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SEANAD ÉIREANN

Dé Céadaoin, 3 Nollaig 2008.
Wednesday, 3 December 2008.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

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

The need for the Minister for Transport to consider providing assistance to bus operators following the removal of the fuel rebate.

I have also received notice from Senator Paschal Donohoe of the following matter:

The need for the Minister for Arts, Sport and Tourism to make a statement on any planned consolidation of national art galleries and the implications of such plans on the individual galleries.

I have also received notice from Senator Cecilia Keaveney of the following matter:

The need for the Minister for Health and Children to advance urgently the issue of consumables labelling and, where necessary, the legislation to ban dangerous substances being consumed, and where there is evidence of breaches of safety, that consumers are made aware immediately of the companies involved.

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

The need for the Minister for Transport to take the appropriate steps to recognise the remembrance day for victims of road traffic accidents.

I have also received notice from Senator Nicky McFadden of the following matter:

The need for the Minister for Enterprise, Trade and Employment to outline her plans to re-train and upskill the people of Longford and Westmeath so they can meet the competitive challenges of this economic downturn.

I have also received notice from Senator Fidelma Healy Eames of the following matter:

The need for the Minister for the Environment, Heritage and Local Government to outline the way in which he will support financially Galway city-based families that have suffered as a result of the lead water services network in the city.

[An Cathaoirleach.]

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Brian Ó Domhnaill, Paschal Donohoe and Cecilia Keaveney and they will be taken at the conclusion of business. The other Senators 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, Housing (Miscellaneous Provisions) Bill 2008 — Committee Stage (resumed), to be taken on the conclusion of the Order of Business; and No. 31, motion 31, re shoppers' task force, to be taken at 5 p.m. and to conclude not later than 7 p.m. The business of the House will be interrupted between 1.30 and 2.30 p.m.

Senator Frances Fitzgerald: Last night the Minister approved the establishment of a new board, with a very long title. It is called the Special Group on Public Service Numbers and Expenditure Programmes. The Government has announced yet another board when we are talking about cutting back on boards. The board comprises a very eminent group of people and is being referred to as "an bord snip nua". Why do we need a group such as this when we have a Cabinet? What is the job of Cabinet? I am amazed by the job this board, chaired by Mr. Colm McCarthy, has been given. According to the Minister for Finance, Deputy Brian Lenihan, it has been asked to advise the Department so that savings can be made as soon as possible.

Senator Paul Coughlan: It is a joke.

Senator Frances Fitzgerald: What is the role of the Department of Finance and the Cabinet? Why do we not have a group of Ministers making these decisions which will impact so strongly on citizens? We are talking about cutbacks to deal with the Exchequer returns, which we yesterday saw are €3 billion behind target. Why do we not have a group of Ministers coming to this House to tell us the plan? Where is the macro plan to deal with the economy and the shortfall?

Senator Maurice Cummins: There is none.

Senator Frances Fitzgerald: We had a budget in this House just a few weeks ago. Is the budget not the place to answer the question this group has been asked to answer, namely, where savings can be made as soon as possible. On Friday a public sector reform document was lodged with great fanfare. It took several months, much consultation and 12 members. I am amazed we are outsourcing to a group, however eminent, this task which is a Cabinet job. It is the most serious indictment of Cabinet. We need another group of independent people to tell the Government how to manage the economy. However eminent the group, what is the Cabinet and Government's job? Where is the leadership? Announcing yet another board when there is a cutback on agencies is extraordinary. Perhaps the Leader can put that to the Minister, who will address this House on Friday. We look forward to hearing about his macro plan.

Today's editorial in *The Irish Times* states former donors to the Society of St. Vincent de Paul have now become recipients of financial aid from the charitable organisation. This is the public face of these cutbacks. Huge numbers of people are going to the Society of St. Vincent de Paul, which has not seen such numbers for a generation. We need decisions and a plan from the Government and I hope we will hear them on Friday. I was not very reassured by the interview the Minister for Finance, Deputy Brian Lenihan, gave on RTE this morning. It seems he has played his hand and there is no new plan to deal with the worsening economic situation.

Senator Joe O'Toole: I would be very pleased if the Government bore in mind Senator Fitzgerald's points. I would be much relieved if Mr. Donal McNally, Mr. Maurice O'Connell and Mr. Colm McCarthy were not allowed to get their hands on the public service. After years of arguing with them, I have no doubt they will do the Government's job and I wish they would not. I will oppose the Order of Business today because the Leader has, once again, backed off on having a debate on education and has not given a commitment on when he will do it. I am not sure of what the Government is afraid. It is under serious pressure but should face the music, grasp the nettle and have that debate.

Senator Fidelma Healy Eames: Hear, hear.

Senator Joe O'Toole: It is worthwhile recognising that on many occasions in the past four years the Kerry Senators on this side of the House, Senator Coghlan and I, raised and pushed the issue of Valentia and Malin coastguards and the rescue service. I had support from the Leader on it.

Senator Cecilia Keaveney: Members from Donegal were also involved.

Senator Joe O'Toole: The Leader brought this to the attention of the Minister on our behalf and it is much appreciated. It is worth recognising the Government has done well in reversing this appalling decision. It means much to the people in that area and it would be churlish of us not to recognise the good work in recent times from the new Kerry Senator on the other side of the House.

Senator Cecilia Keaveney: What about the Donegal Senator and Deputy who fought it for a long time?

Senator Joe O'Toole: Senator Daly took a great interest in it and should be credited with some involvement and interest in this. That is something done.

Senator David Norris: There is much more to do.

Senator Joe O'Toole: After that little bit of fun, táim ag caint anseo leis na blianta faoin sórt polasaithe atá ag an Stáit i leith na Gaeilge. Appalling decisions have been taken in recent times. Go dtí seo, bhí deontas tuairim agus €1.5 milliún in aghaidh na bliana do na coláistí samhraidh atá bunaithe sna Gaeltachtaí. Tá na coláistí sin thar a bheith tábhachtach. The Government says go bhfuil sé ag méidiú an airgid atá á chur aige chun tacaíochta a thabhairt don Ghaeilinn. While it says it supports that, ar an dtaobh eile don scéal, tá se ag baint €1.5 milliún ó geilleagar na Gaeltachtaí, ag cur brú ar fostaíochta sna Gaeltachtaí, ag cur brú ar tuismitheoirí atá ag cur leanaí go dtí na Gaeltachtaí ionas go mbeidh orthu costais breise a chur ar fáil. Is fuath liom an cinneadh seo atá déanta ag an Rialtas. Ní creidim é, ach táim á rá le fiche bliain — aon uair a mbíonn seans ag an Rialtas rud éigin a chur go dtí an Galltacht seachas an Ghaeltacht, sin a dheineann sé. This was the time to retain the funding, nuair a bhí rudaí ar siúl sna Gaeltachtaí. It had the added advantage not just of children going to the Gaeltacht and experiencing the value of that, it also created an input into the economy of the Gaeltacht areas where there is no employment. It also allowed the Irish language to gain from that. What does the Government do? Baineann sé €1.5 milliún uathu with extraordinary negative impact on that area of the country. I know Governments do not care much about the far western coast of Ireland. There are not many votes there.

Senator Fidelma Healy Eames: Or the Irish language.

Senator Joe O'Toole: Who cares about them? Bury them one more time. In the middle of this, the Minister announces go bhfuil méadú in the general Vote don Ghaeilge. Here is the question to the Leader. Ag an am chéanna, tá an Rialtas ag tabhairt €3 mhilliún breise do Chomhaltas Ceoltóirí Éireann. Cén fáth go bhfuil €3 mhilliún ag dul dos na ceoltóirí agus go bhfuil sé á bhaint ón teanga?

Senator Cecilia Keaveney: Would Senator O'Toole take it from them?

Senator Joe O'Toole: I have no problem about money being given to Comhaltas Ceoltóirí Éireann. It does a fabulous job.

Senator Cecilia Keaveney: By putting the two in the same sentence the Senator is giving it a problem.

Senator Joe O'Toole: What is the connection between Comhaltas Ceoltóirí Éireann and the Irish language? They are two separate issues. It is another blow to the Irish language.

Senator Fidelma Healy Eames: Absolutely.

Senator David Norris: Maith an fear.

Senator Joe O'Toole: Is seans eile é atá tógtha ag an Rialtas chun an Ghaelainn a chur faoi chois. N'fheadar cad atá ar siúl ag an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta go bhfuil sé sásta an sórt ruda seo a chur chun cinn. It is disgraceful. Ba mhaith liom go dtiocfadh an tAire insteach chun sin a mhíniú dúinn agus seo a phlé.

Senator Cecilia Keaveney: The Senator thinks Comhaltas Ceoltóirí Éireann should not have got the €3 million. It is wrong to link them.

Senator David Norris: Comhghairdeas, tá an ceart agat, cinnte.

Senator Dominic Hannigan: This morning in Oslo Ireland signed the convention banning cluster bombs. I welcome that and congratulate the Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, the Minister of State at the Department of Foreign Affairs, Deputy Peter Power and Deputies and Senators from all sides of the House on their dedication and commitment to ensuring this has, finally, taken place.

Senator David Norris: Well said.

Senator Dominic Hannigan: I join with other Senators in their concern over the deteriorating Irish economy. I heard the Minister, Deputy Brian Lenihan, on the radio this morning and, like other Senators, I was not greatly impressed. He has ruled out further taxes and seems to have ruled out a stimulus package. He said he will have to examine spending cuts. The Leader has kindly arranged for the Minister to be in this House on Friday. I ask that when he comes here he makes a clear statement that those least well able to bear the brunt of any cuts are protected when these additional cuts are put forward.

In the lead up to Christmas many shoppers will purchase gift vouchers for their friends and families. Some people may not be aware that these have a finite life in many cases. It is up to the individual store as to whether they will ask for five years, one year or less. Countries such as the United States have enacted legislation to put a minimum timescale on the validity of these gift vouchers. I ask the Leader to make some noise on this issue to ensure customers are aware that when they go into a shop they should ask for how long these gift vouchers will be

valid and if they do not get the answer they like, they can go to another shop, preferably in the South.

I raise an issue of which Members may not be aware but which is of great importance to the people of Louth and Meath, that is, planning and zoning for thousands of additional houses in the south Drogheda area. Questions are being asked locally and nationally about the process being followed in this regard. This morning on Michael Reade's show on LMFm, the local radio station, the Minister of State, Deputy Roche, stated that a very unorthodox planning process is taking place that has ended up in a major controversy that requires someone's examination. Is the former Minister for the Environment, Heritage and Local Government at odds with the current Minister for the Environment, Heritage and Local Government on this issue? Is an examination needed and is one forthcoming? Can the Leader arrange for the current Minister to make a statement on this matter?

Senator Mark Daly: I thank the people of Valentia in Kerry for their work and assistance to me in helping to retain the coastguard services in Valentia and Malin Head. I thank the Leader who afforded so much time to the issue. I thank also my Seanad colleagues on the Government side of the House, as well as Senator Paul Coughlan and that wily old fox, Senator Joe O'Toole, who has been raising this issue for many years. It was a victory for common sense and good governance. The retention of the coastguard service in both Malin and Valentia will mean ultimately that lives will be saved at sea because experience such as that is hard fought and dearly won. I thank the Members of the House for their support on this issue.

Senator Paul Coughlan: Along with Senator Joe O'Toole and Senator Mark Daly, I, too, welcome the Government's U-turn in regard to Valentia and Malin Head because——

Senator Donie Cassidy: It is not political.

Senator Mark Daly: It is not a U-turn.

Senator Paul Coughlan: The Leader knows I never mean to be political. It was the only realistic and sensible decision that could have been reached because we all had recognised that Valentia and Malin Head had functioned successfully and both had such a wonderful history of service to their areas, the seafarers and everyone else. They had the people with the expertise. I could never understand, and I expressed this view to the Minister, Deputy Dempsey, on a few occasions, the reason the Government ever contemplated closing both those stations for all the reasons Senator O'Toole and Senator Daly have outlined. It never made sense to centralise those services. I welcome the technology upgrade the Minister has announced for both those stations.

I recognise the efforts in the previous Parliament and this Parliament of Senator O'Toole, Senator Keaveney, the Donegal Deputies, the Kerry Deputies, the Ceann Comhairle, Deputy Healy-Rae, my own colleague, Deputy Tom Sheahan——

An Cathaoirleach: You are not on a canvassing campaign, are you?

Senator Paul Coughlan: No, but a Chathaoirligh——

An Cathaoirleach: You are mentioning a lot of people with votes.

Senator Paul Coughlan: A Chathaoirligh, like your good self, I am just taking a leaf out of your book because you were always fair——

An Cathaoirleach: I am independent, Sir.

Senator Paul Coghlan: I recognise your independence. You were always fair and balanced, and that is all I am trying to be as well.

An Cathaoirleach: Questions to the Leader, please.

Senator Paul Coghlan: The Leader would appreciate that too. On another issue, I strongly support the remarks of Senator Fitzgerald. There is a sufficient number of eminent people — well-trained and well-versed civil servants — in every Department to ensure the necessary cutbacks are made. That is not to disrespect all the eminent people mentioned who will be on the new board known as “an bord snip nua”. We do not need it and if we need another budget, that is a matter for the Minister. I would like to hear from the Leader on that issue. We do not need this board. We have had a plethora of boards and most of their reports are gathering dust on shelves in Departments. We have the people to implement a Government policy and we should get on with it.

Senator Cecilia Keaveney: I agree with all the sentiments expressed about the retention of coastguard services at Malin Head and Valentia. It is a victory for the people who were finally able to present the facts and prove that the knowledge does not always stem from the one location. It is disappointing that this issue had to be dealt with at all because we believed the earlier reports were adequate. The most recent report turned out to be factually incorrect. I welcome that people got a chance to correct the record and that the Minister took the right action on this occasion for the people of Valentia and Malin Head.

I thank the Leader for facilitating the conversation in this House. The meetings of the joint committee were very important. I thank the Minister and his officials for meeting me and many other public representatives on the issue. We knew we had a strong case but it was a matter of being facilitated in that respect.

On what is one of the 16 days of international recognition of the problem of domestic violence, I ask the Leader for a discussion on that issue because the cost of domestic violence to the Irish economy, and we are talking about the many costs to the economy, is estimated to be €2.2 billion a year. On one of the 16 days of awareness of the problem, from 25 November to 10 December, an issue that is such a major cost to the economy is worthy of debate to determine if we can reduce that figure.

Recent reports in England dealt with children being abused in homes and the need for the advocacy of foster care. We talk about domestic violence as it pertains to either the male or female, although the problem generally affects females, but we must also consider the children of those families.

The Leader might ask the Minister for Education and Science to talk to his counterpart, the Minister for Employment and Learning, Sir Reg Empey, about the fact that Northern colleges are considering increasing university fees. That will have major implications for students from Border areas attending colleges in the North and trying to make ends meet. It is against the spirit of the Good Friday Agreement that rather than having ease of transfer across frontiers to facilitate students getting educated, it is becoming more difficult.

I disagree with Senator O'Toole. He raised the important issue of the withdrawal of funding for the Irish colleges but whether he meant it or not, it came across that he was undermining the money given to Comhltras Ceoltóirí Eireann.

Senator David Norris: No, he did not.

Senator Joe O'Toole: The Senator should read the Official Report.

Senator Cecilia Keaveney: By linking the two issues of Comhltras getting——

Senator Joe O'Toole: The Senator should read the Official Report.

An Cathaoirleach: Please, Senators.

Senator Cecilia Keaveney: It came across that as a result of Comhltras getting——

Senator Joe O'Toole: That is the way the Senator interpreted it. It did not come across that way.

Senator Fidelma Healy Eames: Politically sensitive.

Senator Cecilia Keaveney: I have battled for many years to get money for the arts but, unfortunately, every time money for the arts is allocated, it is always linked to some other issue. The Senator's issue is valid in its own right and I——

Senator Joe O'Toole: I was talking about it being a direct transfer from Gaeltachtaí.

Senator Cecilia Keaveney: We must have a serious attitude in the way we approach funding for the arts. Musicians do not appear out of the sky. They need to be encouraged and funded.

Senator Donie Cassidy: Hear, hear.

Senator Cecilia Keaveney: Every time we get a small amount of money for the arts, someone takes it away. The issues are separate and should remain separate.

Senator Fidelma Healy Eames: The arts are wider than Comhltras Ceoltóirí Eireann.

Senator Cecilia Keaveney: As an artist and musician, I am disappointed that it has again borne the brunt of doublespeak.

An Cathaoirleach: The point has been made.

Senator Shane Ross: I support the comments of Senator Coghlan and Senator Fitzgerald about “an bord snip nua”. The mind boggles. Why on earth do we need four people who, I suspect, are not quite as eminent as everyone describes them, to recommend to the Government where the cuts should be made? Senator Fitzgerald put her finger on the button. This economy is in crisis and if the Government refers the crisis to a committee, the crisis will not be resolved. It is a committee of four people. I would like to know how and why they were chosen. They are all public servants. I cannot understand the point of putting four people who are all on the public payroll on a board to decide on an issue such as this. It seems a very strange choice.

We are in a crisis. I heard the Minister for Finance, Deputy Brian Lenihan, speak on the radio this morning, and various other people, and it appears Senator O'Toole was right yesterday when he said there is no plan. These guys do not know what is going on and the problem is not the crisis we are in but that the Government has no plan at all to deal with it, which is serious. It is not our job to support Government policy but I have for years supported its policy on the economy and I am completely and utterly disillusioned with the fact that the Government parties can run an economy when it is going well but when it comes to a crisis, they are like a bunch of amateurs. Nothing has come from them to indicate they have a plan or they are in control.

11 o'clock

[Senator Shane Ross.]

The other issue regarding “an bord snip nua” is it will not make recommendations for approximately a year. The Leader can correct me if I am wrong. The economy is moving downhill so quickly that the recommendations the board makes in a year will need to have been implemented this year and they will be out of date by then. When the Minister for Finance comes to the House on Friday, he needs to outline where he will make the cuts. I suspect the Government parties may have more sympathy from the Opposition than normally would be the case in the political atmosphere in which battles are fought in the House because everyone is aware of the need for cuts. However, if they put the recommendations off for a year or 18 months, they will then be debated but we will be two and a half or three years into the electoral cycle and there is no way the Government will make cuts in public services or expenditure with a year or 18 months to go to a general election. The Government has funkled the issue of cuts in public expenditure by giving the job to this body, which is, by definition, antagonistic to such cuts because of where its members come from.

Senator Jim Walsh: I support Senator Hannigan regarding the vouchers issue. A clear legislative timeline should be laid down for the period during which they can be encashed. The vouchers should also clearly state in large print the deadline for encashment because many people get caught out after Christmas when they find out they are out of date.

I disagree with Opposition comments regarding the task force. Its job is not to tell us what should happen regarding salary and wage reductions in the public service, which are inevitable and which should be taken immediately. Significant numbers of job reductions are needed in the public service and that decision must be taken at a political level. I compliment the Leader on scheduling Friday's debate and I hope it will afford us the opportunity to go into the detail of all this. However, I urge the Leader to ensure a minimum of 12 minutes per contribution is provided for. Members can share if they want. We do not want to end up with a load of soundbites on the issue, which tends to happen during critical debates in the House. Between €5 billion and €8 billion in savings needs to be identified urgently.

Senator Frances Fitzgerald: What is the budget for?

Senator Jim Walsh: The task force has a role to play in saving on wasteful expenditure that does not achieve anything or provide front-line services.

Senator Maurice Cummins: What has Fianna Fáil been doing for the past ten years?

Senator Jim Walsh: A task force that is well focused on wasteful expenditure could ensure that happens through management. Where management fails, it must be held accountable for its failure in this regard.

Senator Fidelma Healy Eames: Aontaím go daingean leis an Seanadóir O'Tuathail faoin cinneadh uafásach de bharr na deontaisí le haghaidh na coláistí samhraidh. I agree completely with Senator O'Toole who decried the total idiocy involved in cutting the grants for Irish summer colleges. This is the one way we are managing to keep our language alive for children in the Galltacht. Even where children hate the language in school, they love attending summer college or coláistí samhraidh. I experienced this year when my own child and others from my area stayed in the Connemara Gaeltacht. Not only will the economy of the Gaealtachtaí reduce, above all, we will further the decline of the Irish language. Will the Leader invite the Minister for Education and Science to the House to discuss this and other issues? He is badly needed in the House because he has refused to hear us.

I second Senator O'Toole's amendment to the Order of Business.

An Cathaoirleach: The Senator did not propose an amendment.

Senator Joe O'Toole: I opposed the Order of Business but there is no point in amending it.

Senator Fidelma Healy Eames: I thank the Cathaoirleach for the clarification. I am concerned that Ireland is an uncompetitive country where a job is lost every three minutes and consumers are voting with their feet and travelling to Northern Ireland to do their shopping. Tax returns have reduced considerably and I seek two open debates in this regard. It is time to debate the social partnership model because I am not convinced what worked in 1988 is working in 2008. These are different times and that means different responses are needed. I support Senators Fitzgerald, Ross and Coghlan.

An Cathaoirleach: We have an all-day debate on the economy on Friday and it should not be debated on the Order of Business.

Senator Fidelma Healy Eames: The Government is relying on an old plan to solve today's problems and that is unwise. The debate on the economy should also examine the social partnership model. I would like its advantages and disadvantages outlined in an open debate.

We should also debate with an open mind the advantages and disadvantages of the Aer Lingus-Ryanair proposal. A year ago, Aer Lingus was allowed by the Government to reject it. I am not totally on the side of Ryanair but the company has maintained competitiveness and it retains jobs in Ireland. Let us examine the proposal.

Will the Leader invite the Minister for Transport to the House to discuss the major infrastructural road projects he is suspending indefinitely? Yesterday An Bord Pleanála published its decision on the outer city bypass for Galway city. A total of 12 km was approved but 9 km was suspended. The decision is baffling and will hamper the economic development of the west side of the city and south Connemara. The problem is twofold in the context of the planning decision and——

An Cathaoirleach: That was a decision of An Bord Pleanála, which is independent of the Minister.

Senator Fidelma Healy Eames: Will the Leader invite the Minister for Transport to the House to discuss the major infrastructural projects in Transport 21 he plans to suspend and to outline when they will be restored?

Senator Alan Kelly: I will not prejudge the debate on the economy on Friday but the turn-around in Exchequer figures over the past year amounts to €9.5 billion and updated live register figures will be announced later. We have rightly engaged in a great deal of discussion about the reform needed in the public service but the debate on Friday should concentrate on how to stimulate job creation. The Government has not put forward a single fresh idea in this regard. I was not enthused by the comments of the Minister for Finance earlier because he did not advocate a stimulus package. The Labour Party has published proposals relating to energy development, a schools building programme to help the construction industry, the education sector and information technology. I would like the Minister to outline areas in which the economy can be expanded in order that we can fight our way of the recession.

A report was recently published relating to broadband. A number of Senators including myself raised this issue and the fact the Government strategies in this area have been abysmal and continue to be so. This report adds to that worry. Not alone is our broadband penetration awful, the speeds available, given the contention levels, are very low at only 60% of what has been advertised. The situation in rural Ireland is worse, although it has not even been studied.

[Senator Alan Kelly.]

This is probably the greatest infrastructural issue with regard to the redevelopment of our economy. The Minister, Deputy Eamon Ryan, has failed totally in this area, which must be addressed if we are to develop IT and high-tech business of high value.

The House has heard of the recent “Prime Time” special featuring examples in various sectors of underpayment of workers and long hours being worked. Would it not be refreshing if the chief executives of, for example, the Construction Industry Federation or the Irish Hotels Federation, two sectors which have been focused on, would come out and make statements condemning such actions——

Senator Dominic Hannigan: Hear, hear.

Senator Alan Kelly: ——and work with the rest of us to ensure these practices are discontinued, that the exploitation of workers is stopped and that they will do all in their power, as they try to do in other areas of their industries, to ensure these practices are not tolerated?

Senator Eugene Regan: The tax receipts for November show a €3 billion shortfall compared to that estimated in the budget. What it shows is that not only is the budget of 2008 out of date but also the budget for 2009. The response of the Minister and the Government has been to wait for the December Exchequer returns and to establish “an bord snip nua”, the cost-cutting committee. The point has been made by Senators Ross, Fitzgerald and others but the reality is that this is an admission of failure. It is an outsourcing of decision making by the Government.

Senator Frances Fitzgerald: Hear, hear.

Senator Eugene Regan: It is a cop out. There are at least 100 people involved in different Departments in preparing the Estimates for 2009 and the 2010 budget. It will take all of next year for these part-time experts to advise the Government on what decisions it should be taking. The fact is we need instant, decisive action and the response is entirely inadequate.

What this highlights is that the 2009 budget was rushed. The Government should have waited for the November returns because at least 20% of Irish tax is collected in that month. It should not have rushed into a national agreement that will cost an extra €2 billion. The lack of precision in assessing the finances and the Estimates is affecting the cost of borrowing for this country. This is highlighted by Mr. Colm McCarthy, the chairman of the new board that will examine cost-cutting measures, when he shows that the cost of borrowing in short-term bonds for the Government is 1.2 percentage points above that of Germany. The Government’s actions are jeopardising our ability to borrow the funds required to balance the books and to provide a basis for going forward. I look forward to the debate on this matter on Friday.

On another issue, the Taoiseach stated he will brief EU leaders on the Lisbon plan. That is all well and good but would it not be more appropriate that the Taoiseach or his Ministers would first brief this House and the Lower House on his plan for Lisbon? This is an important national decision. To make that decision without a consensus in these Houses with regard to Brussels shows a disrespect for the Oireachtas.

Senator Frances Fitzgerald: Hear, hear.

Senator Eugene Regan: The reality is that this is an important national decision which will involve all political parties and many other interests and sectoral groups. To make these decisions without debate or consultation in these Houses is entirely inappropriate.

There is one consideration I would put to the Leader and ask that he put it to the Taoiseach. One of the unique selling points of the Lisbon treaty was the measures it introduced in regard

to combatting cross-border crime and the most serious forms of crime in Europe, as was confirmed by Dr. Maurice Hayes, chairman of the Forum on Europe, in the Joint Committee on the Constitution yesterday. If the Taoiseach is intent on running a new referendum, Ireland should not exercise and include the opt-out in the area of justice and home affairs. When one sees the drugs seizures on our coastline and the inability of our own resources to control that coastline, it shows we need Europe's help in combatting organised gangland crime, drug trafficking and so on. I put that question to the Leader. Perhaps he would refer the matter.

Senator David Norris: Many Members have spoken about the very difficult economic situation in which we find ourselves. It would be useful for the House to take up a couple of examples of this. I have from time to time indicated some of these, particularly in the context of the abolition of the Combat Poverty Agency and various other agencies, but I will not go on about this again. However, I wish to deal with two examples on which I ask the Leader to consider having a debate.

The first example is that of taxis. Due to circumstances beyond my control, I am now reliant on taxis when I am not able to walk because of the weather and so on. I make it a practice never to take a taxi off the rank for a short journey. I wait some way away from the rank and hail a taxi because I consider it very unfair when people wait a long time and I simply would not do it.

I often get taxis from O'Connell Street to Leinster House. Two days ago, on a beautiful morning like this with perfectly fine weather and the sun shining, one of the taxi men called me and asked me if I knew the Westin Hotel on Westmoreland Street. I told him I did and that I could practically see the hotel from where I stood. He told me that the hotel was where his passenger, a young, fit woman, had asked him to take her — from the Gresham Hotel to the Westin Hotel on perfectly good day.

I told this story to the taxi driver I used this morning to do some other messages. He told me about the place known as the Kesh where the taxis are held at Dublin Airport before being moved up to the airport in small groups. This man had been waiting two hours before he was moved up. A young executive woman with her laptop came out from the arrivals area and asked him to take her to Cloghran House, which is the headquarters of the Dublin Airport Authority. It is visible from where she was standing and is about as far as from here to the Merrion Street gate of Leinster House. He asked her whether she knew where it was and she replied: "I know exactly where it is. Take me." He agreed because he is required to. The fare indicator did not move. The minimum fare is €4.10 and that is what he got. She proffered a €5 note and held out her hand for the 90 cent change.

I appeal to the public to have some consideration at this time. The driver of another taxi I took yesterday, a very decent young man, has not paid his mortgage in three and half months and is in fear of what is happening to his family, including three small children.

The industry is not properly regulated so there is a flood of taxis. It is good that we are able to get taxis so easily but some of the incoming population, for example, are exempt from the requirement to know where the routes are — they simply do not know. This is the sort of issue that should be brought to the attention of the Minister and I ask the Leader to do that in advance of this debate. Last week, I got a taxi outside Leinster House and asked to be taken to North Great George's Street. I told the driver it was North Great George's Street, not South Great George's Street, and asked whether he knew where it is. With a puzzled expression he told me it was near Wexford Street. I told him it was not and that it was on the other side of the river. He asked me: "What river?" The whole system needs to be examined.

An Cathaoirleach: The point has been made.

Senator David Norris: I wish to raise another matter concerning the decent sheep farmers outside Agriculture House. The Minister owes them a statement with regard to the situation pertaining to CAP and single farm payment funds he has received, which amount to approximately €23 million. There has been no indication he will help out the sheep farmers who are in a very difficult situation. He has perfect capacity to immediately make an announcement of €20 maintenance per ewe, and I ask him to do this.

We have seen the beet industry disappear completely. Beef is in trouble because of imports from Brazil. Cappoquin Chickens went down the drain. I do not know whether it has been resuscitated somehow. All areas of farm production seem to be vulnerable in this awful climate which is cataclysmic. People talk about meltdown, they say that it is unprecedented and that they do not know how to face it. The least we should do is secure good agricultural produce and the livelihoods of people who work in that area.

Senator Fidelma Healy Eames: Hear, hear.

Senator David Norris: My grandfather was a farmer, but he would not allow my uncle to take up the farming business because, he said, it was so cruel. It is as cruel now as it was during the days of the economic war and we owe it to those decent young farmers to do something for them.

Senator Brian Ó Domhnaill: I acknowledge the decision by the Minister for Transport, Deputy Noel Dempsey, and his colleague the Minister of State, Deputy Noel Ahern, to ensure that the Valentia and Malin Head marine rescue co-ordination centres will remain and the provision of funding of €2.5 million to upgrade the radio systems in both stations together with the upgrade work to be done in Dublin. I very much welcome that and I know my colleague, Senator Keaveney, who comes from Inishowen, also welcomes it. The decision was made following representations by the communities in Kerry and Donegal. The Minister and the Minister of State listened to the people and we should applaud them for doing so and for reversing a decision which was ultimately moved forward by officials in the Department.

Later today we will debate consumer spending. There are 22 days to Christmas and many shoppers from the Republic are travelling North of the Border. I want to refer to a specific issue that was brought to my attention over the weekend by a number of consumers. I will give the example to the House as an indication of what is occurring at present with regard to the double charging policies of multiples based in the UK. A young lady from my constituency went to the North seeking a particular garment. It was priced at £25, and the equivalent in euro. She was told the garment was not available in the store in the North but that if she went to the store in the Republic, located in Donegal, the garment was available there. She did so and the price tag on the garment was also £25, and the equivalent in euro, just as it was in Derry city. However, when she went to pay for it she was informed that if she wanted to pay in sterling she would have to pay the sterling difference and, therefore, she was charged £33. That is a disgrace.

If supermarkets and chain stores are getting away with this in our jurisdiction, shame on them. We must target those people and take them on. This occurs in the Border counties and it is causing major difficulties to our economy because people are choosing to spend their money in the North. We must debate this issue and I hope it is raised this evening and on Friday. Given that there are only 22 days to Christmas, we must consider what we can do this week to allow consumers to spend their money in the Republic rather than in the North.

An Cathaoirleach: That can be debated this evening.

Senator David Norris: What about the Thirty-two County Republic Senator Ó Domhnaill's party was so keen on?

Senator Brian Ó Domhnaill: Senator Norris has acknowledged something.

An Cathaoirleach: We must move on. Senator Ó Domhnaill has made his point.

Senator Brian Ó Domhnaill: Perhaps this issue should have been dealt with as part of the peace process.

Senator David Norris: Yes, maybe.

Senator Brian Ó Domhnaill: Maybe it was a lost opportunity.

Senator Jerry Buttimer: Mar aon leis an Seanadóir Ó Tuathail, táim ag iarraidh díospóireachta ar an deontas do na coláistí samhraidh, mar tá an Rialtas ag baint €1.5 milliún ón Gaeltacht. Cad atá á rá le seo faoin ár dteanga dhúchais, na coláistí samhraidh agus na mná tí? Is í an cheist ná: Cén fáth go bhfuil laghdú ag teacht ar an deontas? We are talking about increasing our support for the Irish language while at the same time the Government has decreased funding for Irish colleges and, more important, for the Gaeltacht region, a region atá faoi bhrú because of Government economic policy on rural development. I call for an urgent debate on the Irish language and on this grant.

I call on the Leader to invite the Tánaiste and Minister for Enterprise, Trade and Employment to the House. This morning, figures for the live register were published. It is at its highest level since April 1998, with an increase of 1.5%. More important and significantly, 260,000 people were unemployed in October and 277,200 people are now unemployed as a consequence of a Government that has no leadership, no bottle, no vision and certainly no patriotism. Where is the Government's plan to manage the economy? Where is the vision? There is none. It makes it up as it goes along. The budget is like a rolling maul. It is going from bad to worse. The Government is going from the 22 yard line to behind its own goal and is losing the game. Irish people are suffering, and the Leader and his party have not realised that.

Senator Paudie Coffey: I add my voice to those in all sectors of the economy, whether education, agriculture or business, who are concerned that we are suffering. I agree with the sentiments expressed by Senator Ross who is concerned about the appointments to "An Bord Snip". I ask the basic question, what is the Government elected to do and why is it not doing it. Why should it appoint people from the private sector or otherwise to examine ways to save money for this economy? I am sure there is a hoard of people within the Civil Service who could do this job. Why have they not been doing so during the past 11 years when the Government was in power? Is the Government incapable of doing this or is it a PR exercise?

