

SEANAD ÉIREANN

Déardaoin, 11 Márta 2010.
Thursday, 11 March 2010.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Business of Seanad.

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

To ask the Minister for Social and Family Affairs if she is aware that a number of people currently in receipt of occupational pensions (details supplied) are bound by conditions and agreements that will lead to their losing the large share, if not all, of their occupational pension on their 65th birthday in anticipation of an award of the State contributory pension and following the Minister's announcement of the new pensions framework, such people could find themselves with greatly reduced or zero income in the years between their 65th birthday and a State pension being awarded under the new scheme.

I have also received notice from Senator Feargal Quinn of the following matter:

The need for the Minister for Transport to outline the plans he is putting in place to address the financial problems which will arise for smaller ports in Ireland as a result of the proposal by the United States that 100% of imports into that jurisdiction be first scanned by the authorities in the exporting country.

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

The need for the Minister for Health and Children to reverse the decision regarding the proposed closure of St. Mary's day care centre in Mullingar, County Westmeath.

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

The need for the Minister for Health and Children to make a statement on the plans she has to combat obesity.

I have also received notice from Senator Joe O'Reilly of the following matter:

The need for the Minister for the Environment, Heritage and Local Government to ensure Glangevlin group water scheme, County Cavan, receives the supports necessary to maintain viability under the new metering system which will give an allowance for domestic consumption that will not be exceeded in most cases.

[An Cathaoirleach.]

I regard the matters raised by Senators John Paul Phelan, Quinn and McFadden as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. I regret that I have had to rule out of order the matter raised by Senator O'Reilly, as the Minister for the Environment, Heritage and Local Government has no official responsibility in the matter. Senator Buttimer may give notice on another day of the matter he wishes to raise.

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, Criminal Justice (Money Laundering and Terrorist Financing) Bill 2009 — Committee Stage, to be taken at the conclusion of the Order of Business and to adjourn not later than 2 p.m., if not previously concluded; and No. 2, statements re head shops (resumed), to be taken at the conclusion of No. 1 and to conclude not later than 3.15 p.m. and on which Senators may speak for eight minutes and may share time, with the Minister to be called upon ten minutes from the conclusion of the debate for closing comments and to take questions from the leaders or spokespersons of the various groups.

Senator Nicky McFadden: I wish to raise three issues. The most striking and profound of these is the very serious debacle that has emerged with regard to patients' X-rays in Tallaght hospital. What is quite shocking is that HIQA, the watchdog for our health service, has been trying to communicate with Tallaght hospital since as far back as last October. I find it extraordinary that the Minister for Health and Children is out of the country when she should be here. It reminds me of the crisis with flooding and frozen roads when the Minister for Transport, Deputy Dempsey, was away.

Senator Donie Cassidy: Senator McFadden is reading the newspapers.

Senator Nicky McFadden: I find it very disturbing that the Minister for Health and Children is on a 15 day trip which began yesterday for St. Patrick's Day. I fail to understand why she would go when we have such a crisis in our health service.

It will take ten weeks for all the X-rays to be read. I put myself in the position of people who had an X-ray in Tallaght hospital and consider the fear and uncertainty that must be in their hearts. It is also quite extraordinary that there are bags of unopened post in the postroom in Tallaght hospital and GP letters have gone unread. I do not understand how there can be such a fundamental breakdown in communication. This House was told about centres of excellence and how important it is to have quantities of people. All of the people necessary to provide the quality of service, about which the Minister reassured us, are in place but the X-rays are not even being read. Yesterday, I raised the issue and I spoke about the fact that a consultant radiologist was appointed in January after the horse had bolted. The issue is with regard to staffing and resources and those out there do not have the wherewithal to support the 58,000 people. Let us not forget that these are individuals waiting for results to discover their diagnosis.

I call for a debate on banking, which has been called for by many Members on both sides of the House. We all received an e-mail from a very upset lady who has a business which employs one person. The banks took from her the money she was going to use for food for her five month old baby and 17 year old daughter. People have come to my constituency clinic who are unable to obtain credit. We bailed out the banks to an extraordinary amount of money and we will have to continue to do so because they are on the brink. However, we will not provide money for businesses.

I have a final point.

An Cathaoirleach: Senator McFadden has been speaking for three and a half minutes.

Senator Nicky McFadden: Yesterday, an extraordinary situation occurred in Athlone and we will have a debate on head shops but I want to speak about law and order.

An Cathaoirleach: My hands are tied.

Senator Nicky McFadden: In that case I propose an amendment to the Order of Business that the Minister for Health and Children come to the House——

Senator Terry Leyden: That will be very difficult.

Senator Nicky McFadden: She should appoint——

An Cathaoirleach: Please, no interruptions or out the door you will go.

Senator Jerry Buttimer: Hear, hear.

Senator Nicky McFadden: If the Minister is not able to be present herself because she is in New Zealand she should send one of her deputies — she has enough of them — to explain what is going on in Tallaght hospital and reassure Members of the House.

Senator Joe O'Toole: There is a sense of *déjà vu* about this; it reminds me of the ding-dong between Nora Owen and Deputy John O'Donoghue years ago and, after they crossed the floor after an election, the same ding-dong continued in the opposite direction. Listening to the Irish media one would think the Minister should be opening the envelopes in Tallaght hospital.

Senator Camillus Glynn: Absolutely.

Senator Joe O'Toole: Let us be clear about what we are doing, what we need to look at and where responsibility should lie. There is a medical team which needs to answer questions, a management team which looks after that medical team, the board of Tallaght hospital, its chief executive, the HSE, the Minister and the Department of Health and Children. There are at least five stages of separation between the Minister and what happened. We are not doing the patients who are suffering and the victims any good by focusing on her. If the Minister was responsible and wrong in what she did let us point to that but blaming the Minister for something that happens on the ground demeans politics. It seems to happen in the area of health more than anywhere else and I do not believe it works.

We can ask ourselves questions on this. People have been speaking about the size of the board of Tallaght hospital. Those of us on the Independent benches insisted on a large board as did other Members of the House. There were good cultural, religious and other reasons that people wanted a large board. It was probably the wrong decision because a 20 person board is too big but let us all remember where we were when it was established and what jobs we gave them. The Minister appoints people to do a job; if they do not do that job it is they who are answerable in the first place. If the Minister asked them to do the wrong job then she is answerable. An audit would show this very clearly and we need to do justice to the victims by dealing with this matter properly.

A debate would be useful and I support Senator McFadden's call for somebody from the Department of Health and Children to come the House to discuss this. I want to hear what people state the Minister should have done but did not do. I want to hear what happened in Tallaght hospital that should not have happened and what should have happened but did not.

[Senator Joe O'Toole.]

We have to do a number of simple things; it is not rocket science. This is about good management, a cautious approach and incisive questioning.

Senator Alex White: Of course it is ludicrous to suggest that the Minister should be held responsible for not opening particular letters or envelopes in Tallaght hospital. It is nonsensical to suggest it and to the extent that it has been suggested I do not agree with it. However, there is a real issue for political representatives. Because of all the changes that have occurred and the arrival of the HSE on the scene — the Leader has made this point as have many of his colleagues on the other side of the House — politicians and political representatives generally have been deprived of an opportunity to raise any serious issue or have serious debate, such as that which has been called for by Senator O'Toole, here or in the Dáil. The Dáil is a Chamber to which the Government is accountable and responsible under the Constitution although it is not as directly responsible to this Chamber. However not even Deputies can get answers on these issues because Ministers habitually refuse to answer them, often because they are a matter for the HSE. However, when one approaches the HSE there is no serious procedure, basis or opportunity for public representatives to raise these issues and have them debated and Senator McFadden has correctly made this point previously.

I do not blame people for mistakenly thinking that every issue must be laid directly at the feet of the Minister for Health and Children because the system has been changed in such a way as to render it impossible to get any answers other than calling for the Minister to come to the House. If the Leader has an alternative to propose to us on how we can have a serious and adult debate on this issue I would like to hear it. Otherwise, there is no alternative to people coming here day after day to call for the Minister for Health and Children to answer questions on issues which, in a normal democracy, she would not have to address in the same detail.

