparency, as well as best execution practices. Member States were obliged to transpose MiFID by 1 February last, but it does not become operative for the industry until 1 November. This long lead-in for the industry was allowed by the EU to facilitate staff training and the extensive updating of IT systems required on foot of this new regulatory regime.

Ireland was one of the first member states to transpose the directive earlier this year. We did this by way of a statutory instrument, SI 60 of 2007, which sets down the obligations that must be complied with from 1 November. However, the scale of the maximum penalties proposed for breaches of the new MiFID regulations — fines of up to €10 million and-or ten years imprisonment on foot of conviction on indictment — is such that primary legislation is needed. That was the primary reason for the introduction of this Bill.

As is evident from its title, the Bill is comprised of two parts — the MiFID part and the miscel-

[Deputy Noel Ahern.]

aneous provisions part. The MiFID elements of the Bill introduce penalties at national level for significant breaches of the new MiFID provisions — minor infringements were taken care of in the MiFID statutory instrument of last February — they empower the Financial Regulator to be able to levy fees on the financial services sector towards the cost of implementing its new MiFID functions, and its recently acquired market abuse functions, in the same way as arises for other regulatory provisions enforced by the Financial Regulator; and they repeal the Stock Exchange Act 1995 from 1 November when the MiFID regime becomes operational, as its provisions are superseded by the MiFID statutory instrument of last February.

The miscellaneous elements of the Bill essentially involve the updating or amendment of a variety of mostly technical provisions in various Acts which fall within the area of responsibility of the Minister for Finance. Section 19, however, inserted on Committee Stage in the Dáil and dealing with non-deposit taking lenders, including sub-prime mortgage lenders and mortgage reversion providers, is a significant new policy initiative.

The miscellaneous provisions cover the following topics. Section 9 will ensure that appropriate sanctions can be provided for a conviction on indictment for specified offences in the reinsurance regulations which were introduced in July 2006 as part of the transposition of the EU reinsurance directive.

Section 10 deals with the Netting of Financial Contracts Act 1995. That Act was introduced to meet the requirements of the EU directive on recognition of contractual netting and to bring certainty, through risk management, to firms engaged in financial trading, especially in the International Financial Services Centre. It ensures that netting and set-off arrangements between parties to financial contracts will be legally enforceable in the event of bankruptcy etc. provided they are properly drafted. Given the rapid pace of change in financial services, this amendment will widen the definition of financial contracts in response to market developments. This reform is needed to ensure Irish-based trading is not at a disadvantage as compared with institutions based in other jurisdictions.

Section 11 amends section 52 of the Investment Intermediaries Act 1995 to confirm certain limitations of receiver-liquidator access to client money following the winding-up of an authorised investment business firm, as recommended in the report of the Morrogh Review Group.

Section 12 provides for a simplification for the State ownership structure of Icarom plc, which is the rump remaining after the direct insurance business of the Insurance Corporation of Ireland, ICI, was sold off in 1990. The main role of Icarom plc is to run off ICI's pre-1985 liabilities, mainly in respect of its United States risks. The amend-

ment involves removing Icarom's holding company, Sealúcháis Árachais Teoranta, or SAT, from the structure. This reform has been recommended by the administrator on legal grounds in the interests of making it easier for Icarom to deal with litigation in the US courts.

Section 13 introduces a variety of minor amendments to the Central Bank Act 1942. It will allow the Financial Regulator an extra month to finalise the submission of its annual budget, from end of September to end of October of the preceding year. It will permit a reduction in the number of compulsory annual retirements from the board of the regulatory authority to take account of any voluntary retirements in that year. Another provision in this section will allow the Financial Regulator, subject to any EU confidentiality constraints, to disclose confidential information to the National Consumer Agency for the performance of the agency's functions. The section also permits the Financial Regulator to charge fees, with the approval of the Minister for Finance, in respect of various functions under Irish investment services law. Finally, there is an amendment to clarify the independence of the Financial Services Ombudsman from the Financial Regulator.

Sections 14 and 15 concern the National Treasury Management Agency and will allow the NTMA to provide foreign exchange services to Departments and State bodies. The savings to the Department of Foreign Affairs alone could be worth up to €700,000 per year. The NTMA will also be allowed to provide deposit-taking and lending facilities through its central treasury services to a wide range of State bodies. Another reform will permit the NTMA to engage in "transactions of a normal banking nature" concerning the Post Office Savings Bank fund and the central treasury service. For example, this will allow the NTMA to offer fixed-rate loans to State bodies because it will enable the use of interest rate swaps to hedge against the risk of interest rate rises.

Section 16 amends the legislation dealing with ministerial pensions in two ways. First, it provides for the backdating of payment of a Minister's pension to the date the person became eligible to receive the pension, rather than the date of application. On leaving ministerial office, severance is payable for two years. The ministerial pension is then payable if applied for. However, if a person, through oversight, fails to apply for the pension for more than six months after the ending of the severance payment period, payment of the pension cannot be back-dated for more than six months prior to the date of application. This amendment would allow payment to be back-dated to the date of entitlement and reflects a similar provision which applies to civil service pensions.

Second, whereas the current ministerial pensions scheme allows for a pension to be payable

after two years' service as a Minister, the old pre-1993 scheme requires three years' service. This amendment would provide for payment of a ministerial pension to a member of the old pre-1993 scheme who has more than two years' service as a Minister. This has been the position for members of the new scheme since 2001.

Section 17 of the Bill as published proposed an amendment to the Credit Union Act 1997 to clarify the interpretation to be given to five-year and ten-year loans respectively. For instance, at present, a five-year loan continues to be counted as such even when the repayment period still outstanding falls below five years. The clarification in the Bill as published makes clear that such loans are no longer to be counted as five-year or ten-year loans when the repayment term falls below these limits.

Quite apart from this interpretation issue, on Committee Stage in the Dáil I introduced a further amendment to section 35, which increases the amount credit unions can lend over five years from 20% of their loan book to 40%, and over ten years from 10% of their loan book to 15%, subject to the approval of the Registrar of Credit Unions. It should be noted that this amendment stems from a recommendation of the review group on longer-term lending limits. Earlier this year, it was implemented by regulation SI 193 of 2007 at the request of the credit union movement. The Attorney General's office, however, advised that the first opportunity should be availed of to incorporate this change into primary legislation, hence this latter provision. As a result of the above amendment, section 21 provides for the revocation of SI 193 of 2007.

Section 18 repeals sections 9 and 10 of the Insurance Act 1936 and makes consequential amendments to the European Communities (Non-Life Insurance) Regulations 1976 and the European Communities (Life Assurance) Regulations 1984. Section 9 of the 1936 Insurance Act makes it an offence for a person to effect an insurance contract with a company not in possession of an insurance licence. Section 10 of the Act deems certain foreign companies and persons to be carrying on insurance business in Ireland in specified circumstances.

Insurance industry representatives have brought to our attention concerns they have regarding these two provisions and how they are having a negative impact on the operation of international companies in Ireland. Basically, these provisions have no relevance in the current business environment and need to be repealed.

Section 19 aims to provide for a system of regulation of non-deposit taking lenders engaged in retail lending, together with providers of home reversion schemes. They will be brought within the Financial Regulator's authorisation and ongoing supervision regime by way of an amendment to the Central Bank Act 1997. This in turn will bring their lending activities within the scope of the Financial Regulator's consumer protection

code and, hence, provide greater protection to their customers as regards their business with those firms.

It was originally intended to address the regulation of this sector later this year in the context of the third money laundering directive and the draft directive on credit agreements for consumers, both of which would require some form of regulation or monitoring of all credit providers. However, there has been growing concern about the activities of some firms in this sector and especially those in the sub-prime market. It was decided therefore to avail of the opportunity presented by this Bill to advance the timetable for the introduction of regulation of this sector. However, the technical drafting of this provision has presented major legal challenges and it will be necessary to bring forward an amendment on Committee Stage in the Seanad to address these difficulties.

Section 20 is a technical amendment in line with a recommendation of the Oireachtas Joint Committee on Finance and the Public Service which will allow disclosure, under the terms of the Freedom of Information Act and subject to the usual exemptions that apply to that Act, of confidential information obtained by a person while performing duties as a member of the board or a member of staff of Ordnance Survey Ireland, OSI.

Concerning section 21, as I mentioned earlier regarding section 17, it will be necessary to revoke SI 193 of 2007 when section 17, which, *inter alia*, confirms the statutory instrument's provisions in primary legislation, becomes operative.

As regards sections 22 and 23, the Investor Compensation Act 1998 was based on an EU directive aimed at giving investors, especially retail investors, a certain degree of protection in the event of the failure of an investment firm. The 1998 Act used the Investment Intermediaries Act 1995 and the Stock Exchange Act 1995 as the basis for many of its definitions, especially with regard to the definition of investment business firms.