At present, the Government seems clueless. As Senator Buttimer stated, it has no vision and no plan has been thought out to bring this country through the recession. Time is dripping away and our economy is suffering and in crisis. There is a daily convoy to Newry, Banbridge and Belfast, which is sucking and draining the lifeblood of our economy. I compliment the Labour Senators on tabling the motion we will debate this evening. They identify this problem and that a transfusion is needed back into our economy so we can reinflate the Christmas trade for small businesses and retailers. Retailers are examining their balance sheets and bank balances and are considering closing their doors in January. We need to act quickly.

An Cathaoirleach: We will have this debate this evening.

Senator Paudie Coffey: There is a further shortfall of €2 billion in our public finances, according to the proposed Exchequer figures. We introduced a rushed budget and that is acknowledged throughout the economy. Why did we not wait until November when we could see the figures coming in? The Government is clueless and directionless. We need leadership. The Taoiseach should be invited to this Chamber, because he has not been here yet, to discuss this matter. This Chamber needs that respect and dignity to discuss the economy, which is going down the tubes.

Senator Donie Cassidy: I will respond briefly to some of the important issues raised by Senators. Senators Fitzgerald, O'Toole, Hannigan, Ross, Walsh, Healy Eames, Kelly, Regan, Norris and Coffey gave the House the benefit of their views on the economic challenges facing us. As we were told yesterday by the Minister, the figures reveal a massive shortfall of close to €7.5 billion in the amount of tax revenue collected by the Government during the first 11 months of this year. This is far worse than any of us ever expected since the budget in October. In their analysis of the situation, economic experts tell us there will be a shortfall in excess of €8 billion for the year. Taking all this into account, everyone with the expertise and the track record of the four people appointed to the board to think outside the box and advise the Department of Finance and the Government is to be welcomed. They can do it in the United States and get the experts to assist the economic advisers to the Government and the President elect, Mr. Barack Obama. We are all looking forward to him taking office.

On behalf of the House, I congratulate our colleague and friend of this country for many years, Senator Hillary Clinton, on her appointment as Secretary of State. We are all uplifted by this selection and look forward to returning to those days when we enjoyed such good relations with the United States under the Presidency of Mr. Bill Clinton. Nobody has done more for this country than Mr. Clinton when he was President. Senator Kelly spoke about the information technology sector and where jobs are likely to be in the future. We must extend a hand of friendship to those who have looked after us in the past, who were consistent in their support for the North of Ireland and in seeking to resolve the Irish question as we have known it for 800 years.

Many Senators have made comments on the economy. The economic situation is not changing by the month or week; it is changing by the day. We are faced with an unprecedented crisis on a global scale. I ask colleagues to think carefully before making comments which may be taken up by irresponsible sections of the media. I have absolutely no issue with responsible elements of the media. However, there are young reporters who may assume that some Members of this House are experts in the field in which they are deliberating. That may not be the case.

Senator Paudie Coffey: The Leader is certainly no expert.

Senator Donie Cassidy: Those of us who were Oireachtas Members in the 1980s can recall when times were truly bad.

Senator Jerry Buttimer: The situation is much worse now.

An Cathaoirleach: The Leader should be allowed to continue without interruption.

Senator Donie Cassidy: I will give the House the benefit of my experience by saying the key is to look after the small and medium enterprises which employ some 880,000 people.

Senator Maurice Cummins: That is the problem, the Government is not looking after them.

Senator Paudie Coffey: The Government is putting them out of business.

An Cathaoirleach: Senators should allow the Leader to speak without interruption.

Senator Donie Cassidy: The Minister for Finance gave the banks ten days to come up with proposals. The Government will work to ensure the banks play their part in providing funds for small and medium enterprises and others providing employment.

Senator Paudie Coffey: We will be waiting a long time for the Government to play its part.

Senator Donie Cassidy: These businesses are the backbone of the economy. The Government will provide them with the necessary support to ensure we can have hope and confidence in the future.

Senator Jerry Buttimer: There is no evidence of that thus far.

Senator Donie Cassidy: I was uplifted by the address to the nation by the Minister for Finance, Deputy Brian Lenihan, on “Morning Ireland”.

Senator David Norris: The Leader is in mid-air by now.

Senator Maurice Cummins: He is easily impressed.

An Cathaoirleach: There must be no more interruptions.

Senator Donie Cassidy: I was very impressed by his determination. The experience I have gained through the years tells me he is a person who is determined to listen to all sides and to take advice.

Senator Paudie Coffey: The time for listening has passed, it is now time for action.

An Cathaoirleach: If the Leader is not allowed to continue without interruption, I will be obliged to adjourn the House.

Senator Donie Cassidy: I know Senator Coffey is overjoyed by De La Salle’s victory last Sunday in the Munster senior hurling club championship.

(Interruptions).

An Cathaoirleach: We are dealing with the Order of Business, not the Munster club championship.

Senator Donie Cassidy: However, it is only a matter of time before Ballyhale Shamrocks or Portumna get at them.

Senator Jerry Buttimer: The Leader is trying to divert attention from the Government’s failure to manage the economy.

Senator Donie Cassidy: There will be an all-day debate on the economy on Friday. I have no difficulty in allowing sufficient time for all Members to make a contribution. It will be an open-ended debate and the Minister will be in the Chamber for most of the day. I urge all Members to make a contribution to this important debate. The least we can do, having seen the significant changes that have taken place, is to come into the House and assist the Government, the Minister and his departmental officials in putting forward proposals.

Senators O’Toole, Daly, Keaveney, Coghlan and Ó Domhnaill welcomed the decision of the Minister for Transport, Deputy Noel Dempsey, and the Minister of State at that Department,

[Senator Donie Cassidy.]

Deputy Noel Ahern, to secure the Valentia and Malin marine rescue centres, as well as the centre in Dublin, and to allocate €2.5 million for necessary refurbishments to those facilities. Given the vast quantities of drugs being intercepted along our coastline, or floating in the water close to our shores, this is one of the best decisions to be made for some time. I congratulate all Senators who raised this issue with me in recent months. It is good to see the youngest Member of the House, Senator Daly, taking the lead on this issue for the benefit of his constituents. He did not pronounce on this issue in a boastful manner——

Senator David Norris: He left that to the Leader.

Senator Joe O'Toole: He is learning.

Senator Donie Cassidy: ——but thanked the Government on behalf of the people of Valentia.

Senator Donie Cassidy: I know Senator O'Toole is also good for the humble pie.

Senator David Norris: He will pass the recipe on to the Leader.

An Cathaoirleach: Senators must allow the Leader to respond without interruption.

Senator Donie Cassidy: Senators O'Toole, Keaveney, Healy Eames and Buttimer called for a debate on education. I have agreed to set aside time for this before Christmas, on a Saturday if necessary.

Senator David Norris: Excellent.

Senator Donie Cassidy: It is a serious matter. I listened with great interest to the Minister's comments on "Questions and Answers" last Monday. We all heard the other side of the story. The Government has allocated an additional 3% to the education budget. As I said yesterday, we know what our opponents on the other side of the House intend to do in this area.

There is no greater supporter of the Irish language than the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív.

Senator Joe O'Toole: Let us see evidence of that support.

Senator Fidelma Healy Eames: It is time he delivered.

Senator Joe O'Toole: He is taking money out of Gaeltacht areas.

Senator Jerry Buttimer: Taispeán dúinn an t-airgead.

An Cathaoirleach: I ask Senators to allow the Leader to continue.

Senator Donie Cassidy: I do not have to tell colleagues on the other side of the House that the Irish language is in the Minister's genes. He was born with a love of Irish. His grandfather, Eamon de Valera was the greatest public representative and friend the Irish language ever had. I have every confidence in the Minister.

I congratulate Comhaltas Ceoltóirí Éireann on its allocation of €3 million.

Senator Joe O'Toole: What about the €1.5 million that was taken from Gaeltacht areas?

Senator Donie Cassidy: Innovators and creators in the arts are often unappreciated and the gift of being able to play music often goes unacknowledged. Senator Keaveney, a noted musician in her own right apart from all her other great talents, pointed out that it is a gift with which one is born. People should appreciate what it means.

Senator Maurice Cummins: The Leader is making some tune of this.

Senator Donie Cassidy: One need only consider the wonderful role our artists have played as ambassadors throughout the world. They include U2 and the Cranberries.

Senator Fidelma Healy Eames: But not Comhaltas Ceoltóirí Éireann.

Senator Donie Cassidy: They have presented a new image of Ireland. “Riverdance” and “Lord of the Dance” also come to mind. Need I say more?

Senator David Norris: Please do.

Senator Donie Cassidy: Is it any wonder that we are the envy of the world in terms of our artists and the creativity of our young people? I will endeavour to have this debate take place before the Christmas recess. Senator O’Toole knows I am doing my best in this regard.

I join with Senator Hannigan in welcoming the signing by the Minister for Justice, Equality and Law Reform of the convention banning cluster bombs. Members on all sides of the House made a contribution in this regard. I acknowledge the concerns expressed by Senators Hannigan and Walsh regarding gift vouchers and will convey them to the Minister. I suggest that Senator Hannigan seek to have his concerns regarding planning in south County Louth accepted as a matter for debate on the Adjournment. The Cathaoirleach will consider his request. We have legislation to deal with on every sitting day until the Friday before Christmas.

Senator Keaveney raised concerns regarding domestic violence. We will commence our Second Stage consideration of the Social Welfare (Miscellaneous Provisions) Bill next Tuesday. I will undertake to allocate additional time for that debate so that the issue raised by the Senator may be addressed.

Senator Healy Eames called for a debate on the proposed takeover by Ryanair of Aer Lingus. I will endeavour to accede to her proposal but the time is extremely tight. The Senator also called for a debate, to be attended by the Minister for Transport, on major infrastructural projects. A transformation has taken place in the road infrastructure.

Senator Fidelma Healy Eames: Not in Galway.

Senator Donie Cassidy: The Portlaoise to Cashel road is opening this week. The Government is investing 5% of GDP in the capital programme next year, which is a very serious investment in such a difficult economic time.

Senator Alan Kelly expressed his views on the “Prime Time Investigates” programme on RTE last Monday which dealt with the underpayment of wages to non-national workers. Everybody abhors that. The Senator called on the chief executive officers of the companies in the construction and other industries covered by that programme to condemn such actions. That is not a bad idea. There was a resignation yesterday from one of the national organisations. These practices should not have happened in a time of full and plenty. There is no excuse or reason for it. When Irish people went throughout the world to work, they did their best and the worth of their expertise and endeavour was acknowledged. No country’s son or daughter should be treated in the way alleged in the “Prime Time Investigates” programme last Monday.

[Senator Donie Cassidy.]

Senator Regan called on the Taoiseach to discuss his views on the Lisbon treaty. I wish the Taoiseach well on his tour of Europe to meet European leaders. He travels to Germany this morning to meet the German Chancellor. The tour is in advance of the meeting of European Heads of Government next week. I wish the Taoiseach well in his discussions on the issue.

Senator Eugene Regan: That does not answer my question.

Senator Donie Cassidy: I can convey Senator Norris's views to the taxi regulator. One's heart goes out to the person in the example offered by the Senator with regard to how difficult it is for taxi drivers in some areas to make a living. Some of them are struggling to survive. The Senator also made a strong case for sheep farmers. I heard the interview with the Minister for Agriculture, Fisheries and Food on RTE radio yesterday. He explained the case in detail. The Minister is a person who listens to the people all the time. He is very approachable from the point of view of Members of the Oireachtas and he knows the agriculture portfolio inside out and upside down. He has attentive advisers and he is the one Minister in whom I have 100% confidence to deal with the plight of the small farmer and people in the agriculture sector generally.

Senator Buttimer called for a debate on the unemployment figures. The Senator can include this issue in the debate on the economy next Friday.

Question put: "That the Order of Business be agreed to."

The Seanad divided: Tá, 24; Níl, 18.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callanan, Peter.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Keaveney, Cecilia.

Leyden, Terry.
MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
Wilson, Diarmuid.

Níl

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

Healy Eames, Fidelma.
McFadden, Nicky.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Regan, Eugene.
Ross, Shane.
Twomey, Liam.

Tellers: Tá, Senators Fiona O'Malley and Diarmuid Wilson; Níl, Senators Maurice Cummins and Joe O'Toole.

Question declared carried.

An Cathaoirleach: A member voted in the wrong location, but it makes no difference to the result. The record will be changed to reflect this.

Order of Business agreed to.

Housing (Miscellaneous Provisions) Bill 2008: Committee Stage (Resumed).

SECTION 20.

Senator Ivana Bacik: I move amendment No. 33:

In page 17, subsection (4)(e), line 27, after “alternative” to insert “and appropriate”.

The purpose of the amendment is to ensure “appropriate” is inserted after the word “alternative” to ensure accommodation would be not only alternative but appropriate to the household. It is not a large amendment, but it is sensible to make the provision to ensure accommodation is specifically appropriate to the needs of the household. It is a qualification of the existing word, but it does not change in any way the thrust of the section.

Senator David Norris: I support the amendment. It seems eminently sensible that accommodation should be tailored to the needs of the person or persons seeking it.

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): This amendment is unnecessary because the requirement to have regard to alternative accommodation appropriate to the household’s needs is adequately reflected already in paragraph (e) as drafted, that is “the availability to the household of alternative accommodation that would meet its housing need;”. In those circumstances, I ask Senator Bacik to withdraw her amendment.

Senator David Norris: I wish to comment on that response, although I will, of course, defer to Senator Bacik if she wishes to withdraw her amendment. The Minister of State has expressed a very minimalist view. The phrase “meet its housing need” does not really carry the force of “appropriate”. The response is a little bit grudging. Has the Minister of State accepted any amendments so far?

Deputy Michael Finneran: Yes, I was very generous on my previous visit to the House.

Senator David Norris: I cannot quite recall the detail. How generous was the Minister of State?

Deputy Michael Finneran: The record will show that I was generous.

Senator Ivana Bacik: I ask the Minister of State to indicate that he might at least consider accepting this amendment and that we might resume our discussion on it on Report Stage. As Senator Norris has said, to reject this amendment is somewhat grudging. While the terms of subsection (4)(e) clearly specify that the alternative accommodation would meet the housing need of the household, to say it also would be “appropriate” to that need is an important qualification.

Senator David Norris: Hear, hear.

Senator Ivana Bacik: It does not alter the tone or main thrust of the provision but gives it a nuance which would be important for particular households in seeking accommodation.

Senator David Norris: I wish to give a clear and specific example, if I may. I knew of a young man who had various difficulties. He had been subjected to aversion therapy because he was gay. His family was from rural Ireland and was very harsh in that regard. He was seriously distressed by this but, with great courage, pulled himself together. He was allocated a flat in the inner city which certainly met his housing needs. However, some of his neighbours learned of his sexual orientation and made his life a misery. They put excrement through his letter box, tried to burn him out, stole his post and so forth. Eventually I managed to get him accommodation in a sheltered housing complex in Donnybrook which transformed his life.

This is precisely the kind of case that would be addressed by Senator Bacik's amendment. The authorities could clearly say his housing needs were met in that they provided him with an adequate flat which had a kitchen, shower, bedroom and so forth. However, because of the hostility of his neighbours, the accommodation did not prove to be appropriate. He moved into a complex largely occupied by old ladies and got on like a house on fire. They adored him and he was great at doing bits and pieces for them.

That is an example which puts a human face on the issue. It may seem like a slight amendment with which the Minister of State need not bother but Senator Bacik has hit on an important point here. I ask the Minister of State to reflect on the case history I have given in considering this amendment. Of course, he does not have to say "yea" or "nay" now. He can always say he will think about it and we can do battle again on Report Stage.

Senator Ivana Bacik: I am grateful to Senator Norris for providing a very pertinent example of the sort of situation where the authority might be meeting housing needs objectively but, in fact, those needs are not being met in an appropriate way. I ask the Minister of State at least to consider taking on board our comments and revert to the issue on Report Stage. I would be very grateful if he would do so. It is part of the process of debate in this House and I would be grateful if rather than rejecting the amendment out of hand, he might indicate his willingness at least to consider the need for this extra nuance to the provision.

Deputy Michael Finneran: The purpose of the entire section is to ensure needs are met appropriately. This is the essence of why we are changing the way needs are assessed. Therefore, the word "appropriate" is superfluous in subsection (4)(e). We are changing the law to accommodate all situations.

An Leas-Chathaoirleach: Is the amendment being pressed?

Senator Ivana Bacik: Yes.

Amendment put and declared lost.

Senator Ivana Bacik: I move amendment No. 34:

In page 17, subsection (4), between lines 35 and 36, to insert the following:

“(h) additional needs of the household including medical, education, social, and cultural needs required to promote social inclusion and the development of sustainable communities.”.

This amendment is more substantial than the previous one. It inserts a new subsection (4)(h) in section 20 with the purpose of broadening the definition of need to include medical, education, social and cultural needs. It addresses how the authorities carry out needs assessments and has a similar purpose as amendment No. 33 in that it aims to ensure authorities make a

comprehensive needs assessment to allocate accommodation which is appropriate to the needs of individual households. It also requires local authorities to consider the promotion of social inclusion and the development of sustainable communities, which are important aims to include in this legislation. It is important housing authorities would have regard to those aims.

The Minister of State has said that some considerations clearly are built into section 20 already. I am seeking to make them more explicitly thus. I do not think anyone would disagree with the rationale for this proposed amendment, although the Minister of State may not wish to accept it. The aim of the amendment simply is to make explicit something which is an underlying theme already in this legislation. I welcome that and do not want to appear to be critical in a non-constructive way. I am seeking simply to make more explicit the need to ensure needs assessments are carried out comprehensively and in a way which takes into account of all the needs of the household and which ultimately will promote social inclusion and the development of sustainable communities.

Senator David Norris: I support this amendment and wish to return to the case history I related some minutes ago. That unpleasant business might have been avoided if an appropriate assessment of needs had been done in the first place. The young man of whom I spoke would not have been placed in an inappropriate environment. I am all in favour of comprehensive assessments which would include consideration of social inclusion and the development of sustainable communities. That would have solved the problem to which I referred earlier. Consideration of cultural needs, for example, is also important given that our society is much more complex than in the past. In that context, this amendment is appropriate.

Deputy Michael Finneran: This amendment is not appropriate to subsection (4) which deals with the eligibility of households for social housing support by virtue of their current circumstances regarding income, availability of alternative accommodation, etc. The description of the particular housing needs in terms of medical needs and so forth is covered by subsection (6), which provides that:

The Minister may make regulations providing for the matters by reference to which a household's need for social housing support and the form of such support shall be determined including, but not necessarily limited to, the following:

- (a) the description and classification of household need;
- (b) the description of specific accommodation requirements according to different categories of household need;
- (c) the description of accommodation need based on the composition of the household.

The proposed amendment also refers to the promotion of social inclusion and the development of sustainable communities. These aspects are more appropriate to housing strategies and, in the context of the Bill, to allocation policies as set out in section 22. In those circumstances, I ask the Senator to withdraw the amendment.

Senator Ivana Bacik: I accept there are other places in the Bill where these points could be made but I believe it is useful to insert them at this point in section 20. I have tabled amendments to further sections.

I note the Minister of State's point regarding the regulations provided for in subsection (6) providing for matters by reference to which a household's need for social housing support will be determined. However, subsection (4) is important and is perhaps key to the reality of life for people in households awaiting the allocation of housing. I note that social housing support

[Senator Ivana Bacik.]

has a broad definition in the Bill and therefore this will be a key provision for households that are awaiting supports or the allocation of housing. It would be useful to insert here, as I said, something with which nobody could have a fundamental disagreement. These are policy aims that everybody would support. The aim is to make these explicit in the provision giving the Minister the power to make regulations about how eligibility for social housing support will be determined. It is a crucial subsection for households that are awaiting supports because it gives the Minister the power to make the regulations providing for these criteria. Thus, it is important to include these criteria in the subsection. I will press the amendment.

Senator David Norris: The Minister's response was inadequate and evasive because he relies on sections further on in the Bill, on general and vague phrasing and on ministerial regulations. I have been long enough in this House to know about ministerial regulations. The Minister's hands are not tied in this matter. There is no requirement in this legislation that these things should be included. We rely on the Minister's goodwill. I believe the Minister as I have worked with him in this House for many years, but who knows what the future holds? He might not be there, decent man and all as he is. Since, as Senator Bacik has said, there is no conflict or difficulty in putting it in and reassuring the House, it will not cause any further problems. The only way in which it could cause a problem would be if the Minister did not intend to include this in regulations and strategy and all the other things he mentioned. This is a matter of policy that could appropriately be included at this point.

In light of the Minister's refusal to take on board the previous amendment about appropriate housing, despite the fact that I put on the record what I thought was a very clear case history in which the absence of this kind of provision militated against a citizen of this country, it is all the more pressing that he should accept this amendment. Even supposing it was redundant, it is not doing any damage. The planet will not collapse because of a couple of extra words in ink on a piece of paper — about a quarter of an inch of text. There are no strong, persuasive arguments against accepting it. I will say one thing in which I hope I am not being indiscreet. Both Senator Bacik and I have been extensively briefed by a coalition of groups who work at the coalface. They probably have a fairly good idea of the practical realities on the ground and the need for the inclusion of provisions such as these. They are not inventing amendments just for the hell of it. The Minister did not even take up my hint on the last amendment that he might say he was considering it, even if his tongue was licking his tonsils as he said it. He just ruled it out. That is a little disappointing.

Deputy Michael Finneran: The list suggested by the Senator is drawn from the 1988 Act which, in light of changing housing needs, has proved to be limited in terms of providing an accurate picture of both the nature of housing need and the relative priorities. Indeed, people may have multiple needs which are not adequately captured by the current statutory definitions. The proposed revised classification based on the FEANSTA approach provides for a more developed approach, reflecting the urgency and persistence of different types of needs. This will provide the basis for the development through regulation of a better measure of need in the future. The Senators will know that we are changing from what was in the 1988 Act, and section 20 reflects that. It allows for a broad approach to appropriate need.

Senator David Norris: When will we see the regulations?

Deputy Michael Finneran: Regulations are implemented subsequent to enactment of the legislation.

Amendment put and declared lost.

An Leas-Chathaoirleach: Amendments Nos. 36, 37 and 38 are alternatives to No. 35 and should be discussed with that amendment as they would not otherwise have an opportunity to be debated. Is that agreed? Agreed. If amendment No. 35 is agreed, amendments Nos. 36 to 38, inclusive, cannot be moved.

Government amendment No. 35:

In page 17, lines 36 to 45, to delete subsection (5) and substitute the following:

“(5) A household shall not be eligible for social housing support where the household or a member of the household—

(a) was at any time a tenant of a dwelling or site owned or provided by any housing authority under the *Housing Acts 1966 to 2008* or provided under Part V of the Planning and Development Act 2000, and

(b) during the 3 years immediately before the carrying out of the social housing assessment, was in arrears of rent in respect of the dwelling or site for an accumulated period of 12 weeks or has otherwise breached a condition of the tenancy agreement in respect of such dwelling or site.”.

The intention of section 20(5) is to underline the seriousness of actions such as a breach of tenancy agreement or non-payment of rent. The consequences of these actions are that they are to be taken into consideration by a housing authority in determining that household's eligibility for further support. The subsection as it is currently drafted provides that a household that was previously the tenant or owner of a local authority dwelling or site and was either in arrears of rent for an accumulated period of 12 weeks during a three-year period prior to the carrying out of a social housing assessment, or breached a condition of the tenancy agreement, will be deemed to be ineligible for social housing support.

While it is clear from the text that the rent arrears must have arisen in a three-year period prior to the assessment for ineligibility to arise, it is somewhat ambiguous as to whether the period also applies to a breach of a tenancy agreement. Thus, I am introducing an official amendment to make it clear that only breaches of a tenancy agreement that occurred in the three years immediately prior to the carrying out of a social housing assessment will render the household ineligible for social housing support. This will bring the proposed provision for taking tenancy breaches into account in social housing assessments in line with that for rent arrears. The existing subsection (5) does not confine the breach of a condition of a tenancy agreement to a three-year period immediately prior to the assessment. In view of this, I ask Senators to withdraw amendments Nos. 36 and 37.

With regard to the proposed amendment No. 38, which will include new provisions in this section on moneys due to housing authorities, I do not consider an amendment is necessary. Section 20 does not provide housing authorities with the power to charge rents, sell sites or dwellings, make tenancy agreements etc. These powers are exercised by authorities under other housing Acts and, in the case of charging of rents, under section 31 of this Bill when enacted. Moneys owed to the housing authorities and any provisions in that context are dealt with by section 33 of the Bill, which includes a provision allowing authorities to enter into various repayment arrangements with households regarding moneys owed where undue hardship would arise. I am satisfied that the proposed arrangements provide a sufficient level of relief for the circumstances envisaged by Senator Norris and in view of this I ask him to withdraw the amendment.

Senator Ivana Bacik: I would like to raise a couple of points about the Minister's amendment. Senator Norris will speak about his own amendments, although I support them.

My difficulty with subsection (5) is that it does not appear to contain any discretion.

Senator David Norris: Exactly.

Senator Ivana Bacik: I take the Minister's point that section 33, particularly subsection (5), allows an authority, where it is satisfied a household would suffer undue hardship if it owes money, to enter into an arrangement with the household. My concern is that without Senator Norris's amendment, the Minister's proposed subsection (5) appears to rule out discretion on behalf of the housing authority to do this.

Senator David Norris: Exactly.

Senator Ivana Bacik: There will be difficulty in interpreting how this subsection, together with section 33, is to be read. I am delighted to hear the Minister say that section 33 is intended to cover and perhaps provide discretion, but there does not appear to be discretion in subsection (5). I am concerned about the way in which it is drafted. The reason I am so concerned is not just the use of the words "shall not be eligible" in subsection (5), but also the statement in the new paragraph (b) that the household shall not be eligible either where it was in arrears for the period stipulated or where it had otherwise breached a condition of the tenancy agreement. There are many different types of condition in any tenancy agreement. Of course the housing authority should have the power to withhold housing support where a household has been in breach of a material or fundamental condition or where there has been some major breach, but it seems that this removes discretion from the housing authority for any breach of a condition. That seems to be far too absolutist in tone and I would have a real concern about the hardship that households might well suffer if this is passed into law. I ask the Minister of State to consider the points I have made and to consider the difficulties a court might have in seeking to interpret section 20(5) as against section 33, which appears to give the discretion — subsection (5) of section 20 does not appear to allow discretion and this is the difficulty with it.

Senator David Norris: Senator Bacik has hit the nail on the head. The whole purpose is to provide discretion. I refer to the two amendments, amendment No. 37, the changing of "shall" to "may" and the substantive amendment No. 38. The whole point of it was to enable a housing authority and the tenant together to make arrangements for the payment of arrears owed and at the same time to allow them to be in receipt of social housing support. That is not included here and I will most definitely put that amendment to a vote. This is absolutely disgraceful. It is dealing with people who are in a real situation of hardship and this very severe penalty could be imposed on somebody if they kept a parrot, a dog or a cat and there was a condition of that kind. They would be debarred from getting the social housing support at the same time as they were being forced to pay the arrears. I wonder if the penny has dropped in the Department as to the kind of economic times into which we are rapidly moving. Many people will be caught in this situation and it is absolutely unacceptable that the Minister of State should take this view and tie down the hands.

The Minister of State asked us to withdraw our amendments. I can tell him I will not be withdrawing this amendment. I am asking the Minister of State to withdraw his amendment and substitute ours, in the interests of decent treatment of these tenants. There are plenty of ways of dealing with tenants who get into arrears and all those powers remain with the local authority. All we are asking for is a bit of flexibility in economic circumstances which cry out for flexibility.

Senator Ivana Bacik: On a point of order and to assist Senator Norris, I note that section 33 explicitly does not apply to section 20. Subsection (1) of section 33 lists the provisions to which it applies but section 20 is not included.

Senator David Norris: Exactly.

Senator Ivana Bacik: Subsection 20(5) which provides the flexibilities states that where there are moneys due under any of the provisions——

An Leas-Chathaoirleach: That is a point on the Bill, not a point of order.

Senator Ivana Bacik: It is a point of assistance to my friend.

Senator David Norris: It is a point of great assistance and I am grateful to my learned colleague. Section 33(5) states: “Where there are moneys due and owing by a household to a housing authority under any of the provisions to which this section applies and the housing authority is satisfied that the household would otherwise suffer undue hardship the housing authority may, at the household’s option, enter into arrangements with the household for the payment of those moneys (together with any interest that may have accrued under *subsection* (2) by such instalments and at such times as the housing authority considers reasonable in all the circumstances in addition to any rent, charges, fees or loan repayments that the household is paying to the authority.”

Senator Ivana Bacik: That does not include section 20.

Senator David Norris: Exactly. They can moderate their demands for repayment but there is nothing there that covers the question of social housing support. I would certainly be of the view that this is an amendment on which this House should be quite firm.

The Minister of State says he has accepted amendments but I cannot remember any of them.

Senator Dominic Hannigan: He accepted a small number.

Senator David Norris: He accepted some of Senator Hannigan’s amendments, which I welcome, and that is why he remembers them, but he did not accept any of ours. That means there is no technical difficulty. The Bill has been amended so the question of not amending it because of pressure of time does not arise. I appeal to the Minister of State to look at this again. This provision will pinch people quite hard. I know local authorities are anxious to get arrears of rent and they are entitled to them. However, the whole question of the social policy of Government is involved here, not just the collection of arrears. We are not just dealing with the creation of a debt collection agency, we are dealing with real human problems. The Government’s amendment is a mess and I will certainly be voting against it.

Senator Dominic Hannigan: I agree with my colleagues. I remain unhappy with the Government’s proposed amendment. However, I must admit that our amendment No. 36 is not as clear as it could be and we will not move that amendment but will reserve the right to retable it on Report Stage.

Senator Paudie Coffey: I ask the Minister of State to clarify paragraph (a) of Government amendment No. 35. Is this amendment intended to avoid any duplication of tenancies? Does it exclude or deprive anybody from seeking a transfer to adjacent local authorities? For example, if somebody is in a tenancy in a city housing authority and they wish to apply for a house in the adjacent county council housing authority, does this amendment preclude them from being assessed by the county authority?

Deputy Michael Finneran: I appreciate Senator Norris's concerns but it is worth putting the issue surrounding rent arrears in context. The differential rent scheme operated by housing authorities is based on the fundamental principle of ability to pay in that the rent is related to the household's income. That is a very affordable form of housing. Research carried out in 2001 on Dublin City Council tenant population suggested that the differential rent scheme plays an important role in combating poverty. Where people get into difficulty in paying rent, ample opportunity is provided for tenants before consideration of the serious step of termination of tenancy.

The provisions in section 31 envisage that a rent scheme would include provisions for temporary waiver of rent on hardship grounds and section 33 includes provision for instalment payments of money due under that section and where hardship arises. These form part of a process of encouraging people to keep up their rent repayments on one hand and having a balanced and fair approach when difficulties arise for a household. Against that background it is only reasonable that a person who is being evicted for arrears would not be immediately considered for another letting, otherwise there would not be an incentive to pay rent. That would not be particularly fair to the majority of tenants who keep up their rent payments. However, I think it is reasonable that this period of ineligibility should be limited and that is the reason I have put forward the official amendment to clarify that consideration would only be given to arrears in a tenancy over the past three years. In light of this clarification, which I believe improves the provision, I ask that the Senator withdraw amendment No. 38.

In response to Senator Bacik, the intention of section 25 is to underline the seriousness of actions such as a breach of tenancy agreement or non-payment of rent. The consequences of these actions are that they are to be taken into consideration by a housing authority in determining the household's eligibility for further support. I wish to put this explanation on the record. While the amendment proposed by the Senators seeks to include some discretion for local authorities in application of this provision, this desire needs to be balanced with the requirement for clarity about eligibility requirements. For that reason, the wording in the official amendment improves the situation.

Senator David Norris: I acknowledge that the Minister of State has made some degree of movement in providing the amendment and that is in response to the amendment that has been put down. However, my problem is that under my amendment local authorities can still do what the Minister of State has just spoken of — they can still evict and charge arrears. I do not see how under my amendments a local authority would be coerced into immediately rehousing a bad tenant who has been consistently, habitually and deliberately acting in bad faith by not paying rent. The Minister of State's concerns are catered for in the amendments.

I do not think I will press the amendment at this point. I will return to the groups which briefed me on these provisions, present the Minister of State's amendment to them and ask them if they are satisfied with it. I will be surprised if they are for the reasons given. Far be it from me to stand in the way of a ministerial amendment in response to an amendment we tabled and may claim. It might be no harm for all sides to take further advice on the issue.

Senator Ivana Bacik: The Minister of State raised the issue of the interaction of section 33 with section 20. I said a court would have difficulty in reading the two together. On careful reading, it would actually have no difficulty. The provisions of section 33 clearly do not apply to section 20. Section 33 specifies those provisions of the Bill to which it does apply and section 20 is not included among them. Therefore, the discretion allowed to housing authorities under section 33 cannot be incorporated into the provisions of section 20.

My concern about section 20 is that it gives the housing authority no discretion. There is not even a qualification or material condition, to the effect that where a tenancy agreement has been breached by any member of a household, the household becomes ineligible for social housing support, to include dwellings, sales of dwellings, rental accommodation, caravan sites and so forth. Is the Minister of State suggesting there is residual discretion given to the housing authority? If so, I would welcome it but I do not see it mentioned in his amendment. No court would think for one moment that section 33 could apply.

I take Senator Norris's point that he does not wish to press the amendment.

Senator David Norris: I do now.

Senator Ivana Bacik: It needs to be voted on if the Minister of State will not indicate that he might at least look at the points I have raised about this interaction, given that he first mentioned section 33. I do not see how the provisions of that section in its current form could possibly apply to section 20.