It was a complete spectacle to have the Minister of State, Deputy Conor Lenihan, state this morning that something should be done about Tallaght hospital. Is there a democracy in the world in which a Minister of State would state that something should be done? We are told that health spending is one of the biggest areas of public expenditure over which the Government and the Oireachtas presides. It beggars belief that there is not a serious basis upon which issues such as what went wrong at Tallaght hospital can be properly debated in the Houses of the Oireachtas.

Senator Terry Leyden: I call on the unions to call off the present dispute and enter into meaningful discussions with the Government. I must highlight in particular the disruption at the Passport Office. I commend the staff of the Passport Office who over the years have given tremendous service to all Members of the Oireachtas. They are the most courteous staff one could possibly meet. However, under union instructions a major disruption is taking place in there and I hope it can be rectified. In the meantime I call on the Leader to contact Michael O'Leary of Ryanair, who lives in Westmeath in his constituency, to introduce the same rules as Aer Lingus, which accepts identification such as a pension book, driving licence or student card for travel to the UK. Ryanair does not do so. Next week is a particularly important week in Cheltenham and I have been contacted by many people who have not had their passports renewed and will possibly have to take the boat. Ryanair is losing out. I appeal to Ryanair. I was in touch with the company this morning and it is adamant it will not change the rules. The Leader of the House is particularly influential with Mr. Michael O'Leary. As far as I recall, he was at his wedding.

An Cathaoirleach: That does not matter. Who attended who's wedding is not relevant to the Order of Business.

Senator Jerry Buttimer: It is a pity he could not do a better job on hangar 6.

An Cathaoirleach: We are on the Order of Business.

Senator Terry Leyden: On behalf of ordinary people visiting England, I request that Ryanair would allow the same rules as Aer Lingus, which has been very helpful in this regard.

Senator Paul Bradford: I concur with those colleagues seeking a debate on the health service. I was very much taken by the comments of Senator O'Toole. To some degree I am speaking against myself politically, but when I reflect on my time in the Oireachtas and the various persons who have served in the health portfolio, namely, Deputy O'Hanlon, Deputy O'Rourke, Deputy Noonan, Deputy Martin, Deputy Howlin, Deputy Cowen and Deputy Harney, every single one of them had the best intentions and set out to do the best possible job for the health service. Unfortunately, that has not worked and we are now in the situation where, as outlined by Senator McFadden, thousands of people have deep worries about their health as a result of administrative chaos.

Senator O'Toole is correct to state that we cannot expect the Minister for Health and Children to be in every hospital and to open every file and every envelope but there still appears to be a failure of accountability and responsibility. The creation of the Health Service Executive and the plethora of sub-management lines in the system appear to have made things worse. We need an urgent debate on those structures because, whatever about the political aspect, it is clear that they are not working. It is important that we would be able to reassure our constituents that improvements will be made. We have had these debates for so long that at this stage the matter is becoming worrying which is simply not good enough.

Apropos of a debate on banking and the economy, I again ask the Leader, as I have done on many occasions, to organise hearings in the Chamber with the former social partners — the leaders of industry, the unions, farming groups and others — to discuss the economic fabric and future of the country. I am informed by the party leaders that it has been agreed to do this.

An Cathaoirleach: The Senator's time is up.

Senator Paul Bradford: If we want to see the Seanad working, can we not have this debate very soon? Will the Leader inform me what he is doing to trigger this urgently needed debate?

Senator Jim Walsh: I, too, compliment Senator O'Toole on his measured contribution. We could all take a lead from the sentiments expressed. I agree fully with what Senator Bradford said; we need accountability within the structure of the Health Service Executive. The system of corporate governance is wrong. I said that at the time and I wrote to the Minister, asking that a system of democratic accountability would be put in place at local level. That has not been done and until it is, we will continue to see some of the failings that are now evident.

I read in *The Irish Catholic* this morning about a dispute in County Kerry over the action of the Health Service Executive in removing statues from a local hospital which has given rise to controversy. I raise the issue in the context of a similar situation in my town where statues were removed from geriatric hospitals. The literal interpretation of equality serves no useful purpose and causes grievance and upset, especially to elderly people in geriatric hospitals who have deep religious belief and who like the fact that religious icons are visible. We should ask the Minister to come to the House to discuss the injection of aggressive secularism into some public services.

[Senator Jim Walsh.]

We all received a fine statement recently from Deputy Lowry on tribunals. I wish to comment on tribunals in general. While my sympathies lie with him because of the length of time he has been subjected to investigation, Deputy Lowry is not alone in that other people have had to expend money to provide information and defend themselves at tribunals. The process has gone on for so long that it is a fine example of justice delayed being justice denied. The Leader should facilitate a debate on tribunals as soon as possible. I have been critical of the exorbitant costs. Deputy Lowry makes a point in his statement that in the past ten years, some senior counsel——

An Cathaoirleach: Time please.

Senator Jim Walsh: ——have been getting a cheque for €14,000 each week at a time when we are asking pensioners to take a reduction in income.

Senator Mary M. White: Hear, hear.

Senator Jim Walsh: It is an absolute scandal. The Minister should come to the House to inform us what exactly the Government is going to do about the matter.

An Cathaoirleach: Time please.

Senator Mary M. White: Hear, hear.

Senator Jim Walsh: Action is required and the responsibility lies with the Government to take appropriate action in this area.

An Cathaoirleach: Time please.

Senator Pearse Doherty: I support the call by Senator McFadden for the Minister or one of her Ministers of State to answer questions in the House on the health service. I agree that we cannot hold a Minister completely responsible for every mistake, no matter how serious or what the consequences of it might be, but in this case we should remember that this is not something that has come out of the blue. The issues of accountability and governance go back many years. The Minister has spoken in the Chamber and in the Dáil about better governance and accountability but the reality is that in regard to the Government, the only person these Houses can hold accountable is the Minister. She must be held accountable on what actions she has taken to ensure accountability and better governance in Tallaght hospital.

We have seen the stripping down of the public health service during her period as Minister for Health and Children. She has prioritised private health over public health. She has dismantled the infrastructure of what was a public health system that needed investment, energy and commitment. What we have seen is the opposite, a dismantling of the system for the benefit of a private, for-profit system that has been pushed forward by the Minister with the support of her Government partners.

I have no doubt that the Minister should be present. She should not be travelling the globe while patients in Tallaght are frantically calling their local constituency representatives because they cannot get through to the helpline. The Minister should be ensuring that patients who may not have had the right diagnosis would at least be able to get through to the helpline.

In my constituency the Health Service Executive is at an advanced stage of planning to close down a public community hospital and a public nursing home to transfer those patients to the private sector, again for the benefit of privatisation. It is important that the Minister would

come to the House at the earliest opportunity and, in the meantime, to regain public confidence, she or one of her colleagues should answer the questions we cannot ask of the hospital board or the Health Service Executive.

On a separate matter——

An Cathaoirleach: Time please.

Senator Pearse Doherty: I tried to raise a matter on the Adjournment yesterday but it was ruled out of order. The Taoiseach announced last weekend——

An Cathaoirleach: Time Senator. The Senator may raise it on another day. I call Senator Callely.

Senator Pearse Doherty: The Taoiseach has announced a debate——

An Cathaoirleach: Senator, there is a two-minute time limit for contributions. My hands are tied. Many speakers wish to contribute.

Senator Pearse Doherty: A Chathaoirligh, if we look back on the time, it will be apparent that your ruling is not fair. I will be brief and finish on this point.

An Cathaoirleach: I call Senator Callely.

Senator Pearse Doherty: I wish to ask that the Taoiseach or the Minister for Transport who have announced the new schemes for rail transport——

An Cathaoirleach: Senator Doherty should respect the Chair. He has gone almost a minute over time.

Senator Pearse Doherty: Someone should come to the Seanad to discuss how to develop a public transport system in counties where it does not exist.

An Cathaoirleach: I ask Senator Doherty to resume his seat and show respect to the House.