The statutory instrument underpinning the new MiFID regime in Ireland, SI 60 of 2007, will ensure the provisions of the 1995 Investment Intermediaries Act will not apply in the case of MiFID activities. Therefore, consequential amendments to the 1998 Investor Compensation Act are needed to ensure firms engaged in MiFID activities continue to be covered by the compensation regime. There are also some minor amendments included at the request of the Investor Compensation Company Limited to take account of its experience over the years concerning the investor compensation scheme. In drafting this set of amendments, there were so many amending paragraphs that, having gone through the alphabet from A to Z in section 22, it was necessary to have a section 23 with further paragraphs running from A to Y.

[Deputy Noel Ahern.]

In section 24, the National Pensions Reserve Fund Act provides, under section 18(2), for the payment of 1% of gross national product, GNP, annually from the Central Fund to the National Pensions Reserve Fund. It is proposed to amend the definition of GNP in that Act for the sake of clarity, to confirm that the statutory annual payment into the National Pensions Reserve Fund is 1% of the figure for GNP published in the budget book. This is a technical amendment for the avoidance of doubt. It will have no effect on the amount of the annual contribution to the National Pensions Reserve Fund which will continue to be 1% of GNP as estimated at the time of the budget.

The purpose of section 25 is to provide for the transfer of oversight and funding of Ordnance Survey Ireland from the Minister for Finance to the Minister for Communications, Energy and Natural Resources. This transfer was one of the key recommendations emanating from a value for money and policy review of the grant-in-aid to OSI last autumn. The Department of Communications, Energy and Natural Resources already oversees the geological survey and, arising from its core functions, has the structures and expertise required to monitor the activities of commercial State-sponsored bodies. All parties, including OSI, are amenable to the transfer.

I hope this overview of the measures contained in the Bill is helpful to Senators. I must bring forward an amendment to Section 19 on Committee Stage. Significant urgency now attaches to the processing of the Bill and in these exceptional circumstances, I ask that the House facilitate me in processing it in line with the time constraint which I have mentioned. It must pass all Stages in both Houses by the end of October.

Senator Liam Twomey: This is a business Bill which is of little interest to most people inside or outside this House. It concerns the transaction of business in the European Union and allows companies work across borders within the Union. What about the inverse? Is there any chance that Irish people could get mortgages or other loans in other jurisdictions? The Bill focuses on companies coming to operate here. Recently, however, it has been clear that there is no competition in the market for insurance products here. People can do nothing to avail of better deals on financial products in other jurisdictions.

Does the Government have anything in mind to ensure a two-way flow from this legislation? There are significant restrictions on getting products in other jurisdictions, for example the banks' clearing house would obstruct someone trying to pay a mortgage in another country. The Irish Payment Services Organisation manages the clearing of cheques, drafts and direct debits between banks. The Bank of Scotland had a serious problem with this a few years ago but we have heard nothing since it was accepted into the system. The

Government does not appear to be doing anything off its own bat to help Irish people. It is doing what the European Commission tells it to do with this Bill. What does it have in mind that would work in the other direction?

As an example of my point, last year Seán Quinn purchased BUPA Ireland and there was much talk about how this would improve the health insurance market because Mr. Quinn works aggressively and has a history of dropping premia for car and house insurance. Last week, however, he announced that some health insurance premia would rise by 18%, presumably because he had no choice. This dovetails with the VHI's recent premium increases and continues the trend in the private health insurance market since 1996 when the market was supposedly opened up. Meanwhile it is Government policy to drive more people into the private health insurance market but there is no competition in that market, where two large companies dovetail their premia.

Seán Quinn wanted to reduce the amount paid to private hospitals and consultants to reduce premia but the consultants involved refused to see BUPA patients. That is the type of vested interest that controls the health insurance market. This left Mr. Quinn and BUPA with no choice but to continue to pay the consultants the same rates as VHI. The consultants, not the two largest health insurers in this market, dictate the cost of their products. In any other country that would be considered restrictive practice. The Government is doing nothing about this apart from making the market bigger and more lucrative.

The consultants will get their money because the Taoiseach has granted them significant benchmarking payments in the past three years. A few weeks ago, however, he told the Dáil that if these people did the job they are paid to do in the public hospitals there might be no waiting lists. He is either being stupid or acknowledging that he has no control over the health services. He is supporting a policy that forces customers into the private market for their health care. The customers are getting a raw deal.

The people who will gain from this financial legislation are those who have substantial assets or make substantial profits from their businesses. The Government is not prepared to do anything to help the ordinary people go about their business. None of us can seek cheaper loans or health insurance in other jurisdictions. Will the Minister of State comment on this in his closing statement? It is good to see such important legislation being introduced because the purpose of the European Union is to break down borders and make it easier for people to get these services.

The Minister for Finance needs to clarify the recent treatment of civil servants. The idea that civil servants in the Departments of the Taoiseach, Finance and Transport, who were aware of events in Shannon were unbelievably careless about informing their Ministers, hit a raw

nerve. Three years ago when I was health spokesperson for Fine Gael on the Oireachtas Joint Committee for Health and Children I dealt with the then Minister for Health and Children, Deputy Martin, and the Ministers of State at that Department, Deputies Tim O'Malley and Callely, all of whom acted as if they were completely stupid in respect of the illegal nursing home charges. The Minister said he had never heard about it, Deputy Callely had heard about it, whispered it to the Taoiseach and then forgot about it. Three years later we are seeing a re-run of the Travers report and once again the civil servants are the bogey men. Whatever about the illegal nursing home charges getting lost within a Department, it is unbelievable that nobody in three Departments knew what was going on between Shannon Airport and Aer Lingus.

While I am not surprised that Ministers would be complacent in finding out about it for themselves, that is not the same as the idea that senior civil servants would not inform their Ministers about what was going on, when they clearly understood the importance of it. That is important because officials and Ministers from the Department of Finance have been going on in the last few years about performance indicators for civil servants. When I was on the Joint Committee on Finance and the Public Service, senior civil servants used to take their role on performance very seriously. That three senior Ministers from the Department of Transport and Marine, the Department of Finance and the Department of the Taoiseach did not know what was going on regarding Shannon is not unbelievable. I believe somebody is lying. That should be made clear to the public. Somebody is lying on this issue and it needs to be cleared up.

This is not the same as the difficulties encountered by the NRA in controlling its spending. Nor is it the same as the problems in the HSE, where senior managers paid themselves hefty bonuses but failed to stay within their budgets and are now penalising patients for it. There is something wrong here and some serious questions need to be answered by the Minister for Finance. If the Minister of State cannot answer these questions in his closing remarks, then the Minister for Finance should come into the House and tell us what is going on. The Department of Finance is responsible for all the improvements in the performance of the Civil Service. There has been a range of reports over the years on the change management process in the Civil Service. If anybody tries to tell me that those involved slipped up and failed to inform Ministers what was going on, then I do not believe it.

I have no difficulty with this Bill, but can the Department and the Minister do more to provide ordinary services to people in this country?

Senator Marc MacSharry: I welcome the Minister of State to the House. It is the first opportunity I have had to congratulate him on his re-

election. I wish him well in his portfolio in the next five years.

By way of rebuttal, it is ridiculous in the extreme that one should put one's name forward to speak on legislation if one is going to start by saying that, like most others, one has no interest in the legislation, but will avail of the opportunity to bash the Government.

Senator Liam Twomey: I would like to correct that.

Senator Marc MacSharry: I did not interrupt the Senator.

An Leas-Chathaoirleach: Senator MacSharry, without interruption.

Senator Marc MacSharry: Thank you.

Senator Liam Twomey: I did not say I had no interest in the Bill. I said that many people in this House had no interest in it. Senator MacSharry should correct the record of the House if that is the attitude he is taking towards other Senators.

An Leas-Chathaoirleach: Senator MacSharry, without interruption.

Senator Marc MacSharry: I have been in this House for a little bit longer than the Senator and I am aware of the procedures and of best practice in terms of achieving the best for our constituency. I am also aware of our constitutional requirements to members of the public.

Senator Liam Twomey: The Senator should learn to listen.

Senator Marc MacSharry: That is, to comment on this Bill in a positive way. Irish people can get loans from foreign banks, but if the Senator had read the Bill, he would realise that it does not deal with that issue. The Bill is about investment firms and the dealing of shares across borders. The Senator wants to get stuck in to the only thing he knows anything about, which is health. Furthermore, it is unparliamentary to use the words "lie" or "lying" about any civil servant or person in general. It is not something in which we engage, on either side of the House.

The financial services sector in this country has been a shining light in leading the economy to its position as one of the most successful in the world. All the economic indicators would suggest that is the case, notwithstanding the fact that we are facing difficult times. It is time to be prudent, vigilant and conscious of world affairs and factors that can affect our economic outlook and situation at any given time.