Senator Paudie Coffey: Will the Minister of State clarify if the Government's amendment to section 20(5)(a) will have an impact on the transfer of existing tenants from one housing authority to another?

Senator David Norris: I will be pressing my amendments for the simple reason that the Leas-Chathaoirleach has explained to me that if the Government's amendment is allowed to go through, I will not have an opportunity to resubmit my amendment on Report Stage. From brief consultations I have learned, as I imagined, that the amendment is regarded as significant.

An Leas-Chathaoirleach: Senator Norris will be able to resubmit his amendment on Report Stage by virtue of the fact it has been discussed in the House on Committee Stage.

Senator David Norris: Even if the Minister of State's amendment is passed.

An Leas-Chathaoirleach: Yes.

Senator David Norris: We shall see. It is an important amendment and the Minister of State has not satisfied me with regard to the question of discretion. He has answered other points but not the ones in which I am interested.

The Minister of State should take carefully into account the interpretation of legislation by my eager young colleague, Senator Bacik, who is a brilliant professor of law at a distinguished university. The Seanad is lucky to have such legal expertise among its ranks. This is the type of thing which the Seanad is for. We have lost Dr. Mary Henry who brought to this House considerable expertise in medical matters but now have someone who can be helpful in advising. I agree with Senator Bacik on how these sections interact and there is a gap.

Senator Ivana Bacik: I am grateful for those entirely undeserved and kind comments. If it is not possible to make an amendment to this provision on Report Stage, the Minister of State might consider addressing the issue in a different way by amending section 33 to make it explicit that it applies to the power of housing authorities to determine whether households are eligible for social housing support under section 20. Section 33 could equally be amended, given that it contains the discretionary provision that Senator Norris wishes to have inserted in section 20.

Deputy Michael Finneran: Regarding Senator Coffey's concerns, it will not apply to transfers between housing authorities. Section 20 does not provide a housing authority with the power to charge rents, sell sites or dwellings, make tenancy agreements, etc. These powers are exer-

[Deputy Michael Finneran.]

cised by authorities under other housing Acts and, in the case of the charging of rents, section 31, when enacted. Sections 31 and 33 deal with rent arrears before eviction. Section 20 deals with situations after eviction for the non-payment of rent arrears. This is an important clarification.

Senator Ivana Bacik: I know why section 33 specifies “where there are moneys due and owing by a household to a housing authority under any of the provisions to which this section applies...”. It applies to earlier legislation under which money may be owing and so forth. My difficulty, however, is that section 20(5) gives no discretion to a housing authority. It simply states a “household shall not be eligible for social housing support where the household or a member of the household was ... in arrears of rent in respect of the dwelling or site ... breached a condition of the tenancy agreement”. Section 33(5), however, does give discretion but its provisions do not apply to section 20. The provision which Senator Norris wishes to have inserted essentially replicates the discretionary provision of section 33(5) in section 20. I accept section 20 does not give a housing authority power to charge rent and so forth but it does give power to withhold social housing support. Beyond this, it determines the conditions for eligibility. It is too absolutist. No one is denying a housing authority should have the power to withhold social housing support for breaches or the non-payment of rent arrears. Senator Norris’s amendment would provide some leeway. The presumption applies that the household would be ineligible but there would be some scope for a housing authority in cases where it felt hardship was involved, particularly in these recessionary times, and could enter arrangements for the payment of moneys. Given that an authority can do this under section 33, I do not see why it cannot be imported in section 20. It would clarify that there was some discretion that a household would not be ineligible in every situation where there were arrears or a breach of a tenancy agreement. My concern is that a housing authority’s hands will be tied.

Senator David Norris: Under my amendment, all the powers the Minister of State seeks for a housing authority would survive. It could evict and charge for arrears. Under the Minister of State’s amendment, an authority will be required to remove social housing supports. The whole matter of flexibility is left in abeyance. The language in the section of facilitation is taken directly and specifically from other sections; therefore, it is the language used by the Parliamentary Counsel. The Minister of State should be in a position to accept what is, in effect, the very language in which the Bill is drafted. The effect of the Government’s amendment does not go fully to meet our objection to the narrowing, constriction and tying of the hands of the local authorities. We seek flexibility and discretion.

Deputy Michael Finneran: I acknowledge the sentiments and concerns raised. However, the proposed amendments would raise issues regarding the exercise of any discretion in respect of eligibility. Given the importance of the matter, I am prepared to consider further the mandatory nature of the provision. I propose to undertake this in conjunction with the Chief Parliamentary Counsel. I ask Senators to accept the Government amendment and withdraw their amendment. I will see what I can do following consultation with the Chief Parliamentary Counsel.

Senator David Norris: That is very welcome and I thank the Minister of State for his flexibility. I hope there will be further flexibility. Does this mean the Minister of State is pressing amendment No. 35 or are we all withdrawing amendments so that he can come up with something better?

Deputy Michael Finneran: I am asking that amendment No. 35 be accepted and I will examine how we can accommodate the sentiments and concerns raised by the Senators.

Senator David Norris: Does that specifically relate to discretion?

Deputy Michael Finneran: The proposed amendments would raise issues concerning the exercise of any discretion in respect of eligibility.

Senator David Norris: They would not tie the hands.

Deputy Michael Finneran: I will refer it to the Chief Parliamentary Counsel.

Senator Ivana Bacik: I am grateful that the Minister of State has indicated he will refer it to the Chief Parliamentary Counsel. I ask that the latter might advise on the interaction between section 20 and section 33 and whether it would be possible to import some measure of discretion into that currently absolutist language in section 20(5). If the Chief Parliamentary Counsel will advise on this, we are prepared to reserve our position on this until Report Stage.

Senator David Norris: I want to add an additional rider. This has been a valuable debate and I ask the Minister of State to make available to the Chief Parliamentary Counsel the text of the debate on this section so that our concerns can be taken into account in the context of the debate. I would not be happy if it was a question posed to the Chief Parliamentary Counsel. Is the Minister of State prepared to allow the Chief Parliamentary Counsel to review the debate? It is only half an hour of debate.

Deputy Michael Finneran: I do not see any problem with that. It is only appropriate that the Chief Parliamentary Counsel would acknowledge the broad-ranging debate. I am prepared to examine the issues. While I cannot give guarantees, I will seek further advice from the Chief Parliamentary Counsel.

Amendment agreed to.

Amendments Nos. 36 to 39, inclusive, not moved.

Senator Ivana Bacik: I move amendment No. 40:

In page 18, subsection (6)(b), line 3, to delete “need;” and substitute the following:

“need. In particular housing need assessments must have regard to the need for housing of people who—

- (i) are homeless,
- (ii) are members of the Travelling Community,
- (iii) are living in accommodation that is unfit for human habitation or is materially unsuitable for their adequate housing,
- (iv) are living in overcrowded accommodation,
- (v) are sharing accommodation with another person or persons and who, in the opinion of the housing authority, have a reasonable requirement for separate accommodation,
- (vi) are young persons leaving institutional care or without family accommodation,
- (vii) are in need of accommodation for medical or compassionate reasons,
- (viii) are elderly,

[Senator Ivana Bacik.]

(ix) are disabled,

(x) are, in the opinion of the housing authority, not reasonably able to meet the cost of the accommodation which they are occupying or to obtain suitable alternative accommodation;”

This seeks to insert a new provision in section 20(6) which is based on previous legislation and provides that the Minister would be empowered to make regulations providing for the matters by reference to which a household’s need for social housing support and the form of such support would be determined. There is already a list of three such matters and my amendment inserts a further provision that housing needs assessments must have regard to the need for housing of people who are homeless, members of the Traveller community, and a list of other factors such as where accommodation is unfit for human habitation, overcrowded or where accommodation is shared. It sets out in a more specific way the list of persons especially in need. The existing provisions are returned to the Bill, providing a better foundation upon which the Minister may base regulations.

As Senator Norris has said, I am very grateful to the Make Room coalition which comprises Focus Ireland, the Society of St Vincent de Paul, the Simon Community and Threshold. These front-line housing agencies and homeless support agencies have been very helpful in giving us information. They are of the view that this should be re-inserted into the Bill and would be of assistance to the Minister in outlining the needs to which he or she must have regard.

Deputy Michael Finneran: This amendment is not necessary. Section 20(6) provides that the Minister will make regulations providing for the description and classification of household need. It is intended that these regulations would include a revised classification system for housing needs centred on the severity and persistence of need. It is proposed to base the revised classification system as much as possible on the model devised by FEANSTA, a European body representative of national organisations working with the homeless. The proposed classification system has already been the subject of extensive consultation with the social partners and housing authorities from the perspective of the general and special housing needs. These groups, on the whole, have been in favour of the proposals. Providing the details of such a classification system in regulation will allow the necessary flexibility to adapt the model over time as circumstances and priorities change. This flexibility is not as readily available in primary legislation. I ask the Senator to withdraw the amendment.

Senator Ivana Bacik: I do not intend to press the amendment but I reserve the right to come back to it on Report Stage.

Amendment, by leave, withdrawn.

Senator Ivana Bacik: I move amendment No. 41:

In page 18, subsection (7), line 6, to delete “may” and substitute the following:

“shall, within one year of the commencement of this section,”.

This is self-explanatory. It seeks to amend section 20(7) not to make any change to its purpose of but to provide a time limit within which it would take effect. I have changed “may” to “shall, within one year of the commencement of this section,”, changing from the facilitative, which allows the Minister to make regulations on carrying out social housing assessments, to the mandatory, which requires the Minister to do so within one year of the commencement of the

section. Its importance is that it provides that new needs assessments will take place within a year of this section being commenced. Clearly, there is discretion as to when the section will be commenced and we are all realistic about that since it happens with most legislation. There is discretion as to when section 20(7) will take effect but this amendment is to strengthen its purpose, given how important it is that these regulations are made, by ensuring they would be made within one year of commencement. I do not see this as unduly restrictive of the Minister, given that there is always some flexibility as to when the section will be commenced. It provides a timeline for when the regulations will be drawn up in respect of new social housing assessments.

Senator David Norris: I support this valuable and practical amendment. Senator O'Toole tabled a similar amendment with a time requirement in respect of other legislation and it was accepted. In this debate the Minister of State has relied extensively on a promissory note to the effect that this will be dealt with in the regulations. In return for that, it is fair enough that we are given a timeline. We cannot have an indefinite situation where we are waiting for these regulations to be made. All too easily it could turn into a continuous deferral of matters that are very substantial to the Bill. The Minister has relied extensively on postponing directly addressing certain issues until his regulations come into effect. For that reason, it is incumbent on the Minister to give a target date by which this work must be done. It must not be long-fingered, and the Minister would not wish it to be, but this would provide that degree of impetus.

We are all human. One of the achievements of which I am proudest is that for three and a half years I contributed a page every Thursday to a tabloid evening newspaper, the *Evening Herald*. I like to think I raised its tone somewhat. I tend to postpone things. I am, by nature, what Sean O'Casey would call a "prognosticator". I am proud that I met the deadline every week for three and a half years. I would have put things off, but the deadline was a help and an incentive. In light of those various factors I would like the Minister to seriously consider this matter. If, upon advice, he finds six months are too short he can return with his own timeline. We must know when this material will come into operation, since the Minister has relied on the regulation provisions so extensively.

Deputy Michael Finneran: This amendment is not necessary. Subsection (7) empowers the Minister to make regulations to set out how an individual assessment of housing needs must be carried out on a household.

Senator David Norris: The Minister is becoming repetitive.

Deputy Michael Finneran: While it is the intention to introduce such regulations as quickly as possible, as discussed regarding other amendments which seek to place an obligation on the Minister to make regulations, this section follows the normal drafting convention to provide the necessary powers. In that circumstance I ask the Senator to withdraw the amendment.

Senator Ivana Bacik: I reserve my position until Report Stage and will not press the amendment now.

Amendment, by leave, withdrawn.

Senator Ivana Bacik: I move amendment No. 42:

In page 18, subsection (7), line 7, after "of" to insert "annual".

[Senator Ivana Bacik.]

This amendment appears somewhat similar but is much more forward-looking. It provides, again, for an amendment to subsection (7) that the Minister would make regulations on the carrying out of annual social housing assessments. The purpose is to ensure there is a more regularly updated review of housing assessments. I mentioned this in my speech on Second Stage. There is a serious issue——

An Leas-Chathaoirleach: Amendments Nos. 42 and 44 are related and may be discussed together.

Senator Ivana Bacik: I should have said the two amendments are being discussed together because amendment No. 44 would delete paragraph (d), which refers to the frequency of reviewing and updating assessments. This is a particular issue because the review and updating of assessments is carried out only every three years. That does not take into account changing circumstances. We are all seeing how rapidly the economic climate, property prices and people's ability to make repayments are changing. Events are moving very quickly and in the real world these matters will move quickly. The Northern Ireland Housing Executive has adopted an annual review of needs assessments. In this jurisdiction we need a much more regular system of reviewing assessments. That is why I asked for the word "annual" to be inserted and for paragraph (d) to be deleted, almost as a corollary of that.

We have a problem with a lack of objective criteria for needs assessments across local authorities. That is probably uncontroversial to say; it is widely accepted. I welcome the general tone of this Bill, which I hope will provide for a more consistent set of criteria. The Bill still leaves ultimate power to local authorities. The powers of the Minister to provide for an overall national system of needs assessment should be much more strengthened in the Bill. That is what I seek to do in this series of amendments, briefed by the agencies I mentioned in the Make Room coalition.

The Northern Ireland model is useful for us because it shows the Housing Executive has recognised that to perform annual reviews is a better and more efficient way to ensure needs assessments are up to date. In Northern Ireland there are also quarterly updates. On Second Stage I said there is a problem generally with this in terms of collecting data from local authorities and I can see how that might be a problem in carrying out reviews. I proposed that the Central Statistics Office, CSO, might have a role here, as it does on Garda figures.

As a criminal lawyer I am very conscious that until very recently crime figures were kept and collated by the Garda Síochána. A very short number of years ago the CSO took over responsibility for collating and keeping a national database of crime statistics. Everybody, including the Garda, regard this as a much better method of keeping crime figures. There is room here for us to also change how we collate our housing data. This would assist in ensuring we could have annual reviews of needs assessments. I ask the Minister to indicate that he might consider inserting the word "annual" into this provision to bring us to an equivalent situation with Northern Ireland and ensure we can keep more efficiently up to date with changing economic circumstances for people in need of housing support.

Senator David Norris: I support this amendment. Senator Bacik made an effective political point when she talked about aligning the legislation in this part of the island with that in the Northern part. It should be particularly keenly felt by a member of Fianna Fáil, which has the aim of reuniting the national territory. That is a good political point. An even more urgent point is the fact that, as Senator Bacik has indicated, the compilation of these statistics is a

significant element in policy formation. To formulate policy accurately one needs the most up-to-date statistics and this would assist with that. I support her on this.

Deputy Michael Finneran: I assure the Senator that Minister Margaret Ritchie and I have a good working relationship. She has been in the Customs House with me and I have visited the Bogside and Creggan areas with her.

Senator David Norris: For the sake of balance the Minister will also have to visit the Shankhill

Deputy Michael Finneran: This amendment is not appropriate to this provision. Subsection 7 empowers the Minister to make regulations to set out how an assessment of housing needs will be carried out on an individual household including the form of that assessment and the period within which the housing authority should carry out the assessment after receiving an application. Paragraph (d) of this subsection already provides that the Minister, through regulation, can set out how often an assessment of the circumstances of particular households should be reviewed or updated. It is the intention to move more timely reports on needs than the current tri-annual assessments. Amendment No.44 is related. In those circumstances I ask that the Senator withdraw the amendments.

Senator Ivana Bacik: While I hear what the Minister says, it is important to be a little more specific about how regularly updates and reviews take place. Paragraph (d) refers to frequency of reviewing and updating assessments but it gives no commitment to more regular updating. The tri-annual system is not efficient enough and does not take into account changing circumstances. I would like the Minister to consider what I have said about the CSO. That might be a useful way to collate statistics. I will not press the amendment but reserve the right to do so on Report Stage.

Amendment, by leave, withdrawn.

Senator Ivana Bacik: I move amendment No. 43:

In page 18, subsection (7), between lines 12 and 13, to insert the following:

“(c) the maximum period in which an applicant for social housing or housing support shall stay in accommodation designated as emergency;”.

Again, this seeks to amend subsection (7) by inserting a new provision specifying that the Minister, in his regulations, would specify the maximum period in which an applicant for social housing or housing support shall stay in accommodation designated as emergency. This is an important amendment which would commit the Minister to providing for a maximum period after which a housing authority would have an obligation to provide a household with alternative long-term housing accommodation. It is consistent with Government policy. This is a significant amendment that would provide for an important and enforceable new provision. It is important that it be made because it would give teeth to the Government’s homelessness strategy. While it would be a departure — I do not pretend it would be something new to the Bill — it would also commit the Government to that to which it is already committed politically in the homelessness strategy which states households should not be left in emergency accommodation beyond six months. There is an aspiration and a political commitment to adhere to a maximum period beyond which households should not be left in emergency accommodation. In the amendment I am seeking to give teeth to this commitment and have specified in the legislation that the Minister would designate a maximum period. The Minister could choose to designate a longer period. It may not need to be as tight as six months but that is the period at which the Government is aiming. There is no justification

1 o'clock

[Senator Ivana Bacik.]

in a developed country in 2008 for leaving households longer than six months in emergency accommodation.

This is an important provision that would give teeth to the legislation. It would deal somewhat with the issue of homelessness which we raised in earlier debates on Committee Stage. Many of us have suggested there might be more in the Bill to tackle homelessness but this measure would give teeth to an important commitment the Government has already given. It is not against the Government's strategy. I, therefore, ask the Minister of State to consider inserting in the legislation the power to specify a maximum period. Given that the legislation states the Minister may make regulations, it would not tie the Minister's hands. I am not seeking to do this, rather I am asking that the Minister consider that within the regulations there should be the power to specify a maximum period beyond which households should not be left in emergency accommodation.

Senator David Norris: Again, I find myself in strong agreement with Senator Bacik. Six months is plenty of time for it to be considered an emergency but I warn about one aspect. We have had emergency legislation on the Statute Book since the time of the Second World War. For political purposes, therefore, emergencies can be lasting. I support and reinforce what Senator Bacik said because I have a personal memory, as I am sure the Senator does, of hearing the Minister of State speak effectively and tellingly on the precise subject of the Government's aim to move people out of emergency housing within six months. That is what he said in his Second Stage contribution a week or two ago in the House.

It is important to register again that the Minister would not be required to do this if it presented an awkwardness but it would facilitate him in doing it. I cannot imagine an objection, therefore, and will be profoundly shocked if the Minister of States says the amendment is not necessary. We are developing an oral formulaic response, whereby I could practically parrot some of the Minister of State's replies in advance. I ask him to consider the amendment. The Minister was extremely good on this issue on Second Stage but for persons in bed and breakfast accommodation who have to be out on the streets of a city all day and for part of the evening, particularly those with families, six months is a very long time to have to endure such hardship.

Senator Ivana Bacik: Hear, hear.

Senator David Norris: On these grounds I ask the Minister of State to accept the amendment which would not tie the Minister's hands. It may not be necessary but it depends on the Minister of State's view of necessity. Nothing is necessary. We are not necessary. This Parliament is not necessary for the continued functioning of the universe. It all depends on how lasting the Minister of States's view of necessity is. I hope he will not start his reply by saying the amendment is not necessary. In the universal scheme of things it may not be necessary and the inhabitants, if such there be, of Mars are unlikely to be affected by it but people in this limited jurisdiction would be in a practical way. I believe the Minister of State would want to move in that direction.

Deputy Michael Finneran: The proposed amendment is not appropriate to the subsection.

Senator David Norris: At least, it is a variation of the theme.

Deputy Michael Finneran: Subsection (7) empowers the Minister to make regulations to set out how an assessment of housing need will be carried out on an individual household. The aim of housing policy is to provide accommodation for households not in a position to provide it for themselves. In this context, the particular goals have been set in the new homelessness

strategy, The Way Home, relating to the elimination of long-term occupancy of emergency homeless accommodation. It is appropriate to set such goals as policy rather than a legislative objective. Eliminating long-term occupancy of emergency homeless accommodation will require careful planning and organisation at local level with support from central government. It will be achieved by an adequate supply of long-term housing in each local area to address current and projected needs, adequate community support services for households vulnerable to homelessness, accessible mental health and addiction services, and effective interventions by the homeless services.

As I explained to Senators on the previous occasion, The Way Home contains a number of actions, the majority of which have deadlines for completion under each strategy aim. It also includes performance indicators relating to each strategy aim. These will form the basis of a more detailed implementation which will assign lead roles and specific timetables to achieve the important national objective of ensuring that by 2010 no one will be in emergency accommodation for more than six months. A range of actions are required to make this and other elements of the strategy work. One of the most important issues from the legislative perspective is the commitment to introduce statutory local based homeless action plans. In practice, implementation has already started. A circular has been issued to all local authorities providing further details of action plans and advising them to commence work on updating their existing plans. It also advises them about their local homeless forum and the formation of the management group for each local homeless forum.

We are working on bringing forward a necessary legislative provision in conjunction with a more broadly based implementation plan. It is envisaged in The Way Home that these plans, as well as containing an overall vision and objective, will include output targets and timescales for achievement. The associated actions to be included in the plans must take account of the local position, as the experience of the homeless varies throughout the country. The plans must have regard to the national implementation plan and the guidelines that will be issued by my Department. In the light of this ongoing work, I ask the Senator to withdraw her amendment.

Senator Ivana Bacik: I thank the Minister of State for his full response. However, I am concerned to hear him say that he would prefer to see the laudable goals outlined in The Way Home, the homelessness strategy, which I welcome, as policy rather than legislative objectives. That may undermine significantly whether these goals are achievable because if they are not given legislative backing, they will remain only as aspirations. The Minister of State might clarify this because he went on to say he envisaged some legislative provision. I accept that local considerations need to be taken into account. I was glad to hear the Minister of State say he wanted plans at local level to include output targets and timescales. I would like him to clarify whether the plans will have legislative backing in other legislation. Even taking into account variations in local areas and in the meaning of emergency accommodation, we all are well aware such accommodation has meant families with young children being forced to stay in bed and breakfast accommodation and having to wander the streets aimlessly between breakfast and bed time. That is not in anyone's interest.

Senator David Norris: Hear, hear.

Senator Ivana Bacik: As Senator Norris said, six months is too long a time for any parent of young children or any individual to be left in such emergency accommodation. I will consider what the Minister of State said because I do not want to dismiss it out of hand, but I am concerned he said these important goals such as limiting the time people spend in emergency accommodation would be policy aspirations rather than legislative objectives. Will he clarify whether legislation will be introduced to give teeth to this goal in the homeless strategy?

Senator David Norris: I support Senator Bacik. The Minister of State has explained this as a policy whereas legislation is the implementation of policy. He has been very clear in this area about the policy he strongly advocates and it would be a pity to miss this opportunity to implement the policy or at least to provide a framework within which it can be implemented. I am a little disturbed at his reluctance to accept an amendment that is in clear alignment with his own policy. It proposes to implement the policy, which is the purpose of legislation. If the policy only exists as a pious aspiration, it will have no impact on the lived experience of people in Dublin.

Deputy Michael Finneran: There is a commitment to introduce statutory-based local homeless action plans. The way to give legislative effect to this goal is to put those plans in place. We are working on the legislation.

An Cathaoirleach: Is the amendment being pressed?

Senator Ivana Bacik: I am obliged to the Minister of State. In that circumstance, I will not press the amendment but I reserve the right to do so on Report Stage.

Amendment, by leave, withdrawn.

Senator Ivana Bacik: I move amendment No. 44:

In page 18, subsection (7), line 16, to delete paragraph (d).

I indicated I would not press this amendment also and I reserve the right to do so on Report Stage.

Amendment, by leave, withdrawn.

Government amendment No. 45:

In page 18, between lines 32 and 33, to insert the following subsection:

“(10) A household in receipt of social housing support referred to in *section 19(2)(b)*, before the commencement of this section, is deemed to have been assessed and qualified for such social housing support under this section.”.

Deputy Michael Finneran: The amendment proposes an additional subsection in this section providing that tenants in receipt of social housing support from the voluntary sector prior to the enactment of the Bill are deemed to be qualified for social housing support under this section. The amendment is required to copperfasten the existing exclusion from the terms of the Residential Tenancies Act 2004 of dwellings let by the voluntary sector to persons qualified for such support. Following the repeal under the Bill of section 9 of the Housing Act 1988, which is referred to in the existing exclusion set out in section 32(c)(ii) of the Residential Tenancies Act 2004, an amendment to that provision, included in amendment No. 107, and this addition to section 20 are necessary to update the exclusion of the voluntary sector from the terms of the 2004 Act.

Amendment agreed to.

Section 20, as amended, agreed to.

SECTION 21.

An Cathaoirleach: Amendments Nos. 46 and 93 are related and may be discussed together.

Government amendment No. 46:

In page 19, lines 1 and 2, to delete subsection (2).

Deputy Michael Finneran: These amendments delete subsections that provide for a matter to be prescribed in situations where the section already provides for that matter to be prescribed. Thus, section 21(2) provides for the Minister to prescribe the form of a summary of social housing assessment when section 21(1) refers to the prescribed form of the summary. Similarly, section 43(1)(i) provides for the Minister to prescribe a date when section 43(1) refers to the date as may be prescribed. Under section 3, the Minister is empowered to make regulations prescribing any matter referred in the Act as prescribed. The second reference to “prescribed” in both sections 21 and 43 are unnecessary and, therefore, I propose to delete them.

Amendment agreed to.

Section 21, as amended, agreed to.

SECTION 22.

Senator Paudie Coffey: I move amendment No. 47:

In page 19, subsection (4), line 31, to delete “may” and substitute “shall”.

Amendment put and declared lost.

Amendment No. 48 not moved.

Senator Paudie Coffey: I move amendment No. 49:

In page 19, subsection (4), between lines 43 and 44, to insert the following:

“(d) measures to prevent and reduce homelessness.”.

The amendment is intended to ensure homelessness is identified in the Bill. The section covers housing allocation, which is probably the most important function of a housing authority. Its housing allocation must be seen as fair and consistent and it must take all the applicant’s circumstances into account. As I said on Second Stage, I am concerned that homelessness is not clearly enshrined in law and the Bill provides the Minister of State with an opportunity to acknowledge that and to make this amendment. I urge him to take the amendment into consideration.

Deputy Michael Finneran: The amendment is not necessary. Section 22(4) empowers the Minister to make regulations governing the matters that housing authorities must include in their allocation scheme, which is a mechanism for them to allocate dwellings fairly and transparently to individual households. Section 22(5) provides sufficient scope for housing authorities, as appropriate, to reserve a portion of dwellings in its area for allocation to particular classes of household. This allows them, based on the identified housing needs in their area, to target support, where appropriate, to particular types of household need, for example, the homeless, Travellers, people with disabilities and single adult households. In those circumstances, I ask the Senator to withdraw the amendment.

Senator Paudie Coffey: I agree to withdraw the amendment but I reserve the right to reintroduce it on Report Stage.

Amendment, by leave, withdrawn.

Senator Paudie Coffey: I move amendment No. 50:

In page 19, subsection (4), between lines 43 and 44, to insert the following:

“(e) The Minister shall lay the draft regulations before the relevant Oireachtas Committee for debate. The Minister shall consider the recommendations of the Oireachtas Committee before signing final regulations.”.

The reason I tabled the amendment is the regulations laid down by the Minister will have a serious impact, especially on citizens involved in the provision of housing. If the amendment is accepted, regulations introduced by him or her should be brought before the joint Oireachtas committee for discussion. The committee can consult all the various stakeholders and take their views on board, thus ensuring the regulations are properly debated in a timely fashion. The Minister should lay regulations before the committee which would be a worthwhile sounding board. It would be a worthwhile function of the committee to discuss regulations relating to this legislation. We would ask that the Minister of State take this amendment into consideration.

Senator David Norris: The Minister of State will presumably be laying the draft regulations before the Houses of the Oireachtas. Perhaps he will clarify whether this will happen and whether this will be taken with debate because we are familiar with a number of situations where matters were taken without debate. I am assuming that these regulations will be laid before the Houses, although not perhaps in draft form. It may be that the advice of a committee that has a focus on this area, among others, would be very helpful at the draft stage before they come to the House, which might make for a more efficient management of business. It seems an appropriate amendment and I support it.

Deputy Michael Finneran: This amendment is not necessary. Section 3(3) provides that every regulation under this Act shall be laid before the Oireachtas and resolutions may be passed to annul the regulation.

Senator Paudie Coffey: I concur with Senator Norris. In my short time in the House, I have often encountered situations where regulations are brought before the House without debate and we do not get the opportunity to further consult on and debate the various issues. We in Fine Gael believe it would be appropriate that any draft regulations should go before the joint committee. This would enhance its role in consulting with the various stakeholders and would assist the Minister in finalising his regulations in that it would have a broader and more consultative basis before he finalises them, which would be appropriate. For that reason, I will be pressing the amendment.

Deputy Michael Finneran: As I have said, the amendment is not necessary. The regulations are laid before the House and the House has the entitlement to pass the resolution to annul the regulation. That is the democratic right of the House.

The Committee divided: Tá, 18; Níl, 25.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.

Cummins, Maurice.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.
McFadden, Nicky.

Tá—continued

Mullen, Rónán.
Norris, David.
O'Reilly, Joe.

Phelan, John Paul.
Ross, Shane.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callanan, Peter.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
de Búrca, Déirdre.
Ellis, John.
Glynn, Camillus.
Keaveney, Cecilia.
Leyden, Terry.
MacSharry, Marc.

McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Sullivan, Ned.
O'Toole, Joe.
Ormonde, Ann.
Phelan, Kieran.
Quinn, Feargal.
Walsh, Jim.
Wilson, Diarmuid.

Tellers: Tá, Senators Paudie Coffey and Maurice Cummins; Níl, Senators Camillus Glynn and Diarmuid Wilson.

Amendment declared lost.

Sitting suspended at 1.35 p.m. and resumed at 2.30 p.m.

Amendments Nos. 51 and 52 not moved.

Senator Paudie Coffey: I move amendment No. 53:

In page 20, subsection (5), between lines 4 and 5, to insert the following:

“(d) allocation on the basis of need.”.

This amendment proposes that allocations be made on the basis of need. This requirement must be enshrined in law so that all housing authorities are clear in this regard.

Deputy Michael Finneran: This amendment is unnecessary. The principle upon which housing authority schemes are founded is allocation on the basis of need, as provided for by section 22 as a whole. Subsection (5) provides a mechanism whereby, within a general allocation on the basis of need, housing authorities may reserve a portion of dwellings within the stock to cater for particular groups with particular types of needs, including the homeless, Travellers and single-adult households.

Senator Paudie Coffey: I thank the Minister of State for his explanation. I withdraw the amendment on the basis that it may be resubmitted on Report Stage.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendment No. 54 in the name of Senator Norris is out of order as it involves a potential charge on the Revenue.

Senator David Norris: Will the Leas-Chathaoirleach explain how this is so? The amendment relates to the establishment of an appeals commission.

An Leas-Chathaoirleach: The legal advice I have is that it involves a potential charge on the Exchequer.

Amendment No. 54 not moved.

Question proposed: "That section 22 stand part of the Bill."

Senator David Norris: I regret that my amendment No. 54 was ruled out of order. It is most frustrating. I strongly object to the notion that it cannot be moved because it would involve a charge to the Exchequer. Does this refer to the establishment of the commission, the payment of salaries and so on? We routinely pass similar provisions in the House. The decision to rule the amendment out of order highlights the farce under which this House is precluded from discussing any proposal involving money. The time for a re-examination of this restriction is long overdue and it should be done within the overall review of the working of the Seanad.

This is an issue the House should debate. Even though my amendment cannot be taken, I have a perfect entitlement to discuss the need for an appeals commission, as provided for in the amendment, in the debate on the section. Some 21,000 people applied for support during a previous regime, of which 9,000 were declared ineligible. No analysis was done of the reasons for these rejections. Some may have arisen as a result of non-delivery within the postal system of the correct forms. In many cases, applicants were deemed ineligible because they did not reply to letters and circulars from the authorities. This raises the question of literacy, particularly in the case of homeless people. There may well be a concealed problem of illiteracy which accounts for the fact that some applicants did not reply to certain correspondence.

Will the Minister of State consider my proposal to establish an appeals commission notwithstanding the ridiculous situation whereby I am precluded from doing so on the basis that it might create a charge on the Exchequer? That restriction is a farce and it makes the entire proceedings of this House ridiculous.

Deputy Michael Finneran: It is open to any member of the public to present concerns on issues such as this to the Office of the Ombudsman.

Senator David Norris: That is a weak response. The Ombudsman is not the answer to everything.

Deputy Michael Finneran: Section 22 provides that housing authorities put in place an allocation scheme for the provision of social housing supports to eligible households. It replaces section 11 of the Housing Act 1988. The section will allow the Minister to make regulations governing the making of an allocation scheme, the method by which households are prioritised and how the scheme will operate. It re-states some of the provisions of section 11, most particularly providing that the Minister cannot direct the allocation of a dwelling to a specific household, subsection (17)(b).

At present, housing authorities use a scheme for letting priorities to manage the allocation of dwellings to households in need. Authorities have complete discretion as to how households are prioritised within those schemes, which means there has been little consistency in how dwellings are allocated across local authorities. They also make no specific provision as to how transfer applicants are to be managed. Most housing authorities put in place their own arrangements in that regard. The reform of the allocation policy is part of a suite of reforms aimed at improving services and ensuring that social housing is delivered in a way that is fair and efficient. This approach was developed in conjunction with the local government sector. The social partners were also consulted through the housing forum.