Senator Pearse Doherty: I am finished now. I ask you to show respect to me in the same way that every other Cathaoirleach——

An Cathaoirleach: I ask Senator Doherty to resume his seat.

Senator Pearse Doherty: I am about to resume my seat but the Cathaoirleach should be fair in the allocation of time.

An Cathaoirleach: I have shown Senator Doherty the utmost respect.

Senator Pearse Doherty: I am now showing you respect by resuming my seat because I have completed my contribution.

An Cathaoirleach: This House has certain rules and regulations that must be observed by whoever is in the Chair. I do not want any Member abusing the privileges of the House.

Senator Ivor Callely: I support the concerns expressed by colleagues on matters relating to Tallaght hospital. Equally, I support what Senator O'Toole said about what one might expect of a Minister. Structures are in place and we should examine them. This scandal is a wake-up call on which we must take action.

[Senator Ivor Callely.]

Perhaps Senator O'Toole should note that the breaking news indicates that the hospital managers, the Minister, the Department of Health and Children, HIQA, the body which monitors health care quality, and the HSE were all aware. They have failed in their duties. The issue indicates clearly that the HSE, as a single service provider for the entire country, has failed. I call on the Leader to arrange a broad-ranging debate on the structure and management of the health service. The old health board structure with the input of local public representatives, that is, real democracy, must be revisited, as well as workable and appropriate management models such as using the European Parliament constituencies as catchment areas, which possibly would be able to deliver an appropriate health service. The Leader should try to accommodate such a broad-ranging debate with the appropriate Minister in place.

11 o'clock

The country is facing its greatest ever financial challenge and ordinary people are suffering and feeling the pain. While NAMA has been put in place as a support system for the banks, I call on the Leader to consider options to put in place a support mechanism for ordinary people who face huge financial problems and find it increasingly difficult to meet the demands placed on them by the banks.

Senator Dominic Hannigan: I raise the issue of the 30,000 GP referral letters that are sitting in a pile in some office in Dublin. Members must realise that this is extremely worrying for the many people waiting for such consultations. It is probable that approximately one in every 100 Irish people is affected. Lessons must be learned in this regard. Information technology must be used. Other jurisdictions are much better at using IT systems for such matters. In the United Kingdom, for instance, those who need to see a consultant having visited a GP are provided with a website address, a password and a telephone number. They can return home, check their diaries and make their own appointments later. This system works and completely removes the need to write referral letters. It constitutes another example of Ireland's failure to use information technology to the full. Last month Members learned about a report which demonstrated that information technology was not being used within the policing system. In this case, it is clear that information technology in use in the health sector is not optimal. I call for a debate on how services such as health, policing and so on can use information technology and the gains that can be made in using the great technological advances made.

Senator Mark Dearey: I also look forward to a debate on the HSE in which, given the absence of a political presence in health management, I will be able to ask questions about my community hospital, Louth County Hospital, and the justification for its proposed downgrading. I also join Senator Callely but ask that the European Parliament regions to which he referred should include a cross-Border dimension as health service delivery ought to be considered on a cross-Border basis. I note the Strategic Investment Board of Northern Ireland is also keen to consider doing so. Although we are looking at each other across the trench in this regard, we must start talking to each other. Consequently, I add that nuance to Senator Callely's proposal.

I refer to an issue that is of grave concern to me. Nuclear Free Local Authorities is a highly regarded organisation which involves many of the great cities of Britain, including Leeds, Manchester, Glasgow and so on, as well as 11 local authorities in Ireland. It has asked the United Kingdom's nuclear installations inspectorate to investigate reports and documents from the French NGO, Sortir du Nucléaire, to the effect that the new European pressurised reactor, EPR, design proposed for use on the west coast of Britain, together with the Westinghouse design, contains fundamental design faults. It is charged that while they have been designed with a view to creating efficiencies in how electricity is generated, they are incompatible with the fundamental physics underlying how the nuclear core at the heart of a reactor works and

that we face, in the words of the NGO, another Chernobyl, should one of these cores become unstable. While this is an extremely serious allegation, I view with great seriousness the fact that Nuclear Free Local Authorities is taking it seriously and has written to the nuclear installations inspectorate in Britain asking it to investigate the assertion. I call for a debate on the issue in the House and on Members to ask the Minister to join Nuclear Free Local Authorities in asking the United Kingdom's nuclear installations inspectorate to investigate closely the assertion that this new European pressurised reactor built by Areva, the French nuclear installations company, is fundamentally unsafe.

Senator Jerry Buttimer: I also request a debate on the HSE because the Tallaght hospital story shows clearly that the structure is not working. People knew what had happened in Tallaght, had access to the information but did not act on the information in their possession. The story, which is symptomatic of the Government, shows that no one is in charge, that no one accepts responsibility, that no one cares and that no one is responsible. Moreover, no one in authority is concerned about patients or patient safety. This is the fundamental difficulty. While a structure has been put in place, everyone knows it is not working and the question is when can changes be made to make it work.

Senator Ivor Callely: Hear, hear.

Senator Jerry Buttimer: It is clear that this will not happen under the Government and certainly will not take place under the Minister for Health and Children, Deputy Harney. That is the bottom line and where political responsibility lies. While she is the person who drives change, she has not succeeded and should go. She should step down from the Government to allow others to reform the health sector. This is not about money but pertains to using human resources properly.

I also seek a debate on the announcement by Bus Éireann that it intends to cut jobs, slash routes and effect a complete change in public transport policy. I am alarmed that the Green Party Members are sitting silent and mute this morning on the issue of public transport. At a time when there should be greater numbers of buses and fewer cars, the Green Party should be arguing in the Cabinet for greater numbers of buses and more public transport services. Instead, however, there is a reduction. This is some policy for the Green Party to have.

Senator James Carroll: I seek a debate on tourism and ask the Leader to indicate when statements on the subject will be held in the House. I do so in the light of the focus which will be placed next week on the St. Patrick's Day Festival and tourism in job creation in Ireland. I note the global Irish economic forum held at Farmleigh House laid great emphasis and a focus on this issue. Consequently, I look forward to a report in this regard being issued next week. Last Tuesday I attended a Drogheda & District Chamber of Commerce event, at which the subject of conversation was specific events such as the St. Patrick's Day Festival. This is the reason it is absolutely essential for Members to focus on tourism and its future because the sector will be critical in achieving short-term economic growth in specific areas, including, in particular, my native region of the north east.

Many ideas were raised at the meeting last Tuesday. One simple suggestion was that walkways could be erected on either side of the Boyne Viaduct Bridge for a small capital investment. People have travelled the world to visit Sydney Harbour Bridge and paid serious money to see the views therefrom. Were one able to use the Boyne Viaduct Bridge in this manner, one could enjoy views across the great landscape of the north east, which could be great. Others measures that could be taken include turning the vacant Tholsel building into a tourism office. In

[Senator James Carroll.]

addition, a marketing campaign for the north east will be critical. I look forward to the Leader's facilitation of such a debate, as Members must take a lead on the issue.

Senator Feargal Quinn: I understand from newspaper reports today that the Taoiseach intends to announce an innovation task force report. Even though he will announce it today, Members have some idea as to its contents. It appears that the word "innovation" is extremely important. Throughout the country innovative things are happening. For example, I think of the Cork-Swansea car ferry, in respect of which, instead of asking the Government to do something, people are getting up and doing it themselves. I am highly impressed by the level of innovation. However, as a state, we have not opened our minds to such measures. I refer to a particular case, namely, genetically modified foods. The European Commission has permitted the cultivation of genetically modified crops of potatoes which was not allowed heretofore—

Senator David Norris: Shame.

Senator Feargal Quinn: —and which Ireland has banned.

Senator David Norris: Good.

Senator Feargal Quinn: However, our farmers must compete with others who are employing modern methods of production. I acknowledge this is a highly emotional issue and that some are opposed in principle to genetically modified foods. However, Máire Geoghegan-Quinn is the Commissioner with responsibility for innovation in the European Union. Clearly, she must identify genetically modified foods in this context. She will also need to consider nuclear energy, an area to which Senator Dearey referred. We have closed our minds to both topics, but they should be debated.