The Bill sets out a regulatory environment in line with the markets and financial instruments directive. That reminds me that the Senator had said the Government was doing nothing about it. If he had even a remote understanding or know-

[Senator Marc MacSharry.]

ledge of the institutions in Europe, such as the Council of Ministers, the Commission or even the European Parliament, the Senator would be aware that Ireland plays its fullest part in all aspects of legislation. This includes the preparation of directives at embryonic stage, right through to last February when the Government was one of the first in Europe to transpose the directive. We are now putting it into law, so the Senator was misinformed while having a rant about the health service. He knows a little about that, given his background in medicine.

The Bill has provided an ideal opportunity for the Department of Finance to make some changes to a number of areas which, taken on their own, would not have required a Bill. I particularly welcome section 13, which enables the Financial Regulator to disclose confidential information to the National Consumer Agency about the agency's performance of its functions. It is important that the Financial Regulator can deal directly with the National Consumer Agency in ensuring that the customer is the king. The advantages of this Bill must be clearly visible to the customer on the ground.

The Bill also allows the National Treasury Management Agency to provide foreign exchange services to the Department and State bodies, resulting in sizeable savings to the Exchequer, of up to €700,000, according to the Minister of State. This is a victory for common sense and we should seek such savings across Departments, through European legislation and our own primary legislation.

Fines are to be put in place by the Bill for up to €10 million and prison sentences can be imposed for up to ten years. It also provides for fees to be charged to the financial institutions so that the regulator can carry out its functions. This is very positive and is to be welcomed.

Due to the technical nature of the Bill, it requires some research before one can speak on it, but it is to be welcomed. When one considers the contribution made by the financial services sector in this country, it is important that it is regulated. With 27 EU member states, it is even more important that we can operate to a regulatory system which we all understand, rather than having to deal with 27 different regulatory systems. The consumer and common sense are the victors, because it will lead to cheaper financial services, better consumer protection and better regulation. That will make Ireland and Europe more attractive to foreign investment from third countries.

I look forward to the passing of this Bill and I commend it to the House. It shows that Ireland is to the forefront in the introduction of such legislation. Ireland is also to the forefront in the preparation of such directives at European level. I thank the Minister of State for coming to the House. I know he and the Minister will look to the future in a prudent, vigilant way. There are

uncertain times ahead and we might not be in the same situation as we were in the past few years, where the economy had been so buoyant as a result of the boom in property and in a number of other areas.

Senator Alan Kelly: I welcome the Minister of State to the House. This is the first time we have had an opportunity to speak on finance related issues. The Labour Party welcomes this Bill and will facilitate its passage through the House. At first glance, it seems to be very technical, but is necessary as it aims to transpose the markets and financial instruments directive into Irish law. I can see why there has been difficulties in drafting the Bill, because it is so technical. Therefore, I understand why some parts of it may have to be re-examined on Committee Stage in the other House.

The Bill aims to identify areas in which clarification or correction were required by the Financial Regulator and the industry on the directive and related areas and I welcome a number of the Bill's aspects. It widens the range of core investment services and activities that can be carried out across the EU. This applies to both investment firms and credit institutions when providing investment services. It creates a pan-European market in investment products, replaces national rules and allows for harmonisation. This will pose many challenges to Irish firms because it will allow investment products to be sold into the country, thus improving competition. However, it also will allow for Irish firms to sell on a pan-European basis. Some challenges will arise in this regard to which I will refer later. In general however, this measure is to be welcomed.

The Bill introduces new and more extensive requirements that a range of financial firms will be obliged to adopt in respect of the conduct of their business and internal organisation. This is especially important given the issues faced by some of the firms in question which have appeared prominently in newspapers recently. It allows for further and more transparent transaction reporting by firms. It protects investors, increases transparency in respect of fees and reduces costs for users on many of the instruments sold by the firms affected. I hope this will be achieved through the standardisation of rules and dissemination of quotes etc. This issue is highly important for consumers.

I appreciate the Minister of State considered that a number of other issues should be included under the miscellaneous part of the Bill. I will not go through them in detail and acknowledge that many of them were necessary. I refer to issues such as the requirement to levy fees by the Financial Regulator, the limitation on receivers' and liquidators' access to client money, the provision of authorisation to the Financial Regulator to disclose confidential information to the National Consumer Agency, the indemnification of

members of the Financial Services Ombudsman Council etc.

However, one of the Bill's core issues concerns the penalties and scale of punishments attached to the MiFID provisions. I understand this must be covered by primary legislation given the scale of penalties that will be required should some firms not conduct themselves in the manner to which they should be subject.

I refer to some important areas in respect of the Bill. I refer in particular to the capabilities of the National Treasury Management Agency. The 1990 Act enabled the Government to delegate the borrowing and debt management functions of the Minister for Finance to the NTMA with such functions to be performed subject to the directions and guidelines the Minister might give. This gave competitive deposit and borrowing facilities to local authorities. However the proposed changes will allow the NTMA to work with greater flexibility, which is welcome. This will enable it to work more extensively with semi-State organisations, universities etc. It should be acknowledged that in some cases, this may prove to be a better option in future than choosing public private partnerships.

I accept the Bill's urgency and the reason it must be enacted before 1 November. However, I have one significant concern regarding it, namely, that while Ireland will implement the directive, how will it be implemented at a pan-European level? While I am open to correction, I understand that up to nine other member states have not yet imposed the directive. The Minister of State's response should advise Members of the number and identity of such member states as well as the timing of their implementation of the directive. Moreover, will all member states impose the directive in a similar fashion or will it be done down by further regulatory constraints favouring a member state's home markets? How can this be avoided? The Minister of State should provide more information in this regard to demonstrate his certainty that this will not happen. Obviously, such a development would defeat the purpose of the entire Bill, as the harmonisation of rules seeks to avoid such activity. Can we rely fully on all member states to adhere to the directive and implement it completely? How will the EU manage to ensure the directive is put in place fully? It must provide strong direction at all times as well as imposing a code of conduct. The Minister should explain this issue.

I agree with Senator Twomey on two points. There probably should be greater debate on how Irish firms can be facilitated in this new environment. While such a debate should be held at another time, Members must consider the logistical issues and other challenges that many such firms will face in the near future. There is a need to define these areas and consider them one by one in order not to lose first mover advantage in what will be now a very competitive market. Moreover, Members must consider how best to facilitate consumers in order that they benefit from such enhanced competition. This must also

be broken down to ensure that consumers enjoy better benefits.

While on this subject, I will raise some other issues of concern regarding financial markets and regulations of financial institutions that arose as a result of this directive and Bill. A recent International Monetary Fund report notes that the Irish banking system is in good health, which is to be welcomed. There is one authority, namely, the Central Bank and Financial Services Authority of Ireland. The latter supervises individual firms while the monitoring of overall financial responsibility is the role of the Central Bank. As this operates within the euro system and the European Central Bank, Ireland's regulatory framework is in good shape.

However, it is highly important to maintain confidence and some issues that have come to light in recent months have shaken confidence somewhat. Ireland must ensure this does not happen because the financial services sector employs thousands of people whose jobs must be protected at all costs. Much of this success is built on reputation and consistent confidence in the sector. This must be maintained and a number of issues must be dealt with to achieve this goal. I appreciate the Minister of State intends to introduce an amendment to section 19 on Committee Stage that will cover some areas I intend to raise. However, I will raise them to ensure they will be dealt with in some detail.

I refer to the issue of deposit protection schemes. There is a need to strike the right balance between protecting depositors and ensuring banks do not take inappropriate risks. The need for an enhanced depositor's protection scheme for savers and depositors in Irish institutions has been raised previously. The Irish scheme had been limited to 90% of deposits with an upper limit of approximately €20,000. This is out of line with schemes operating out of the United Kingdom and Europe. A standard scheme across Europe is required and the Minister of State should ascertain how this could be brought about.

Another issue concerns the need to regulate derivatives or contracts for difference, CFDs. I was startled to learn that 50% of all transactions in the Stock Exchange in recent years have involved CFDs. While I am open to correction, I understand that approximately one year ago, the Minister for Finance proposed the imposition of stamp duty on such transactions but subsequently had a change of mind, presumably following some lobbying. I understand that such instruments are now falling in popularity as the credit squeeze sets in. While many high net worth individuals have been involved, the ripple effect has resulted in ordinary citizens and small-scale investors becoming caught as a result of the high cost of lending and the consequent raising of interest rates and mortgage repayments. Consequently, this entire field requires some form of regulation to standardise its operations.

I understand the area of sub-prime lending will be dealt with in some way on Committee Stage, although I am unsure to what degree. The Mini-

[Senator Alan Kelly.]

ster of State is aware this is a topical issue at present about which I have great concerns. This area is growing despite contradictory views. It simply constitutes the modern-day equivalent of hire purchase schemes and concern is now rising continually. Many sub-prime offers are given out like confetti by firms. They come through the letter box as financial institutions dispense proposed loans to people who cannot afford them. They are being given out in tandem with flyers for Indian and Chinese takeaways, advertisements to have one's driveway resurfaced etc. This constitutes a form of financial confetti. Moreover, advertising for sub-prime lending organisations is being carried out by celebrities who are making proposals about which they should know better. This looks like easy money to some consumers and the schemes are marketed with a great deal of colour. Unfortunately, many such schemes prey on the vulnerable and this sector must be regulated.