The key components of the new allocation system include: a standard framework within which housing authorities will make their allocation schemes; a standard prioritisation methodology which will be applied to all housing authorities; a standard mechanism for housing authorities to deal with refusals of accommodation; the power for local authorities to reserve certain portions of dwellings to target particular groups in need; a mechanism to take account of the location preferences of eligible households; and standard mechanisms for housing authorities to manage transfer applicants and emergency accommodation requirements.

Subsection (1) sets out dwellings to which the allocation schemes made by a housing authority will apply. This is being expanded from the 1998 housing Act to include not just local authority housing but also dwellings provided by the authority through contracting or leasing and dwellings owned and provided by the voluntary and co-operative sector. In terms of local authority housing this includes dwellings provided under any of the housing Acts since 1966 and dwellings provided under Part V of the Planning and Development Act 2000, where the authority is the owner or has leased or contracted a dwelling, including the rental availability agreements.

Subsection (2) provides that a housing authority may allocate a dwelling to the household in accordance with an allocation scheme made under subsection (3) of the section. Subsection (3) provides that a housing authority should, not later than a year after the section comes into operation, make an allocation scheme to set out the priority in which the allocation of dwellings will be made to households that have undergone a social housing assessment under section 20 and who have been determined to be qualified for that support and households already in receipt of social housing support of some kind and who have requested a transfer from a housing authority or who have applied to purchase a dwelling under Part 3, the incremental purchase scheme. This is similar to requirements of section 11 of the 1988 housing Act and has been extended to provide that housing authorities must also have an allocation process in place for transfer applicants. It also provides that households availing of the incremental purchase scheme must be subject to an allocation scheme.

That is the main thrust of the section.

Question put and agreed to.

Section 23 agreed to.

SECTION 24.

Government amendment No. 55:

In page 22, subsection (2)(b), to delete lines 36 to 40 and substitute the following:

“(i) his or her tax reference number within the meaning of section 888 of the Taxes Consolidation Act 1997, and”.

Deputy Michael Finneran: The existing subparagraph (i) specifies that in order to benefit under the rental accommodation scheme, RAS, a rental accommodation provider must furnish to the housing authority either his or her PPS number, as defined in social welfare legislation, or, in the case of a company, its registered number and address. The purpose of this amendment is to replace this provision with a single requirement. A rental accommodation provider must furnish his or her tax reference number as defined under the tax legislation. The basic requirement has not changed. The RAS landlord must supply his or her PPS number to the housing authority to benefit under the scheme. The amendment proposes to use a more straightforward

[Deputy Michael Finneran.]

and relevant statutory provision as a reference point, as the definition of a tax reference number also includes the reference number on the tax returns of companies.

Amendment agreed to.

Section 24, as amended, agreed to.

SECTION 25.

An Leas-Chathaoirleach: Amendment No. 57 is consequential on amendment No. 56. Is it agreed that amendments Nos. 56 and 57 be discussed together? Agreed.

Senator Dominic Hannigan: I move amendment No. 56:

In page 25, subsection (4), between lines 4 and 5, to insert the following:

“(i) procedures for supporting tenants who fall into rent arrears designed to assist them in sustaining their tenancy.”.

This amendment, if accepted, would ensure that when tenants fall into arrears there are procedures in place for resolving the situation before the arrears accumulate to the degree that the tenants are unable to pay them.

Deputy Michael Finneran: Procedures for housing authorities to deal with tenants who fall into rent arrears are provided for in section 31(6)(f), which allows a housing authority to include in its rent scheme procedures, where appropriate, to waive rent in whole or in part on a temporary basis in the case of financial hardship as tenants move into the scheme from the rent supplement. The provisions of section 31 apply to rents paid under a rental accommodation arrangement.

The amendments are unnecessary and I ask the Senator to withdraw them.

Amendment, by leave, withdrawn.

Amendment No. 57 not moved.

An Leas-Chathaoirleach: Amendment No. 110 is related to amendment No. 58. Is it agreed that amendments Nos. 58 and 110 be discussed together? Agreed.

Government amendment No. 58:

In page 25, subsection (5)(c), to delete lines 18 to 23 and substitute the following:

“(iii) knowingly permitting a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the dwelling concerned, to enter the dwelling in breach of the excluding order or interim excluding order, as the case may be.”.

Deputy Michael Finneran: These amendments substitute new provisions for two existing provisions in section 25(5)(c)(iii) and in paragraph (ii) of Schedule 3, respectively. The new material essentially makes two changes to the existing text. It extends the grounds on which a Chapter 4 tenancy may be terminated from knowingly permitting a person to enter the house who is the subject of an exclusion order sought by a housing authority, to include persons subject to exclusion orders sought by a tenant. The basis for the amendment is that the breach of any excluding order made after a court hearing of evidence of anti-social behaviour consti-

tutes reasonable grounds for terminating a tenancy, even if the housing authority was not involved in the court proceedings.

It deals with cases where an excluding order or an interim excluding order permits the respondent to enter a dwelling subject to conditions that may be specified in the order. In such cases, the offence is permitting the respondent to enter the dwelling knowing that he or she is in breach of a condition attached to such permission in the court order. The text of subsection (5)(c) has been amended to reflect this possibility.

Amendment agreed to.

Section 25, as amended, agreed to.

Section 26 agreed to.

NEW SECTION.

An Leas-Chathaoirleach: Amendments Nos. 59, 86, 94, 105 and 106 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 59:

In page 26, before section 27, but in Chapter 4, to insert the following new section:

“27. —Section 211(2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the disposal, for any of the purposes of this Chapter, of land or a dwelling by a housing authority.”.

Deputy Michael Finneran: These amendments extend the provisions concerned to disapply section 211(2) of the Planning and Development Act 2000 from disposals of dwellings or lands by a housing authority under the following schemes: the rental accommodation arrangements, the new incremental purchase scheme, the tenant purchase scheme and affordable housing under both the Housing (Miscellaneous Provisions) Act 2002 and Part V of the Planning and Development Act 2000. Section 211(2) of the planning Act provides that, subject to subsection (3), the Minister’s consent is required for any sale, lease or exchange of land acquired or building provided by a local authority for any statutory purpose where the selling price is below the market value. As all the schemes referred to are national schemes implemented by housing authorities with a policy framework set down by the Minister for the Environment, Heritage and Local Government, there is no need for ministerial consent in cases of individual disposals under the schemes.

Amendment put and declared carried.

Section 27 deleted.

SECTION 28.

An Leas-Chathaoirleach: Amendments Nos. 60, 83 and 104 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 60:

In page 26, subsection (2), line 35, after “or” to insert “provided under”.

Amendments Nos. 60 and 83 are required so that the provisions concerned apply to dwellings provided under Part V of the Planning and Development Act 2000, but without specifying

[An Leas-Chathaoirleach.]

whether such dwellings are provided by a housing or planning authority. This is because social housing, provided under the Planning and Development Act, may be provided either by a local authority, in its capacity as a planning authority, or as a housing authority arising from the application of Part V of the Act to particular lands or dwellings. Amendment No. 104 deals with broadly the same issue. This amendment refers to section 99 of the Planning and Development Act 2000 set out in Part 7 of the Schedule. It refers to a local authority in its capacity as a planning authority as distinct from a housing authority. Section 99 of the Planning and Development Act 2000 provides for profit claw backs on resales of affordable housing provided by the planning authorities under Part V of the Act.

Amendment agreed to.

Government amendment No. 61:

In page 27, subsection (6), line 50, to delete “section 56 of the Principal Act or under this Act” and substitute “*section 11*”.

This amendment deletes the reference to section 56 of the Housing Act 1966 in section 28(6) which deals with the letting of allotments by housing authorities and replaces it with a reference to section 11 of the Bill. Section 56 of the 1956 Act is being repealed in Schedule 1 of the Bill. Section 11 lists allotments as one of the services ancillary to the provision of housing.

Amendment agreed to.

Section 28, as amended, agreed to.

Amendment No. 62 not moved.

Sections 29 and 30 agreed to.

SECTION 31.

Senator Dominic Hannigan: I move amendment No. 63:

In page 31, subsection (4)(b), between lines 2 and 3, to insert the following:

“(iii) special needs charges.”.

This amendment seeks to insert the words “special needs charges”. The rationale is to ensure special needs charges that may be levied are included in this section.

Deputy Michael Finneran: The intention of this amendment is not clear. Section 31(4) provides housing authorities with the power to make charges relating to a range of functions, including the provision of services which are also provided to the occupants of other dwellings. It is not intended that charges would be levied on households for services from which such households do not benefit, nor is there any intention to levy charges in respect of special needs services. In the circumstances, will Senator Hannigan withdraw the amendment?

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendments Nos. 64 and 65 are cognate and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 64:

In page 31, subsection (6)(b), line 20, after “size,” to insert “standard,”.

Section 31(6)(b) provides that the Minister may regulate for the manner in which the specified characteristics of any class of dwelling shall be reckonable for rent, having regard to the market rent in the administrative area for dwellings in that class with those characteristics. The characteristics specified in subsection (6)(b) are size, location and amenity. These amendments propose to add another characteristic to the list, namely, the standard of the dwelling. For example, the rent of a new dwelling built to the latest high insulation standards would attract a higher rent than an older dwelling built under an earlier building regulation code which would have higher running costs for the occupier. I have no immediate plans to adjust differential levels in respect of particular standards of dwellings, but it is reasonable to provide powers for the Minister to regulate in this area in future.

Amendment agreed to.

Government amendment No. 65:

In page 31, subsection (6)(b), line 23, after “size,” to insert “standard,”.

Amendment agreed to.

Government amendment No. 66:

In page 31, subsection (6)(d), line 29, after “allowances,” to insert “in respect of rent”.

Section 31(6) empowers the Minister to make regulations to provide for matters which should be included in a housing authority rent scheme. Subsection (6)(d) provides that one such matter is the amount and method of calculating any allowances made for dependants. The purpose of this provision is to enable the Minister to regulate allowances for dependants related to rent determination by housing authorities. The amendment clarifies that the power to regulate allowances for dependants is confined to the payment of rent, as it was never my intention that allowances would be made for dependants in the case of other charges for local authorities dwellings or for works and services relating to such dwellings.

Amendment agreed to.

Government amendment No. 67:

In page 31, between lines 38 and 39, to insert the following subsection:

“(8) The charging of rents or other charges referred to in *subsection (3)* in respect of a dwelling to which this section applies and the review of such rents or other charges in accordance with a rent scheme are executive functions.”.

Section 31(5) provides that it is a matter for elected members to determine the housing authority policy for determining rents and other charges related to the rental accommodation scheme and related works and services. I propose this amendment to clarify that it is the responsibility of the local authority manager to fix and review individual rents and charges in accordance with council policy. While it is the position that all local authority functions not specified in legislation are executive functions exercised by the manager, it is important to spell out the respective duties of the elected members and the manager within the four walls of the statutory provisions relating to housing rents and charges. This amendment will dispel any residual doubts concerning the matter.

Amendment agreed to.

Section 31, as amended, agreed to.

Section 32 agreed to.

SECTION 33.

An Leas-Chathaoirleach: Amendments Nos. 68 and 71 are cognate and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 68:

In page 34, subsection (3), line 14, to delete “*subsection (1)*” and substitute “*subsection (2)*”.

These amendments correct referencing errors in section 33(3) and section 33(6). Subsection (2) is the enabling provision for charging interest under the section and contains the correct reference to the two subsections.

Amendment agreed to.

An Leas-Chathaoirleach: Amendments Nos. 69 and 72 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 69:

In page 34, lines 23 to 32, to delete subsection (5).

These amendments insert a new section, section 34, in place of section 33(5). Under the existing section 33(5), the provisions relating to rescheduling of repayments in the case of hardship apply to rent and loan repayments due to the housing authorities as well as to profit claw back payments. The provisions in the new section do not apply to profit claw back payments. There is no basis for allowing hardship arguments to be presented in the case of profit claw back payments, which are designed to ensure housing authorities share in the profits made by householders on the sale of dwellings, which were originally purchased at a discount from the housing authority.

3 o'clock

Senator Paudie Coffey: Can I discuss section 34?

An Leas-Chathaoirleach: The Senator may speak on the section when we reach it.

Senator Paudie Coffey: I understood the amendment No. 72 was included in the discussion, and that I may not be allowed speak on that amendment at a later stage.

An Leas-Chathaoirleach: The Senator can speak to amendment No.72 if he so wishes. We are currently discussing amendments Nos. 69 and 72.

Senator Paudie Coffey: My party is not opposing these amendments. However, I have a number of queries for the Minister of State. Given that market prices have fallen sharply recently, how does that effect housing authorities' responsibilities in terms of shared ownership arrangements? House prices have fallen dramatically and many people are locked into shared ownership schemes at what would now seem to be elevated prices. Is there any recourse for such people to apply to housing authorities to have their house value figures revised? What measures are being taken by housing authorities to address the decline in the market in the context of new shared ownership schemes?

Fine Gael welcomes section 34 of the Bill which deals with anti-social behaviour. My party believes that action in law has been required for some time to deal with the scourge of anti-social behaviour in many local authority housing estates, and private estates. The lives of many law-abiding citizens and tenants of councils have been made a hell by a very small minority in some housing estates and many housing authorities feel unable to deal with the problem of anti-social behaviour. My party is hopeful that this Bill and the anti-social behaviour strategy therein will help local authorities to identify the problems at source, as well as give them the wherewithal to deal with them. In many cases, tenants are too frightened to deal with the problem themselves and are depending on the local authorities to address anti-social behaviour on their behalf. Of course, authorities must work with the Garda Síochána and other agencies such as the HSE.

Fine Gael welcomes section 34, which enhances the role of local authorities with regard to responding to anti-social difficulties in their housing estates. I would welcome further comment from the Minister of State on these matters.

Senator Ivana Bacik: I am somewhat confused because I thought we had not yet moved on to discuss the existing section 34. I thought we were still debating amendments to the existing section 33.

An Leas-Chathaoirleach: We are discussing amendments Nos. 69 and 72.

Senator Ivana Bacik: I thought we were debating amendments Nos. 68 and 71 together.

An Leas-Chathaoirleach: No, we are currently dealing with amendments Nos. 69 and 72 and amendment No.72 refers to section 34 of the Bill.

Senator Ivana Bacik: Amendment No.72 is listed under the heading for section 34, but its aim is to insert a new section 34, as I understand it, which is closer to the existing section 33. We have not yet reached the point of discussing anti-social behaviour as dealt with in the existing section 34 of the Bill. We have not yet moved to the existing section 34, which is important to point out at this stage.

An Leas-Chathaoirleach: Amendments Nos. 69 and 72 are related.

Senator Ivana Bacik: Yes, they are related amendments but they relate to the provisions of section 33 as it currently stands. Amendment No.72 aims to insert a new section 34 but has nothing to do with anti-social behaviour. I wish to make that clear because I have tabled amendments to the existing section 34 dealing with anti-social behaviour but I do not propose to address those in speaking on amendment No. 72.

Amendment No. 72 also raises an issue discussed earlier during the debate on section 20. The Minister of State referred to section 33 as offering a discretion to a housing authority where a household was in arrears, had moneys due and owing but would suffer undue hardship in paying such moneys. In that situation, a housing authority could make arrangements with a household for payment in instalments or other similar arrangements. I welcome that provision. However, I note that amendment No.72 provides for a similar discretion but, just as with the point I made regarding section 33(1), the proposed section 34(1) contained in amendment No. 72 does not apply to section 20 of this Bill. The Minister of State has already indicated that he will be referring that matter to the Parliamentary Counsel for advice as to whether the apparent absolutist nature of the provision in section 20(5) might be mitigated by some similar sort of discretion. I am grateful that he has agreed to do that.

[Senator Ivana Bacik.]

I am speaking to amendment No. 72 lest it be assumed that I am simply accepting it as it stands. I would like to see amendment No.72 altered so that it also applies to section 20 of this Bill. The same points I made earlier in respect of section 20(5) and section 33(1) would also apply to amendment No. 72.

Deputy Michael Finneran: I welcome Senator Coffey's comments on the new section. There is provision in the affordable housing schemes to ensure that on any sale the local authority clawback comes into play when the mortgage is repaid.

Amendment put and declared carried.

Senator Dominic Hannigan: I move amendment No. 70:

In page 34, between lines 32 and 33, to insert the following subsection:

“(6) Where exceptional circumstances arise such that arrangements under *subsection (5)* cannot be put in place without causing undue hardship, a housing authority may cancel the obligation of a household to pay part or all of the moneys referred to in *subsection (5)*.”.

The principle here is to ensure that if a household is in hardship and cannot enter into an arrangement to repay moneys owed to the housing authority, that the authority would have the power to waive any arrears on a permanent rather than temporary basis.

Senator Ivana Bacik: I support this amendment because it provides for an extra level of discretion for housing authorities. I stress that it does not, in any way, prevent housing authorities from exercising powers to impose sanctions on households that are in arrears or breaching tenancy conditions. It provides for an extra level of discretion in exceptional circumstances, as the amendment proposes, and those circumstances mean that arrangements cannot be put in place without causing undue hardship. In such a situation, the housing authority could go so far as to cancel the obligation of the household to pay moneys owing. It provides housing authorities with an extra layer of discretion and I ask the Minister of State to consider the point that housing authorities should have discretion. Nobody is suggesting they should be forced to cancel obligations. Clearly the authorities must have the power to impose sanctions but it is also important that they have some discretion, especially in the current climate. Circumstances have clearly changed since this Bill was originally drafted and it is important that we would note that exceptional circumstances can and do arise. In that context, this Bill should put in place mechanisms that would give authorities extra discretion in such exceptional circumstances.

Deputy Michael Finneran: I cannot accept this amendment. Section 33, subsection (5) sets out the arrangements for the operation of a hardship clause in the application of this section where moneys are owing to a housing authority. It provides that where a housing authority is satisfied that a household would suffer undue hardship, it can enter into an agreement with the said household for the repayment of the moneys due in reasonable instalments, in addition to any rents or charges the household is already paying to the authority. This provision is fair and provides a reasonable safety net for households. It is also sufficiently flexible to allow housing authorities to operate it in a sensible manner. In that context, I ask Senator Hannigan to withdraw the amendment.

While I appreciate the Senator's concerns, it is worth putting in context issues surrounding rent arrears. The differential rent scheme operated by housing authorities is based on the fundamental principle of ability to pay, in that rent is related to the household's income. This

is a very affordable form of housing provision. Research in 2001 on Dublin City Council's tenant population suggested that the differential rent scheme plays an important role in combating poverty. It is important, in this context, that people are encouraged to sustain their tenancy by paying their rent and that there is a fair and balanced arrangement for dealing with rent arrears which discourages non-payment of rent on the one hand while also providing for an instalment basis for paying any interest charges that ultimately arise. This section must be read in conjunction with the general powers in section 31 relating to rents. Subsection (6) of that section gives the power to the Minister relating to matters to be included in rent schemes, including the waiving of rent, in whole or in part, or on a temporary basis, in the case of hardship.

Taken together, the provisions in the Bill will prove to be a fair and balanced approach to the issue of rents for local authority dwellings. I cannot accept the Senator's proposed amendment which would alter that balance.

Senator Dominic Hannigan: Again, this comes back to the word "reasonable". We had a debate on a previous occasion about what constitutes "reasonable" in the context of the social housing assessment. There are cases of hardship, as I am sure the Minister of State has seen in his work in the past, in which people cannot pay off their arrears for whatever reason. This amendment is to give some discretion to the local authority to waive those moneys on a permanent basis where hardship exists. I ask the Minister of State to think again and perhaps take this away with him and come back another day.

Senator Paudie Coffey: To follow on from what Senator Hannigan said, I have a question about extreme hardship cases. If a tenant of the local authority dies, where does the rest of the family stand with regard to any charge that might be on that dwelling? It could be a sibling, a son or a daughter. Does the local authority have discretion in law? I would appreciate if the Minister would clarify that for me.

Deputy Michael Finneran: As I said, subsection (6) of that section gives power to the Minister with regard to matters to be included in the rent scheme, including the waiving of rent in whole or in part or on a temporary basis in the case of hardship. That provision is there. The official amendment No. 72 inserts a new subsection to clarify that while rescheduling of repayments in cases of hardship will apply to rent, loans and so on due to housing authorities, it will not apply to profit and clawback payments due to them. There is no basis for allowing hardship arguments to be presented in the case of clawbacks designed to ensure that housing authorities share in the profit made by householders on sales of dwellings for market value that they originally bought at a discount from the local authorities. That is a separate matter. However, authorities are entitled to waive either in part or in whole rent due to them from households.

Amendment, by leave, withdrawn.

Government amendment No. 71:

In page 34, subsection (6), line 34, to delete "*subsection (1)*" and substitute "*subsection (2)*".

Amendment agreed to.

Section 33, as amended, agreed to.

NEW SECTION.

Government amendment No. 72:

In page 34, before section 34, to insert the following new section:

“34.—(1) This section applies to the following provisions:

- (a) sections 28, 31 and 32(7) and (8);
- (b) section 13 of the Act of 1988;
- (c) sections 3 and 11 of the Act of 1992, and
- (d) section 25 of the Housing (Traveller Accommodation) Act 1998.

(2) Where there are moneys due and owing by a household to a housing authority under any of the provisions to which this section applies and the housing authority is satisfied that the household would otherwise suffer undue hardship, the housing authority may enter into arrangements with the household for the payment of those moneys (together with any interest that may have accrued under *section 33(2)*) by such instalments and at such times as the housing authority considers reasonable in all the circumstances in addition to any rent, charges, fees or loan repayments that the household is paying to the authority.”.

Amendment agreed to.

SECTION 34.

Amendment No. 73 not moved.

An Leas-Chathaoirleach: Amendments Nos. 74 and 76 are related and may be discussed together. Is that agreed? Agreed.

Senator Ivana Bacik: I move amendment No. 74:

In page 34, subsection (2), after line 46, to insert the following:

“(a) the promotion of good estate management,”.

These amendments together provide for a reordering of the existing provisions in section 34, which is headed “Anti-social behaviour strategy”. We all accept that housing authorities must have clear procedures and strategies for dealing with anti-social behaviour and we are all aware of the severe problems experienced by housing authorities, households and individual persons due to such behaviour. It is important, however, that we give a good deal of consideration to the content of the provisions dealing with anti-social behaviour. As a criminal law practitioner, I am conscious that we recently passed legislation to deal with the criminal justice aspects of anti-social behaviour. The ASBOs, anti-social behaviour orders, which were introduced with great fanfare by a previous Minister for Justice, Equality and Law Reform, have proved to be ineffectual in practice in tackling anti-social behaviour. Indeed, many of us raised real concerns about the way in which the provisions in the criminal justice legislation were drafted in the first place. We must be cautious in our approach to legislation dealing with anti-social behaviour.

I am conscious that this Bill deals with anti-social behaviour in a particular context which is not that of criminal justice but rather of housing. The housing authorities must have powers to deal with anti-social behaviour, but what I am aiming to do with these two amendments, which must be read together, is to emphasise positive actions to deal with such behaviour. Rather than have the promotion of good estate management as the fourth objective in the list of objectives for an anti-social behaviour strategy, as is currently the case, I suggest that it be moved to constitute the first objective for an anti-social behaviour strategy. Thus, section 34(2) would read:

An anti-social behaviour strategy shall have as its principal objectives—

(a) the promotion of good estate management,

It is a reworking of the priorities in the Bill to emphasise that the promotion of good estate management is the key objective for any housing authority in developing its anti-social behaviour strategy and that the prevention and reduction of anti-social behaviour must come after that. The two are closely connected, but I am trying to achieve a difference in emphasis by ensuring the positive aspect is written first. That is why I ask the Minister to consider this simple reordering, which tries to give expression to a rather different view of priorities for a housing authority in devising an anti-social behaviour strategy.

Deputy Michael Finneran: These amendments are unnecessary. I am advised that the ordering of paragraphs in such a subsection gives no particular pre-eminence to the items covered. I therefore ask the Senator to withdraw the amendment.

Senator Ivana Bacik: I will not press it at this stage but I reserve the right to raise it again on Report Stage.

Amendment, by leave, withdrawn.

Senator Ivana Bacik: I move amendment No. 75:

In page 35, subsection (2), between lines 1 and 2, to insert the following:

“(b) initiatives for the prevention and reduction of anti-social behaviour, including but not limited to family intervention and mediation services,”.

This amendment expands on the existing proposals in the Bill for the prevention and reduction of anti-social behaviour by inserting the words “family intervention and mediation services”. Again, this is to try to move the emphasis of section 34 away from the criminal justice aspects of anti-social behaviour, important though they are, and towards a more positive aspect of prevention, which is supporting families. It is an attempt to give a specific basis for such initiatives, which I think housing authorities will adopt, in any event, in their anti-social behaviour strategies, by specifying that these things can be included in their initiatives to prevent and reduce anti-social behaviour and that they should not be limited to criminal justice measures.

Deputy Michael Finneran: The anti-social behaviour strategy sets out an important high level framework for housing authorities to plan for the prevention and reduction of anti-social behaviour in their housing stock. Section 34 specifies the principal objectives of a strategy, notably the promotion of co-operation with other persons, including the Garda, to avoid duplication of effort. It also outlines the matters that may be dealt with in a strategy and sets out the bodies that must be consulted in drawing up a strategy, including the HSE. The HSE has a central role in terms of family intervention and mediation services, and I am satisfied that the issue of inter-agency co-operation is given sufficient standing in the provisions to allow for protocols to be agreed locally and for practical actions to support vulnerable families of the type envisaged in the proposed amendment. I do not propose to accept these amendments.

Senator Ivana Bacik: I am glad to hear the Minister of State emphasising the role of the HSE and the need for inter-agency co-operation on this issue. That is exactly what I am trying to achieve in a different way. I am attempting to spell out the need for inter-agency co-operation and HSE intervention in the form of family supports and mediation services. It is really just to give a specific expression to that in the Bill. I accept the Minister’s statement that it will

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happen anyway but, as with many other provisions in the Bill, it would be worth setting out more specifically that those measures can be taken by housing authorities in addressing anti-social behaviour. There is much goodwill towards the Bill among all of us and we would all like to see it strengthened. The thrust of many of the amendments is to strengthen and give specific expression to many of the policies and principles the Minister has expressed and provided for in the homelessness strategy and so on. It is really just a way of giving more specific expression to things on which we are all agreed. I ask the Minister to consider accepting the amendment.

Senator Paudie Coffey: To add to my earlier contribution, this is a very important section of the Bill and has been awaited for a long time by local authorities and elected representatives around the country who have been dealing with anti-social issues at the coalface. I am glad that consultation with the joint policing committees is recommended in the Bill. Some pilot projects of joint policing committees were established and have been a success and more are being established in the various local authority areas. This is a step in the right direction, attempting to bring the different agencies together, including housing authorities, local authorities, the Garda Síochána, the Health Service Executive and any other stakeholders working in this area. This is to be welcomed.

I welcome the fact that the adoption and amendment of an anti-social behaviour strategy shall be a reserved function. It is very important that democratically elected Members and councillors in local authority areas have that reserved function to amend and adopt the anti-social behaviour plans after what I hope will be a lengthy process of consultation with the various stakeholders. Fine Gael welcomes this provision.

Deputy Michael Finneran: The opportunity exists for local protocols. While I appreciate the intent, there is also a danger specifically that the flexibility and innovation required in inter-agency work might be constrained. However, I will be providing guidance in this area.

Senator Ivana Bacik: I am grateful to the Minister of State for indicating he will provide guidelines in the area. It is a pity not to specify in more detail what initiatives can be taken by housing authorities. I will not press the amendment at this stage.

Amendment, by leave, withdrawn.

Amendments Nos. 76 to 78, inclusive, not moved.

Senator Ivana Bacik: I move amendment No. 79:

In page 35, between lines 23 and 24, to insert the following:

“(d) formal detail of how the housing authority plans to implement and resource its anti-social behaviour strategy;

(e) relevant rights and responsibilities of tenants and landlords;

(f) protocols and procedures for responding to anti-social behaviour;

(g) protocols and procedures ensuring fair and due process in responding to anti-social behaviour;

(h) protocols and procedures for evictions;

(i) ensuring a clear, independent and accessible appeals process is available to tenants who are subject to eviction procedures;

(j) appropriate protocols and procedures for meeting the accommodation needs of households who are subject to eviction;

(k) a resource plan outlining what resources will be required to service both the housing authority's capacity and delivery of the anti-social behaviour plan;

(l) a capacity building plan outlining how the housing authority intends to build its capacity to develop and deliver the anti-social behaviour plan;

(m) what services, if any, the housing authority intends to source from the professional or voluntary sector in ensuring the effective implementation of the anti-social behaviour strategy.”.

This is a very substantial amendment which would insert a list of detailed provisions into the existing section 34(3). I regard this as a critical subsection. This provides that the anti-social behaviour strategy shall set out the proposals of the housing authority for achieving the principal objectives in subsection (2). At present there is a list of just three of the sort of proposals the housing authority should provide for in the anti-social behaviour strategy, and these are welcome. However, greater clarity is needed in this provision as to precisely a fuller list. We cannot provide for all the proposals but it would be a good idea to provide for a fuller list to give greater clarity for housing authorities in terms of the content and functions of the anti-social behaviour strategies they must adopt. It would be helpful to set those out in this Bill. I know the Minister of State has spoken of guidelines and I know there are local considerations and so forth, but a fuller list of criteria in this subsection would be helpful for local authorities.

I would like to see, for example, greater emphasis on early intervention and prevention within any anti-social behaviour strategy. I would like to see, as provided for here, that there would be a commitment to a clear, independent and accessible appeals procedure to be available to tenants subject to eviction procedures. Although we all accept that local authorities must have power to evict for anti-social behaviour, litigation has shown and it is clear that there must be due process observed as well as fair procedures. There is a difficulty for housing authorities if they do not have clarity on the way in which they adopt their processes and the way in which they carry out evictions. There is also a difficulty where evictions are carried out if the problem is merely passed on and if innocent members of a household are injured because an entire family is evicted for the behaviour of one member. Clearly all our interests are in trying to prevent this happening and trying to prevent anti-social behaviour. This is the reason I thought it would be useful — the Make Room coalition has informed me that it thinks it would be useful — to include a fuller list in section 34 of the proposals which a housing authority should adopt and should set out in its anti-social behaviour strategy.

The independent mechanism for an eviction process is one thing. Appropriate protocols and procedures for meeting accommodation needs of households which are subject to eviction is another of the specific provisions inserted in the amendment at (j). The reason is that all too often we see evictions occurring with the problem merely being passed on to other areas and not being dealt with. Looking at meeting the accommodation needs of households which are subject to eviction must be included in an anti-social behaviour strategy. I do not think for a moment that this is easy and I am not in any way underestimating the enormous problem this poses for local authorities. It is a very difficult task. However, I think they would be assisted with a clearer set of proposals in the legislation, to which of course they would have to add and which would have to flesh out in guidelines. I do not suggest that one could have comprehensive

[Senator Ivana Bacik.]

proposals in this subsection. The three proposals suggested in subsection (3) are almost cursory and it would be helpful to the local authorities to have a longer list and that is what my amendment provides, with the help of the Make Room coalition, which consists of organisations in the day to day business of providing accommodation.

There is a real need for a greater clarity in this provision. There is a need for local authorities to focus on getting expertise from agencies that deal with young people experiencing difficulty and people undergoing anti-social behaviour. I am not suggesting that anti-social behaviour is limited to young people. In England there have been quite high profile anti-social behaviour orders, ASBOs, imposed on older people so I do not wish to tarnish young people by suggesting they are the only ones who might be subject to ASBOs.

When we talk about anti-social behaviour in a housing context, it is important we bear in mind that the anti-social behaviour of one member of a household can lead to serious consequences for the whole household. This is why we must be very careful that eviction procedures and the sort of procedures housing authorities adopt in dealing with anti-social behaviour are fair. We need to provide support and assistance to housing authorities in how they set out their anti-social behaviour strategy. This is the reason I have tabled this rather lengthy amendment. I ask the Minister of State to indicate whether he might consider adopting even some of the proposals I have suggested here.

Deputy Michael Finneran: As I have indicated, the anti-social behaviour strategy provides a framework for action, co-operation between bodies, procedures for the making of complaints and initiatives for the prevention and reduction of anti-social behaviour. These principal objectives are set out in section 34(2). Subsection (3) builds on the principal objectives set out in subsection (2) by requiring housing authorities to detail the manner in which those principles are to be met in the strategy, including procedures for the making of a complaint to a housing authority, initiatives for prevention and reduction, the provision of education and the carrying out of research on prevention and reduction.

Although some of the elements in the amendment are comprehended by this provision, other elements of the amendment look to add to this list in subsection (3) in some detail with a range of items that would require further complex development and interpretation. For example, what is meant by the rights and responsibilities of tenants and landlords in this context? In a broader sense, the tenancy agreement in Schedule 3 is a key document with regard to the obligations of tenants.

I have indicated already that I am discussing some further provisions on anti-social behaviour with the Parliamentary Counsel and I hope to be in a position to bring forward further provisions during the passage of the Bill through the Oireachtas. In those circumstances I ask the Senator to withdraw the amendment.

Senator Ivana Bacik: I am very heartened to hear the Minister of State say he is discussing this issue with the Parliamentary Counsel and in particular discussing whether further detail might be put into subsection (3) as to what should be included in an anti-social behaviour strategy. I note from the Minister of State's comments when he refers to the rights and responsibilities of tenants and landlords. He might note that I have specified that it should be relevant rights and responsibilities as clearly some will be beyond the scope of an anti-social behaviour strategy. It is really those that are relevant to preventing and reducing anti-social behaviour. Some of the important things that should be included if the Minister of State is reviewing this provision is the need for a capacity building plan as many housing authorities lack the capacity to deal with anti-social behaviour.