Senator David Norris: Hear, hear.

Senator Feargal Quinn: At a time when the country is facing difficult challenges, I am upset by the actions being taken by the unions. In my mind, passport control is not too important, but they are also taking action against schools, welfare offices, hospitals and, as announced yesterday, ambulance services. This is unacceptable. There is a crisis in the country and we are facing challenges, but we are singling out the weakest in society. Let us get behind all efforts to ensure the economy is returned in force.

Senator Eoghan Harris: Hear, hear.

Senator Camillus Glynn: Over the years, we have held many debates on rural dwellings. Each of my colleagues in the House will be aware of derelict houses, many of them old local authority houses, throughout the countryside. Will the Minister for the Environment, Heritage and Local Government, Deputy Gormley, attend a debate on this matter in the House? Many people who would like to live in the countryside have been denied planning permission for many reasons. However, lovely, old stone houses are going to rack and ruin. Local authorities should acquire them and sell them to people who want to live in the countryside.

I must agree with Senator O'Toole regarding the debacle at Tallaght General Hospital. As someone who worked in the health services for many years, it is clear that people are not doing the jobs for which they are being paid. There is no point in pointing a finger at the Minister of the day, whoever he or she might be. It is clear that people in administrative and professional positions who have responsibility for the taking and reading of X-rays must ask questions of

themselves. What has occurred is not right. It was a systemic failure, in that people are being paid to do jobs they are obviously not doing.

Senator Joe O'Reilly: I formally second the proposition to amend the Order of Business to have a debate on the Tallaght Hospital situation and the health services in general with a relevant Minister. During the discussion on whether the Minister had responsibility for the goings on in Tallaght Hospital, I could not help but recall that, in the time——

Senator Donie Cassidy: She has been Tallaght's local Deputy for nearly 30 years.

An Cathaoirleach: Questions to the Leader. We will move on if the Senator does not ask his question.

Senator Joe O'Reilly: Nora Owen, while Minister for Justice, was held responsible for an untaxed tractor in Ballydehob. Be that as it may, we should have a debate. The problem is the imposition of the HSE on top of the health board structure. The Government put one layer of bureaucracy on another. This matter merits a debate, as does the question of centres of excellence. I never believed in pursuing the latter. Rather, we should focus on local hospitals to the maximum degree and, where necessary, specialised services.

Will the Leader address my next point specifically? HIQA is visiting public nursing homes and telling people that a number of beds at several homes must be removed on health and safety grounds. However, the HSE is not providing alternative beds. At the same time, HIQA is not visiting those hospitals in which people are on trolleys. There is an inconsistency. Will the Leader include this matter in the debate on the health services and Tallaght Hospital?

Senator Nicky McFadden: Hear, hear.

Senator Joe O'Reilly: The Cathaoirleach is impartial and fair, so I accept his ruling on the Glangevlin water scheme in County Cavan, but I wish to draw the Leader's attention to an issue briefly. Regarding many rural group water schemes, under the metering system——

An Cathaoirleach: Time, Senator.

Senator Joe O'Reilly: ——only the domestic allowance will be covered.

An Cathaoirleach: No, I have ruled on the question tabled by the Senator. His time is up.

Senator Joe O'Reilly: There will be no source of revenue for the schemes.

Senator David Norris: I support colleagues who asked for a debate on Tallaght Hospital. I was interested in the fact that many commentators used phrases like “managerial inattention” and “managerial dysfunction”. We owe a debt of gratitude to Professor Tom O'Dowd. It is extraordinary that, when he wrote a letter pointing out that 30,000 letters had gone unanswered, his letter also remained unanswered. Anyone involved in a Seanad campaign well knows the bulk of 30,000 filled envelopes.

Senator Donie Cassidy: Especially the Independent Senators.

Senator David Norris: How could it have escaped anyone's attention? Pile on top of this 70,000 X-rays and even I would have noticed it.

It must be pointed out that Tallaght Hospital has been grossly underfunded since its commencement, as stated in the House repeatedly and supported on all sides. Part of this problem is due to the fact that the bureaucracy did not want the Adelaide and Meath Hospital and the

[Senator David Norris.]

National Children's Hospital to survive. Tallaght is a fine hospital and I regret what has occurred.

I wish to discuss the activities of the Garda National Immigration Bureau, GNIB, and the Irish National Immigration Service, INIS, as I am concerned about a particular point. Some 17,000 people must have permits issued to them under the IBCO 5 scheme. Last December, the INIS, a part of the Department of Justice, Equality and Law Reform, advertised a procedure for this where people turned up with their papers and a fee. The GNIB told them that it could not give them their certificates until they were approved by the INIS. People were stopped from getting their permits, as a result of which people lost their jobs. An emergency scheme was then introduced and people were each charged €150 for a three-month emergency visa. The proper visas have now started to be issued, but people are being charged another €150. This is double jeopardy and double charging. It is an unfair attack on the weakest people. In the Lower House, the Minister accepted that people would be charged €150 for three-month visas and a further €150 for 12-month visas having completely botched the scheme, made people lose their jobs and created gaps in their immigration records, which may prejudice their attempts for asylum. The authorities should be on their knees apologising, not extracting a further €150 from vulnerable people.

Senator Paschal Donohoe: Senator Dearey summed up the difficulty we are facing in the delivery of health services, a matter that must be debated in the House, when he referred to the “absence of any political presence” in their delivery. The health and safety of our citizens are too important for it to be absent of any political presence, as is the spending of billions of euro of taxpayers' money.

While a balance needs to be struck in our consideration of ministerial responsibility, it has been achieved in the discussion to date. The main questions asked by my colleagues were on when the Minister became aware of the issue and whether she inquired as to its scale. These are legitimate and proportionate questions to be raised by Members, as they address the issues of ministerial responsibility and whether it was executed.

I agree completely with Senator Quinn's point on the innovation task force, the implementation of which will fund hospitals in 15 or 20 years time. We must discuss three points during the debate that is necessary on that report, which is spread all over today's newspapers. First, how is this plan different from the many plans that have gone before? Second, how is it different from the innovation plans of Germany, India and China? Third and most important, how will we implement it?

Senator Eoghan Harris: Behind the call for a debate on Tallaght Hospital lies a wider question of responsibility and authority. While Senator Buttimer correctly identified the source of the problem as the HSE, he draws the wrong conclusion in believing the Minister should go. Senator O'Toole is right in believing a Minister cannot be held responsible for stuff that goes wrong down the chain.

I repudiate the habit in Irish political culture of borrowing from British political culture. There was no point in setting up the State if we were going to do this. For example, there is much talk about having a list system for elections. In our political culture people like to have a direct relationship with their Deputies. There was the debacle about the rugby match to be held on Good Friday because the political culture of the country was ignored. The same is true of the culture of resignations.

A very good principle of subsidiarity is worth borrowing from Catholic social teaching. It teaches that no large body should perform a function which a smaller body can perform. The

Minister should not be held directly responsible for matters which are the responsibility of managers and consultants. If there is chronic neglect by the Minister, she should be held responsible. Deputy Harney is a reforming Minister for Health and Children. She cannot be held to account for failures. She addresses the health system. However, she can be held to account and is neglectful in another area. We depend on her to be a reforming Minister in taking on the public sector arrogance and feather-bedding of the HSE. We are all dancing around the subject. We all know that behind this there is a culture of total arrogance in the HSE. If one goes into an accident and emergency department, one sees them tapping away on computers and chatting to each other. This has grown up during the years. We saw it in the Passport Office the other day. Women were crying outside the Passport Office, trying to go to have an abortion in England close to term and the staff were inside. Why have tributes been paid to Passport Office staff? There is no point in denying public sector strikes are a direct attack on the public. As long as they can play the Government against the Opposition, we will never have reform.