The Financial Regulator has remained aloof from the sub-prime market for a long time. At present it is worth €1 billion in Ireland and is expected to grow to €5 billion in the next few years. Members should be concerned by this and must take cognisance of present developments in the US sub-prime market to ascertain how it could affect Ireland in future. In many cases, those who buy such products are financially vulnerable and lack financial sophistication according to research that has been conducted. We must acknowledge this. In some cases there is evidence that the applicants are lying, but they are getting through the net because lenders do not scrutinise their applications sufficiently. These people are lying on their application forms because they are so desperate to get the money. They need to be protected.

The Minister of State needs to strike a balance between protecting people from themselves and offering a choice. The financial services sector has binged in the sub-prime area. It was greedy and now consumers are paying. There is a credit crunch and first-time buyers looking for a mortgage are in trouble. They do not need to be pushed in the direction of sub-prime mortgages and we should ensure they are not in the future. I welcome the fact that the sub-prime sector is covered under the consumer protection code, but traders in this area should be subject to a suitability check. Perhaps the Minister of State would comment on whether this is the case. A number of bad news stories in the recent past have pushed this to the top of the agenda. I encourage the Minister of State to do all in his power to address this. Do sub-prime lenders, who in many cases sell on loans to other institutions within six months, really have an interest in checking that the people to whom they are lending have the ability to pay back the loan? I have severe doubts about this. We should not allow this issue to drift.

Some firms offer certain types of investment in overseas properties. Is it sensible to give five-year guarantees on rental income when people on an average wage in the local area could never afford to pay such rent? There are many outside factors

that could cause investments such as these not to work out. The Minister of State should also consider the area of on-line trading. How are we to regulate trading websites? This is a growing concern. We should institute a requirement to retain a customer code of conduct and regulations on money laundering for purely on-line retailers. These are firms that do not have a presence in the real world but trade only on-line. This is critical to ensure confidence is maintained in the market for innovative on-line products.

The sight of people queuing outside Northern Rock recently did not create confidence in our financial institutions. In that case, the fact that the institution does not have a public face caused a panic. Has the Minister of State considered how this can be avoided in the future? Many feel that the sub-prime market was also a contributing factor in the Northern Rock crisis. I certainly believe it was a factor. In the recent past, Bank of Ireland raised interest rates for first-time buyers as a direct result of the problems in the sub-prime market. This is because the interbank market on which Bank of Ireland was trading tightened up which meant that it cost the bank more to borrow money. These costs were pushed onto its customers. I believe that what happened with Northern Rock was similar but on a larger scale. Northern Rock is an almost faceless bank, which resulted in immediate panic. This is interlinked with the matter of on-line retailers. These issues need to be addressed.

As this is the first time we have had a Minister of State at the Department of Finance in the House, I wish to raise a number of general issues. There have been warning signs about the economy for some time, including the Northern Rock crisis, the 30% fall in the Irish Stock Exchange, the credit crunch and falling property prices. There are almost 280,000 people working in the construction industry which comprises 25% of gross domestic product. We all know what is coming in terms of the number of housing units built and the impact this will have on the economy. We know growth rates will drop.

Certain promises were given prior to the general election by the Minister of State's party in Government, including a 1% cut in the top rate of tax as well as changes in the standard tax rate, PRSI, vehicle registration tax and motor tax. I presume most of these will not be achievable despite the promises made. A similar type of strategy was used five years ago. However, I am concerned about the slash-and-burn tactics that are beginning to be used by the Government. Cuts will need to be put in place but I ask the Government to ensure that these are not at the front lines in the areas of health care and education. It is important we avoid this at all costs.

I wish to raise some issues to do with the forthcoming budget so that they may be noted by the Minister of State. National development plan appraisals for building projects should be more open and transparent. There should be more accountability in this area. I ask that efforts are made to achieve this because I do not understand why we do not have more transparency. There

should also be some provision for equipping construction workers with alternative skills because the level of construction work will drop over the next few years.

We all know the decentralisation situation is a mess and the origin of decentralisation scheme was mad. For example, there was no possibility that Fáilte Ireland would ever move to Mallow. We need a sustainable decentralisation programme. However, the costs involved in the current round of decentralisation are so huge — €900 million over recent years — that the Government should in this case accept its mistake, cut its losses and run.

The Minister of State stated recently that €53 million would be required this year for national roads, although €87 million was spent last year. Should this figure not increase rather than decrease? Will there be a budget underspend in 2007? If so, why? Employee pension schemes are a real concern. The number of employers offering defined benefit schemes has dropped from 67% of the total to 37% over a five-year period. We need an explanation for this. It is quite worrying because the risk is that in 30 years' time, people will wake up and realise there is no money in their pensions. We need a strategy to deal with this. I know a Green Paper on pensions was published recently, but perhaps the Minister of State would comment specifically on this issue.

Senator Dan Boyle: The Bill before us today is necessary in a number of respects. It gives us an opportunity to consider the importance of the financial services industry in this country and the need to assist its development. The primary purpose of this Bill is to enforce the EU markets in financial instruments directive. However, the way in which this Bill has been presented in this and in the other House has been far from ideal. It was published in April but its progress was interrupted by the general election, the formation of a Government, the summer recess and the delay in setting up the Oireachtas committees. As a result of this, we have before us something rarely used by this House, a motion for earlier signature, which is required to comply with the 1 November deadline of the directive. This is something we should try to avoid as much as possible despite the fact that the directive has been allowed to take early effect via statutory instrument.

Another area in which the Bill is not ideal is the inclusion of miscellaneous provisions. Especially in the area of finance we should try to avoid miscellaneous provisions Bills which come across as hotchpotch legislation. The difficulty is that there are small areas of legislation that need to be tuned and some of the provisions help us to fulfil our statutory obligations in terms of other European directives, particularly those on reinsurance and the recognition of contractual netting. However, the overall combination of miscellaneous items in this Bill negates the main purpose of it, which is the implementation of MiFID. There is also the question of why the miscellaneous provisions are being implemented by use of the earlier signature motion, which again

is something we should always try to avoid in legislation.

Many of the miscellaneous provisions are to be welcomed. I have already referred to the other EU directives that are being given statutory recognition. Section 11 contains a provision that acts on a recommendation of the Morrogh working group. Members may be aware that this review group was established on foot of the collapse of a firm of stockbrokers in Cork. We are still dealing with the consequences of this occurrence and there are many lessons to be learned from this and from the actions of other investment firms.

Bills such as this run counter to good practice as exemplified by the Department of Finance itself. The Department has put much good work into consolidation legislation, especially in the area of taxes, and particularly in an area as important as financial services we should strive to produce a consolidation Act instead of introducing measures by way of a miscellaneous provisions Bill. I hope that once this legislation reaches the Statute Book, the Department's next step will be to bring the various legislation together.

Section 12 relates to the remaining tragedy that is the Insurance Corporation of Ireland. It is somewhat pathetic that it is a matter with which we still must deal in legislation so many years later. It certainly was a lesson that was badly learnt in public life here.

I welcome the provisions related to the Financial Regulator and the Financial Services Ombudsman. In terms of logic, they give a greater sense of what is being attempted through the directive.

Sections 14 and 15 give important powers to the National Treasury Management Agency, but I want to put on record another concern of mine. The National Treasury Management Agency now not only is responsible for dealing with the national debt, has a supervisory role in the National Pensions Reserve Fund and the State Claims Agency and the review of value for money in public private partnerships, and has a role in overseeing the Post Office Bank fund, in this Bill it is being given another power in terms of foreign exchange and an extension of its role in the Post Office Bank. The latter power is a useful one in that it allows that bank to be a lender of first resort which gives an opportunity in terms of State infrastructure to put in place something for which my party has always argued, that is, the idea of public-public partnerships in the development of infrastructure.

I must admit that I am at a loss as to why section 16 on ministerial pensions is included in this Bill. Perhaps it is a matter that needs to be tidied up but it has no relationship to markets in financial instruments and it does not help the type of legislation we must enact in this area. I have no difficulty with the concept of it being put on the Statute Book. It just should not be done in this legislation. There has been other legislation in which this could have been done more readily.

[Senator Dan Boyle.]

The Bill includes a number of good amendments to credit union legislation, tidying up the regulations on lending and allowing credit unions, subject to the advice of their own regulator, to lend more freely more of their own assets. The second matter has been a constant complaint from the credit union movement and this will allow credit unions to be more effective, especially in terms of social finance which is their real remit.

However, the Credit Union Act is now ten years old and there are many other issues that need to be dealt with in terms of renewing and reforming the credit union movement and its governing legislation. The time is now right, rather than having specific provisions in a miscellaneous provisions Bill, to introduce a new credit union Bill to update that legislation and I would ask that such would be considered.