A capacity building plan is essential to ensure local authorities will be able to prevent and reduce anti-social behaviour. Included in that is the need for them to consider whether they will have to buy in services from the professional or voluntary sector to implement their anti-social behaviour strategies. This amendment provides for local authorities to think ahead on how they will deal with anti-social behaviour. I am glad the Minister of State said he would consult on this. Might I take it, therefore, that we may see this provision on Report Stage?

Deputy Michael Finneran: While section 34 and other changes to the anti-social behaviour regime set out in the Bill provide an important context for enhanced anti-social behaviour provisions, it has not been possible to include all aspects at this stage. Discussions with the Parliamentary Counsel about strengthening the statutory supports available to housing authorities are continuing. Nonetheless, I will be in a position to introduce further provisions during the passage of the Bill through the Oireachtas. I want to see a robust mechanism in place that will allow local authorities to deal with anti-social behaviour in their housing estates.

Senator Ivana Bacik: Will the further provisions be introduced on Report Stage in the Seanad? If that is the case, I will not press the amendment. I would be grateful if the Minister of State could give some indication on this.

Deputy Michael Finneran: It is unlikely we will be in a position to have these further provisions ready for Report Stage.

Senator Ivana Bacik: In that case I will press the amendment.

Amendment put.

The Committee divided: Tá, 19; Níl, 25.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.
McFadden, Nicky.

Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callanan, Peter.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Keaveney, Cecilia.

Leyden, Terry.
MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Wilson, Diarmuid.

Tellers: Tá, Senators Ivana Bacik and Dominic Hannigan; Níl, Senators Déirdre de Búrca and Diarmuid Wilson.

Amendment declared lost.

Senator Ivana Bacik: I move amendment No. 80:

In page 35, subsection (5), between lines 35 and 36, to insert the following:

“(c) relevant residents, community and voluntary sector organisations,”.

This amendment seeks to insert a further list of groups with which there should be consultation by a local authority in the development of its anti-social behaviour strategy. There is already provision for consultation with a number of bodies, including joint policing committees, the Garda Síochána, the HSE and any other person the authority considers appropriate. It would be appropriate to consult local groups. I note that the amendment refers to relevant organisations only and would not be unduly burdensome on local authorities. I ask the Minister of State to consider it.

Deputy Michael Finneran: I acknowledge the intent of the amendment which seeks to ensure consultation with residents and relevant community and voluntary sector organisations in the development of an anti-social behaviour strategy. However, I am satisfied with the extent of consultation provided for and draw the Senator’s attention to section 34(5)(a) which requires the housing authority to consult joint policing committees which are representative of councillors, Oireachtas Members, senior Garda officers and community and voluntary interests. Importantly, section 34(5)(d) provides for consultation with any other person as the authority considers appropriate. In the circumstances I ask the Senator to withdraw the amendment.

Senator Ivana Bacik: There is not sufficient consultation provided for with local groups and relevant organisations. It is an important principle but I will not press the amendment at this stage. However, I reserve the right to do so on Report Stage.

Amendment, by leave, withdrawn.

Amendments Nos. 81 and 82 not moved.

Question proposed: “That section 34 stand part of the Bill.”

Senator Paddy Burke: The Minister said the local authorities should consult with the Garda, the HSE and a number of other bodies on anti-social behaviour. Are they not all formulated on the joint policing committees? When the joint policing committee makes a statement or information available to the housing authority, why would they have to consult again? Are all the relevant bodies not on the joint policing committee?

Deputy Michael Finneran: The functions of the joint policing committees are kept under review on levels and patterns of crime, disorder and anti-social behaviour in their areas and the underlying contributing factors. New guidelines for the joint policing committees established in the Garda Síochána Act 2005 were launched in September 2008. They will enable the committees to establish in all the 114 local authority areas. They are there and have been updated this year. The consultation is with the HSE, local authority and any other voluntary bodies or persons they deem appropriate.

Senator Paudie Coffey: Much reference is made to estates and estate management. Does this section also apply to individual sites owned by local authorities and halting sites for the travelling community that are run by local authorities as well as local authority estates?

Senator Paddy Burke: Earlier, Senator Bacik alluded to good management of local authority housing estates. I have never heard of local authorities going out to their estates and discussing with the communities how best they can run their estates. Senator Bacik made a very good point that this is where we should begin and that there should be an obligation on the local authority from within to meet the residents of the local authority estates to hear what the community wants done. It would be a good start.

Senator Ivana Bacik: I am grateful to Senator Burke for raising again the issue I raised in amendment No. 80. I have reserved my position on that and we may debate it again on Report Stage. It is an important principle that there would be consultation with local residents in the community, where appropriate, in drawing up an anti-social behaviour strategy. In general, regarding section 34 it is a shame the Minister has indicated it is unlikely we will see the more detailed set of criteria that should be in the anti-social behaviour strategy come before this House on Report Stage. Given how good a debate we have had on this Bill in general and on section 34 in particular, it would be nice if we could have further debate on it on Report Stage, informed by the amendments on which the Minister is working with the Parliamentary Counsel as to what should be in an anti-social behaviour strategy. If possible I would like if we could have that back before this House on Report Stage. Although the vote on my proposed amendment No. 79 was defeated, it would be good if we could have further debate on Report Stage about the sort of considerations that should be in an anti-social behaviour strategy and how it should be drawn up. This principle of consultation with local residents and communities is an important one which the Minister might take on board globally when he examines section 34 before Report Stage.

Deputy Michael Finneran: Section 1 requires all housing authorities to draw up and adopt an anti-social behaviour strategy within one year of the commencement of the section. The strategy would apply to those parts of the area where the authority has dwellings under the Housing Acts, in which relevant purchases, i.e. purchases from the housing authorities, were sold and sites. It is broad. Under section 2 there are many tenant liaison officers who are involved in management initiatives, and we encourage this.

Question put and agreed to.

SECTION 35.

Question proposed: "That section 35 stand part of the Bill."

Senator Paddy Burke: Senator Coffey mentioned the sale of a local authority house by a tenant. The tenant must get permission from the local authority to sell the house. Councils do not always give permission for the sale of houses but they have done so in some cases. They cause much controversy when some people get permission to sell the house while that is not the case for others. It is entirely at the discretion of the management of the local authority and I ask the Minister to bring us up to date on that within this legislation.

Deputy Michael Finneran: The Senator is addressing section 37.

An Cathaoirleach: We are on section 35.

Senator Paddy Burke: It might be more appropriate to section 37.

Question put and agreed to.

SECTION 36.

Government amendment No. 83:

In page 36, subsection (1), to delete lines 44 to 46 and in page 37, to delete lines 1 and 2, and substitute the following:

“(1) Subject to *subsection (2)*, this Part applies to a dwelling provided by a housing authority under the *Housing Acts 1966 to 2008* or by an approved body with the assistance of a housing authority under section 6 of the Act of 1992 or provided under Part V of the Planning and Development Act 2000.”.

Amendment agreed to.

Senator Dominic Hannigan: I move amendment No. 84:

In page 37, between lines 13 and 14, to insert the following subsection:

“(2) This Part also applies with necessary modifications to a dwelling provided by an approved body and constructed prior to the commencement of this Part.”.

This is to insert the ability to sell houses held by local voluntary housing agencies in the legislative framework. This applies to existing houses as opposed to new houses. It is to provide tenants of these houses, as well as those of future houses, with the right to buy.

Deputy Michael Finneran: This amendment is not necessary. Subsection (1) already provides that this Part applies to dwellings provided by an approved body. In those circumstances I ask the Senator to withdraw the amendment.

Senator Dominic Hannigan: Can the Minister confirm whether this refers to houses that are built and occupied, or just future houses?

Deputy Michael Finneran: It applies to all dwellings provided by an approved body. The approved bodies are housing authorities and voluntary bodies.

Senator Dominic Hannigan: I will seek clarification of that and may press it on a later stage.

Deputy Michael Finneran: Does the Senator refer to the incremental purchase scheme?

Senator Dominic Hannigan: Yes.

Deputy Michael Finneran: It does not exist. The incremental purchase scheme, whereby people can purchase a local authority house, is part of the Bill under this section.

Amendment, by leave, withdrawn.

Senator Dominic Hannigan: I move amendment No. 85:

In page 37, lines 14 to 18, to delete subsection (2).

This deletion is to allow the provision of flats to be included in the legislation. I can probably guess the Minister will raise the difficulties associated with administrative issues and management companies, but many of these issues will disappear with the forthcoming legislation on management charges. I ask him to delete this clause in order that flats can be also included in the scheme.

Deputy Michael Finneran: I cannot accept this amendment. No framework for the sale of local authority apartments is in place. Previous efforts to introduce tenant purchase for local authority apartments was thwarted by the difficulties associated with the scheme. Work is continuing on a model for the sale of apartments to tenants which addresses those difficulties. We are determined, however, to pursue an initiative in the area as quickly as possible, but we must also get it right. Our aim is to establish a robust legislative framework that would stand the test of time for all stakeholders, namely, apartment buyers, apartment tenants who choose not to buy, and local authorities.

As I outlined on Second Stage, we have made significant progress in dealing with the complex legal and policy issues arising from the tenant purchase of apartments but it was not possible to finalise the necessary provisions in time for the inclusion in the published Bill. I am determined, however, to continue work to finalise proposals for a viable sales scheme. In light of that and in advance of experience dealing with the sale of apartments under any future legislative model, it would be premature to consider the sale of apartments in this manner. In those circumstances I ask the Senator to withdraw the amendment.

4 o'clock

Senator Dominic Hannigan: Would the Minister of State consider a different form of wording such as “subject to arrangements being put in place to deal with issues relating to apartment complexes”, which would ensure they would be included in this Bill? Currently, the clause specifically prohibits them. I accept the Minister of State has not quite reached that point in terms of the legislation but would he consider inserting a clause that recognises that when he manages to sort out the legislative issues, he will include them in the scheme?

Senator Paddy Burke: As the Minister of State said on a previous occasion, this is legislation in motion, so to speak. We could introduce an amendment on Report Stage to address that issue. The Bill has to come back before this House anyway because many amendments, both Government and Opposition, have been accepted in the House.

If it is not the Minister of State’s intention to include it in this Bill, when does he envisage further legislation being brought forward and how does he intend bringing that before the House? If he does that, will this be the end of bed-sits as we know them? We all know of Georgian houses in Dublin that are divided into individual bed-sits. In terms of this legislation, what is the difference between a bed-sit and a one bedroom apartment? The Minister of State is doing away with the bed-sit under this legislation. Is it his intention to do away with the one bedroom apartment or what is the difference in terms of what will be included in the Bill?

Will people currently renting bed-sits come under the new environment rules on heating and so? Will tenants be required to leave them? What will be the position in regard to those bed-sits? Many of them do not come up to the new building regulation standards brought forward by the Minister for the Environment, Heritage and Local Government. Will there be a lead-in time in that regard or how does the Minister of State see that being brought about?

Deputy Michael Finneran: The Senator probably read recently that I have signed regulations regarding the private rented sector and the elimination of the bed-sit as we know it but this legislation is concerned with the sale of local authority apartments, which is a different issue. For information purposes, on the timeframe I can tell the Senator that we are allowing a four-year lead-in for structural works and major alterations that have to be made in that area.

Regarding the issue we are dealing with in this legislation, efforts were made in the 1980s and the 1990s to introduce tenant purchase of local authority apartments and they were thwarted by difficulties associated with the scheme. We are now working on a model for the sale of apartments to tenants that addresses those difficulties. The model is based on the long-standing

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arrangement in the private sector for the ownership and management of multi-unit residential developments.

The transition from a rented social housing complex to a mixed tenure of privately owned and socially rented accommodation adds an extra dimension to the legal and practical problems that can arise. Any model leading to a viable scheme for the tenant purchase of apartments must address the following issues: the need to establish fair, equitable and proportionate arrangements to give tenant purchasers and the local authority advice on the management of the apartment complex; the role of a management company representative of all apartment owners, including the local authority, in managing and maintaining the common areas and services in the complex; the need for the tenant purchasers to contribute through service charges towards the ongoing maintenance of common areas and services; arrangements for sharing of costs of insurance covering the entire complex; and the need to create a reserve fund to pay for major improvement works required into the future. That is the type of scheme on which we are working. We have not completed our deliberations on that but I am determined to bring in a scheme for the sale of local authority apartments.

Senator Paudie Coffey: I want to comment on the sale of the apartments. I welcome the Minister of State's comments that he intends to work on that aspect because it is disappointing that citizens in local authority apartments do not have the same rights as those in dwellings. That is an issue that should be addressed in the interest of equality across all tenancies run by housing authorities. It should be treated as a matter of urgency by the Minister of State in terms of dealing with this issue.

I want to raise another issue that is not directly related to incremental purchase arrangements but is one that has arisen with various local authorities. It concerns voluntary housing associations where the tenants do not have the option of purchasing the houses they have let, despite those housing schemes being financed by the public purse. Did the Minister of State give that issue any consideration in this Bill? I became aware in recent years of many motions from local authorities that were passed, almost unanimously in many cases, requesting movement on this issue. They concerned tenants in long-term tenancies in housing associations requesting the option to purchase the house they lived in. If it had been a council housing estate, they would have had that option, but in housing associations they do not, and that is an issue. Has the Minister of State or his officials considered that issue in the Bill?

Deputy Michael Finneran: The voluntary housing associations own those properties and while we have included in this legislation, under the incremental purchase scheme, the opportunity to purchase in the voluntary sector, that does not apply to existing local authority houses. It is for properties in place after that. A review of the voluntary side is taking place but I want to make it clear that those voluntary housing associations own those properties. That is the current position.

Senator Paudie Coffey: I accept the Minister of State's comments but I remind him they are financed by taxpayers' money, with the approval of the relevant local authority and the Department of the Environment, Heritage and Local Government. I raise the issue because tenants in these houses do not understand why they do not have the same rights to purchase when the voluntary housing associations have received their funds directly from the Department, which essentially is taxpayers' money. I ask the Minister of State to consider that issue.

Amendment, by leave, withdrawn.

Section 36, as amended, agreed to.

SECTION 37.

Government amendment No. 86:

In page 38, lines 22 and 23, to delete subsection (5) and substitute the following:

“(5) Section 211(2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of a dwelling to an eligible household under this section.”.

Amendment agreed to.

Question proposed: “That section 37, as amended, stand part of the Bill.”

Senator Paddy Burke: I tried to raise this issue on section 35 but the Minister of State and the Cathaoirleach pointed out I was on the wrong section. I have come across tenants who found it difficult to sell their local authority home. In the past ten years, the value of such houses has greatly increased and, for one reason or another, the circumstances of the tenants may have changed and they wanted to sell their homes and move on. In some cases, they found it difficult to obtain permission from the local authority to sell the house even where they have been tenants for the previous 20 or 30 years. Will the Minister of State clarify whether the legislation provides only for the sale of such houses to people on local authority housing waiting lists or whether the house can be sold to anybody? There is ambiguity about who can sell the house and to whom the house can be sold among local authorities.

Senator Coffey made a good point regarding the purchase of houses under the shared ownership scheme. The value of houses has reduced considerably. Has the value of houses provided under this scheme reduced accordingly? If an individual is buying a shared ownership house from the local authority, will market value determine its price?

Deputy Michael Finneran: I am not sure I fully understand the Senator. Is he saying local authorities, in some instances, are refusing to sell to tenants in their houses?

Senator Paddy Burke: No, I am delighted the Minister of State does not fully understand because many councillors do not either. If a tenant in a local authority house wants to sell, it is difficult in some circumstances to obtain permission to do so. The local authority sometimes wants to take the house back. However, if the house is being disposed of, must it be sold to a person on the housing waiting list or can it be sold on the open market if the tenant has permission to sell it? There is a little ambiguity about this and I hope the legislation will address it.

Deputy Michael Finneran: Is the Senator referring to a tenant purchase at that stage?

Senator Paddy Burke: Yes.

Deputy Michael Finneran: The purchasee does not need to be on the housing waiting list. A provision is in place whereby one cannot sell one's house to somebody who engaged in anti-social behaviour, which is a protection. I am not aware of other restrictions.

Senator Paddy Burke: If a person buys a house under the tenant purchase scheme, can he or she dispose of it on the open market?

Deputy Michael Finneran: Yes. The purchasee does not need to be on the housing list. There are categories of people to whom houses can be sold and I have mentioned one.

Question put and agreed to.

Section 38 agreed to.

SECTION 39.

Government amendment No. 87:

In page 40, subsection (3), lines 42 and 43, to delete “or an approved body”.

Deputy Michael Finneran: The amendment is required to delete the first reference to “an approved body” in section 39(3) because, unlike housing authorities, approved bodies are not mortgagees, that is, they do not extend house purchase improvement loans. The second reference to “an approved body” in the subsection stands, that is, an approved body that sold a dwelling under incremental purchase may purchase the remaining interest in the mortgage advanced for that dwelling where the lender other than the housing authority proposes to exercise his or her powers of sale under the mortgage.

Amendment agreed to.

Government amendment No. 88:

In page 40, subsection (3), lines 44 and 45, to delete “or approved body” and substitute “or an approved body, as the case may be,”.

Deputy Michael Finneran: The amendment is necessary to make it clear that a housing authority or an approved body may purchase the remaining interest in a mortgage only where the authority or the body concerned sold by way of incremental purchase the house the subject of the mortgage.

Amendment agreed to.

Section 39, as amended, agreed to.

Sections 40 and 41 agreed to.

SECTION 42.

Government amendment No. 89: In page 44, subsection (2), line 35, to delete “value” and substitute “market value”.

Deputy Michael Finneran: The amendment is required to insert the expression “market value”, the meaning of which is defined in section 41, in regard to a site in the calculations set out in subsection (2) of the amount of the clawback payable on the first resale of a housing site grant aided under section 41 within 20 years of the site purchase.

Amendment agreed to.

Government amendment No. 90:

In page 45, lines 6 to 9, to delete subsection (5) and substitute the following:

“(5) Where the amount payable under *subsection (2)* would, if subtracted from the market value of the site at the date of its resale, result in an amount that is less than the price actually paid for the site, the amount payable shall be reduced to the extent necessary to avoid that result.”.

Deputy Michael Finneran: The amendment substitutes a new subsection (5) for the existing subsection and clarifies that the amount of the clawback must be calculated in such a way that the net proceeds, that is, after clawback is discounted, from reselling the site are not less than the price originally paid for the site by the vendor. In other words, the amendment provides that the clawback cannot operate to leave the seller with an amount from the resale of the site that is less than what he or she originally paid for the site.

Amendment agreed to.

Section 42, as amended, agreed to.

SECTION 43.

Government amendment No. 91:

In page 46, subsection (1), line 33, to delete “before” and substitute “after”.

Deputy Michael Finneran: The amendment is necessary to clarify the clawback under the section will apply to grants paid on foot of an application on or after a date to be prescribed by the Minister. This clawback relates to resales of dwellings with extensions designed to facilitate people with disabilities who are grant aided within the previous five years.

Amendment agreed to.

Government amendment No. 92:

In page 46, subsection (2), lines 39 to 47 and in page 47, lines 1 to 6, to delete paragraph (b) and substitute the following:

“(b) The percentage referred to in *paragraph (a)* is—

(i) 85 per cent of the grant paid where less than one year has passed since the date of payment of the grant,

(ii) 70 per cent of the grant paid where one year or more but less than 2 years has passed since the date of payment of the grant,

(iii) 50 per cent of the grant paid where 2 years or more but less than 3 years has passed since the date of payment of the grant,

(iv) 35 per cent of the grant paid where 3 years or more but less than 4 years has passed since the date of payment of the grant, and

(v) 20 per cent of the grant paid where 4 years or more but less than 5 years has passed since the date of payment of the grant.”.

Deputy Michael Finneran: The amendment is required to clarify the percentage reduction of the clawback that applies on the second, third and fourth anniversaries of the grant payment, which is not covered by the existing provision. The amendment does not change the rate of reduction in the clawback payable in the case of sales over the five years following the payment of the grant. The wording has been amended to ensure it covers the entire five-year period without any gaps.

Senator Paudie Coffey: We welcome this amendment because the experience of many local authorities that have paid adaptation grants in the past is that when the resident died, they could not recoup the money, despite a great deal of investment in the houses. This is a good provision, which I welcome.

Amendment agreed to.

Government amendment No. 93:

In page 47, lines 47 and 48, to delete subsection (11).

Amendment agreed to.

Section 43, as amended, agreed to.

Schedule 1 agreed to.

SCHEDULE 2.

Government amendment No. 94:

In page 48, Part 1, between lines 20 and 21, to insert the following:

“

1	Section 90	Insert the following after subsection (4): “(4A) Section 211(2) of the Planning and Development Act 2000 shall not apply to the sale of a dwelling under subsection (1)(a)(i).”
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Amendment agreed to.

An Cathaoirleach: Amendments Nos. 97 and 98 are related to amendment No. 95 and all may be discussed together.

Government amendment No. 95:

In page 49, Part 4, between lines 13 and 14, to insert the following:

“

1	Section 1(1)	Insert the following definitions: ” ‘improvement notice’ has the meaning given to it by section 18A; ‘prohibition notice’ has the meaning given to it by section 18B;”
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”.

Deputy Michael Finneran: Amendments Nos. 95, 97 and 98 provide, by way of amendment to the Housing (Miscellaneous Provisions) Bill 1992, for the introduction of a new inspection and sanctions regime in regard to private rented accommodation. The new regime is one element of a package of measures recently approved by Government that will radically improve standards in rental accommodation. The other major element of the package is new regulations providing for a phasing out of the traditional bed-sit by insisting that each rental unit shall have

its own sanitary facilities; an end to open fireplaces as the sole means of room heating; and modern facilities for cooking, food storage and laundry in all rental accommodation.

For the information of the House, I would like to deal in some detail with these amendments. Amendment No. 95 is a technical provision inserting “signposting” in section 1 of the 1992 Act as to the meaning of the expressions “improvement notice” and “prohibition notice”. Amendment No. 97 inserts two additional items in Part 4 of Schedule 2.

Item No. 3 amends section 18 of the 1992 Act and item No. 4 inserts two new consequential sections, 18A and 18B. Under item No. 3, subsections (3) to (6) of section 18 are being deleted, following on from the proposed introduction of improvement and prohibition notices, which oblige the landlord to carry out remedial works to comply with standards. A clearer and stronger definition of “proper state of structural repair” is being introduced into section 18(8), making it easier for housing authorities to prosecute in cases of substandard accommodation. Under the proposed amendment to subsection (7)(b), I will be able to set down specific standards that landlords must meet in regard to the external condition and appearance of rental accommodation. A new subsection (9) in section 18 introduces a definition of “common areas”, which clarifies that standards will be prescribed only for common areas that the landlord owns or controls.

Item No. 4 involves adding two new sections, 18A and 18B, to the 1992 Act providing for the issue by housing authorities of improvement notices and prohibition notices on foot of breaches by landlords of regulations made under section 18 of the 1992 Act. Section 18A sets out the detailed procedure in regard to the issue by a housing authority of an improvement notice to a landlord in respect of alleged breaches of the standards regulations. The notice may specify the works that the landlord must carry out to remedy the identified contravention of the regulations and must specify the period following the coming into force of the notice within which the remedial works must be carried out. The section provides that where a landlord carries out necessary works on foot of an improvement notice before the notice comes into force, the housing authority must confirm in writing that the contraventions of the regulations specified in its improvement notice have been remedied.

In addition to giving a landlord the right to appeal against the notice to the District Court, section 18A gives the landlord an initial right to object to the authority about the notice. The submission of such an objection will be an essential prerequisite to appeal proceedings in the District Court.

In the interests of equity and transparency, section 18A provides that the tenant of a rented accommodation must be kept informed of each step of the improvement notice procedure. The section also provides for the notice to come into force on different dates, depending on whether the landlord has availed of his rights initially to object to the notice and ultimately to appeal against the notice in the District Court. Once the notice comes into effect, if the landlord fails to carry out the necessary remedial works within the period specified in the notice, he or she is liable to prosecution for an offence under the Act.

The new section 18B provides for the issue by a housing authority of a prohibition notice in the case of a landlord's failure to comply with an improvement notice. A prohibition notice directs the landlord not to re-let the house until the contravention of the regulations specified in the improvement notice has been remedied. While the section 18B procedure includes a right of appeal to the District Court, it does not repeat the improvement notice right of initial objection to the notice. By the time a prohibition notice issues, a landlord will already have

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had the opportunity to object to the improvement notice and to appeal to the courts. In other respects, the prohibition notice procedure mirrors the procedure for improvement notices.

Section 18B(10) contains a policy provision that I consider to be very important. A housing authority may, in the interests of public health and safety, make whatever arrangements it considers appropriate or necessary to bring the contents of a prohibition notice to the attention of the public. I envisage this power being exercised in extreme cases where the breach of regulations in a particular rented unit poses a risk to the health and safety of tenants.

Amendment No. 98 relates to section 34 of the Housing (Miscellaneous Provisions) Act 1992, which specifies offences under the Act. The amendment substitutes a new subsection (1), which expands on the offences in the existing provision to specify that failure to comply with an improvement notice or a prohibition notice issued under the new sections 18A and 18B of the 1992 Act shall be an offence. The new subsection (1) also increases the fines payable in respect of offences under the section from €3,000 to €5,000 and from €250 to €400 for each day of a continuing offence, and introduces an alternative or additional penalty of up to six months imprisonment. Similar fine levels are already contained in other legislation such as the Water Services Act 2007.

The amendment also inserts a new subsection (3) into section 34 of the 1992 Act, which provides that, except where there are special and substantial reasons for not doing so, the court shall order a person guilty of an offence under the section to pay the housing authority's costs and expenses incurred in prosecuting the offence.

Overall, I am satisfied that the legislative amendments that I have brought forward today will strengthen substantially the regulatory and enforcement regime for improving and maintaining the standards of private rented accommodation. I commend them to the House.

Amendment agreed to.

Government amendment No. 96:

In page 49, Part 4, line 22, to delete “in accordance with” and substitute “under”.

Deputy Michael Finneran: This is a textual amendment to bring into line with other similar provisions of the Bill the phraseology of the reference to social housing assessments under section 20 of the Bill, which Part 4 of Schedule 2 proposes to insert into section 5(2)(a) of the Housing (Miscellaneous Provisions) Act 1992.

Amendment agreed to.

Government amendment No. 97:

In page 49, Part 4, between lines 28 and 29, to insert the following:

“

3	Section 18	<p>(a) In subsection (1), delete “, works and services appurtenant thereto and enjoyed therewith”.</p> <p>(b) Delete subsections (3) to (6).</p> <p>(c) In subsection (7)(b), insert “and any common areas” after “house”.</p> <p>(d) Substitute the following for subsection (8):</p> <p>“(8) For the purposes of subsection (7)(b) ‘a proper state of structural repair’ means sound, internally and externally, with roof, roofing tiles and slates, windows, floors, ceilings, walls, stairs, doors, skirting boards, fascia, tiles on any floor, ceiling and wall, gutters, down pipes, fittings, furnishings, gardens and common areas maintained in good condition and repair and not defective due to dampness or otherwise.”.</p> <p>(e) Insert the following after subsection (8):</p> <p>“(9) In this section and sections 18A and 18B—</p> <p>‘common areas’ means common areas, works and services that are appurtenant to houses and enjoyed therewith and that are in the ownership or under the control of the landlord;</p> <p>‘landlord’ means the person for the time being entitled to receive (otherwise than as agent for another person) the rent paid in respect of a house by the tenant thereof;</p> <p>‘tenancy’ includes a periodic tenancy and a tenancy for a fixed term, whether oral or in writing or implied;</p> <p>‘tenant’ means the person for the time being entitled to the occupation of a house under a tenancy.”.</p>
4	New sections	<p>Insert the following new sections after section 18:</p> <p>“Improvement notice.</p> <p>18A.—(1) Where, in the opinion of a housing authority, a landlord is contravening or has contravened a requirement of a regulation made under section 18, the authority may give notice in writing (in this Act referred to as an “improvement notice”) to the landlord of the house concerned.</p> <p>(2) An improvement notice shall—</p> <p>(a) state that the housing authority is of the opinion referred to in subsection (1),</p> <p>(b) state the reasons for that opinion,</p> <p>(c) identify the provision of the regulation concerned in respect of which that opinion is held,</p> <p>(d) direct the landlord to remedy the contravention within the period specified in the notice commencing on the date specified therein, which date shall not be earlier than the end of the period within which an objection may be submitted under subsection (6),</p> <p>(e) include information regarding the submission of an objection and the making of an appeal in relation to the notice, specifying—</p> <p>(i) the form and manner of an objection,</p> <p>(ii) the form and manner of an appeal, and</p> <p>(iii) the address of the housing authority for the purpose of submitting an objection under subsection (6) or notifying the authority of an appeal under subsection (7), as the case may be,</p>

- (f) contain a statement that if an objection is not submitted in accordance with subsection (6) and within the period specified in that subsection then—
 - (i) the notice will be treated as not disputed, and
 - (ii) the landlord will be deemed to have accepted the notice and to have agreed to comply with the direction within the period specified therein, and
- (g) be signed and dated by the housing authority.
- (3) An improvement notice may include directions as to the measures to be taken to remedy the contravention to which the notice relates or to otherwise comply with the notice.
- (4) Where an improvement notice is given under subsection (1), the housing authority shall give a copy to the tenant of the house concerned.
- (5) (a) A landlord to whom an improvement notice has been given who is of the opinion that the improvement notice has been complied with shall, before the expiration of the period specified in the notice for the purpose of subsection (2)(d), confirm in writing to the housing authority that the matters referred to in the notice have been so remedied and shall give a copy of the confirmation to the tenant.
- (b) Where a landlord confirms to the housing authority in accordance with paragraph (a) that the matters referred to in the improvement notice have been remedied, the housing authority, on being satisfied that the matters have been so remedied, shall, within 28 days of receiving such confirmation, give notice in writing to the landlord of compliance with the improvement notice and shall give a copy of the notice to the tenant.
- (c) The notice under paragraph (b) does not preclude any inspection which the housing authority considers necessary in relation to the house concerned or the service of a further improvement notice which the authority may consider necessary.
- (6) A landlord aggrieved by an improvement notice may, within 14 days beginning on the day on which the notice is given to him or her, submit an objection to the notice in the form and manner specified in the notice, and the housing authority shall consider the objection and, as it sees fit, vary, withdraw or confirm the notice and shall notify the landlord in writing of the decision and the reasons for the decision within 14 days after receipt of the objection.
- (7) (a) The landlord may, no later than 14 days after the decision under subsection (6) is notified by the housing authority to him or her, appeal the decision to a judge of the District Court in the district court district in which the notice was served.
- (b) A landlord who appeals under paragraph (a) shall at the same time notify the housing authority in writing of the appeal and the grounds for the appeal.
- (c) The housing authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.
- (d) In determining an appeal under paragraph (a), the judge of the District Court may confirm, vary or cancel the improvement notice if he or she considers it reasonable to do so.

- (8) Where an objection is submitted under subsection (6) and no appeal is made under subsection (7) against the decision of the housing authority and the improvement notice is neither withdrawn nor cancelled, the notice takes effect on the later of the following:
- (a) the day after the day on which the notice is confirmed or varied;
 - (b) the day after the objection is withdrawn by the landlord;
 - (c) the date specified in the notice.
- (9) Where an appeal is made under subsection (7) and the improvement notice is neither withdrawn nor cancelled, the notice takes effect on the later of the following:
- (a) the day after the day on which the notice is confirmed or varied on appeal;
 - (b) the day after the appeal is withdrawn by the landlord;
 - (c) the date specified in the notice.
- (10) Where no objection is submitted under subsection (6) the improvement notice takes effect on the date specified in the notice.
- (11) The housing authority may—
- (a) withdraw an improvement notice at any time, or
 - (b) where no objection is submitted or appeal made or pending, extend the date specified in the notice for the purposes of subsection (2)(d).
- (12) Withdrawal of an improvement notice under subsection (11) does not prevent the giving of another improvement notice, whether in respect of the same matter or a different matter.

Prohibition notice.

18B.—(1) Where a landlord fails to comply with an improvement notice in accordance with section 18A, the housing authority may give notice in writing (in this Act referred to as a “prohibition notice”) to the landlord of the house concerned.

(2) A prohibition notice shall—

- (a) state that the housing authority is of the opinion that the landlord has failed to comply with an improvement notice,
 - (b) direct that the landlord shall not re-let the house for rent or other valuable consideration until the landlord has remedied the contravention to which the improvement notice relates,
 - (c) include information regarding the making of an appeal in relation to the notice, specifying—
 - (i) the form and manner of an appeal, and
 - (ii) the address of the housing authority for the purpose of notifying the authority of an appeal under subsection (4),
- and
- (d) be signed and dated by the housing authority.

(3) Where a prohibition notice is given under subsection (1), the housing authority shall give a copy to the tenant of the house concerned.

(4) (a) A landlord aggrieved by a prohibition notice may, within 14 days beginning on the day on which the notice is given to him or her, appeal the notice to a judge of the District Court in the district court district in which the notice was served.

- (b) A landlord who appeals under paragraph (a) shall at the same time notify the housing authority in writing of the appeal and the grounds for the appeal.
- (c) The housing authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.
- (d) In determining an appeal under paragraph (a), the judge of the District Court may confirm, vary or cancel the prohibition notice if he or she considers it reasonable to do so.
- (5) A prohibition notice shall take effect—
- (a) in the case of an appeal under subsection (4), on the later of the following:
- (i) the day after the day on which the notice is confirmed or varied on appeal;
 - (ii) the day after the appeal is withdrawn by the landlord;
 - (iii) the expiry, whether by termination or otherwise, of the tenancy existing on the day on which the prohibition notice is given to the landlord,
- (b) in any other case on the later of the following:
- (i) the day after the expiry of the period allowed by subsection (4)(a) for making an appeal;
 - (ii) the expiry, whether by termination or otherwise, of the tenancy existing on the day on which the prohibition notice is given to the landlord.
- (6) A landlord to whom a prohibition notice has been given who is of the opinion that the matters to which the notice relates have been remedied shall confirm in writing to the housing authority that those matters have been so remedied and shall give a copy of the confirmation to the tenant.
- (7) Where a landlord on whom a prohibition notice has been served confirms in writing to the housing authority in accordance with subsection (6) that the matters to which the notice relates have been remedied, the housing authority, on being satisfied that the matters have been so remedied, shall, within 28 days of such confirmation, give written notice to the landlord of compliance with the prohibition notice and shall give a copy of the notice to the tenant of the house concerned.
- (8) A housing authority may at any time withdraw a prohibition notice by notice in writing to the landlord to whom it was given.
- (9) Withdrawal of a prohibition notice under subsection (8) does not prevent the giving of another prohibition notice.
- (10) A housing authority shall, in the interests of public health and safety, make such arrangements as they consider appropriate or necessary to bring the contents of a prohibition notice to the attention of the public.