Senator John Paul Phelan: We should have a debate on the health issue. I agree with many of the sentiments expressed by Senators. Senator Harris spoke about subsidiarity and said no large organisation should do the work of a small one. Like him, I was an admirer of Deputy Harney before she was appointed Minister for Health and Children. I remember the day she was appointed and thought it was a good one for the country. However, she has been an unmitigated disaster in her role. She was responsible for the establishment of the HSE, a large body set up to do the work of a number of smaller bodies. This defies the notion of subsidiarity. It is claimed the Minister is taking on the public sector unions within the HSE. She created the HSE.

Senator Terry Leyden: She did not.

Senator Donie Cassidy: That is incorrect.

Senator John Paul Phelan: She single-handedly pushed it politically. Three or four extra levels of national management were created for the health service, on top of what already was in place at regional level. That is what the Minister is responsible for. Ministers should not be held accountable for every minor detail that goes wrong in their Departments but too much has gone wrong in the Department of Health and Children. Look at what happened in the hospital in Portlaoise and other hospitals. Now we are being told about what went wrong in Tallaght hospital. I do not expect the Minister to be in the hospital opening envelopes and looking at individual X-rays but there must be some level of accountability.

Public representatives cannot get answers to questions about the HSE. We are told the Minister does not have a role in the executive. We must, therefore, have a debate in this Chamber, as the Minister has political responsibility. She knew about this problem in November but she has pretty much sat on her hands since. There is a legitimate political question for her to answer.

Senator O'Reilly mentioned the role of HIQA with regard to private nursing homes. I raise the issue of public care homes which are not nursing homes. HIQA proposes to impose standards on these homes similar to the ones applied to nursing homes which provide 24-hour nursing care. The people who live in care homes are usually elderly and single who do not need 24-hour nursing care. The HIQA proposals could lead to the closing of these homes. Last year Senator Norris and I highlighted a scandal in Bethany House in Carlow. The same will happen throughout the country with assisted care homes being closed by HIQA. This is completely unacceptable.

Senator Rónán Mullen: I broadly support what Senators O'Toole and Harris said about ministerial responsibility in the Tallaght hospital issue. However, there may be questions to answer in due course as to how this problem evolved. We must look at the failures within the hospital administration. That is the core issue. In passing, I regret the example given by Senator Harris with regard to seeking an abortion in Britain. That is a tragic abuse of human rights which should never be used as an argument for anything.

What has happened in Tallaght hospital raises the issue of the role of clinicians in the management of hospitals. Would we be better off if we had more clinicians and people with medical experience directly involved in management? Obviously, they would need managerial training. I wonder if a culture of administration and bureaucracy can block out the real needs of patients. Would more direct participation by medical staff mean that problems in the system would be spotted earlier and their implications understood? This seems not to have happened in Tallaght hospital. We want consultant-led services. It seems there was a lack of staff in Tallaght, as well as a failure within the hospital to communicate its needs to the media and the Government and the very people who, presumably, continued to assume that they would be provided with a service. A backlog of unanswered correspondence assumes a number of people who think they will soon receive a service. Doctors were referring patients but achieving no output from their referrals. This had tragic consequences, to judge from one report yesterday. A debate on this topic would be welcome but it should focus on the failures which have occurred. It would be just as inappropriate to draw the Minister into the issue as the Most Reverend Dr. John Neill, Archbishop of Dublin, who is patron of the hospital. We need to look at what happened. It could provide a case study to allow us to understand the problem which is probably occurring in other hospitals.

Senator John Hanafin: As the third most globalised economy, after the city state of Singapore and the special administrative area of Hong Kong, Ireland has a major interest in the upturn in the global economy. There are clear signs that the global economy is moving forward, especially with the February import and export figures from China and the feeling that this is a major contributor to world economic recovery. In the light of a recovery, we need a debate on the regulation of financial services. It appears that the sub-prime lending which got us into the problem is continuing in the financial markets, not necessarily for mortgage products but for all other forms of lending. Loans are bundled together and good loans are mixed with bad and rolled forward, taking up new additional loans along the way. This is a recipe for disaster. If we have learned nothing from the recent crisis, we are doomed to repeat it. The next crisis could be much more significant. We may have been fortunate to get through this crisis relatively quickly.

I share in the call for a debate on genetically modified foods. Genetic modification, when properly regulated, is no more than accelerated husbandry. We must consider the number of people in the world and their food needs. Furthermore, some genetic modification could make a major and significant contribution to cleaning up the world, including the reduced use of nitrates and carbon storage of plants. These are sufficient reasons to have a debate on the issue.

Senator Maria Corrigan: Given that this is brain awareness week, I ask the Leader for an update on the progress of the mental capacity and guardianship Bill which will have a significant impact on the lives of many, including those with acquired brain injuries. I understand the Bill is still being drafted but that it is intended to bring it before the Seanad before the end of the session. It now appears that it will be significant and complex with profound implications for a vast number of people. Will the Leader, therefore, ask the Minister to make the Bill available to Members for their consideration as soon as possible in order that it will not have a speedy passage through the Oireachtas without being subject of sufficient consideration by Members?

I also raise the issue of Tallaght hospital. I was impressed by Professor Kevin Conlon yesterday on “Morning Ireland”. I was particularly impressed by his assurances that the No. 1 priority for him was to ascertain that every X-ray would be reviewed as quickly as possible and feedback given to patients and doctors. However, what has emerged since necessitates the establishment immediately of a forum in which questions can be answered. It is of concern that a letter addressed to the chairman of the board went to the office of the chief executive officer. It was stamped as having been received by the chief executive officer on 22 January 2009 but the chairman only became aware yesterday that the letter even existed. This raises significant and profound questions about the relationship between the executive and the board.

Senator Michael McCarthy: This is a speech.

Senator Maria Corrigan: The chief executive officer and his office are the gatekeepers of what information is provided——

An Cathaoirleach: That issue can be raised in the debate.

Senator Maria Corrigan: No. Have the chief executive officer and his office become the gatekeepers for correspondence addressed to the chairman? This raises fundamental questions. Has other correspondence not been passed on? Is this practice engaged in by other State agencies?

An Cathaoirleach: The Senator’s time is up.

Senator Michael McCarthy: This is a speech. The Senator has been going on for four or five minutes.

Senator Maria Corrigan: Do other boards of State bodies depend on the offices of their chief executive officers?

Senator Paddy Burke: Will the Leader arrange a debate on regional planning guidelines? I have asked for the debate on a number of occasions. We should have the debate immediately because a number of regional authorities have put their planning guidelines on display. This is the ideal Chamber in which to have the debate because of the relationship between the House and local authorities. The guidelines will have serious consequences for the regions and for local authorities when they adopt their development plans. Time is running out. In most cases, the regional authorities must adopt their plans by the end of March. It is essential that we have this debate after St. Patrick’s week.

Senator Ivana Bacik: I seek a debate on planning guidelines and, in particular, on planning for urban centres. The Dublin city development plan is open for consultation and submissions are due to be in by tomorrow. An interesting issue arose yesterday during the debate on the Multi-Unit Developments Bill 2009 about the right to dry and whether people living in apartments should be able to air dry their laundry. This is a quality of life issue and it has environmental implications for those living in apartments. It would be useful in the context of the Dublin city development plan if we were to have a debate on the need to ensure a better quality of life for those living in urban centres, particularly in apartment blocks, and to ensure we move towards a model of urban development which is more contained within city centres and which is less about sprawling development and one-off housing.

Senator Michael McCarthy: During Private Members’ Business in the Dáil this week, the Labour Party introduced a Bill that will allow for the downward review of rents. In these difficult, economically challenging times, businesses cannot afford the Celtic tiger rates set in

[Senator Michael McCarthy.]

the midst of economic lunacy in this country. The Taoiseach said advice from the Attorney General suggests we cannot do that. Will the Leader under Standing Orders invite the Attorney General to the House to explain the legal advice?