Much of this Bill reminds me of the song with the line about the hip bone being connected to the thigh bone in that one connection seems to lead to another. Several of the provisions here relate to insurance. Section 19, which was mentioned already, relates to issues which are current in the international economy dealing with sub-prime mortgages in particular. Here I would probably contradict myself. There is a need for legislation to be proactive in this area. It needs to be immediate and it needs to address the ongoing concerns. I accept the need for the Minister to make amendments in this area and to address the real existing concerns. We do not want an occurrence in this country like that in the United States where such mortgage providers and lending institutions have tended to create a chimera of what appears to be an easy way of dealing with financial difficulties for people in quite severe household income difficulties when in fact it makes the matter worse.

Unfortunately, we are seeing advertised in this country a plethora of these organisations giving the impression that there is an instant solution to people's financial problems, that with one loan a person can consolidate all his or her loans and, suddenly, his or her problems are gone. The reality is people end up paying more for the same debt. The Irish Financial Services Regulatory Authority has a particular role to ensure the myths being portrayed through this advertising and people seeking to trade in this area are given as little licence as possible. I fear for the consequences if that does not happen.

The Bill includes two provisions related to Ordnance Survey Ireland. One is a welcome one related to freedom of information and the other is related to transfer of oversight. Ordnance Survey Ireland is a responsibility of the Tánaiste and Minister for Finance and, obviously, legislative provisions must be made to overcome these particular anomalies where they arise. It is fair to say in the context of this legislation that Ordnance Survey Ireland, as an organisation, tends to get overlooked too often and would probably deserve to be looked at in the context of overriding legislation for itself. It is an organisation that

performs a useful role which tends to get ignored, not only by the public but, unfortunately, by most of us involved in policymaking. I hope the reference to it in the legislation might jig a response in terms of how we see Ordnance Survey Ireland as a body in the future.

The last area I want to refer to is the National Pensions Reserve Fund and the provision for tightening up the definition of gross national product. I do not have a difficulty with this in that the definition needs to be given a stronger statutory footing. However, there is a need for an examination of the National Pensions Reserve Fund as it proceeds. We exist at a time where international stock markets, if not in free fall, are certainly in an unhealthy state and the gains that have been made by the National Pensions Reserve Fund in recent years are in danger of withering away unless we look at the policy and the investment priorities. I have constantly called for ethical investment to be part of those policies, as is the case in the Norwegian state pension fund, and we should have such a debate and re-examine the legislation. We must accept that the National Pensions Reserve Fund has been a success and provides us with a bit of security in terms of future pension provision, although it will not go anywhere close to meeting pension needs in future years. The fact that the fund exists and needs to be enhanced and protected should be of concern to this House and should be the subject of renewing legislation.

I welcome the Bill, subject to the provisions I outlined. I hope we will revisit this and put this legislation in a proper context in future legislation.

Senator Feargal Quinn: I welcome the Minister of State, Deputy Noel Ahern, to this House once again. The debate has been quite interesting. As Senator Boyle stated, it is a reminder of the need to consolidate legislation which is something the Minister of State should take into account.

I want to raise a matter which is certainly not part of the central function of this Bill but which is not dealt with at all, namely, the risk that exists to the good name of Ireland as a place to carry out financial services. From the very initiation of the Irish Financial Services Centre 20 years ago, it has been a cardinal principle of Government rhetoric that the financial services regime we were creating would be properly regulated by international standards. Repeatedly, we often stressed that we were creating not a tax haven but a genuine financial centre that would provide real services. From the beginning it was realised that achieving respectability for our financial services centre was essential to its long-term success and goals. However, at the same time, the Government was busy assuring potential participants in the centre that any regulation introduced would not be bureaucratic and would be with a light hand.

There was a certain tension between these two messages it was sending out to two different parts of the financial community. Many sceptics thought the end result would be that the Irish

centre would have regulation that just went through the motions but at the end of the day would not prevent participants in the centre doing anything they wanted. I refer to the questions that were asked 20 years ago.

Twenty years on, it is clear that, whether these sceptics were right, there now exists in financial circles what it would not be an exaggeration to call a crisis of confidence in the quality of regulation at the IFSC. As

1 o'clock

respectable an organ as *The New York Times* characterised Ireland as “the wild west of financial services”. Coming from such a respected source, this was a disastrous judgment and it followed on directly from certain highly questionable activities in the re-insurance area to which we refer today. Such activities would be plainly illegal in the United States.

Since then, our reputation has come under further attack from Australia, with the regulators there clearly very unhappy about certain activities being carried on from Dublin that have had implications for their own marketplace in Australia. Against this background, all we get by way of action from the Minister for Finance is soothing assurances that the Government attaches the highest importance to effective regulation, which is the type of statement that was made 20 years ago. However, in the absence of any firm action being taken, I fear these assurances have about as much credibility as the repeated protestations by the United States Secretary of the Treasury that his Government favours a strong dollar.

Meanwhile, other recent events have made the situation more acute and have put our international reputation even more at risk. One of the issues at which outsiders look most closely when they consider a foreign financial services centre is the probity of the local people who operate in that centre. The smaller the country concerned and the more closely-knit the people involved, the greater is the need to demonstrate that the principles of fair trading will be scrupulously observed.

What people watch out for most closely is any evidence that the playing field between foreigners and locals is not fully level. In particular, they are alert to the possibility of insider trading which becomes a more likely possibility the smaller the marketplace is. Foreign operators will run a long way from any centre where they believe insider trading is prevalent because they know that such a market can be easily stacked against them. No amount of tax advantages can compensate for this risk.

It follows, therefore, that of all the elements of our international reputation, the one we should be most careful to preserve jealously is in regard to insider trading. Our claims, and our behaviour in support of these claims, should be absolutely above question. If this is not the case, the whole edifice of our international reputation is at risk of falling down like a house of cards.

In this context, the two events that took place during the summer are of the highest importance

to the future of Ireland in the world of financial services. I do not have to remind Members about them. One was a decision of the Supreme Court in a civil case which made it clear beyond any doubt that a serious case of insider trading had taken place. That was bad enough but what happened next was even more significant. That judgement should have been followed by universal condemnation of the action by all the important players in the marketplace, allied to swift Government action to ensure the matter would be promptly and thoroughly pursued in the criminal courts. In fact, what happened was the exact reverse. The important players in the marketplace — incredible as it might appear to any outsider — queued up to express their full confidence in the person concerned and argued against any punitive action being taken against him. Meanwhile, the civil authorities who have the power of prosecution in the matter, met the situation with a deafening silence.

I have no wish whatever to conduct a witch hunt against this individual but if the Irish financial establishment is prepared to not only turn a blind eye to misbehaviour that has been identified by the highest court in the land and also to argue publicly that sleeping dogs should be left to lie, then the Irish financial establishment has dealt a massive blow to the international reputation on which its own future well-being crucially depends.

All this sends precisely the wrong message to the world outside and creates an urgent imperative that we should do what we can to undo the damage already caused and which will continue to worsen for as long as effective action is not taken. It may be said this matter is not germane to the Bill, but it is. The purpose of the Bill is to ensure everything we do in regard to financial services upholds rather than damages the success that has taken place.

Senator John Hanafin: I, too, welcome the Minister of State, Deputy Noel Ahern. The Markets in Financial Instruments and Miscellaneous Provisions Bill 2007 gives us an opportunity to speak about the Irish financial sector.

The first matter of note is the current controversy regarding sub-prime lending. Prime lending is a misnomer; the reality is there is prudent or normal lending and anything other than that is imprudent. If one is trying to securitise billions of euro worth of assets such as mortgages that are below prudent lending, one is hardly going to call it that, so it is called sub-prime lending. It is a question of trust.

People trust something that is prime but in Ireland lending has been prudent for many years. This area has been properly regulated and overseen by the Central Bank which ensures lenders do not exceed the amount a borrower can afford. It also insists that stress tests are built in to all borrowing, ensuring that in the event of one person in a family not having a job or if interest rates go up by 1% or 2% the loan can still be repaid. We must ensure the Financial Regulator is on the

[Senator John Hanafin.]

lookout for mis-selling, which in effect is what is involved in sub-prime lending.

I commend the Irish market on the manner in which it handled the Northern Rock problem. It reminded me of somebody whose computer would not work who brought in an engineer, programmer and anybody else who could help but ultimately it was discovered that nobody had switched on the computer. In the UK there were queues outside the banks and the BBC showed these queues getting longer every day. It was obvious people did not have trust in the system. It is necessary for people to have trust and to believe in the system.

To continue the analogy, in Ireland somebody cleverly put back on the switch. People were asked for their withdrawal slips and told to come back at 3 p.m. for their money. Hence the queues were done away with and we did not experience the same problem here. I congratulate the Financial Regulator who worked in harmony with the Central Bank, unlike in the UK where the situation was allowed to develop because the regulator was in competition with the Bank of England and it was almost too late when the latter stepped in to underwrite the full amount owed by Northern Rock.