”.

Amendment agreed to.

Government amendment No. 98:

In page 51, between lines 15 and 16, but in Part 4, to insert the following:

“

4	Section 34	<p>(a) Substitute the following for subsection (1)—</p> <p>“(1) Any person who—</p> <p>(a) by act or omission, obstructs an authorised person in the lawful exercise of the powers conferred by, or contravenes a provision of, or a regulation made under, section 17, 18 or 20, or</p> <p>(b) fails to comply with an improvement notice, or</p> <p>(c) re-lets a house in breach of a prohibition notice,</p> <p>shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both and if the obstruction, contravention, failure to comply or re-letting is continued after conviction the person shall be guilty of a further offence on every day on which the obstruction, contravention, failure to comply or re-letting continues and for each such offence shall be liable, on summary conviction, to a fine not exceeding €400.”.</p> <p>(b) Insert the following subsection:</p> <p>“(3) Where a person is convicted of an offence under this Act, the court shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person to pay to the housing authority, the costs and expenses, measured by the court, incurred by the housing authority in relation to the investigation, detection and prosecution of the offence.</p>
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Amendment agreed to.

Government amendment No. 99:

In page 52, Part 5, line 37, after “of” to insert “*Part 3* of”.

Deputy Michael Finneran: This amendment is necessary to clarify that the expression “eligible household” in the amendment to section 14 of the Housing (Miscellaneous Provisions) Act 1997, set out in Part 5 of the Schedule, is to be read within the meaning of Part 3 of the Bill. This is because the expression “eligible household” is defined in the Bill for the purposes of Part 3 only.

Amendment agreed to.

Government amendment No. 100:

In page 52, Part 5, line 40, after “household” to insert “or any member of the tenant’s household or of the eligible household”.

Deputy Michael Finneran: This amendment is required to clarify that the housing authority, in considering whether to refuse or to sell a dwelling under tenant purchase or incremental purchase, may take account of anti-social behaviour by a member of the tenant’s household or of the eligible household, as well as the anti-social behaviour by the tenant of the eligible household concerned.

Amendment agreed to.

Government amendment No. 101:

In page 53, Part 6, to delete lines 30 to 48, and substitute the following:

“

		<p>(3) Before making an assessment under this section, a relevant housing authority shall give one month's notice of their intention to do so to—</p> <p>(a) every local authority whose administrative area adjoins, or is contained in, the functional area of the authority preparing a programme under section 7,</p> <p>(b) the Health Service Executive,</p> <p>(c) approved bodies engaged in the provision of accommodation or shelter in the functional area concerned,</p> <p>(d) any local consultative committee in the functional area concerned, and</p> <p>(e) such local community bodies in the functional area concerned and any other person, as the housing authority considers appropriate.</p>
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”.

Deputy Michael Finneran: Part 6 of Schedule 2 makes amendments to the Housing (Traveller Accommodation) Act 1998, necessitated by the provisions in the main body of the Bill. Section 6 of the 1998 Act deals with periodic assessment of the accommodation needs of travellers and section 6(3) deals with consultation with the bodies specified in paragraphs (a) to (d) of section 9(4) of the Housing Act 1988. Section 9 of the 1988 Act is repealed in Schedule 1 of the Bill. Part 6 of Schedule 2 makes a consequential amendment to section 6(3) of the Housing (Traveller Accommodation) Act 1998 which specifies the bodies which must be consulted in carrying out an assessment of the accommodation needs of Travellers.

The proposed amendment also recasts section 6(3) to refer to the functional area of a housing authority carrying out the assessment rather than its administrative area. This is because section 5 of the Housing (Traveller Accommodation) Act 1998 gives a particular meaning to the expression “functional area” in the context of responsibilities of housing authorities under the 1998 Act. Therefore, this expression is appropriate to use in any amendment of section 6(3) of the Act.

Amendment agreed to.

Government amendment No. 102:

In page 54, Part 6, line 8, to delete “subsection (7)” and substitute “subsection (6)”.

Deputy Michael Finneran: This amendment is required to refer to the correct provision in an amendment to section 6 of the Housing (Traveller Accommodation) Act 1998 set out in Part 6 of Schedule 2.

Amendment agreed to.

Government amendment No. 103:

In page 54, Part 7, between lines 41 and 42, to insert the following:

“

2	Section 96(13)	In paragraph (a), substitute “required for households assessed under <i>section 20</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> as being qualified for social housing support” for “for persons referred to in section 9(2) of the Housing Act, 1988”.
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“.

Deputy Michael Finneran: Part 7 of Schedule 2 makes amendments to the Planning and Development Act 2000 necessitated by the provisions in the main body of the Bill. I propose this amendment to make a further consequential change to section 96(13) of the 2000 Act, as amended. Section 96(13) refers to the provision of housing for persons referred to in section 9(2) of the Housing Act 1988. Section 9 of the 1998 Act is repealed in Schedule 1 of the Bill. This amendment substitutes reference to section 20 of the Bill for the reference in section 96(13) to section 9(2) of the 1988 Act.

Amendment agreed to.

Government amendment No. 104:

In page 54, Part 7, line 44, to delete “housing authority” and substitute “planning authority”.

Amendment agreed to.

Government amendment No. 105:

In page 55, Part 7, to delete lines 14 to 21 and substitute the following:

“

3	New section101A	Insert the following section after section 101 but in Part V: <i>“Non-application of certain provisions to sale or lease of affordable housing under this Part.</i> 101A.—Section 211(2) of this Act and section 183 of the Local Government Act 2001 shall not apply to the sale or lease of affordable housing to eligible persons under this Act.”.
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“.

Amendment agreed to.

Government amendment No. 106:

In page 57, Part 8, to delete lines 54 to 61 and substitute the following:

“

5	New section 10A	<p>Insert the following new section after section 10 but in Part 2:</p> <p><i>“Non-application of certain provisions to sale of affordable house.</i></p> <p>10A.—Section 211(2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of an affordable house to a purchaser (within the meaning of section 9 and 10, as appropriate).”.</p>
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Amendment agreed to.

Government amendment No. 107:

In page 58, between lines 10 and 11, to insert the following new Part:

“PART 10

AMENDMENTS TO RESIDENTIAL TENANCIES ACT 2004

Item (1)	Provision affected (2)	Amendment (3)
1	Section 3(2)	<p>(a) In paragraph (c)(ii), substitute “a household within the meaning of the <i>Housing (Miscellaneous Provisions) Act 2008</i> assessed under <i>section 20</i> of that Act as being qualified for social housing support” for “a person referred to in section 9(2) of the Housing Act 1988”.</p> <p>(b) Substitute the following for paragraph (d):</p> <p>“(d) a dwelling—</p> <p>(i) the occupier of which is entitled to acquire, under Part II of the Landlord and Tenant (Ground Rents)(No. 2) Act 1978, the fee simple in respect of it, or</p> <p>(ii) which is one of a number of dwellings comprising an apartment complex, the occupier of which would be so entitled to acquire the fee simple in respect of it but for the fact that it is such a dwelling.”.</p>
2	Section 12	<p>(a) In subsection (1), insert the following after paragraph (b):</p> <p>“(ba) provide receptacles suitable for the storage of refuse outside the dwelling, save where the provision of such receptacles is not within the power or control of the landlord in respect of the dwelling concerned.”.</p> <p>(b) In subsection (4)—</p> <p>(i) in paragraph (a), substitute the following for subparagraph (i):</p> <p>“(i) the payment of rent, or any other charges or taxes payable by the tenant in accordance with the lease or tenancy agreement, and the amount of rent or such other charges or taxes in arrears is equal to or greater than the amount of the deposit, or”,</p>

Item (1)	Provision affected (2)	Amendment (3)
		<p>and</p> <p>(ii) substitute the following for paragraph (b):</p> <p>“(b) where, at the date of the request for return or repayment, there is a default in—</p> <p>(i) the payment of rent, or any other charges or taxes payable by the tenant in accordance with the lease or tenancy agreement, or</p> <p>(ii) compliance with section 16(f),</p> <p>and subparagraph (i) or (ii), as the case may be, of paragraph (a) does not apply, then there shall only be required to be returned or repaid under subsection (1)(d) the difference between the amount of rent or such other charges or taxes in arrears or, as appropriate, the amount of the costs that would be incurred in taking steps of the kind referred to in paragraph (a)(ii).”.</p>
3	Section 135	<p>(a) Delete subsection (2).</p> <p>(b) In subsection (5), substitute “that the application is incomplete and invalid and shall return the application, any other information submitted with the application and any fee paid” for “of the omission concerned and afford him or her a reasonable opportunity to rectify the matter”.</p>

”.

Deputy Michael Finneran: I propose this amendment to insert a new Part 10 in Schedule 2 of the Bill to make a number of changes to the Residential Tenancies Act 2004. The 2004 Act provides for a measure of security for tenants of private dwellings, amendment of landlord and tenant law with regard to the basic rights and obligations of each of the parties, arrangements for disputes between such parties to be resolved in a cost effective and timely manner and the establishment of a Private Residential Tenancies Board. The principle activities of the board include resolution of disputes between tenants and landlord, the registration of private rental tenancies and the provision of information, assistance and advice to the Minister on the private rental sector.

As Senators are aware, the amendment before the House is a substitute for the original amendment dated 19 November 2008. The original amendment contained four items and I am withdrawing No. 3 from the principal list and the substitute amendment before the House today is re-numbered accordingly. The item withdrawn was a technical amendment to allow for the codification of tax legislation where the existing statutory references in section 25(4) were repealed and the repealed provisions were consolidated in Chapter 11 Part 10 of the Taxes Consolidation Act 1997.

The amendment sought to ensure that certain third level student accommodation remained outside the scope of Part 4 of the Act relating to security of tenure. However, the amendment went beyond what was required and the provision requires further examination by my Department in conjunction with the Parliamentary Counsel to ensure it achieves its objective. I will re-introduce the necessary amendment on Committee Stage in the Dáil and revert to this House in the normal way.

I will now deal with the remaining three items in amendment No. 107 in detail. No. 1 of the Part 10 insertion makes two changes to section 3(2) of the 2004 Act. The first amendment is to section 3(2)(c)(ii) which excludes from the terms of the Residential Tenancies Act 2004

[Deputy Michael Finneran.]

dwelling let by the voluntary sector to persons qualified for social housing support. Following the repeal under the Bill of section 9 of the Housing Act 1988, referred to in the existing exclusion in the 2004 Act, the first amendment updates section 3(2)(c)(ii) to refer to section 20 of the Bill instead of section 9 of the 1988 Act. A previous amendment was made to section 20 on this point. However, there is no change to the thrust of section 3(2)(c)(ii) of the 2004 Act. Dwellings let by the voluntary sector to persons qualified for social housing support will continue to be excluded from the terms of that Act.

The second amendment in No. 1 relates to an exclusion from the terms of the Act set out in section 3(2)(d). The amendment puts beyond doubt the fact that the 2004 Act does not apply to owner-occupied leasehold dwellings and in particular that the Act does not apply to owner-occupied apartments.

No. 2 of the Part 10 insertion makes two amendments to section 12 of the 2004 Act which imposes certain obligations on landlords of private rental accommodation. The first amendment provides that the landlord must provide receptacles outside the dwelling for the storage of refuse. This provision will not apply where the provision of such receptacles is outside the power or control of the landlord. This could arise where it is the function of a management company to provide such a service. The purpose of this amendment is to ensure the landlord makes the necessary arrangements to enable the tenant to store refuse appropriately and in such a way that it does not attract pests or vermin or become a hazard or eyesore to the public.

The second amendment in No. 2 relates to section 12(4) which deals with the obligation on landlords to repay promptly the deposit paid by a tenant on entering into a lease or a tenancy agreement for the dwelling concerned. The amendment to section 12(4) is twofold, the net effect of which is to provide that on the termination of a tenancy or lease, some or all of the deposit paid by the tenant on entering into the tenancy or lease may be withheld by the landlord in respect of outstanding rent, charges or taxes that were the responsibility of the tenant under the lease or tenancy agreement. The existing provision refers to outstanding rent only whereas the amendment refers to outstanding rent, charges and taxes as appropriate. The amendment also makes it clear that it is outstanding charges or taxes provided for in the original lease or tenancy agreement that are at issue here. It remains the position that any disputes arising on the matter may be referred to the board under dispute resolution procedures.

No. 3 of the Part 10 insertion is a twofold amendment to section 135 of the 2004 Act which sets out supplementary provisions with regard to obligations on landlords to apply to the PRTB to register tenancies. The first part of the amendment proposes the deletion of section 135(2) to remove the necessity for the landlord and the tenant or tenants to sign an application form for the registration of a tenancy. This will enable the PRTB to accept on-line tenancy registration applications and thus speed up the registration process. The second part of the amendment to section 135 of the 2004 Act involves an amendment to section 135(5) that will ease the administrative burden in the matter of tenancy registration applications.

The effect of the amendment is that the Private Residential Tenancies Board will be able to treat an incomplete application as a non-application to be returned to the landlord. This approach parallels that which applies to electronic applications, which cannot be submitted unless they are completed properly. An incomplete application would include one with no fee or a late application with an insufficient fee.

Amendment agreed to.

Government amendment No. 108:

In page 58, between lines 10 and 11, to insert the following new Part:

“PART 11

Amendment to Social Welfare Consolidation Act 2005

Item (1)	Provision affected (2)	Amendment (3)
1	Section 265(1)	Substitute the following for subparagraphs (i), (ii) and (iii) of paragraph (b) of the definition of “relevant purpose”— “(i) carrying out a social housing assessment under <i>section 20</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> , (ii) allocating a dwelling under <i>section 22</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> , (iii) determining rent or any other charge under <i>section 31</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> ,”.

”.

Deputy Michael Finneran: This amendment is required to update references in section 265(1) of the Social Welfare Consolidation Act 2005 to statutory provisions in the housing code that are being repealed in this Bill. The new references are to provisions in the Bill that will replace the repealed items of legislation.

Amendment agreed to.

Schedule 2, as amended, agreed to.

SCHEDULE 3.

Amendment No. 109 not moved.

Government amendment No. 110:

In page 59, to delete lines 10 to 17 and substitute the following:

“(ii) prohibiting the tenant from knowingly permitting a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the dwelling concerned, to enter the dwelling in breach of the excluding order or interim excluding order, as the case may be.”.

Amendment agreed to.

Schedule 3, as amended, agreed to.

TITLE.

An Cathaoirleach: Amendments Nos. 111 and 112 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 111:

In page 5, line 18, after “ARRANGEMENTS;” to insert the following:

[An Cathaoirleach.]

“TO MAKE FURTHER PROVISION RELATING TO STANDARDS FOR RENTED HOUSES AND TO PROVIDE FOR THE GIVING OF IMPROVEMENT NOTICES AND PROHIBITION NOTICES TO LANDLORDS; TO PROVIDE FOR THE PAYMENT OF A GRANT TOWARDS THE COST OF PROVISION OF AFFORDABLE HOUSES; TO PROVIDE FOR THE REPAYMENT OF CERTAIN AMOUNTS THAT MAY BECOME PAYABLE TO HOUSING AUTHORITIES ON THE SUBSEQUENT PURCHASE OF THE PURCHASER’S INTEREST IN A SHARED OWNERSHIP LEASE OR THE SALE OF THAT INTEREST;”.

Deputy Michael Finneran: These amendments are required to amend the Long Title of the Bill to reflect the inclusion of amendments to existing legislation on standards of private rental accommodation and the insertion in the Bill of amendments to the Residential Tenancies Act 2004 and the Social Welfare Consolidation Act 2005. The amendments to these Acts are set out in the proposed new Parts 10 and 11 of Schedule 2 to the Bill.

Amendment agreed to.

Government amendment No. 112:

In page 5, lines 22 and 23, to delete “AND THE CIVIL REGISTRATION ACT 2004” and substitute the following:

“, THE CIVIL REGISTRATION ACT 2004, THE RESIDENTIAL TENANCIES ACT 2004 AND THE SOCIAL WELFARE ACTS”.

Amendment agreed to.

Title, as amended, agreed to.

Bill reported with amendments.

An Cathaoirleach: When is it proposed to take Report Stage?

Senator Donie Cassidy: Next Tuesday.

Report Stage ordered for Tuesday, 9 December 2008.

Sitting suspended at 4.45 p.m. and resumed at 5 p.m.

Shoppers Task Force: Motion.

Senator Dominic Hannigan: I move:

Seanad Éireann notes that:

- the cost of food sold by retailers in Northern Ireland is at least 20% cheaper than the same retailers charge in the Republic of Ireland;
- the recent reduction of VAT in the North to 15%, whereas it is to increase to 21.5% in this State;
- the cost of mobile telephone usage in Ireland is among the highest in Europe;
- there is a significant disparity between the price of clothes here and in the UK; and

- there are many instances where Irish consumers face large price differentials as between here and abroad.

Seanad Éireann condemns the Government for its inaction on this issue and calls on the Minister for Enterprise, Trade and Employment to establish a shoppers task force to examine and report on the reasons for these price differentials, to identify clearly to the public, where relevant, the differential cost base issues involved, to expose unacceptable profiteering by retailers where same exists, and to bring all possible pressure to bear to ensure that prices are maintained at an affordable level, and reduced where possible.

I speak on behalf of the Labour Party Senators about the price of goods for Irish shoppers. This issue affects small businesses as well as the public. Last month alone, high prices cost the Exchequer €400 million, the amount of money that should have been raised in value added tax, VAT, in November but was not. There are a number of reasons for the shortfall in VAT yield, which is €2.1 billion down on projections at the start of this year. The Government blames the situation on the global collapse of the financial markets and on currency and exchange rate fluctuations. We accept that this played a part but it is not the only reason. The result is that consumers are still paying way over the odds for goods and services, which is encouraging them to go elsewhere to shop, with potentially calamitous effects on the economy.

The Green Party Leader, the Minister, Deputy John Gormley, appears to recognise this. He declared a few days ago that something would have to be done to stem the flow of shoppers from the Republic to the North. He suggested that the response of Ireland and the UK to the international problems should be synchronised. It is almost as if the budget introduced by the Minister for Finance, Deputy Brian Lenihan, had nothing to do with the Minister, Deputy Gormley. However, he might be on to something when he says we should look to what the UK has done. One of the actions taken by the British Prime Minister, Mr. Gordon Brown, was the introduction of an economic stimulus for the economy. That stimulus package included a 2.5% reduction in the VAT rate. Our Government has increased VAT, which will make a bad situation worse. It is a shame the Minister, Deputy Gormley, did not speak up when the Minister for Finance, Deputy Brian Lenihan, framed his budget. It is a little late to come to the party now with suggestions.

The Labour Party Senators are attempting to take the initiative. The Seanad is due to hold a full day of debate on the economy next Friday but we must do more than debate the issue. The lack of consumer confidence and tight credit lines are being felt keenly throughout the retail sector. A bad Christmas and new year in this part of the economy could stimulate the type of domino effect in unemployment that we all fear. We therefore must act as urgently as possible. We must find out why prices in the South are so high.

Why are prices so high in the communications sector? I can give examples. A few weeks ago I mentioned in the Seanad that if one wishes to buy the new BlackBerry Storm, which will become part and parcel of conducting business in the future, one can get it free in Newry but in Navan it costs €110 just for the telephone. The contracts are higher too. Why is this the case and who is to blame? We must find out. The public is concerned about this. I received an e-mail this morning from somebody named Heather who is infuriated by what she calls the “vampiric” behaviour of companies in the communications sector. She seeks specific answers as to why she must pay more for her mobile telephone communications than people in other countries. Unfortunately, the Government just pays lip service when answering such questions.

I have read the Government’s proposed amendment to the motion. It states: “... retailers and telecommunications providers have a duty and a responsibility to justify to their customers and the economy the reasons for charging significantly higher prices to their customers in

[Senator Dominic Hannigan.]

Ireland as compared to the prices charged to customers in other jurisdictions". In other words, the Government is saying no action should be taken and we should expect those people who are probably under suspicion of over-charging to make some admission. This approach does not tally with the claim in the proposed amendment that the Minister for Enterprise, Trade and Employment is determined to ensure customers receive a fair deal. We are paying some of the highest mobile telephone charges in Europe and there is no sign that the Minister's determination is converting into action. The National Consumer Agency will not be able to address this problem because it appears across the sector and occurs in other areas as well.

I did a price comparison last month between London and Ashbourne, which is my base. A Big Mac in London costs £2.09 compared to €3.70 in Ashbourne. The cost is 50% higher in this jurisdiction. In the Subway outlet in Ashbourne the "Sub of the Day" costs €2.99 while in London it costs £1.99, a difference of approximately 25%. The prices in other stores were also higher. Prices in Tesco in the UK were approximately 20% cheaper than in Tesco in Ashbourne. Prices in the clothing store New Look and in Argos are also between 20% and 25% cheaper in the UK. That is after taking account of currency fluctuations. I commend Senator Ó Domhnaill for the example he gave this morning on the Order of Business when he mentioned the lady being charged different prices in Donegal and in the North.

These differences are not simply due to exchange rate fluctuations or currency differentials. Something else is causing them and until we find the definitive reason, we cannot address the issue. The mechanism we propose for doing that is a shoppers task force. Such a task force would examine and report on the reasons for these price differentials and identify the costs and processes involved. In the process it would, I hope, expose profiteering if it exists. The cost of living has always been bad for consumers but it is becoming particularly bad for retailers as well. Representation on the shoppers task force, therefore, should involve not just consumer groups but also retailers and relevant business representatives, service providers, economists and public representatives. It must bring together not just the knowledge but also the will to identify the dynamics at play, and this must be done urgently.

Over the next two months shoppers in many parts of Ireland will have to pay more than they should for goods. As a result, retailers will lose business to other parts of the island or other countries. We are familiar not just with the flight to Newry on the M1 but also with the Aer Lingus flights taking shoppers to New York. Serious amounts of money are at issue. Take the example of the motor industry in this country. The motor trade is waiting with bated breath for the January sales but it expects to be disappointed. Some 2,000 people in the industry have already been laid off while others are now on reduced working hours. In some cases new and second-hand cars can be bought for 30% less in the North. Dealers in Northern Ireland are linking their websites to currency converters and the Revenue Commissioners' VRT calculator. They are clearly aware of from where some of their business is coming. Sales of cars in this jurisdiction are likely to be down by more than 20% this year and the reduction for commercial vehicles is 30% for the same period. Millions of euro which should be spent here will not now be spent because consumers either cannot afford to buy goods and services here or choose to buy elsewhere.

The problem has already spread beyond the retail sector into the broader economy. There have been reports in the newspapers recently that large retailers here are now buying through the North and the UK rather than through distribution channels in this country. If they are doing so, I sincerely hope they pass on any savings to consumers and do not engage in profiteering. This matter should also be examined by the task force. There is a wide range of issues that should be addressed. Since many of these problems are induced, in part at least, by a

Government malfunction in respect of the economy, it is the responsibility of the Department of Enterprise, Trade and Employment to act with urgency. The Labour Party Senators call on the Minister to create a shoppers task force to urgently examine the matter thoroughly. The economy simply cannot be sustained with existing prices in the coming year.

Senator Michael McCarthy: I second the motion. I welcome the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Billy Kelleher, to the House. I hope the debate will generate views from all sides of the House. We all represent people and we come from constituencies, however far apart they may be geographically, in which consumer trends are the same. People will feel the pinch equally in Cork, Mayo and Donegal. In this case the matter of shopping in the North forms part of the motion. As public representatives, we bring a wide variety of views to the House and these should be fully debated.

The motion reflects what has been a very serious situation for some time. It has been flagged in various elements of the media. It is no surprise that this is firmly on the agenda of everyone as Christmas approaches. Various articles have appeared in newspapers in the past six months highlighting an exodus of shoppers from the South to the North. We do not begrudge the North our customers. Politics in this part of Ireland for the past 20 or 30 years has focused on strengthening ties between North and South. It aggravates some people to refer to the Twenty-six Counties. This is a country of Thirty-two Counties and on that basis we must encourage links.

I stress we do not begrudge the North our custom. However, there are ways to facilitate cross-Border ties without retailers here losing out heavily. We benefit from those in the North who travel south for holidays. This is especially the case in west Cork, as the Minister of State, Deputy Kelleher, is aware. We depend largely on such tourism and it is very important. The evidence suggests that the number of tourists from the United Kingdom and the United States of America will fall. There is a strong base of those in the North who travel south on holidays. We must ensure we do more to encourage shoppers from the North. This is a serious challenge, but it also represents an opportunity. Let us seriously consider a scheme based on the shoppers task force, the membership of which should be all-encompassing. Let us turn this economic challenge into an opportunity. Let us start to encourage shoppers from the North to travel south.

The different VAT rates form a significant part of the debate. It was madness to increase our VAT rate from 21% to 21.5% when the exchequer in the United Kingdom reduced its VAT rate from 17.5% to 15% with the obvious knock-on effects in Northern Ireland. This is a very significant issue. The Minister for Finance and the Government must seriously examine that part of the problem, much of which is of our own doing. We must ensure fewer people travel to the North, and addressing the VAT discrepancy is one way to do so. The slashing of the VAT rate in the UK shows imagination on the part of the Government there in attempting to solve the economic crisis and to reboot its economy. It requires imagination to do so.

We must tackle the high prices charged by UK retail chains here. Senator Hannigan referred to the significant price disparity in take-out foods. Consider the high street chains. Using the currency converter it is possible to see they are making a fortune here. They are not passing on the sterling prices which would obviously be of benefit to customers in Ireland. That must be tackled seriously from the highest level of Government. Why is it a company can make a profit on a product in the UK, apply the currency conversion rate and still charge more than they should in this country? Whatever about being immoral, the matter should be discussed between the Governments to ensure the system is fair.

[Senator Michael McCarthy.]

I refer to the general credit crunch. Hard-working families find it more and more difficult to pay for medicines and general price increases in groceries. The 1% levy is hurting people, which we should not forget. It is another form of taxation which is unfair. I welcome the fact that the Government decided to exclude those on the minimum wage from the 1% levy. However, it is unfair that someone earning slightly more than the minimum wage pays proportionally the same as someone earning slightly less than €100,000 per year. We must remain conscious of this. All these difficulties have dented consumer confidence. Since the introduction of the budget on 14 October and the publication of recent figures on tax receipts, the situation has become more challenging and daunting. Consumer confidence is at an all-time low. A strategy is needed from the Government, as is an impetus which reflects imagination and returns money to consumers and inspires confidence in the market.

The European Central Bank, ECB, interest rate is expected to be reduced again tomorrow. Following the initial rate reduction at the beginning of November, I wrote to the Minister for Finance, Deputy Brian Lenihan. It angered me and many in the House and throughout the country that the ECB rate reduction would automatically be passed on to those with tracker mortgages, but would not necessarily be passed on to those with other types of mortgages. The options of passing on the reduction was left largely to the discretion of the banks. I raised this issue in the House and I wrote to the Minister for Finance on the matter. In fairness to the Minister, he replied. He referred in his correspondence to comments he made in the Dáil on 11 November in which he welcomed the Central Bank's announcement on 6 November to pass on the reduction in key interest rates. There is a difference between welcoming and encouraging on the one hand and obliging financial institutions to pass on the reductions on the other hand.

The State, the Government and the country bailed out the banks and provided them with a guarantee. The least we expect in return is that the Government would ensure that commercial banks would pass on the reductions. If it is left to the discretion of the banks it will not happen. The banks are concerned about making money and profit, not about the people who must go to court and face foreclosures and repossessions.

Those circumstances are all the more daunting when one considers that many people face this Christmas without a guaranteed job in the beginning of 2009. Anyone who knows anything about the 1980s will remember the job insecurity of that time. If one had a job one was lucky and if one had a secure job one was part of a rare breed. We are returning to the mindset whereby people are no longer guaranteed safe jobs in the future, which is a matter of great concern. Everyone fears losing a job, but those on the margins also fear losing their houses, which is an awful and appalling vista.

I refer to mobile phone roaming charges. Senator Hannigan referred to an example of a phone available free of charge in the North and the corresponding cost of the same product here. Mobile phone companies have been making a fortune on the backs of Irish consumers for a long time. I remember ten years ago in London, if one was a Vodafone bill-paying customer the phone would be registered to one's address. At the time Vodafone allowed customers free calls after 6 p.m. and before 8 a.m. the following morning to landlines in that area. That service is still not readily available here, ten years later. That is the same company which bought out Eircell. Unfortunately, it did not bring some of the discount schemes from the UK, which is another example of why the motion must be passed in the House.

The cost of sending a text message is so small that it is almost scientifically impossible to calculate. Millions of text messages are sent and this practice is encouraged by mobile phone companies. If one sends SMS messages saying "How are you?", "I am fine.", "Any news?",

the cost is 9 cent each time. Before one reaches the third sentence of a small conversation the cost can be as high as 60 cent.

Senator Paul Bradford: The Senator is a one sentence man.

Senator Michael McCarthy: I am sure the Senator will not charge me for the luxury of that.

The Oireachtas Joint Committee on Communications, Energy and Natural Resources, which comprises Members from all sides, has looked at roaming charges as well as the cost of text messages and the general prices charged by mobile telephone companies in Ireland. In terms of roaming, it would almost be cheaper to take out a mortgage and buy a property abroad than to pay one's mobile telephone bill on returning to Ireland. It is absolutely unbelievable. The European Union, Commission and members of the European Parliament have paid particular attention to this issue. We all know there is overcharging and we know what needs to be done. I ask the Minister of State, Deputy Kelleher, to ensure that those at the highest levels in Government show some imagination in this area.

The Government must lead the way and create a shoppers task force. A group of people, somewhat like "An Bord Snip", must be tasked with looking at all the issues affecting the hard-pressed consumers, especially bearing in mind that the budget was most severe on those who have the least. If consumer confidence is to return and the market is to be rebooted, measures like this, which may seem insignificant, are very important. People's disposable incomes are under pressure and thousands will find this Christmas the most difficult in 25 years.

I hope the Minister of State will give serious consideration to this motion, acknowledge the spirit in which it is tabled and ensure that this Christmas is not as difficult as it could be. The Government can lead the way and we will support it.

Senator John Carty: I move amendment No. 1:

To delete all words after "Seanad Éireann" and substitute the following:

"recognises:

- the economic impact of the significant decline in value of sterling against the euro in terms of exports and the effect on the price of consumer goods;
- that around half the value of goods and services purchased in the State, including the majority of foodstuffs, oral medicines, books and children's clothes and shoes, are not subject to the standard rate of VAT and therefore are unaffected by the change in the standard rate;
- that Ireland continues to be a low taxation economy in comparison with other competing economies;
- that overall inflation in Ireland continues to decrease and is less than the Euro area average and is lower than the comparable index in the UK;
- that retailers and telecommunications providers have a duty and a responsibility to justify to their customers and the economy the reasons for charging significantly higher prices to their customers in Ireland as compared to the prices charged to customers in other jurisdictions;

supports:

[Senator John Carty.]

- the actions of the Tánaiste and Minister for Enterprise, Trade and Employment in pursuing the retail trade to explain the reasons for these price differentials;
- the Tánaiste's determination to ensure that consumers receive a fair deal and that retailers do not engage in unacceptable profiteering; and
- the ongoing work of the National Consumer Agency to inform consumers through its Price Comparison Surveys of the choices available in the marketplace."

I welcome the Minister of State to the House and thank the Labour Party for tabling this motion this evening. It is a worthy motion at this time, given the current media attention on the number of Irish people travelling to Northern Ireland and spending money that should well be spent in our own economy. Such people believe they are getting good bargains, which must be the case, given the numbers involved, but I appeal to them to think twice about the amount of money they are spending in Northern Ireland, especially given the current state of our economy. In the coming months we will see the result of this cross-Border shopping, with many jobs being lost here. I appeal to people to consider the situation carefully, even though they may be getting bargains.

It appears that most of the bargains to be found in Northern Ireland are in food and alcohol. However, last week a supermarket in the Republic advertised enormous reductions in the price of various drinks and foodstuffs. One could purchase a bottle of Jameson whiskey for €18.99 and 24 bottles of beer for €17.99, and striploin steaks were reduced to half price. I do not know how people could make any savings by travelling to Northern Ireland for such goods. I appeal to people to consider carefully what they are doing.

The fact that the standard rate of VAT does not apply to many items in the Republic of Ireland, including most foodstuffs, oral medicines, books and children's clothing and shoes means that retailers must be creaming off a considerable amount of money in profit on such goods. That is an area on which any task force should focus.

Much has been said by Labour Party representatives about telecommunications providers. Senator Hannigan referred to the fact that a new model of BlackBerry costs €121 in the Republic but is free in Newry. I find that difficult to believe but I am sure that the Minister of State has taken a note of that point and will investigate it further to determine why that might be the case. It is not right and it should not happen, given that a single company supplies such goods north and south of the Border.