Senator Donie Cassidy: Senators McFadden, O'Toole, Alex White, Bradford, Doherty, Callely, Hannigan, Deary, Buttimer, Glynn, O'Reilly, Norris, Donohoe, Harris, John Paul Phelan, Mullen and Corrigan expressed further shock and horror at the revelations that 30,000 general practitioner referral letters went unanswered. Senator Callely is an experienced former Minister of State and former chairman of the Eastern Health Board and, as he said, it is a wake up call. I hope when the Minister for Health and Children returns from New Zealand, she will come to the House for an all day debate on everything to do with health but, especially, this debacle at Tallaght Hospital.

Senator Jerry Buttimer: What are the five junior Ministers doing?

An Cathaoirleach: No interruptions, please.

Senator Donie Cassidy: Senator Harris gave Senator Buttimer a response earlier that was long overdue.

Senator Jerry Buttimer: Where are the five junior Ministers?

Senator Donie Cassidy: Patients must come first but where are the patients in this debacle? The medical and management teams in this hospital are answerable to the people and to the Oireachtas and we must be given answers about what happened. It is completely unacceptable. It is a disgrace to say the least.

With regard to Senator Callely's proposal to split up the HSE using the European Parliament constituency boundaries as a guide, I must bear in mind Senator Hannigan's query. Why is information technology not being used to the same extent as in the private sector? This is how efficiencies can be achieved by the HSE and this would also help the nursing staff to increase their numbers. I am sure the number of administrative staff could be reduced by 10% and additional staff assigned to frontline care if information technology was used in the way it is used everywhere else in the world. There is a huge deficit here in the context of catching up with the times and facing the challenges and the realities. Just because the Government parties will pour €16 billion this year into the health service, it is not a bottomless pit and they must also be answerable about how the resources are best used. I hope to have a date on the next sitting day for a debate before the Easter recess. It will probably mean an additional sitting day on the first week we come back. The Finance Bill will be before the House that week but I will endeavour to schedule an all-day debate on Friday, 26 March on health issues, the challenges facing the HSE and the massive difficulties being experienced at Tallaght Hospital.

Senators McFadden, Bradford, Callely and Hanafin called for a further debate on banking. The Finance Bill is before the House on Wednesday, 24 March and all those issues can be addressed then. I have no difficulty debating NAMA and having the House updated at least once a month with the Minister present once we have passed the Finance Bill.

Senator Quinn called on the unions to call off all their actions in the context of negotiations taking place again and getting the Taoiseach and the Government around the table with the social partners. We have all agreed to and supported this call in the House this week.

Senator Leyden called on Ryanair to relax its identification system. He also highlighted the difficulties being experienced and the time it is taking for passports to be processed currently. I compliment everyone in the Passport Office for their effort, kindness and courtesy in the past but it is completely unacceptable in these difficult times that it is taking so long to process applications. I agree with the Senator's request.

Senator Walsh raised the issue of religious statues and objects being removed from hospital grounds. I will pass his request on to the Minister for Health and Children. The religious beliefs of patients in long-stay and geriatric hospitals, in particular, are extremely important and we should support them in every way we can.

Senator Walsh called for a debate on the tribunals, the length they have been ongoing, with some running for 12 to 14 years, and the fact that senior counsels are receiving €14,000 to €15,000 a week. I agree with the Senator's points and I will arrange to have a lengthy debate on the tribunals, the cost of them and the length of time it is taking to bring them to a conclusion.

Senator Dearey raised the concern of the Nuclear Free Local Authorities about the European pressurised reactor, EPR, design, manufactured in France, proposed for use in the UK. The request for a debate on this is worthy and I have no difficulty in making time available for it.

Senator Buttimer called for a debate on the future policy of Bus Éireann and for the Minister for Transport to be in attendance. I have no difficulty in making time available for such a debate.

Senator Carroll called for a debate on tourism. I apologise to colleagues who did not get to contribute to the very good debate on tourism last week. The debate has been rolled forward and it will be taken at the earliest opportune time. Given that the Minister, Deputy Cullen, will not be the Minister for Arts, Sport and Tourism, I strongly suggest we defer such a debate until the new Minister is appointed and can come to the House. Senator Carroll had a lengthy contribution prepared for last week's debate but he did not get to make it. Other colleagues, including Senator Burke who has called for such a debate for some time, found themselves in the same position. Furthermore, how could we forget Senator Buttimer? I look forward intensely to his future contribution.

Senator Boyle, the Deputy Leader, correctly pointed out to me this morning that we should welcome the return of the Cork-Swansea Ferry; I was surprised this was mentioned by only one colleague this morning.

Senator Jerry Buttimer: We mentioned it previously.

Senator Paddy Burke: Senator Coghlan mentioned it on several occasions.

Senator Donie Cassidy: It will be a huge asset——

Senator Jerry Buttimer: We also called on the Government to help out on this matter.

An Cathaoirleach: Allow the Leader to reply to the Order of Business.

Senator Jerry Buttimer: If we had to wait for the Government, that ferry would never sail.

Senator Donie Cassidy: The Deputy Leader is particularly pleased about the return of this ferry service and I join him in welcoming its return.

Senator Paddy Burke: Senator Coghlan is also very pleased about it.

Senator Donie Cassidy: Senator Glynn called for a debate on rural dwellings, particularly old stone houses, a matter on which I have no difficulty in arranging a debate.

Senators Quinn and Hanafin called for a debate on genetically modified foods and it would be timely to have such a debate.

I hope, with the approval of the Cathaoirleach, to invite our new Commissioner, Máire Geoghegan-Quinn, to address the House at an early stage and perhaps that request might be raised at the next meeting of the Committee on Procedure and Privileges. Such an address would be extremely timely.

Senator O'Reilly raised the issue of the metering of rural water schemes. I am aware that almost 50% of water supplied by local authority schemes is wasted — that represents a massive waste of water. Senators O'Reilly, Wilson, Glynn and myself come from the lake district.

Senator Nicky McFadden: I come from there too.

Senator Donie Cassidy: The Senator comes from the River Shannon area.

Senator Nicky McFadden: All my family come from Mullingar.

Senator Donie Cassidy: I understand that. That is why we are looking forward with bated breath to the Senator's future.

Senator Jerry Buttimer: Will the Leader assist her?

An Cathaoirleach: Allow the Leader to continue without interruption.

Senator Donie Cassidy: Senator McFadden's future could very well lie where my future lay. We are working in tandem here.

Senator Jerry Buttimer: On a bicycle made for one.

Senator Donie Cassidy: I advise Senator O'Reilly that is the up to date position. I have no difficulty in having a debate on the challenges facing local authorities. Many people are considering the alternative of boring wells to achieve efficiencies and cut costs.

Senator Norris raised an issue concerning the GNIB and the Irish National Immigration Service of the Department of Justice, Equality and Law Reform and the fact that €150 was charged on two occasions for emergency visas. I will bring this matter to the attention of the Minister.

Senators O'Reilly and John Paul Phelan called for a debate on care of the elderly, particularly regarding the issues concerning HIQA that they have highlighted.

Senator Hanafin called for a debate on the regulation of financial services. This is a serious and urgent issue that should be debated. I ask colleagues when contributing to the Finance Bill to highlight this issue to the Minister. For colleagues who may have been at a committee meeting yesterday morning, I advise that I propose that spokespersons will have 20 minutes and all other senators will have 15 minutes to make their contributions on the Second Stage of the Finance Bill. The debate sought by Senator Hanafin is one that should take place. I listened to a radio programme on my way to the House this morning and noted that the future success of our banking system lies in addressing of challenges facing regulation in terms of how strict will be the regulation of our financial services.

Senator Corrigan requested that I allow sufficient time for consideration of the mental capacity and guardianship Bill when it comes before the House. I give an undertaking today that I will allow whatever time is required for colleagues to have sufficient time to deliberate on their contributions to that Bill.

Senators Burke and Bacik called a debate on the regional planning guidelines. I know that in my county we have been given until 28 March to make our contribution in this regard. Senator Bacik raised the issue of the Dublin city development plan and provisions to ensure a better quality of life for people. Did I understand her to say that she is completely opposed to one off housing? Was that a slip of the tongue?

Senator Ivana Bacik: I did not say that, Leader. I never said that.

Senator Donie Cassidy: I took a note that the Senator has serious concerns about one off housing. We in rural Ireland know that one off housing is of huge importance.