Senator Quinn made some relevant points about the Irish Financial Services Centre but the Irish financial retail sector is in very good shape. The Bill is important in terms of a single European market in financial services. It is specific in its aim to attain harmonisation and modernisation of the EU-wide legislative framework for investment firms, thus promoting greater cross-border competition and the competitiveness of the EU financial sector overall. It will make it easier and cheaper for customers, including retail customers, to buy and sell shares across a single market.

I accept that as more foreign banks, institutions and lenders move to this country, we will need to have confidence in them. Knowing there is an EU-wide directive to ensure the financial instruments being sold are regulated properly will give us that trust and create that confidence.

I also welcome other elements of the Bill, including the provisions which allow the National Treasury Management Agency to lend. This is a very positive aspect, for example, for the Post Office savings bank, and will allow the agency to offer fixed rate loans to State bodies. Why should the retail banks or foreign banks profit from the guarantees that are inherent in the repayment capacity of State bodies when the NTMA can benefit from this? The same applies to foreign currency transactions, for which I would also welcome this measure.

The reinsurance directive forms part of the European Union's continuing financial services plan, which aims to create the Single Market. The directive establishes a regulatory framework for reinsurance activities in the EU. No formalised framework existed for reinsurance within the EU and member states had been free to decide separately whether to regulate reinsurance. This is the

putting forward by the EU of a common framework for reinsurance across the EU, which is welcome.

We have signed up to the EU and have our input. Free movement of goods and capital is part of the central tenet of the EU, from which we have benefited hugely. It does not make sense to try to draw back when we are all in favour of the benefits the EU can bring. We must apply the directives that ensure a common playing field throughout the Union.

The issue of ministerial pensions is an easy one — in reality, we all live in hope. We may be supporting a measure that will benefit some of us at a later stage. Nonetheless, it is correct that Ministers would be properly dealt with and that their pensions are brought into line. It does not make sense that if a person does not apply before a certain date, he or she would lose out. It is entirely appropriate that the six month limit regarding severance should be brought into line.

With regard to the Credit Union Act, I am very much in favour of the extension of the limits. It is an ideal opportunity to broaden the capacity of the credit unions, which they are well able to shoulder. I support the development of credit unions to ensure they continue to provide for the social and financial needs of the communities they serve. The increased lending limits for credit unions approved by the registrar will allow their lending to grow and develop with appropriate regulatory safeguards. This amendment is to be recommended and approved.

The Bill contains many minor provisions, including the amendment to the Freedom of Information Act with regard to the performance of duties of members of the board or staff of Ordnance Survey Ireland. I am glad we have taken the opportunity to incorporate this amendment in the Bill, which I commend to the House.

Minister of State at the Department of Finance (Deputy Noel Ahern): I thank Senators for their comments and thank the Whips for agreeing to give the Bill priority. It is hoped to have it passed by the end of the month. While I accept discussion has been curtailed, a number of interesting points have been raised, some of which I will ignore as they were political.

Much of the Bill concerns the markets in financial instruments directive but the other items referred to, in particular section 19, do not come from Europe but are relevant to the ordinary person. Section 19 aims to provide for a system of regulation of non-deposit taking lenders. This in turn will bring their lending activities within the scope of the Financial Regulator's consumer protection code. This is of great interest to ordinary people. I am sure Senators have met constituents recently who have dealt with such financial institutions. While the main thrust of the Bill concerns MiFID and is not relevant to the ordinary punter, section 19 is certainly relevant to what is happening at street level.

I take Senator Twomey's point with regard to hospital consultants and I bow to his superior knowledge on such matters. Various Ministers

are trying to bring competition to many of the professional sectors, where cartels are not supposed to be allowed. While I am sure the relevant Minister has already heard this point, it is interesting to hear it made from the Senator's position of knowledge.

I do not wish to address the issue of Shannon on this occasion. Senator Kelly raised several interesting points and in particular referred to the other member states. The most recent information I have is somewhat out of date as it is five weeks old. Ireland moved quickly in this regard and was the third state to notify the Commission that it had transposed the directive. However, as of five weeks ago, on 12 September, ten member states had yet to notify the Commission that they had transposed the directive. A number of these are expected to meet the deadline but it is likely a few will not.

As for states that fail to meet the 1 November deadline, it is likely they will be allowed to continue to operate on the basis of their existing authorisation. However, they could not be allowed to provide the new MiFID activities, such as the provision of investment advice, until such time as the directive was fully transposed in the relevant states. The idea was that every state would be involved and that there would not be a situation such as that which arose in the early 1990s. The Senator also referred to the sub-prime market, which section 19 is intended to curb.

Senator Boyle made the point that this is a miscellaneous Bill. That is a reality of life. When a Department produces a relatively small Bill, sections in the Department and Ministers will try to add miscellaneous parts which are often of value. While I understand the point that this might detract from a Bill, the introduction of legislation is often used as an opportunity. Small items may knock around in Departments for a long time and, as they are not regarded as important enough to be dealt with in a separate Bill, it is necessary to tag them onto another Bill. That is what happened in this case.

The Markets in Financial Instruments and Miscellaneous Provisions Bill began as a relatively small one, with only eight sections relating to MiFID, but along the way it gathered a further 17 sections. While many of these originated in the Department, section 19 grew out of the concerns expressed in contributions in the Houses. It had been intended to act in this area later in the year but Members in the other House wanted the matter addressed and wanted amendments introduced. While we understood the idea behind this, it is sometimes difficult to find the correct legal wording, which is why a further amendment will be brought forward next week — it is still being checked by the Attorney General's office.

With regard to the recent debate on the sub-prime issue, there have been many recent developments in global financial markets and it is important to address the quality of Ireland's financial system and its regulatory regime — I understand Senator Quinn's point in this regard. The most important point that needs to be made in a national context is that our banking system

is well capitalised, profitable, liquid and soundly regulated. I am not an authority in this area and I do not know much about the detail of complaints from Australia. Senator Quinn knows more about the matter than I do. I am not certain if this is a case of sour grapes or whether it fully stands up.

The system here is soundly regulated, as has been confirmed by the conclusions of a recent International Monetary Fund report, in which it was noted that the Central Bank is satisfied that major lenders have a very solid financial base and stress testing by the regulator has shown that banks are well placed to weather any possible storms. As to the effectiveness of the regulatory system, the IMF report explicitly acknowledged the strength of the financial regulatory and supervisory system in recent times and indicated that the system in place in Ireland reflects international best practice standards. It is vital that we do not allow an impression to be given that insider trading or similar practices take place here because such a perception would have serious consequences for business. I do not believe this impression is as widely held internationally as Senator Quinn suggests. The IMF report has given Ireland a clean bill of health in that regard but if certain operators seek to circumvent our regulations, we will have to amend the rules, close loopholes and maintain vigilance. Our reputation is all-important.

Senators took the opportunity to raise some extraneous matters, including the forthcoming budget. The Minister for Finance has indicated that while the economic climate may not be as benign next year as in recent years, cuts are not planned. Tax revenues have increased by 8% and 9% in recent years and will probably increase by approximately 4% next year. While this reduction in revenue requires new approaches, the overall amount available for the provision of services and investment will not be reduced next year. On the contrary, it will continue to increase, albeit at a lower level than in previous years.

Irrespective of whether it involves a Department or a household budget, a lower percentage growth in spending power in a given year does not spell disaster but provides an opportunity to take a more frugal attitude to spending money. No cutbacks are planned and tax revenues and Government expenditure will increase next year, albeit at a lower rate than in previous years.

The Office of Public Works is heavily involved in the decentralisation programme. As a representative from Dublin, Senator Kelly may not be a strong advocate of the programme. Once completed, all previous waves of decentralisation were universally regarded as a complete success. Thousands of civil servants decentralised to various locations under these earlier programmes. The current programme may have been ambitious in its timing but no one would move if the process had been scheduled to take place over a ten or 20 year period.

Senator Jerry Buttimer: The Minister is engaging in revisionism.

Deputy Noel Ahern: The decentralisation programme will be very successful, certainly on the Civil Service side.

Senator Jerry Buttimer: Most of the programme will never be implemented.

Deputy Noel Ahern: Most of it is under way. I am due to officially open offices in Kilrush and Listowel. I will not cut sods as the offices have been built and are occupied. A problem has arisen in the semi-State sector, in which I previously worked. The flexibility that allows civil servants to move from one Department to another is not available for employees of semi-State bodies. The issues surrounding decentralisation are more difficult than they were 20 or 30 years ago because most homes now have two earners. Nevertheless, many people want to move. An individual who worked in my office in a previous Department moved out of Dublin as part of an advanced party — I will not be specific about the location — but has had to return to the capital to be promoted. The decentralisation process will settle down and in a few years we will agree that the current wave of decentralisation was hugely successful, irrespective of whether it is implemented in full.

I apologise for wandering from the subject. I thank Senators for agreeing to process the Bill quickly. The wording for the amendments to section 19 will be available on Wednesday.