I have alluded to the fact that there has been a reduction in food prices in the Republic, especially since certain multiples have entered the market. Two in particular, when they set up in an area, appear to force the other multiples to drop their prices. Housewives are also a lot more discerning than in the past and do not mind shopping in two or three different supermarkets and picking up what they want in each because, by doing so, they can make enormous savings. It is to be welcomed that housewives have come around to that way of thinking because 12 or 18 months ago they did all their shopping in one supermarket. Now that they have seen the full-page advertisements in the newspapers from certain multiples, they are opting to buy item A in supermarket X, item B in supermarket Y and so forth.

I am a member of the British Irish interparliamentary group and have heard my counterparts from England describing how entire areas of that country have been denuded of shops, requiring that people travel 15 to 25 miles to buy petrol and so forth. Irish people should be concerned about the possibility of the same happening here and should support their local shops and petrol stations as much as possible. If such local businesses close, people will be at a loss. I can

see this happening in my own village. There is no petrol station there anymore but once, at a time when there were far fewer cars, there were four. Villagers now have to travel up to seven miles to get petrol. However, in the town to which we travel, I am delighted to say there is enormous competition. In recent weeks a supermarket there has made an arrangement with a local filling station whereby customers who spend €60 in the supermarket will be given a voucher for petrol entitling them to 10 cent off per litre, up to a maximum of 60 litres. That is welcome and indicates that some retailers still understand the concept of competition.

I drive from the west to Dublin every week via Athlone. There is a shop near the Hudson Bay Hotel called the Hudson Bay Stores, which is the last shop one passes until one reaches Dublin, unless one takes a detour into one of the smaller towns along the route. That demonstrates progress in the sense that there is a dual carriageway all the way from Athlone to Dublin. However, at the same time it is regrettable that one cannot pull in along the route to buy a coffee or some petrol.

The United Kingdom, of which Northern Ireland is a part, has a population of over 60 million, which allows for far greater economies of scale than are possible in the Republic of Ireland, which has a population of only 4 million. We have heard quite a bit in the recent past from business people that the minimum wage in the Republic is €8.65 but the minimum wage in Northern Ireland is £5.73, which is the equivalent of about €6.70. Thus, staff costs are higher in the Republic, and that is the way it should be. The young people — or any kind of people — working in those shops should be paid a decent basic wage. I thoroughly agree with that. I also agree with Senator McCarthy regarding the conversion rate between sterling and euro. If one goes into a store in Dublin or anywhere products will have a price up in sterling and one in euro, but there will be a huge difference between the two. If one brings it to the attention of the staff they will look at one and ask what they can do about it. They have no answer. We should be more vigilant in this regard and challenge those figures.

Senator Paul Bradford: I welcome the Minister of State to the House and commend the Labour Party on this motion, which provides, if Members will excuse the phrase, significant food for thought. It is an appropriate time of year and point in the economic cycle of the country to discuss this issue because consumer habits have changed very dramatically, through necessity, in recent months. Every retailer, shopkeeper or taxi driver we meet will talk about the downturn and the amazing reduction in spending. This will obviously have a major impact on the Government's finances and on jobs in our smaller shops, supermarkets and retail stores. It must be addressed and, as far as possible, it must be reversed.

We must recognise that there are two sides to this debate. On one side we have the issue of consumer confidence and what we and the Government can do to try to make progress in that regard, while on the other side of the economic equation is the issue of price control and value for money. I, as much as anybody in this House, regret the fact that the Celtic tiger era has come to an official end and that the past 15 or 16 years of ongoing significant economic growth have now ended. Every economic boom has many positive points — we all welcomed the increase in jobs and wealth in the country — but there are also negatives. From the point of view of the consumer, when money was more freely available and when people were better off in material terms, the idea of value for money and of the consumer watching in great detail what he or she was spending went out the door. People went into supermarkets, drapery stores or other retail outlets and purchased without even checking the price. Money was being spent like confetti. It is great that people had such money to spend, but many people now regret some of their purchases and the fact that they drove inflation because retailers were willing to charge anything if consumers were willing to pay whatever price was being demanded. Value for money went out the door.

[Senator Paul Bradford.]

Inflation was a serious problem 12, 18 and 24 months ago, but that problem has dimmed to a degree because of the drop in consumer spending. We failed as a society to preach the basic economic principle of demanding value for money. That is part of the problem we now face. We all want to ensure that the consumer — namely, you and I — has money in his or her pocket to spend and that growth will continue. However, in the future we will have to demand much greater value for money and consumers will need to be much more cautious. The economic climate has changed quite dramatically and even those consumers who have certain discretionary income available for spending are cautious in how they will use their money. We now see stores having pre-Christmas sales, which may never before have been on the agenda. Consumers with spare cash are still unwilling to spend because they feel prices will drop further. Perhaps they are correct; perhaps they are not. We cannot predict the future. There is now an onus on the Government to try to restore confidence to the consumer and thereby to the economy and to try to ensure the maximum possible amount of money is available for spending in the retail sector, particularly over the next few crucial pre-Christmas weeks.

The budget in October was regressive from an economic perspective in the sense that it took money out of the economy. I appreciate that we have to live within our means as a society but some of the budget decisions were unhelpful with regard to consumer confidence. If we look at any of the barometers of public opinion — not political opinion but consumer opinion — it appears consumers are fearful about the future and unwilling to spend their hard-earned cash. Our colleagues in the Labour Party spoke about the initiatives taken by the British Government. An interesting initiative was taken by Gordon Brown and Alistair Darling with regard to reducing VAT, which was seen as a dramatic and strong proposal. However, there appears to be a suggestion already — I am not sure whether it is from leaked memos or leaked reports — that the British Government proposes not just to reintroduce the original VAT rate in 12 or 18 months' time but to increase it substantially. Perhaps there is a benefit to this very short-term proposal from the perspective of the British Government, but it does not appear to be a long-term policy position. The Labour Party Government is also proposing to increase income tax for a significant number of taxpayers, which will certainly take money out of the economy.

I recognise the difficulties being caused to the Border communities due to cross-Border shopping, but there is a certain degree of political *déjà vu*, because this is something that happened in reverse when many Northern consumers came south of the Border to shop and spend, and we certainly did not put up any barriers. We have an island economy and I would be sad to see any measures which would discourage Southern people from going North or *vice versa*. Mentally and financially we must try to remove the Border as far as we can. We must deal with the situation caused by the British amendment to the tax rates but we can in no way discourage people from being mobile in their shopping habits. We certainly cannot declare that people who go to Northern Ireland for shopping purposes are unpatriotic.

The first thing the Government must do is to consider its own taxation policies. Fine Gael put forward as part of our pre-budget package of suggestions the concept of a 1% cut in VAT funded by a windfall tax on energy generators. The Minister is aware of that proposal and how well thought out it was. It was based on the fact that approximately €300 million *per annum* in carbon levies is being extracted from consumers by power companies. This block of money, which is not being passed on to the Government, should be utilised to reduce VAT by 1%.

There is much more that needs to be done. The idea of a shoppers' task force is one with which I am comfortable. However, at a time at which we are looking at every quango and every suggestion for a new agency, we had better tread carefully. We have so many Departments, Ministers, groupings and agencies that if they were all doing their job even half properly,

we might not need any new agency. However, I welcome the debate. It is no harm to put the idea of price control and value for money back at the top of the agenda. It slipped off during the time when people were throwing money around like confetti at a wedding but now that we have finished with that era, there is much we can do to turn the economy around.

Fine Gael is demanding pay restraint and certain pay decisions to be taken in the public sector but we must also try to ensure prices are kept under control. This policy needs to be centre stage in Government economic thinking. I thank the Acting Chairman for his discretion.

Senator Cecilia Keaveney: I do not know if I am the first speaker to be more than directly affected by this issue. I will start where Senator Bradford finished. There was a time when consumers were not aware of pricing and paid whatever happened to be the price at the till or went to whichever petrol station was the handiest and did not look at the price. I have spent many years being a little annoyed at some of the petrol stations which were exploiting the customer. I remember when petrol stations in Muff, Bridgend, Burnfoot and other places in Donegal were closed down. I remember the trauma for the families involved. I remember seeing the dilapidated buildings when the petrol was cheaper on the other side of the Border.

There are very few Members of this House who live in a Border mentality, north of the North, as it were. When I say I am geographically North and politically South, people do not understand. When I go abroad people do not understand that there is a place north of the North. In Donegal and Inishowen in particular we have always had to deal with the pluses and minuses, the swings and roundabouts of that situation. The 0.5% increase in the Irish VAT rate might not have been a problem had it not linked in to the 2% decrease in the UK VAT rate and the change in the exchange rates. The exchange rates have been very significant in the recent months.

We have watched the petrol going from being a good price on our side and everyone buying it to everyone going North and those north of the Border buying it locally again. The sale of petrol provides significant employment but this still relates to the VAT take and that could change. While acknowledging the bigger picture, I still say to those providing services not to take profit unduly just because there is someone on the other side of the Border who will come and buy because it is a lot cheaper here. The locals are being penalised as well as everyone else. On the other side of the equation, people have come from the North to County Donegal for weddings and we did not say “No” to them. I question what is the problem with the price of food. If County Donegal is attractive for wedding receptions — which is all about food — how are we so unattractive for shopping for food? It does not add up.

As Senator Carty said earlier, we need to be careful in this debate. We can point to real issues and difficulties. I can point to my own constituency and to constituents who are in serious trouble with regard to employment. We also need to be careful in talking about this issue not to concentrate solely on the negative aspects. In my area there is more competition between the shops in Carndonagh and Buncrana and good bargains can be found. Senator Carty was correct when he said that people are discerning. They are buying one item in one shop and another item in another shop because they know what is cheaper in what shop.

We are asking for a level playing field. We are living in a Borderless area. We are surrounded by either the ocean or the rest of the North. Our mentality is fluid. The closest hospital to my area is in Derry. It is 18 miles from my house to Derry but it is 37 miles to Letterkenny. Crossing the Border is a daily occurrence for us. The earlier discussion focused on the busloads going from Cork or Galway but these are one-off occasions and a form of social occasion which cannot be stopped. It is a daily occurrence for any of us living in the Border region and it is the problem of the daily occurrence that makes places such as Donegal different. We must

[Senator Cecilia Keaveney.]

focus on supporting existing industries and businesses so that they can be as competitive as possible. We also need to send out the good message that there are bargains to be had. If we keep talking things down, we are only talking other people into going North and exploring what is there.

I will give examples which may be trite. I was going back through Belfast to Donegal last weekend. In the Spar shop here — I should not be advertising particular shops — I bought two bars of chocolate for €1. When I reached Belfast I saw the bargain of two bars of chocolate for £1. The two bars of chocolate for €1 was a much better deal. People complained about the airport tax being imposed on regional airports but we always had the tax because Derry Airport always imposed the UK tax on the flight from Derry to Dublin. I refer to the issue of the all-Ireland roaming charges for mobile phones. My phone subscription package will allow a certain number of minutes but these will not include the roaming minutes. If I leave my phone on the TV and leave it on in automatic signal finder mode, it will find the signal from the North. It has cost me many hundreds of punts.

I have too many thoughts but I want to bring one to the notice of the Minister of State. Last week I called for an all-Ireland VAT level on alcohol. Everyone is travelling North to buy alcohol and we know that low prices and easy access leads to more consumption. It is as much an issue for us in the Republic as it is for the Six Counties. The regional task force has been dealing with it as a north-west issue and not as an issue in the North or South. I was on a radio programme with Jeffrey Donaldson last Thursday and he agreed it was an issue that needed to be examined. The interviewer was very excited that I might be telling the UK Government what to do with regard to its tax policy. We led the way on the smoking ban and on the plastic bags regulations. I am trying to be patriotic and republican by asking for a Thirty-two County approach to VAT on alcohol. If VAT rates were equal, we might have a more level playing field and people might not be making the mad dash for the €13 cheaper bottle of whiskey and they might buy other things locally as well.

The exchange rate is very annoying. When goods were £50 in the North they were automatically €75 here. When the prices were the wrong way round, there was no problem and we were expected to pay the €75. Now, according to Senator Ó Domhnaill and others, because that exchange rate has changed the other way and people are asked to pay the difference, it shows that people are exploiting the exchange rate. I said today that consumers should not be fooled and that they should vote with their feet regarding consumer goods and vote with their wheels regarding prices. We are very aware of it. I know that Forfás is also inquiring into the reason there is a 31% price differential between the same goods on either side of the Border. We just want a level playing field because we believe we can be as competitive as anywhere else.

There is a massive potential for the consumers here to play a part. There is no doubt that some issues are problematic. It may be better to bring issues to the attention of people who can address them rather than through this suggested forum. For example, if the Enterprise train journey between Dublin and Belfast is delayed by over half an hour, passengers receive a voucher. For a time the voucher would not be accepted in Belfast because it was in euro, even though Northern Ireland Railways provided it. As it happened to me on one occasion, I brought it to the attention of the company when it attended the Good Friday Agreement committee and it was subsequently resolved. Much of this is about bringing matters to the attention of those who can address them. Consumers should bring prices to the attention of their shops and fight their corner. I accept several difficulties are created by the fact that there are two jurisdictions on the island. The Minister of State is well aware that what needs to be done, particularly in the Border areas, is to protect jobs.

Acting Chairman (Senator Labhrás Ó Murchú): I welcome those in the Visitors Gallery from Bailieborough, County Cavan, guests of Senator Joe O'Reilly.

Senator Feargal Quinn: I welcome the Minister of State, Deputy Billy Kelleher, and our guests from County Cavan. I must declare an interest in as much as I started my first business in Dundalk, 10 km from the Border, in 1960. What a competitive marketplace it was then. It was no different than it is now. Sometimes, items were cheaper south of the Border, sometimes north of the Border. These were the days when there were customs posts on the Border. It is much easier and open now to travel between the two than it was in the 1960s when I started off.

I welcome the Labour Party's motion. It is topical and exactly what we should be debating in the House. While I welcome the motion, I do not accept that the answer is to establish another quango. The answer is competition. I do not believe we can ask the Government to solve this problem. It can solve it in certain ways by making the marketplace more competitive.

Several questions arise in this debate. As Senator Cecilia Keaveney asked, why are items dearer in the South than in the North? For example, a large scale soap manufacturer in Birmingham sells its products in Great Britain and Northern Ireland at the one price as it would be unacceptable to have two different prices. Regardless of whether a retailer is in Inverness, Scotland, Derry or Newry, while it costs a lot to transport them there, the manufacturer will charge the same price as it would for a retailer in Coventry or Manchester. The shop in Dundalk, however, is part of a different system. Any retailer, be they in Dundalk or Belgium, will be told by the soap manufacturer that there will be charges for transporting the product to Belgium or across the Irish Sea to Ireland.

Since the Border no longer exists in a customs sense, it is possible to overcome this. The retailer in Dundalk can travel to the North and bring goods back to the South. It is not healthy from our economic point of view, however, to have those jobs in wholesaling and distribution take place north of the Border.

I am concerned about the use of the term "unpatriotic" to describe those who shop across the Border. I do not accept it. My mother came from County Armagh, my father from County Down and I was born in Dublin. I would hate anyone to think that it is being unpatriotic to regard someone from north of the Border as not one of us. We spent many years trying to get our independence. We were very upset when we did not get the Six Counties as part of the Republic. To insinuate that it is unpatriotic to travel north of the Border to shop is not acceptable. The farther one lives from the Border, the more one regards the North as "them" rather than "us". Senator Cecilia Keaveney will be aware that the closer one lives to the Border, the more likely one will regard it as one. I recall going with an assistant from Limerick to buy a wedding present when I said we should buy some linen from Northern Ireland. My assistant asked would I not support our own. We should not allow that thinking.

The answer to this issue is competition. If we are to have a competitive marketplace for those who live south of the Border, we must ensure our costs are competitive. In a way, I might be making excuses for retailers, but rents and rates are higher. Just this week Dublin City Council increased its rates at the time it should not do so. Public sector spending must be tackled. In 1985 we got scared when we almost lost control of our currency. Then we managed to make those uncomfortable cuts which we were not willing to accept before. We must recognise that government spending must come down. We have high waste disposal charges and expensive energy costs, combined with the new problem of sterling rates being much more attractive.

It is interesting that people in the North come to the South for entertainment such as holding weddings in hotels. That is not about price, it is about value. The hotels in the South seem to

[Senator Feargal Quinn.]

be able to do a better job and give a better service. It is not just a matter of price. If we are going to compete, it will have to be in so many other ways. The cost of parking in Dublin has gone up by 20 cent per hour while Newry offers free car parking. These are examples of how we can introduce better service to shoppers.

I am concerned that the Government and the media do not differentiate between price and value. One recent survey compared the Irish supermarket price of a top quality chicken with the cheapest chicken in a discounter. That is not comparing like with like. Last week, I got annoyed with a headline in *The Irish Times* which asked, "Why is Kerry Gold butter twice the price in the South than in the North?". Yesterday, down in the bottom right-hand corner of page 15 of *The Irish Times* was an apology that the newspaper had measured a 450g pack of butter in the South against a 250g pack in the North. There is a certain hysteria and belief that the position is far worse than it is. The answer is in our own hands. It includes government and county council action in reducing costs to ensure a competitive marketplace. There are more shops in the South per head and per square area than in other part of Europe. Let us ensure we encourage competition but let us ensure also we remind people that it is not just a question of price, it is a question of value as well.

Senator Fiona O'Malley: Listening to Senator Quinn, as a cross-Border product myself, with a mother from Omagh and a father from Limerick, I agree that as a united Ireland we should not recognise trading on one side or other of the Border as being unpatriotic. I recognise the challenges it brings to people trying to conduct business in the Border area where price sensitivity will make commercial transactions especially difficult.

I refer to the motion and the question of VAT, which is slightly misleading. It is an easy thing to hit the Government with at the moment because the UK is reducing VAT rates. The motion refers to food sold here but food is not subject to VAT in Ireland or the UK. The issue of VAT is slightly misleading in this way. It is an easy headline to show an example of how it is more difficult to conduct business because costs are higher in the South with the higher VAT rate. This goes to the core of trying to keep taxes low and costs as low as possible. That is where we can entice business to our country. I heard someone on the radio this morning refer to the one positive aspect of the current economic situation, that prices are coming down. The price of oil has come down and there will not be the increase in electricity costs we had anticipated. The high cost of electricity is a major problem for businesses in Ireland. It worries me greatly because it is a major cost for big industry. We must try to contain it to keep our costs low. It shows that competitive forces work. Nowhere has that shown itself more than in aviation and buses. Where there is competition on bus routes, there are better services and prices, whether intercity or to and from the airport. This drives prices down and we have a much better service. This is what we must examine.

Everyone who gets a Sunday newspaper knows that the newspaper is full of advertisements for big supermarkets trying to attract our business. We can now see what they have been doing for a while. They are killed trying to entice us in, bringing costs down and comparing costs.

A criticism I have of the motion is the reference to the shoppers' task force. I am sorry if it was explained how this would be funded. What would worry me about a shoppers' task force is whether it would add to costs. How will it be funded if this is to be established? We have the National Consumer Agency and it is better to have an independent body such as that.

We are consumers and we go where there is value. If we believe we are being ripped off or are not getting a good service, we will do our business elsewhere. That is the best safeguard for anyone in business.

Senator Quinn referred to price and value. Price is not everything. Oscar Wilde said that a cynic is someone who knows the price of everything but the value of nothing. We must keep this in mind. In my local area, Dalkey, I do business in the butcher shop and the greengrocer. I prefer to do business with these small shops because of the old adage about keeping your money in the town. This refers to the sense of community solidarity and looking after the people who look after you. We need to have smaller businesses in our communities. How will they survive if we do not support them? In doing so, one often gets a much better service from these people because there is a bit of banter with them and they know who you are. In a lovely delicatessen in Dalkey, I saw that one woman knew the other woman and said that she would drop something in on the way home at night. That service is so charming. A supermarket cannot operate in that way but it is so much more pleasant to do business in that environment.

It is not necessarily more expensive. With vegetables, one finds that they are competitively priced. One notices that the prices of vegetables in bigger supermarkets are much higher. They make savings in other areas and people must be conscious of the total shopping basket. Regarding people who are travelling across the Border and not supporting businesses in their towns and communities, if businesses close down because they are not getting services, it is these people's neighbours, friends and colleagues who will lose jobs. I am a great believer in keeping the business within the local community as much as possible. Towns have thrived as a result of this and this is where we must keep an eye on matters.

People will get the best value going in that sense. I read an article in the newspaper last week about someone bartering, which we have lost habit of when doing business. I do not know if Senators are aware of the responses. Some shops were horrified that one could negotiate the price but it is a great way to do business. The customer is king at the moment and people must remember that. A business will survive if people give a good service. That is where we must focus.

A shoppers' task force is not the answer. A higher awareness of the National Consumer Agency is what we must think of.

Senator Joe O'Reilly: Mo bhuíochas duit, a Leas-Chathaoirligh, as ucht an fáilte roimh muinntir Coill an Chollaigh atá mo cuairteoirí anseo inniu. Cuirim fáilte roimh an Aire Stáit. I congratulate the Labour Party on tabling this motion. It is apt, timely and a prescient response to a real problem. This is a major problem. People are going in massive numbers and we have heard stories of tailbacks in Newry, of shops being emptied of people for health and safety reasons over recent weeks and, in the Sunday newspapers, of lists of number plates of people going shopping in a shopping centre in Newry. If this is happening on a widespread scale in a northern direction, there is a consequent issue for local towns in Cavan and Monaghan — my area. It is a real issue that threatens businesses and jobs. When one considers the costs we are prepared to spend to create jobs, surely we should invest in keeping the jobs we have. It would be much cheaper. There must be support for these shops, such as supports in their rates bills and free parking in the towns. Initiatives must be taken to support the shops. A number of small businesses are on the brink of extinction. I had occasion to visit a number of small businesses in the past few weeks and met people literally in tears about the future. It is of great concern.

The greatest of this Government's many failures has been its failure over years to get a handle on price control. This Government has never got to grips with price control or put the issue on the agenda. It is a serious matter that we get control and a watch on prices. The fact that a packet of Pampers nappies would cost €11.23 in the North but €14.99 in the same type of shop in the Republic is a startling figure, but it repeats itself. There is a 20% differential in prices. Unwitting consumers are tricked in that they do not realise the quality is not as good

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in many of the products they purchase. I also understand the issues Senator Quinn raised regarding distance, however the cost of transport from the UK to here should not necessitate that price differential. I take his point that they could travel and source the materials in Northern Ireland for similar multiple stores here in so far as they were manufactured in England. However we must become more aggressive and watchful on price control and price fixing.

We were unfortunate to increase the VAT rate in this country while it was reduced in the UK. The two compound each other and that is a major difficulty. There is an issue around the VAT rate and the cost differentials in terms of the Anglo-Irish Agreement. Part of the Anglo-Irish Agreement was the goal of achieving a harmonisation between the Republic and Northern Ireland. The different VAT rates fly in the face of the harmonisation in the Anglo-Irish Agreement and we must begin to work towards harmonisation. Earlier, Senator Keaveney said we should begin by trying to achieve a harmonisation of VAT rates and costs of alcohol on the North and South of the Border. This is a major issue.

The Government mismanaged the public finances over an 11-year period and wasted the public finances in areas such as the PPARS computers, the electronic voting machines, the Red Cow roundabout and in smaller ways at lower levels, which has arisen recently regarding FÁS. That has left us without the necessary resources to support our Border shops and local industries properly. We do not have the kind of slush fund we might have had and we are not able to input satisfactorily into the economy. I commend to the Minister Fine Gael's recent proposition that the energy windfall tax be used to lower the VAT rate; it should be done instantly. To lower the VAT rate by 1% would be a move towards harmonisation of taxes and a resolution of the problem. The problem must be solved by price control, a movement towards harmonisation of taxes and supports for the shops and individual traders through this crisis, where absolutely necessary.

Consumers need more information. Our consumer people should monitor prices and quality. Without going into individual items, I have information that in a shop such as ASDA in Enniskillen people buy different products in bulk, but I am reliably informed that products are not of the same quality as corresponding products in the mainstream shops. They do not have the same durability and shelf life. This is an anomaly. On one level people are paying less money but there may not be that significant a difference because of the quality of the goods. Information should go out on these issues.

This is a serious matter and will take a multitude of solutions. The Government must accept it as a problem and get to grips with it. I hope this debate could be a starting point. Tonight I hope we accept the problem, examine some of the solutions and begin work on it. It merits an immediate response. It will make ghost towns of the towns of Cavan and Monaghan if we do not do something about it immediately. There is a mass exodus of people and we must take steps, whether free car parking, some action on rates, price control, more consumer information or encouraging the community concept, although this Government cannot openly do that.

Senator O'Malley raised this point about community and the concept of interdependence, and I agree with it. I believe we should support our communities as a first step. This is not necessarily a partitionist stance. No matter where our community is, that should be the first area we support. We support our families and work out from that to the community. I appeal to the Minister to take this as a very serious, urgent matter. It will lose jobs all along the Border. We are talking about dislocation of jobs, subsequent social welfare bills and an enormous cost to recreate these jobs. We will have to get a handle on it and act on it. I am sorry to say that so far the matter has not been seriously dealt with.

Senator Dan Boyle: There is a famous quote, although I cannot remember who said it, “Patriotism is the last refuge of a scoundrel.” There are individuals who promote themselves and their love of country as being superior to that of other individuals, whereas real patriotism is about collective action in the face of adversity. There has been much misunderstanding and misreporting in how that term has been used in recent times. I would not blame some of our political figures who have used that word in certain contexts in the recent past, but it has had a certain unfortunate ring regarding the price differentials between the North and the Republic of Ireland. We have reached a sorry pass when somebody such as Mr. Jeffrey Donaldson of the Democratic Unionist Party, DUP, can sound more patriotic about the existence of the Border than anybody in the Republic of Ireland’s political system.

This is not only a case of the current situation between price differentials between Northern Ireland and the Republic, which is cyclical and applies the other way around, particularly with products such as petrol. It is a constant problem we have had regarding denuded economic communities throughout this island and how people are led towards other economic centres. The problem we are experiencing with Northern Ireland could equally be said at any time of our history about counties such as Mayo, Longford or Offaly *vis-à-vis* Dublin, as our capital city.

Senator Jerry Buttimer: Senator Boyle should not forget Cork.

Senator Dan Boyle: I rarely forget Cork.

Senator Fiona O’Malley: It is an independent republic.

Senator Jerry Buttimer: He often forgets Cork in Government.

Senator John Carty: He thinks he is in the real republic.

Senator Dan Boyle: I am glad to tell Senator Buttimer that Cork is utterly self-sustainable.

Deputy John McGuinness: Except in hurling.

Senator Dan Boyle: If we are discussing sustainable economies as a rule, it is not just the nation State but sustainable communities and community economics. Encouraging people at every opportunity to spend their money in their immediate vicinity strengthens local and, ultimately, national economies. We have lost sight of this in recent years in trying to meet consumer desire to find what, on the surface, seems to be the cheapest possible cost at the earliest possible time.

In identifying the nature of the problem there is much to recommend in the Labour Party motion. I disagree, however, with many of its suggested solutions. The idea of establishing a task force in an era when we are questioning the existence of many superfluous public bodies must be rejected.

Senator Brendan Ryan: Did we mention a public body?

Senator Dan Boyle: In terms of the way Government is already structured, there are bodies that can do this job equally well.

Senator Brendan Ryan: We did not call for the establishment of a public body.

Senator Dan Boyle: I am just making a mild criticism, Senator. Making that minor point does not undermine anyone’s political credibility.

Senator Jerry Buttimer: The Green Party no longer has any credibility.

Senator Dan Boyle: The current price differential is predicated on the differences in VAT. The reality is that Irish VAT rates do not apply to food or children's clothing. The VAT increase in the recent budget applies largely to white goods, and even luxury goods and services, and is unchanged for most goods and services in this country. The real price differential comes about as a result of the strength of sterling. Sterling is 86p or 87p to the euro currently, which is way above the value at which the Irish punt entered the euro mechanism. Short of trying to encourage the United Kingdom to become part of the eurozone, that is not a problem we will solve in the immediate future.

My party colleague, a local representative in the Border region, Councillor Mark Deery, made a suggestion on "Morning Ireland" which reflects the reality of many people who are trading and consuming in the Border region. The suggestion has some merit but will be difficult to implement. As part of an overall co-ordinated plan, however, particularly in the short term, it may work. This is a crucial time of the year for retailers. It is when maximum turnover occurs and, as a result, maximum profit is achieved in enterprises. Councillor Deery, without consulting me, his party spokesperson on finance, made a suggestion that a VAT rate of 15% should be introduced for three months. That cannot be applied in a regional context; it would have to be applied nationally.

I would go further and say that any measure of that type would also have to be encouraged with a unified purpose on the part of everyone involved in economic activity in this country. Retailers would have to ensure that the goods and services they were selling were at minimum profit margin. There would have to be co-ordinated activity to ensure that consumers spent the maximum amount of money in their local communities. We are a long way from doing that but that is the road we must travel.

I was listening to a woman who was tempted by the experience of shopping in Newry in the past week. She described the traffic jams on the main Dublin to Belfast road, which was grid-locked for hours on end. She eventually made her way into one of the major shopping centres, The Quays in Newry, only to find that all the parking spaces were full. She drove around that particular shopping centre six times before driving back to where she came from without purchasing anything. An imbalance can be created in terms of what appears to be a gilded opportunity. I suspect that woman spent untold amounts in petrol in trying to achieve savings that were not apparent.

The petrol price differential is significant. The price per litre is 20 cent more here than that in Northern Ireland and the United Kingdom in general. People referred to our retail petrol prices but despite the recent increase in the budget, people would be surprised to learn that our excise duties on petrol are among the lowest in Europe, although the retail prices appear to be higher than those in other countries. That is the reason we have these price differentials.

While I understand the spirit of the Labour Party motion, there is a lack of practicality in dealing with the immediate problem. I accept there is a need for a co-ordinated, cohesive approach from all in the political system to come up with responses to what is a very serious problem. There is also a need to support those who find themselves in regional economies affected by circumstances beyond their control. I hope that there are voices being listened to at Government level that will determine differences of approach that need to be undertaken now. Otherwise, there are communities whose existence economically will be threatened by the lack of appropriate action.

Acting Chairman: I call Senator Brendan Ryan.

Senator Brendan Ryan: As it is a Labour Party motion my contribution will conclude the debate.

Acting Chairman: I call Senator Buttimer.

Senator Jerry Buttimer: Cuirim fáilte roibh an Aire Stáit. I commend Páirtí an Lucht Oibre on tabling the motion. I was intrigued by the commentary from many speakers on the Government side of the House because the reality is simple. Whether we like it, our consumers are being ripped off. We can talk about competition and the groceries order but we are living in a society in which it is very difficult to sell and buy.

I challenge any Senator, and the Minister, to come shopping with me next Saturday morning in Cork city. In many shopping centres and shops the price differential is outrageous compared with the price of products in shops in Northern Ireland and the UK. The reality is that Irish people pay more for their diesel and petrol, despite what Senator Boyle said. They also pay more for their groceries. We have increased our VAT rate. Why did we do that at a time when there is a downturn in the economy? We have an obligation to look after the small and medium-sized enterprises and retail businesses in our country.

Small businesses are in jeopardy as we speak. I am not talking down the economy but outlining the facts. A woman called to see me on Monday in tears because she had spent approximately €100,000 on renovating her premises. The banks will not lend money, the Government has been slow to act and owing to bad fiscal management by Government, councils must consider increasing the commercial rate. What signal does that send to small retailers? I am not talking about the big conglomerates but the people who have small shops and restaurants in the heart of Cork city. I am not talking about chain stores but family-owned businesses that are being put to the pin of their collars. That is not talking down the economy but stating the facts.

Government must show leadership. The Minister was one of the first Ministers off the blocks in speaking about public service reform. I admire him for that, but we have seen nothing from Government since other than the creation of another quango last week. We need leadership. Senator Boyle, who in opposition was fast to be seen to be on the side of the consumer, has abdicated responsibility, together with his colleagues in government. He has let the people down.

We should have a debate based on reality for the Irish people. Tesco products, for example, are 28% higher here than in the North. Their own brand products are 17% higher in the South than in the North. Dunnes Stores products are 31% higher here than in the North and their own brand products are 11% higher here. Lidl products are 16% more expensive here than in the North. Can somebody explain the reason for that? I do not want to hear about the euro-sterling differential because that does not wash any more.

What has the Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Coughlan, done since the Taoiseach infamously asked her to call in the gurus in his off-the-cuff remark in the Dáil? Higher grocery prices have an impact on ordinary people and families making choices when they go shopping. I welcome competition but the biggest mistake made by Government was the increase in the VAT rate. It was a quick-fix solution to address an income deficit and there was no need for it. We should look at what happened in the UK. In the United States President-elect Obama has promised an economic stimulus which will not see taxes increased. The Progressive Democrats' mantra of a low tax Ireland is gone because indirect taxation has spiralled upwards. Fianna Fáil has a great line, which is the call to patriotism. Senator Boyle referred to RTE's coverage of the line of cars heading North last Saturday. It is difficult to blame people when they are being overcharged and ripped off and it is also

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difficult to tell families that are struggling and trying to make savings to stay put and be patriotic by supporting their own. However, as the Minister of State is well aware given his background, this is about pounds, pennies and pence and struggling families want to save money.

Let us be real. Petrol costs 24% more than the EU average; diesel, 18%; home heating oil, 19%; and an 8% increase in excise duty has not helped. It was introduced as a quick fix solution by a Government that has no plan or vision and that is making it up as it goes along. When the Minister of State went on a solo run recently about the public service, I thought there would be action but, alas, he was on his own and he has been left behind. He is like a cyclist out in front in a race with whom the peloton has not caught up.

All the Green Party secured in the budget was a few bicycles and light bulbs and nothing else. The people of Cork were let down by Senator Boyle's party again when a promise was made regarding Cork docklands but nothing happened. A line issued about Seveso sites, which cost the party nothing.

Senator Dan Boyle: I am deeply ashamed.