Senator Joe O'Toole: Hear, hear.

Senator Donie Cassidy: Where is the one who does not love the land where they are born——

Senator Joe O'Toole: Does the Deputy Leader agree with the Leader on that?

Senator Donie Cassidy: ——and who cannot speak of it with pride no matter how forlorn? That goes for everybody in Dingle also.

An Cathaoirleach: Senator Nicky McFadden has proposed an amendment to the Order of Business that statements on the problems occurring in Tallaght hospital be taken today. Is the amendment being pressed?

Senator Nicky McFadden: Yes.

Amendment put.

The Seanad divided: Tá, 20; Níl, 29.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
McCarthy, Michael.

McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Quinn, Feargal.
Ross, Shane.
White, Alex.

Níl

Boyle, Dan.
Brady, Martin.
Callely, Ivor.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.

Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Harris, Eoghan.
Leyden, Terry.
MacSharry, Marc.

Níl—continued

McDonald, Lisa.
Mooney, Paschal.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ó Brolcháin, Niall.

Ó Domhnaill, Brian.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Nicky McFadden and John Paul Phelan; Níl, Niall Ó Brolcháin and Diarmuid Wilson.

Amendment declared lost.

Question, "That the Order of Business be agreed to", put and declared carried.

Criminal Justice (Money Laundering and Terrorist Financing) Bill 2009: Committee Stage.

Sections 1 and 2 agreed to.

SECTION 3.

Senator Ivana Bacik: I move amendment No. 1:

In page 11, between lines 10 and 11, to insert the following subsection:

“(4) The Minister shall within three months after the commencement of this Act publish a five-year anti-money laundering and counter-terrorist financing strategy illustrating how the objects of the Act are to be pursued, such a strategy to be evaluated and revised at the end of the five year period.”.

The amendment arises from my contribution on Second Stage. I was struck by the British model for implementing the third directive through the Money Laundering Regulations 2007. The British Government also published an anti-money laundering and counter-terrorist financing strategy document setting out the challenges to be met in fulfilling the obligations of the directive in the next five years. This is an interesting idea and one from which we could usefully borrow. I accept it is not necessary to place on statute such a requirement and it may be more flexible not to do so. I tabled the amendment because I raised the matter on Second Stage and I am interested in the Minister’s view on it.

Senator Paschal Donohoe: I concur with the point made by Senator Bacik. I draw a parallel between this legislation and a Bill passed in the House around 18 months ago on the establishment of a national transport authority. The latter Bill included a clause prescribing that the new organisation publish a strategy to ensure the objectives set out in the legislation were implemented. Senators frequently raise the long delay which occasionally arises between the passing of legislation and its commencement. The proposal in the amendment could bridge this gap and ensure the important objectives of the Bill are better implemented.

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Strategy documents are needed from time to time on various issues. For instance, I recently launched the first five year national strategy document on sexual, gender based and domestic violence. The document was produced to ensure coherence between the responses of the relevant agencies and non-governmental bodies. It did not require the introduction of new legislation and was unconnec-

ted to existing legislation. It related instead to the response of different Departments and the different aspects of the issue.

The legislation before us affects a number of other regulators and authorities, for example, the Financial Regulator, which will set out their own strategies in this area. Under the strategy adopted by the Department, we have established an anti-money laundering compliance unit, which will have supervisory and monitoring responsibilities on money laundering aspects in respect of sectors where there are no other supervisory bodies. I assure the Senators it is my intention to ensure the strategy relevant to anti-money laundering controls in the sectors for which this unit of my Department will have responsibility will be reflected in the next departmental strategy statement, which will be published in 2011 to cover the years from 2011 to 2013. It seems these measures in effect meet the objectives of the amendment considered here, albeit that the strategy statement and policing plan adopted concerning the Garda Síochána cover periods less than five years as suggested in the amendment. Proposing to place a commitment such as that set out in the amendment would create an overly rigid procedure. It might be the case, for example, that having published a five-year plan as envisaged by the amendment, such a plan would not be changed within a five-year period to take account of new developments, even if such a change was called for. The types of crime covered in this Bill — money laundering and terrorist financing — are, regrettably, increasingly sophisticated forms of criminal activity. To an increasing degree, new forms of technological development are employed in the commission of these offences and, therefore, law enforcement agencies must be ready to change strategies and policies on these kind of offences at shorter notice than is envisaged by this proposal, and perhaps at far more frequent intervals than even five years. I do not propose to accept the amendment. Some people have said this legislation is long awaited, which tends to suggest we do not already have legislation in this area, but we do. We have robust legislation in this area because it has been changed regularly in recent years.

Senator Ivana Bacik: I thank the Minister for that full reply. While we all welcome the Bill and share its objectives, we are simply trying to make it more effective. On Second Stage, I spoke of the many challenges we face in dealing with white collar crime. The Minister has mentioned some of those, in particular the rapidly changing nature of this sort of crime, which is increasingly sophisticated. Given the need for multi-agency and cross-departmental approaches to deal with this sort of crime, involving the Financial Regulator, the Department of Finance and the criminal justice authorities, some sort of co-ordinated plan would be welcome. I accept this may be an overly rigid model to use, so I will not press the amendment at this stage. On Report Stage, however, I would like to hear more detail on the way in which a more multi-agency approach might be taken by the Department.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Sections 4 to 23, inclusive, agreed to.

SECTION 24.

Government amendment No. 2:

In page 20, subsection (1), between lines 6 and 7, to insert the following:

““barrister” means a practising barrister;”.

Acting Chairman (Senator Kieran Phelan): Amendments Nos. 2, 4, 9 and 10 are related and may be discussed together by agreement.

Deputy Dermot Ahern: The reason for including a definition that “barrister” means a practising barrister, and “solicitor” means a practising solicitor, is to clarify that the persons intended to be captured in the relevant provisions of the Bill are persons actually practising in their respective professions. For instance, I have a practising certificate but I am not a practising solicitor at the moment. In effect, I get an exemption from such a certificate because I am not practising. It would be somewhat unusual to capture somebody like me, but there could be other cases where people would be qualified as solicitors but may not necessarily be practising as such. It is important to make that distinction.

The amendment to section 40 deals with reliance on a relevant third party to carry out customer due diligence or to replace the references to the Law Society in subsections (1)(iv) and (vi) with “solicitor”. The reason for this is that the current reference to a member of the Law Society would have the effect of including persons who are members, but not practising solicitors, and persons who could be relied upon under the third party provisions. The appropriate and correct reference in these cases for a person who can be relied upon for third party purposes is to be a solicitor.

Senator Ivana Bacik: I welcome these amendments. In fact, I was proposing to raise on Committee Stage the issue of how the competent authority under section 60 would deal with persons who were not practitioners, given the competent authority would be the professional body. I am glad therefore to see this issue has been dealt with.

Senator Denis O’Donovan: I also think it is an important point. I welcome the amendment because I have already raised the matter in the House. In Dublin, a number of people are registered as attorneys-at-law. In one instance, where a serious professional negligence issue arose, the Law Society told a particular client, who came to me as a constituent, that they had no recourse whatsoever. There are two if not three such people involved, which is a lacuna the Minister might examine at some time. One is either a practising solicitor or a practising barrister. As the Minister said, in some instances, there are people who have not practised for some time. I have not actively practised for a number of years, although I hold my practising certificate. That situation has arisen, particularly concerning American, Australian or European clients. Not 100 miles from the door of Leinster House, there is a sign stating “Attorneys-at-law”, and they are portraying themselves as solicitors or barristers. I am not sure if any of my colleagues have received that complaint, but it is a serious misrepresentation which should be examined. The Irish word *aturnae* means solicitor, in effect, but there are people who hold themselves out as attorneys-at-law, yet they are neither barristers nor solicitors. This is an important amendment in that regard. I hope the Minister will examine the situation whereby people purport to be attorneys but, in effect, they are neither solicitors nor barristers.

Amendment agreed to.