Question put and agreed to.

Committee Stage ordered for Wednesday, 31 October 2007.

Appointment of Members to Committees: Motion.

An Leas-Chathaoirleach: I move:

That the following members be appointed to the Joint Committee on Agriculture, Fisheries and Food:

Senators Paul Bradford, John Carthy, Michael McCarthy and Francis O'Brien;

that the following members be appointed to the Joint Committee on Arts, Sport, Tourism, Community, Rural and Gaeltacht Affairs:

Senators Pearse Doherty, Larry Butler, Jerry Buttimer, Alan Kelly, Tony Kett and Labhras Ó Murchú;

that the following members be appointed to the Joint Committee on Communications, Energy and Natural Resources:

Senators Maria Corrigan, Joe O'Reilly, Joe O'Toole and Jim Walsh;

that the following members be appointed to the Joint Committee on Education and Science:

Senators Fidelma Healy Eames, Cecilia Keaveney, Brian Ó Domhnaill and Brendan Ryan;

that the following members be appointed to the Joint Committee on Enterprise, Trade and Employment:

Senators Ivor Callely, Donie Cassidy, John Paul Phelan and Brendan Ryan;

that the following members be appointed to the Joint Committee on Environment, Heritage and Local Government:

Senators Ciaran Cannon, Paudie Coffey, Camillus Glynn and Dominic Hannigan;

that the following members be appointed to the Joint Committee on European Affairs:

Senators Maurice Cummins, Déirdre de Búrca, John Hanafin, Terry Leyden, Phil Prendergast and Feargal Quinn;

that the following members be appointed to the Joint Committee on Finance and the Public Service:

Senators John Hanafin, Marc MacSharry, Feargal Quinn and Liam Twomey;

that the following members be appointed to the Joint Committee on Foreign Affairs:

Senators Ivor Callely, Maurice Cummins, Mark Daly, Dominic Hannigan, David Norris and Ann Ormonde;

that the following members be appointed to the Joint Committee on Health and Children:

Senators Geraldine Feeney, Frances Fitzgerald, Phil Prendergast and Mary White;

that the following members be appointed to the Joint Committee on Justice, Equality, Defence and Women's Rights:

Senators Ivana Bacik, Lisa McDonald, Denis O'Donovan and Eugene Regan;

that the following members be appointed to the Joint Committee on Social and Family Affairs:

Senators Martin Brady, Larry Butler, Nicky McFadden and Rónán Mullen;

that the following members be appointed to the Joint Committee on Transport:

Senators Martin Brady, Paschal Donohoe, John Ellis and Shane Ross;

that the following members be appointed to the Joint Committee on the Constitution:

Senators Dan Boyle, Denis O'Donovan, Eugene Regan and Alex White;

that the following members be appointed to the Joint Committee on European Scrutiny:

Senators Paddy Burke, Alan Kelly, Terry Leyden and Kieran Phelan;

that the following members be appointed to the Joint Committee on the Implementation of the Good Friday Agreement:

Senators Ivana Bacik, Donie Cassidy, Cecilia Keaveney and Joe O'Reilly;

that the following members be appointed to the Committee on Members Interests of Seanad Éireann:

Senators Dan Boyle, Frances Fitzgerald, Camillus Glynn, Denis O'Donovan, Joe O'Toole and Alex White.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator John Hanafin: At 11.30 p.m. on Wednesday, 31 October 2007.

Adjournment Matters.

Work Permits.

Senator Shane Ross: I wish to raise the issue of the refusal of an employment permit to a person who, under Standing Orders, should not be named.

An Cathaoirleach: Correct.

Senator Shane Ross: That is fine. A legitimate language school, the Dublin School of English, applied for a permit for one of its temporary employees to become a liaison officer. Management went through the necessary procedures, but was frustrated at all stages by bureaucracy in the Department of Justice, Equality and Law Reform. It began the procedures, which everyone knows are contorted, by applying for a liaison interpreter for its approximately 300 Mongolian students and their families. It went to FÁS to draft an advertisement, but FÁS advised the school against the latter's will to advertise for an interpreter, not just a liaison officer. Consequently, life was made more difficult and the application was put into a narrow category when it came to considering the employment permit.

It was required that the category of job in question be advertised and sought for among EU nationals first, but it is ridiculous that a Mongolian interpreter should be an EU national. Management complied with the requirement and, having advertised in *The Irish Times* and through FÁS, received three replies, of which two were from EU nationals considered unsuitable. The position was not just that of an interpreter, but also of a liaison for Mongolian families to handle social problems and so forth, as was made clear to FÁS. The school wanted someone from Mongolia, it did not want any of the three applicants, which was reasonable for language, cultural and other reasons.

The school decided to make an application in the name of the person in question, but the Department refused on three grounds. First, the position is not highly skilled, but this assertion is tenuous given that the role has a salary of approximately €30,000 per year and at least two languages are required. Second, the applicant is

not an EU citizen. The attempt to recruit an EU citizen was unsuccessful because no one suitable applied. The third reason was technical. While I am not conversant with the reason, the Minister of State may be. The person concerned had applied and entered the country under a student stamp rather than a category D visa. This may or may not be true.

Having countered the two initial reasons by stating it would be necessary to employ a Mongolian, no suitable EU citizens had applied and it was a highly skilled position, why can the third reason not be waived? It is a technical requirement that has been waived by successive Ministers at their discretion where it was thought suitable. I understand the reasons for the rules, but the Dublin School of English, a showpiece of a legitimate, thriving language organisation, has successfully made every effort to meet the first two of the Department's requirements. Why can the provision relating to the student stamp, a small red herring, not be waived as it has been previously?

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Michael Ahern): I thank the Senator for raising this matter on the Adjournment. On behalf of my colleague, the Minister for Enterprise, Trade and Employment, Deputy Martin, who has responsibility for work permits, I will provide a reply.

A significant number of non-EEA students pursue courses of study in third level institutions. Given our skill shortages in certain strategically important areas, the economy would benefit were some of these students to stay to work after graduation. These third level students may apply to the Irish Naturalisation and Immigration Service to remain in Ireland for six months after receiving their examination results, allowing them time to seek employment and, if successful, to apply for a green card or work permit as appropriate. If students have been offered a job prior to completing their degrees, they may also apply for a permit.

The employment permits section of my Department informs me that an application in respect of the person in question was received on 26 June 2007. It was refused under section 12 of the Employment Permits Act 2006 on the basis that it appeared from the application that the person entered the country on a stamp two student visa and is, therefore, not eligible to enter the workforce on a full-time basis. The employment permits section of my Department would not be in a position to consider a work permit application unless the Garda National Immigration Bureau changed the foreign national's stamp. However, students on a stamp two student visa are entitled to work up to 20 hours per week during term time and 40 hours per week outside of term.

The employer sought a review of the decision to refuse a permit in accordance with section 13 of the Act. The decision was reviewed by an appeals officer within the employment permit section who informed the employer that it was

[Deputy Michael Ahern.]

not possible to alter the decision based on the facts of the case. Under the Act, there is no provision for a further review of this decision of the appeals officer.

I draw the Senator's attention to the new economic migration and employment permits schemes that came into effect on 1 February 2007. In-depth consultations encompassing a wide range of stakeholders took place prior to the introduction of these arrangements. A particular aspect from the viewpoint of the Department of Justice, Equality and Law Reform was that persons present in the State on a particular status should, by and large, remain on that status. For example, if persons are in the State on a visit visa, they should not be allowed to remain in the State for a different purpose, such as entering the workforce. Persons in the State for the purposes of study should not *per se* be allowed to enter the workforce on a full-time basis.

The Senator will know there are particular arrangements for students who wish to work. These arrangements strike the right balance between enabling foreign students to enter the country for the purpose of study and allowing them to finance themselves if necessary in order to live here during their study period. The fundamental principle is that students are here to study and by definition not here to work. Where students wish to enter the workforce on a full-time basis, they are treated the same as any other non-EEA national and, accordingly, it is necessary for applicants to be outside the State for my Department to consider employment permit applications. If we entertain the possibility of allowing students to enter full-time employment, we run the risk of allowing persons into the workforce by the back door and thus weakening the Government's accession responsibility of community preference, which entails preferential treatment for entry by EEA nationals to the labour market.

I have noted the Senator's comments on the other reasons the person was refused and will have further inquiries made in the Department and revert to the Senator when I receive a reply.

Senator Shane Ross: I thank the Minister for his reply. I understand there are several precedents for this being waived and ask the Minister why it has not been waived in this case.

Deputy Michael Ahern: As this matter is not within my remit I do not have the details of which cases have been waived but I will speak to Deputy Martin, who is the responsible Minister.

Senator Shane Ross: While I accept that, it reflects the poor service this House gets from Ministers. A Minister capable in his own remit is sent in and has to plead before us that the matter is not in his remit. The person taking the adjournment does not know the brief. It is not his fault, but he comes in to handle a brief about which he knows nothing. That is not a respectful way to behave towards this House.