Senator Jerry Buttimer: The Senator should be because his party went into government on a platform of reform but it has done nothing and is in denial.

Senator Dan Boyle: That is utter nonsense. The Senator has made four mistakes with his economic figures.

Senator Jerry Buttimer: As a consequence of the Government's decisions, the average family will pay almost €2,500 more in taxes next year.

Senator Dan Boyle: That is not true.

Senator Jerry Buttimer: I challenge the Senator to prove otherwise.

Senator Dan Boyle: The amount will be less than that.

Senator Jerry Buttimer: The purchasing power of the consumer is diminishing. The motion is timely and I congratulate the Labour Party on tabling it. We must have action rather than soundbites from the Government and not indifference to the people who are being forced to pay more. It is not their fault we are in a recession. They did not blow the boom and squander billions of euro in Exchequer surpluses. The Government splurged and the gnáth-dhuine, the ordinary person, must bail it out. That is not good enough.

Senator John Carty: The Senator's party has no solution either.

Senator Jerry Buttimer: People matter and we do not look on them as a statistic or a commodity. They are living individuals who are struggling. I challenge Members on the Government side to go shopping next Saturday to establish the cost of doing business in Ireland and to witness how ordinary citizens must survive.

Minister of State at the Department of Enterprise, Trade and Employment (Deputy John McGuinness): I thank the Labour Party for tabling this timely and worthwhile motion. I have listened carefully to the contributions of Members on this topic which is close to my own heart and background. I come from the retail sector as I worked as a grocer in my own corner shop trying to make a living following in the footsteps of my parents. I witnessed significant changes in the shopping patterns of my community, which in turn changed because of the disappearance

of corner shops. It is interesting to reflect on how those shops conducted their business. Shopkeepers sold butter by the quarter pound, rashers and sausages individually and cut thin slices of ham. People shopped like this in order that they would have just enough to do them for the day. Those were different and tough times unlike the times we have come through.

I do not accept Senator O'Reilly's comments about us squandering the boom. This mantra is uttered constantly by all and sundry, including the Opposition, yet they choose to ignore how much has been constructed and the dramatic changes in urban centres. The other complaint is society and communities have changed dramatically because of the wealth we created but that has had a positive impact on how society has evolved. An element of growing up took place during that period, when we handled billions of euro instead of millions. We were not just protecting our pennies. We were spending billions and the system, to a degree, was not able to cater for the rapid change that occurred.

I refer to the issue raised by Senator Quinn which is more relevant to what is happening. In that context, regarding the remarks of Senators Buttimer and O'Reilly, this situation will not be resolved by an agency or task force. A combination of factors is involved. Local authorities are currently striking rates, although Senator O'Toole implied the Government was striking rates in every county, which is not the case.

Senator Jerry Buttimer: The Government gives local authorities the funding to do so.

Senator John Carty: Fine Gael has a majority in local government.

Deputy John McGuinness: Local authorities should be acutely aware of what is going on in their communities and businesses.

Senator Jerry Buttimer: Councils are given money by central government.

Deputy John McGuinness: Local authorities should heed the constant call by public representatives, who are sensitive and understanding about this issue, to freeze their rates and examine their planning mechanisms to ensure reasonable planning applications relating to change of use and so on, which are not contentious, are approved expeditiously to enable economic activity. The fees and charges applied to planning permissions should be frozen, thereby not adding to costs.

I agree with the issues raised about wages and free parking. This is related to us passing decision making down the line to local authorities. They should contribute with local chambers of commerce to establishing a vibrant commercial centre of activity which attracts people to shop and do business. That is what is required of local authorities and they must step up to the plate in the same way as there is a role for the Government, agencies and the consumer. That needs to be acknowledged.

The new charges affecting business, such as for water in, water out, refuse collection and so on, are applied locally and they need to be examined and understood because a number of local authorities have money and they have the capacity to engage with the local economy to do the best they can for the businesses they represent and, ultimately, the consumers living there. Not everyone is going to the North shopping and I recognise the difficulty faced by the necklace of towns along the Border. I addressed a conference there last week and witnessed at first hand what is happening.

Regardless of how painful it might be for the Opposition and those of us involved in politics and business, we are being impacted upon by what is happening internationally. No one could have anticipated what happened in America and how quickly it would take off. The price of oil, which is at \$50 a barrel now, peaked at almost \$150 a barrel a few months ago. No one could have anticipated the movement in the markets of stocks, shares and bonds, which would

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frighten the living daylights out of any businessman or government because governments cannot find the money to fund business. Alastair Darling owns three banks in the UK and he still cannot free up the cash necessary to fund business.

Opposition Members have posed the question about what the Government is doing in this regard. Senior bank representatives are being brought in. I met National Treasury Management Agency officials regarding my Department and I met the banks' representatives whom I will meet them again in the coming months. Even when the banks are recapitalised, how sure are we businesses will be given the funding they require? There needs to be an absolute guarantee with regard to how that might happen given that taxpayers' money might have to be used to ensure business can be conducted.

I would hold the banks to account over how they are calling in their clients. This is not just hearsay; it is a fact. The facts are taken from chambers of commerce and business people throughout the country who are being called in willy-nilly to have their accounts gone through. Business people have walked back out of the bank with half their original overdraft, with new charges being applied and with less time to pay back their loans. That is simply not recognising the reality of business as we face it in this country. It is not all about Government action. A partnership approach needs to be taken by everyone involved in this situation. We should take the position that we are all in this together — Government, business, those who represent business, local authorities and others.

On the other side of this coin, regardless of what the Tánaiste and Minister for Enterprise, Trade and Employment would do, and she has done much, there is the question of competition. I have heard Ben Dunne say we should examine how supermarkets equal the prices and that the prices should be beaten. Why is there such an acceptance of price from supermarkets, whether for own brand goods or otherwise, so that across the board one gets an accepted price across a number of lines? That is not acceptable and it is not competition. Questions need to be asked as to how this is achieved by the supermarkets and other businesses, because they are making it happen. Real competition must be introduced in some way, shape or form into the marketplace to provide consumers with what they want, the choice they want, the value for money they want and the range of prices and products for which they will go shopping. More needs to be done in this regard.

As we move along in this debate, the question of the consumer arises. What should we do for the consumer and how do we keep the consumer advised? It is true consumers are confronted in their homes every single day with making a choice between buying or not buying and between one product or another, or with regard to keeping the household budget afloat. It is a problem. We need to ensure consumers play a role in this process and are informed as to what they are buying, where they are buying and so on.

There is also the issue of the difference in sterling and the reason that difference is not being passed on. The sooner we get information from Forfás or some of the other Government agencies with which we are currently engaged, the sooner we can take action against these supermarkets and those businesses that are not passing on value for money to the consumer, and the better the value that will be given down the line as we approach this in a constructive way.

We are not coming at this problem from the same platform. Our taxation system is quite different in that we are a low tax economy. We cannot have it every way. We cannot cut back taxes to 15% and have the same range of services. There is a balance to be struck and a choice to be made. It is the Government which makes that choice and which will have to stand over it. This is the backdrop to any debate we would have on this issue.

We must consider also an issue mentioned several times during the debate, namely, how we approach VAT. In so far as the effect of the recent budget decisions in the area of VAT is concerned and their effect on cross-Border trade, which is specific in the motion, the reduction in the UK standard VAT rate clearly will have an impact on the price differential on some goods between this jurisdiction and Northern Ireland. However, the UK has increased excise on alcohol, cigarettes, petrol and diesel to offset its 2.5% reduction in VAT on those items. Consequently, there will be no reduction in the price of those products in Northern Ireland as a result of the reduction in the UK VAT rate to 15%.

Approximately half of the value of goods and services purchased in the State are not subject to the standard rate of VAT and, therefore, are unaffected by the change in the standard rate. For example, all Government services, local authorities, hospitals and schools are exempt from VAT. The majority of foodstuffs, oral medicines, books, children's clothes and shoes are also at the zero VAT rate. Housing, electricity, gas, domestic fuels, restaurant services and labour intensive services, such as hairdressing and shoe repair, have the reduced VAT rate of 13.5% applied to them.

The UK Government decided as part of a fiscal stimulus package to reduce its standard VAT rate from 17.5% to 15% on a temporary basis with effect from 1 December 2008 to 31 December 2009. There are no plans to make a similar reduction in the standard VAT rate in Ireland to the UK level. As I said, it must be recognised that our starting point is very different from that of the UK. We already have a low taxation rate, especially in the area of direct taxation — both income tax and corporation tax — which has a direct impact on all employment in the State. This lower starting position for direct taxation makes it more difficult to reduce taxes even further.

Already, as has been stated by the Taoiseach and the Minister for Finance, we are borrowing 10% of all our day-to-day spending on public services. This is unsustainable and we face difficult choices in bringing forward corrective measures. In the recent budget, the Government introduced a general package of revenue raising measures to fund key public services and in this regard one measure was to increase the VAT rate by 0.5%. Each percentage point reduction in our standard VAT rate would cost €450 million in a full year and for Ireland to reduce the standard VAT rate by 2.5 percentage points would cost some €1.25 billion in a full year. For Ireland to reduce the standard VAT rate to the UK level of 15%, which would mean a reduction in the standard VAT rate of 6.5 percentage points, would cost almost €3 billion in a full year. This is equivalent to approximately 2.5 times the amount of the revenues to be raised in a full year through the new income levy. There are stark choices to be made.

Senator Buttimer referred to what he called my solo run on the public sector. It was not a solo run. It was my view expressed in as constructive a way as I could express it. I put it out there and believe it was worthwhile to do so. It was my view on how things could be changed. It was a view I believe is absolutely necessary if we are to look at both sides of this balance sheet, which dictates we must spend less. If we are spending less, the public sector must create greater efficiencies and must deliver in the same real time as business does. I see nothing wrong with that.

The Senator made the accusation that Government did nothing and that another quango was appointed. If one considers all of the OECD report, one will see there were negatives and positives within it. I acted and explained what I felt that report was about. If one considers what is being done currently by Government, one will see there is a focus on the need for a more efficient public sector and, as the Taoiseach said, the need to do more with less, which must be achieved.

The appointment of those key people to ensure this happens is not to create another quango. As I understand it, that body will provide bi-monthly reports. Businesspeople who asked for

[Deputy John McGuinness.]

this in the context of this debate are now engaged with the Department of Finance to ensure there is oversight in regard to the necessary changes and reforms. It is good they are involved. There is a timeframe involved and engagement is taking place with the various Departments.

I have no illusions about this process. It is a huge undertaking. It is a major attempt to modernise the public sector but it is a demand that is being made not just by me on a solo run but also by those who are working within the public sector. The greatest response I received to what I said was from a number of people working within the public sector itself, in one case asking that they would be saved from themselves. It is the system and culture that needs to be changed.

The crude tool used to define what should be done, such as cutting 10,000 staff or whatever might be suggested, is one that needs to be considered. However, regardless of how many are taken out of the public sector to save on costs and create greater efficiencies, we are still faced with the problem of having the same culture and system in place. Anyone in business will know we need to change the system and the culture where it is not working. There are people who will say exactly that. As this debate rolled on over recent months I heard little from Fine Gael, and my compliments to Deputy Bruton in the other House who articulated a stern point of view on this. If we are to bring about change, we must do it collectively and understand what needs to be done. A considerable amount of work needs to be done on this and I wish well those who have been appointed.

As part of its statutory mandate, the National Consumer Agency, NCA, is charged with promoting public awareness and information. It has dedicated significant resources to raise consumer awareness on the various prices and choices available in the marketplace, especially in groceries. Through regular grocery price comparison surveys, the agency has sought to enable consumers to inform themselves as to where they might get the best value for money.

The agency published the results of its first survey in February 2008. The key findings of the survey were that there was virtually no price difference between the multiples on branded goods, a point I made earlier, but greater value was available from some retailers in meat, fruit and vegetables and other products. Following this survey, the NCA urged consumers to be more strategic in how they shop and suggested they should consider splitting their shopping among various retailers to achieve the best value for money. I have noticed that shoppers in my home city of Kilkenny identify where they can get the best choice and value. This needs to be encouraged.

This brings me back to my opening remarks when I spoke about the agencies, the Government, the local authorities and the consumer. We are all in this together and we all have work to do. This will not be achieved overnight. I understand the difficulties which exist with regard to cross-Border shopping and I understand what needs to be done. Those in this House need to be reassured that the Tánaiste, my Department and the Government generally not only are aware of it but are engaged directly in trying to ensure a resolution is found to all the issues raised. However, it is a complex matter which will take time.

Senator Paddy Burke: I welcome and support the motion tabled by the Labour Party. I listened with great interest to the Minister of State who expressed a view on the public sector some time ago. However, he did not seem to get support from his ministerial colleagues on it. He stated he has not heard a great deal from the Opposition. I do not know what he is listening to if he has not heard what the Opposition has been stating over recent months.

Why are we so expensive? I have not seen any Minister put his or her finger on why everything is so expensive in this country. It is not only with regard to one item. One can visit various countries and each of them will have an item that is extremely cheap, whether it is wine in Spain or Portugal or a tourism product. In this country we do not have a single item that is

cheap, not even water and rain pours down on us every day of the week. We have probably the most expensive water in the world. I have not heard any Minister explain why we have such an expensive economy.

I did not hear the Minister of State allude to double time for the service industry in this country. This will close many businesses. We are a tourism country but we have not seen that many tourists here during the past year or two. We should have a major tourism product. Over recent years, Fáilte Ireland has left a lot to be desired with regard to the promotion of this country. As a tourist destination, if we go down the road we are going with regard to the service industry, we will have no services at weekends, especially Sundays.

Whether the Minister of State likes it or not, there is no leadership. In Northern Ireland, irrespective of groceries and clothes, cars and tyres are also cheap. This is why people go there and they will not be stopped. I appreciate that the Minister of State pointed out that €3 billion would be lost if the VAT rate was reduced to 15%. This is a great deal of money, but a great deal of money will also be lost by shoppers going to Northern Ireland. The Minister of State should have proposals on why this economy is so expensive compared with other economies in Europe.

Senator Brendan Ryan: I thank the contributors to the debate, namely, Senators Carty, Bradford, Keaveney, Quinn, O'Malley, O'Reilly, Boyle, Buttimer and Burke and the Minister of State, Deputy McGuinness. Based on price surveys, even before the recent
7 o'clock reduction in the VAT rate in the UK, the price of grocery items was approximately 30% lower there than here. The VAT rate change in the UK will make matters worse although, as contributors pointed out, food items will not be affected. The increase in the VAT rate here was a mistake and counterproductive. It will not achieve its objective. The weakness of the pound versus the euro is an exacerbating factor which is contributing to the problem.

These factors explain some of the differences but do not explain them all. Speakers referred to the fact that in July the Tánaiste asked Forfás to conduct a comparative study on the operating costs of running a retail business in this country versus other jurisdictions. As Labour spokesperson on consumer affairs, I welcomed this move as this involved important information which we needed to learn. However, it is now December and I am bitterly disappointed that the report has not yet been completed. This was supposed to be done with urgency. I have contacted Forfás on several occasions since July to see what progress has been made. On each occasion, I have been told that the report is a number of weeks away. Today, I was told it is due for delivery next week and I hope this is the case.

I understand the study examined retail businesses in eight cities, namely, Dublin, Cork, Galway, and Limerick in the Republic, Belfast in the North, Manchester and London in Britain and Maastricht in Holland. They examined items such as rates, telecoms, labour, transport, distribution, electricity, water, property prices and rental costs. These are all factors in the day to day running costs of any business. I understand the delay is due to the fact that some retailers did not co-operate fully with the process and I was disappointed to hear this. If this is the case, I suggest that legislation is required to compel all retail companies to co-operate with Government and or State body surveys when requested to do so. This is important research which will help us understand what is going on, and I look forward to its findings.

When British retailers are questioned and challenged about the overly high prices they charge in this country compared with their stores either on the other side of the Border or in Britain, they usually respond by stating it is due to the far higher operating costs here. The study should tell us whether this is the case. If differences in operating costs exist, we need to

[Senator Brendan Ryan.]

understand the extent of them, we must quantify them and set about closing any gaps that exist. If operating costs are ruled out as a factor or if they are insignificant, then the price differentials cannot be justified. I believe that in many cases they cannot be justified. As I stated, price surveys have shown that price differences of up to 30% exist. This study must establish whether the differences in operating costs justify the high prices that recent surveys show are being charged. If retail business costs are higher, this must be addressed so that we can remain competitive.

With regard to what we call for in this motion, the Minister of State responded that while some of the issues are in the control of the Government, others are in the control of other bodies such as local authorities. We need local and national government to work together to bring about the solutions that may be required. The Government must then show leadership on this matter with some urgency.

Several speakers referred to the National Consumer Agency. Its work in carrying out grocery price surveys has been useful in highlighting the issues and in encouraging shoppers to spread their shopping basket across several stores and give some of their grocery spend to the cost-cutting stores such as Aldi and Lidl. We must give credit where it is due in this regard. The effect has been to drive price competition in the grocery trade, with the result that prices have come down.

However, from conversations I have had with suppliers to the grocery trade in my constituency of Dublin North, it seems some vegetable growers are being pressed to take lower prices for their produce to offset any margin loss as a result of price reductions. This is unacceptable. Irish suppliers must not be put out of business to preserve the margins of the British retail giants.

Although the Labour Party motion condemns the Government for lack of action on this issue, something about which Members on the Government side may be sensitive, our call for a shoppers' task force, as explained by my colleagues, is reasonable, innovative and deserving of support from all Members. I was disappointed to hear Senator Quinn describe it as a quango. That is not what is intended. We are not proposing the establishment of a public body. Rather, what is envisaged is akin to the type of project team that might have been put together by Senator Quinn when he was in charge at Superquinn to examine certain issues. It is worth putting the task force together to provide a much needed focus on this important matter. The Forfás report commissioned by the Tánaiste and Minister for Enterprise, Trade and Employment, when it is finally delivered, might be the first item on its agenda. I commend the motion to the House and thank speakers on all sides for their contributions.

Amendment put.

The Seanad divided: Tá, 26; Níl, 16.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callanan, Peter.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Ellis, John.
Feeney, Geraldine.

Glynn, Camillus.
Keaveney, Cecilia.
Leyden, Terry.
MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.

Tá—*continued*

O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.

Quinn, Feargal.
Walsh, Jim.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Hannigan, Dominic.

Healy Eames, Fidelma.
Mullen, Rónán.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Ryan, Brendan.
Twomey, Liam.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Dominic Hannigan and Brendan Ryan.

Amendment declared carried.

Question, "That the motion, as amended, be agreed to", put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: Ag 10.30 maidin amárach.

Adjournment Matters.

Tax Code.

Senator Brian Ó Domhnaill: I raised the issue of the fuel rebate scheme previously in the Seanad on 15 November 2007. The reason I raised it then is the same reason I raise it this evening. It is the approximately 2,200 private bus operators in Ireland who have an aggregate bus fleet of more than 5,000. That is almost double the number of vehicles operated by Dublin Bus and Bus Éireann combined. The Minister of State, Deputy Noel Ahern, discussed this issue in the course of a recent transport committee meeting which I attended.

On 1 November 2008, the financial assistance which bus operators received from the Government in the form of a fuel excise duty rebate was ended. This has caused pain to many operators throughout the country. Obviously, I am concerned about this following the representations I have received from bus operators in Donegal, which is why I raise the matter this evening. Until now the fuel rebate scheme enabled bus operators to recoup some of the costs incurred in the provision of qualifying transport activities, such as school transport, scheduled services and qualifying coach tours and activities. These services are the backbone of the coach industry and are essential to the daily functioning of communities throughout the country.

The Coach Tourism and Transport Council has been actively engaged with the Department of Transport on this issue and has made a number of suggestions. Fáilte Ireland also commissioned Goodbody Economic Consultants to find an alternative mechanism to support the industry. Goodbody Economic Consultants subsequently came forward with an innovative and well thought out alternative proposal which would be easily administered and in line with

[Senator Brian Ó Domhnaill.]

overall Government policy to reduce car dependency and encourage greater use of public transport.

There is European legislation governing this area and the current position is the result of a European directive. However, I appeal to the Minister to re-examine this issue. A number of operators in Donegal were heavily dependent on this scheme to function. Over the years they have taken on employees but they might now be faced with the prospect of letting some of them go. The scheme allowed bus operators to expand their services, it supported the employment they were providing and allowed them to stay in touch with the heavily subsidised CIE services. The majority of transport services in County Donegal are provided by the private sector. For that reason the Minister should review this issue if possible.

Obviously, the Minister will have more information than me on this matter. It was necessary to raise the matter this evening in view of the concern that bus operators who are engaged in the school transport and coach and tourism services have relayed to me. I raise it on their behalf in the hope that some mechanism can be found to initiate a new scheme or funding mechanism to allow the operators continue the services they have provided to date.

Minister of State at the Department of Transport (Deputy Noel Ahern): The European Union energy tax directive incorporated special derogations which allowed specific excise duty reliefs to be applied in several member states below the EU minimum duty rate. In the case of public transport services, these derogations included reduced rates which applied to fuel used for scheduled bus services. Scheduled bus services include bus passenger services provided by private operators in accordance with bus route licences under the Road Transport Act 1932, services provided by Dublin Bus and Bus Éireann under the Transport Act 1958 and holders of authorisations pursuant to European Council Regulation No. 684/92, as amended, involving cross-Border services. While these derogations expired on 31 December 2006, Ireland, along with other member states, sought retention of its derogations beyond that date. However, the European Commission refused all such requests.

My Department, in conjunction with the Department of Finance and other relevant Departments, then examined whether alternative support mechanisms were possible on a revenue neutral basis, subject to compatibility with EU state aid and other legal requirements. This included consideration of proposals from industry, which are being kept in mind as my Department develops the sustainable travel and transport action plan, which will be published soon.

In addition to meetings with and consideration of submissions from CIE and the private operators' coach tourism and transport council, my Department explored options with the Revenue Commissioners, the Department of Finance, the Department of Arts, Sport and Tourism and the Department of Education and Science. Among the proposals considered by the Department was a variant of the fuel grant scheme, as currently applied in Great Britain. However the British grant scheme, which is not applicable in Northern Ireland, only covers local and some long-distance scheduled bus services. Coach tourism and school transport services are excluded from the British scheme. Furthermore, I understand that the British authorities have plans to reform the fuel grant scheme with a view to taking into account environmental considerations. Unlike the British grant scheme, the fuel excise reliefs here applied to all scheduled bus services along with qualifying coach tourism and school transport services. Following consideration, the Government confirmed last summer that the current excise duty reliefs were to be withdrawn from 1 November 2008, as already provided for in the Finance Act 2008, and that no alternative was found to be feasible. The current budgetary environment serves to confirm this.

In recognition of the challenges arising for commercial bus services and notwithstanding the critical state of the public finances, the Government did not increase excise on diesel in the

budget. While the excise rate on petrol increased to 50.879 cent per litre, the excise rate on diesel remained at 36.8 cent per litre in the budget. The excise duty rate in Ireland for diesel is lower than the European Union average and substantially lower than our nearest neighbour, the United Kingdom. Both Bus Éireann and Dublin Bus receive substantial Exchequer funding in the form of annual compensation towards the cost of their public service obligations. However, I note the Senator raises this issue on behalf of private operators. A total of €117 million will be paid to both companies in 2008, representing an increase of more than 100% on the amount paid in 2000. In addition, both companies have been allocated a total of €56 million towards the capital cost of new buses to be delivered in 2008. The Government is committed under Transport 21 to upgrading public transport services, including bus services, and to improving the traffic environment for bus transport through investment in traffic management and bus priority measures.

The Dublin Transport Authority Act 2008 gives the Dublin Transport Authority, DTA, the power to procure public passenger transport services, that is, scheduled bus services, from private operators as well as from Dublin Bus and Bus Éireann on a contract basis, involving payment of a subvention for loss-making services. The Act now establishes for the first time in Irish law a comprehensive statutory framework involving public service obligations for private operators and which is in line with EU Regulation No. 1370/2007. The necessary measures to prepare contracts to implement this new framework have commenced and this work will be assumed by the DTA when it is established.

Proposals for a new bus licensing regime are now being prepared and will be contained in a forthcoming public transport regulation Bill, which will deal with the replacement of the Road Transport Act 1932 as well as the provisions of the Transport Act 1958 that relate to the provision of bus services by the State bus companies. The new Bill will apply to all commercial bus services, including those provided by Dublin Bus and Bus Éireann, and will include provisions enabling the authority to procure services from private operators on a subvention basis outside the greater Dublin area. It is expected that the Bill will be published shortly and introduced to the Houses next year.

Food Labelling.

Senator Cecilia Keaveney: I wish to raise the issues of consumables labelling and the possible need for legislation to ban the consumption of dangerous substances. Where there is evidence of breaches of safety, consumers should be made aware immediately of the companies involved. The matters I will discuss may seem disparate and there are several elements I wish to address, but they all relate to consumer safety and the labelling of products.

I refer to bottled water. Last week, several bottled water products were found to contain contaminants. Certain companies were obliged to state publicly they were not responsible for these products to protect their business, as neither the National Consumer Agency nor the Food Safety Authority of Ireland announced who was responsible for the problem. This problem comprises two elements, one of which is that the consumer has a right to know whether the products he or she buys are contaminated, especially in the case of food and drink products. There is also a problem from the business perspective. If I were involved in the bottled water industry, I would be upset because the whole industry was tarred with the same brush and no information was forthcoming regarding who was involved. I understand that if contamination is not lethal, responsible companies may be given the opportunity to deal with the situation and there are often mitigating circumstances. However, since we are discussing consumables, the problem remains.

I refer to a matter which I discussed previously, namely, the right of the consumer to know what products contain. At present most food categories contain information about the level of saturated fats and calorie, salt and sugar content. Despite this there is no labelling for alcohol

[Senator Cecilia Keaveney.]

products. While I recognise there are attempts to address this at European level, I believe the Government should fast track the process and bring it to the top of the agenda, especially given recent reports on the level of obesity in the country and the resulting implications for the health system, including the levels of diabetes and other diseases. It would be a very positive step to label alcohol products to ensure we know what we are drinking and so that we have the right to choose, which all consumers should have.

I refer to issues related to party pills. Senator Diarmuid Wilson raised this matter on the Adjournment some weeks ago. Since then, a television programme was broadcast revealing that 14, 16 and 17 year old children were able to buy these products in Dublin without any problem. They can do so because there is no legislation banning such drugs.

I was previously chairperson of the Oireachtas Joint Committee on Arts, Sport, Tourism, Community, Rural and Gaeltacht Affairs and during that time I visited New Zealand. The New Zealand Police and drugs agencies had a problem which surpassed all others, namely the legalised status of party pills. Since then I spoke to our Honorary Consul in New Zealand, Mr. Rodney Walshe, who told me that new legislation has been introduced to ban party pills. We would like to think we played a part in that change, by raising the issue with those who were in a position to make changes.

It appears it will be March 2009 before we can deal with the situation here. This is something that is proven to be a problem. We are talking about substances, the ingredients of which we are unsure, but we know they are not a positive substance for children or adults to be taking. We will have to follow the European lead in banning these substances but surely we should make a move on the issue immediately.

The programme to which I referred showed a young girl going into a shop to buy party pills. The label stated “not for human consumption” so she asked the shopkeeper if that meant one should not eat the contents, to which the shopkeeper gave some very interesting replies.

I draw the Minister of State’s attention to this matter because he had responsibility for the drugs strategy in a previous Government. The term “party pills” makes these substances sound positive but they are far from so. We are approaching the Christmas season now and these pills are on the market. They will become more popular if not stymied by legislation and by the right of the authorities to deal with what is currently a legal situation but one which will become illegal in time.

I wish to express my concern about the slow reaction on the part of the Government to some issues. I understand that adequate labelling of alcohol products will be introduced shortly but we should lead the way and simply introduce a Ministerial order to make it happen, if necessary. On the issue of bottled water or any other substance that may be contaminated, those responsible should be outed, those who are not involved should be protected and the consumer should be informed. My third point relates to party pills and I believe legislation banning them must be introduced by March 2009. Again, I would like to think we could fast track the process to make the currently legal situation illegal before Christmas in order to protect those who need protection.

I hope my explanation of my Adjournment matter reached the Department of Health and Children today. Otherwise, the officials would have had a difficulty in establishing exactly what I meant in my original submission.

Deputy Noel Ahern: I am taking this Adjournment matter on behalf of my colleague, the Minister for Health and Children, Deputy Mary Harney. I thank Senator Keaveney for raising these matters as it provides me with an opportunity to outline to the Seanad the measures in place in regard to both food safety, in terms of bottled water, and dangerous substances, in terms of party pills.

The Food Safety Authority of Ireland, FSAI, is an independent statutory body charged with the implementation of food safety legislation in Ireland. Its principal function is to ensure that food consumed, produced, distributed or marketed in the State meets the highest standards of food safety and hygiene. In particular it must ensure that food business operators comply with food legislation and, where appropriate, with standards or codes of good practice.

The FSAI is responsible for the enforcement of all food safety legislation in Ireland. It carries out its enforcement functions through service contracts with official agencies, such as the HSE. These contracts outline an agreed level and standard of food safety controls that the agencies must perform as agents of the authority. A further safeguard to public health is provided by European General Food Law (Regulation 178/2002) which places a clear responsibility on food business operators to place safe food on the market.

Where the FSAI considers that a food may be unsafe, it conducts a risk assessment of the product. The result of this assessment determines the action to be taken by the FSAI. Where the FSAI considers that the foodstuff poses a serious risk to public health, it must inform the general public of the nature of the risk to health, identifying to the fullest extent possible the foodstuff, the risk it may present and the measures which are taken, or about to be taken, to deal with the risk. This action is provided for in legislation and is achieved through a number of mechanisms including the national food alert system, FSAI press releases and the publication of enforcement orders under the FSAI Act 1998.

Improvement, closure and prohibition orders are brought to the attention of the public in the interest of public health and consumer protection. Such orders are available on the FSAI's website and are also publicised through monthly press releases.

The Minister understands from the FSAI that its report on microbiological safety and quality of bottled waters will be published in the next few days. This report is a summary report of historic enforcement activity and sampling on the ground in 2007. The FSAI informed the Department of Health and Children that where any unsatisfactory results were identified during this survey, appropriate follow-up action was taken. This action included the withdrawal of a number of bottled waters from the market by food business operators.

Where there is a serious threat to public health, the details are made public immediately. In this case, however, as the FSAI and HSE considered there was no risk to public health, they did not consider it necessary to make their findings public. The FSAI has confirmed that consumers should not be concerned about the quality and safety of bottled water on the market today.

The Minister is aware that a range of substances often referred to by the generic term "legal highs", which mimic or cause effects similar to illicit substances, are available in so-called "head shops" and are currently not scheduled under misuse of drugs legislation. These substances include herbal pills and party pills.

The Misuse of Drugs Act 1977 and regulations made thereunder regulate and control the import, export, production, supply and possession of a range of named narcotic drugs and psychotropic substances listed in the Schedules to the Act. Substances are scheduled under the Act in accordance with Ireland's obligations under international conventions and, where there is evidence that the substances are causing significant harm to public health in Ireland, which could merit the criminalisation of their sale and use.

The list of scheduled substances is kept under review on an ongoing basis. In particular, the Department of Health and Children reviews any evidence that substances are being abused and are causing significant harm to public health. For example, in 2006 psychotropic or magic mushrooms, which were on sale in head shops, were brought under control and their possession and sale is now an offence. I recall that particular debate and campaign as I had responsibility for the drugs strategy at the time. Furthermore, following the European Council of Ministers'

[Deputy Noel Ahern.]

decision in March 2008 to bring Benzylpiperazine, BZP, under control, which was deemed to pose an excessive risk as a party pill, the Department of Health and Children will introduce regulations to make the possession and sale of BZP illegal. The Minister expects that the legislation necessary to introduce control measures will be in place before the deadline of March 2009.

Senator Cecilia Keaveney: The Minister of State has previous experience in this area, although I accept he is dealing with this Adjournment matter on behalf of the Department of Health and Children and therefore, cannot make any definite commitments now. I am somewhat confused by the reply given. One sentence refers to the introduction of regulations, while the following one refers to the introduction of legislation. Is a ministerial order different from a regulation and does a regulation have to be based on legislation? If we have the intention of making this substance illegal on the basis of the decision of the Council of Ministers in March, why should people be exposed to it from now until next March? If the provision needs to be embedded in deeper legislation, could the Minister introduce a ministerial order to achieve an interim solution? I apologise for not knowing the difference between ministerial orders, regulations and legislation, but the latter two terms were included in two sentences of the Minister of State's reply and I thought there might have been a difference between one and the other.

Deputy Noel Ahern: I do not know and since I am taking this matter on behalf of the Minister for Health and Children, I will not pronounce on it. However, it may be that the phrase I mentioned at the end of my reply referred to secondary legislation. I am not sure. Certainly magic mushrooms were banned not through primary legislation but by a ministerial order. However, the process to achieve this took some time to complete. It was not just a case of drawing up an order and implementing it. It was dependent on whether the substance was mentioned in the Schedule to the relevant Act and a lengthy procedure had to be followed before it could be done.

Senator Cecilia Keaveney: I would like an explanation, if possible.

Deputy Noel Ahern: I accept what the Senator says in that it is often difficult to understand why things take so much time. I referred to legislation but agree that the last time such action was taken it was not through a Bill. However, since then there has been a tightening on the use of secondary legislation. I am not sure, therefore, what is intended in this regard.

Senator Cecilia Keaveney: The Minister would have full cross-party support in both Houses in this regard. I would appreciate it if the Minister of State conveyed this to the Department.

Deputy Noel Ahern: I will do so. However, I recall that when magic mushrooms were banned, the process still took several months to complete. It is a long procedure and not as simple as we might all like to think it is. I will convey the Senator's comments to the Department.

The Seanad adjourned at 7.45 p.m. until 10.30 a.m. on Thursday, 4 December 2008.