An Cathaoirleach: The Minister is competent—

Deputy Michael Ahern: I know a lot about work permits but do not know every detail of every case.

An Cathaoirleach: That is correct. The Deputy is a competent Minister and has given a detailed reply. It is an unfair comment to make about any Minister.

Education Schemes.

Senator Dominic Hannigan: It is nice to see Deputy Haughey back in the House. I am pleased to address this issue, which relates to the McIver report, established in 2003 to review the issue of post leaving certificate courses, PLCs. PLCs were introduced in 1985 and have been a tremendous success with hundreds of thousands of students across the country attending them and becoming better educated. In counties Louth and Meath they have been helpful in giving people additional qualifications in child care, community care and telecommunications and it is great to see them. Last week I attended a graduation ceremony at the Dunboyne Castle Hotel where 150 people graduated and was honoured to present some of the awards. I spoke to a lady who left school at the age of 14, returned to college quite a few years later, graduated from the PLC course and is now studying third level at Maynooth University. This is a great example of what can be achieved. I also spoke to her mother who said she could not keep her daughter at school when she was a teenager and was as proud as Punch to see her presented with her graduation certificate. It goes back to yesterday's debate on the benefits of life-long learning. I appreciate that much work and funding has gone into this and it brings successes such as the one I have outlined.

We carried out a review by McIver four years ago and that report sought to strengthen the PLC structure. It came up with some specific recommendations, for example contractual teaching hours should be reduced and schools with over 150 students should try to operate separate organisational and management structures. It examined floor area and suggested the issue of space provided for students should be addressed. Since then, many colleges have implemented those recommendations, often on an *ad hoc* basis and without funding or approval from the Department of Education and Science. I ask the Minister to tell us what are his intentions regarding formalising the implementation of the recommendations in the McIver report.

Minister of State at the Department of Education and Science (Deputy Seán Haughey): I thank Senator Hannigan for giving me the opportunity to clarify the position on proposed developments in the PLC sector. The current negotiations on the development of the PLC sector are being looked at in the context of Towards

2016, Ten-Year Framework Social Partnership Agreement 2006-2015, which states as follows:

Having regard to developments in the PLC sector, including the McIver report, concrete prioritised proposals in relation to PLC provision and focused in particular on the larger PLC providers will be prepared and will be the subject of further negotiations between management and unions. The level of resources for the PLC sector will be determined in the light of resources generally and the implications for other areas of education. The union side will engage positively in relation to commitments on future working arrangements and developments in the sector. Student numbers will be subject to audit on an ongoing basis. The scope for rationalisation of provision will also be examined having due regard to ensuring appropriate provision on a geographic basis and the necessary critical mass for delivery of a quality education service.

Government commitment to the PLC sector, by reference to the resources applied in teachers' pay, non-pay running costs, student support and certification costs, is significant. We have increased the number of PLC places by 60% since 1996-1997. The number of approved places in the sector now stands at 30,188. We extended the provision of maintenance grants to PLC students with effect from September 1998. There were nearly 8,000 PLC grant holders in 2005 and they received €23 million in direct support. Tuition fees for PLC courses are also waived. PLC students are included in the calculation of non-pay budgets issued to schools in respect of running costs. A supplementary non-pay grant towards running costs specifically for PLC schools is also payable. This amounted to €5.5 million in 2005.

Other developments funded by my Department of direct benefit to the PLC sector include the provision of national certification by the Further Education and Training Awards Council, FETAC. Students in PLC acquire mainly level 5 national framework of qualifications awards and some attain level 6, which are accredited by FETAC. Formal progression links to higher education in the institutes of technology is available to students through the higher education links scheme. Senator Hannigan mentioned a particular case of this.

There are 195 PLC providers, mostly in the VEC sector. Providers range in size from 1,875 students to five students. There are 20 providers with more than 500 students and a further 26 providers with 160 to 500 students. The remaining 146 providers have less than 160 students. Some 50% of students are under 21 and most come directly from mainstream second level schools. The other 50% are adults returning for second chance education to obtain accreditation in specific skills areas.

Graduates from PLCs enter employment directly or continue their studies by progressing into the higher education sector.

Officials in my Department are engaged in consultation with the relevant partners to determine how best the PLC sector can be developed. The level of resources for the PLC sector will be determined in the light of resources generally and the implications for other areas of education. Developments since the publication of the McIver report will have an impact on the negotiations, in particular those relating to the implementation of FETAC policies. The scope for rationalisation of provision will be also examined, having due regard to ensuring appropriate provision on a geographic basis and the necessary critical mass for delivery of a quality education service. I wish to invest in educational opportunity for learners in further education by providing the necessary system supports that will allow the sector as a whole to fulfil its important potential.

Senator Dominic Hannigan: I thank the Minister for his comprehensive report. The Minister said the number of spaces has increased by 60% since 1996-97. There is a cap on the number of places in some counties, for example, the cap in County Meath is one student per 1,000 people. The national average is approximately four students per 1,000. Will the Minister review the allocation as it affects County Meath, with a view to it reflecting the national average?

Deputy Seán Haughey: I undertake to do that.

Schools Building Projects.

Senator Jerry Buttimer: I thank the Cathaoir-leach for allowing me to raise this important issue. There is an urgent need for a new primary school in the Rochestown area of Cork city. This area has experienced a huge increase in population, with the development of thousands of houses. However, there is no provision for adequate facilities such as a primary school in the area.

The majority of people living in the area comprise young families with children of school-going age. The parents are obliged to drive their children to other schools, adding to traffic congestion and increasing the pupil-teacher ratio in those schools. I am concerned that the quality of education the children receive is not as good as it should be due to the density of numbers in the classes. There is an urgent need for a new school to be built in the area.

The schools planning section of the Department has confirmed that a new primary school is required in Rochestown. The property management section of the Department has identified a suitable site and it has been reserved by Cork County Council for the provision of a new educational facility. However, the fundamental difficulty is the timescale for the provision of the school, which has not yet been determined. I hope the Minister will be able to outline a timetable for the delivery of the school. He might also clarify the position regarding the land that has been set aside for the school in the Foxwood estate area. There are contradictory rumours

[Senator Jerry Buttimer.]

about the land which should be clarified. It is suggested that the land might be returned to the developer.

What is the timescale for the building of the new school? There is an urgent need for it in Rochestown.

Deputy Seán Haughey: I thank the Senator for raising this matter as it affords me the opportunity to outline to the House the Government's strategy for capital investment in education projects and to outline the position regarding a new primary school in Rochestown. Modernising facilities in our 3,200 primary and 750 post-primary schools is not an easy task given the legacy of decades of under-investment in this area as well as the need to respond to emerging needs in areas of rapid population growth.

Nonetheless, since taking office, this Government has shown a focused determination to improve the condition of our school buildings and to ensure the appropriate facilities are in place to enable the implementation of a broad and balanced curriculum. As evidence of this commitment, more than €540 million will be spent in the next year on school building and modernisation projects for primary and post-primary schools throughout the country. Since 1997, a total of €3 billion has been invested in school buildings and this has delivered more than 7,800 school building projects. This further investment of more than €540 million will build on these achievements and will focus in particular on the provision of school accommodation in areas where the population is growing at a rapid rate. As further evidence of our commitment, national development plan funding of €4.5 billion will be invested in schools in the coming years.

The Senator will agree this record level of investment is a positive testament to the high priority the Government attaches to ensuring school accommodation is of the highest standard possible. My Department has a number of proactive strategies to ensure the accommodation requirements for schools in developing areas such as Rochestown are addressed in a manner that

will meet the long-term education needs of the population.

The process of assessing the need for new or additional accommodation facilities at primary level in any given area entails consideration of all relevant factors, including enrolment and demographic trends, housing developments and existing school capacity to meet current or future demand. As part of the process, my Department is included among the prescribed authorities to whom local authorities are statutorily obliged to send draft development plans or variations to development plans. As a matter of course, meetings are arranged with local authorities to establish the location, scale and pace of housing developments and their implications for both current and future school provision.

Turning to the specific issue of a new primary school in Rochestown, the Office of Public Works, which acts on behalf of my Department for site acquisitions, has secured a site for the provision of a new school. In addition, the new schools advisory committee has received applications for the patronage of the proposed new primary school. The building programme required to deliver the new school building will be considered in the context of the school building and modernisation programme.

I assure the Senator that the Department is actively progressing the application for the provision of a new primary school in Rochestown. I thank him again for raising the matter and allowing me to outline the position regarding the provision of a new primary school in Rochestown.

Senator Jerry Buttimer: I am glad the Minister has clarified the position regarding the site acquisition. Is there a timetable for when work will commence on the school or is there provision for a temporary school in the meantime?

Deputy Seán Haughey: It will be considered in the context of the school building and modernisation programme. I will try to get the Senator more specific information on the matter.

The Seanad adjourned at 2 p.m. until 11.30 a.m. on Wednesday, 31 October 2007.