Government amendment No. 3:

In page 22, subsection (1), between lines 31 and 32, to insert the following:

““occasional transaction”, in relation to a customer of a designated person, means a single transaction, or a series of transactions that are or appear to be linked to each other, where—

- (a) the designated person does not have a business relationship with the customer, and
- (b) the total amount of money paid by the customer in the single transaction or series is greater than €15,000;”.

Acting Chairman: Amendments Nos. 3 and 5 are related and may be discussed together by agreement.

Deputy Dermot Ahern: The first amendment is essentially technical in nature. It proposes to include a definition of “occasional transaction” in section 24, which deals with definitions. The reason for including the definition is that this term is used in a number of sections throughout the Bill, including the proposed amendment to section 55, which will be discussed later. It is therefore more appropriate and useful to define the term in section 24, rather than state it separately each time it applies to a section.

The second amendment is related as it deletes the current text in section 33(1)(i), which describes an occasional transaction and instead inserts the term “occasional transaction” where it is proposed to insert it as a definition.

I commend the amendments to the House.

Senator Paschal Donohoe: The amendment appears to make eminent sense, but I have a question for the Minister as to why the figure of €15,000 is being included in the Bill. It is unusual to see an actual figure included in this legislation. I think it would have made sense to give the Minister the ability to state what the figure is and then perhaps revise it over time in line with his or his Department’s experience of how the legislation is working.

Deputy Dermot Ahern: It is cited because this is the amount specified in the EU directive. If we had to change it later, we would have to do so by primary legislation, but we are following what the directive says. The legislation is designed to implement what the directive states.

Amendment agreed to.

Government amendment No. 4:

In page 24, subsection (1), between lines 14 and 15 to insert the following:

““solicitor” means a practising solicitor.”.

Amendment agreed to.

Question proposed: “That section 24, as amended, stand part of the Bill.”

Senator Ivana Bacik: Why is it that “insolvency practitioners” are not included in this definitional section? I understand there was an understanding by the Chartered Accountants Institute that they would have been included but they did not appear in the Bill. I understand that not all insolvency practitioners are accountants or solicitors and would not necessarily be covered. I am taking up Senator O’Donovan’s point. I note a reference to notaries which are separate from barristers and solicitors and yet there is no reference to or definition of “insolvency practitioners”. We have to be careful, as Senator O’Donovan said, about definitions of people who hold themselves out as practitioners.

Deputy Dermot Ahern: We are looking at that issue in the context of Report Stage. We would think that the definition already included in respect of practising solicitors and barristers would apply but we will look at it in the context of Report Stage.

Question put and agreed to.

Sections 25 to 32, inclusive, agreed to.

SECTION 33.

Government amendment No. 5:

In page 30, subsection (1), lines 8 to 16, to delete paragraph (b) and substitute the following:

“(b) prior to carrying out an occasional transaction with, for or on behalf of the customer or assisting the customer to carry out an occasional transaction,”.

Amendment agreed to.

Government amendment No. 6:

In page 33, subsection (8)(a), line 3, after “service” to insert “or carry out the transaction”.

Deputy Dermot Ahern: Section 33(8)(a) provides that if a designated person is unable to apply the measures specified in subsections (2) or (4), that is, identification and verification customer due diligence measures, due to the failure of the customer to provide the required documentation or information, the designated person cannot provide the service sought for so long as the failure remains unrectified. The purpose of this amendment is to insert “transaction” into this provision so as to clarify that it will apply to a transaction or a service, as appropriate. The reason for this is that the carrying out of a transaction with a customer and nothing more does not involve a service, whereas the carrying out of a transaction for or on behalf of a customer or assisting a customer to carry out a transaction involves the provision of a service.

Amendment agreed to.

Section 33, as amended, agreed to.

Sections 34 to 36, inclusive, agreed to.

SECTION 37.

Acting Chairman: Amendments Nos. 7 and 8 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Ivana Bacik: I move amendment No. 7:

In page 38, subsection (10), between lines 14 and 15, to insert the following:

““cohabitant” in relation to a person means a person cohabiting with the first-mentioned person as man and wife or in an equivalent same sex relationship;”.

I am agreeing it although they are very different amendments but they relate to the same section and to definitions so I am happy to discuss them together. Amendment No. 7 relates to the definition of “cohabitant”. As there is no definition currently in the legislation we felt the section might be unduly vague. We have inserted in the definition that “cohabitant” means a person cohabiting as man and wife or in an equivalent same sex relationship. Clearly the Civil Partnership Bill, once enacted, would have implications but I think that is already envisaged in the wording of section 37. I think it covers the spouse or a person considered to be equivalent to a spouse. Presumably that would cover civil partners once that legislation has been enacted.

Amendment No. 8 deals with an issue I raised on Second Stage. I thought that the “politically exposed person” definition might be somewhat vague. I can see and thoroughly support the objective of including persons who are politically exposed who are elected to public office and

so on. Of course, they should be included. I am not in any way trying to water it down but could it be interpreted in such a way as to include people who have been entrusted once with some prominent public function, for example, a role on a board of a prominent public NGO but they are not actually working for the State? Is that a prominent public function? I suspect it is. If somebody who is the chairperson of a children's rights alliance group or a group of that nature — that is plucked from the air — he or she might somehow be brought into the net. I was concerned that would not be the case but I do not think that is the intention. I propose a definition that I hope will cover all the people we want to cover. I am not necessarily wedded to this particular wording but I consider that “people elected to public office, appointed to a public board or position of authority or otherwise entrusted with a prominent public function involving the exercise of some authority or decision-making power”, would be more specific. I would be grateful for the Minister's view.

Deputy Dermot Ahern: With regard to the amendment No. 7, the term “cohabitant” is not a requirement of the EU money laundering directive. The use of the term and its meaning, which I had initially intended to include in the Bill, was discussed at length on Committee Stage in the other House. On further reflection, I decided not to proceed with including this term within the current Bill.

Senators will be aware that the term “cohabitant” is being defined in the Civil Partnership Bill. I would prefer not to interfere with the provisions of the Civil Partnership Bill in this legislation, particularly as there is no specific requirement arising from the money laundering directive to refer to cohabitants. I will give consideration at a later date to an amendment in the Civil Partnership Bill to have the term apply to the relevant section of the money laundering Bill, if it is considered necessary. The Civil Partnership Bill is clearly the more appropriate place to deal with this particular definition.

The proposed amendment No. 8 relates to the concept of the “politically exposed person”. The definition of “politically exposed person” as it is currently set out in the Bill is based very closely on the requires set out in the third EU money laundering directive and in the subsequent and associated implementing directive. Politically exposed persons are understood to be persons entrusted with prominent public functions, their immediate family members or those known to be their close associates. When determining those who are covered by this designation it is essential to take into account the social, political and economic differences between countries.

The current draft of this provision is carefully attuned to the requirements of both directives. The implementing directive was agreed a year later than the main third EU money laundering directive. It clarified, in Article 2, in some detail what is meant by a “politically exposed person”. It is this detailed clarification of the politically exposed person which is reflected in the current draft of the Bill. The directive obliges us to transpose this requirement. It is not a concept which can be omitted from the legislation if we are to transpose the directive correctly. I would prefer not to make any change to the provision as it stands because it very much along the lines of what was in the implementing directive.

The directive defines natural persons who are or have been entrusted with prominent public functions. They shall include the following: a head of state, head of government, minister or deputy or assistant minister; a member of a parliament; a member of a supreme court, constitutional court or other high level judicial body whose decisions are not subject to further appeal, except in exceptional circumstances; a member of a court of auditors or of the board of a central bank; an ambassador, chargé d'affaires or high ranking officer in the armed forces; members of administrative management or supervisory bodies of State-owned companies and

[Deputy Dermot Ahern.]

obviously spouse, partners, children, parents etc. I do not think that somebody who is chair of the children's alliance or whatever would be included.

Senator Paschal Donohoe: I have two questions in response to what the Minister has said and, in particular, his reference to a specified official which is a welcome and important part of the Bill. In regard to the reference to the armed forces, why is it necessary to specify that it should be a high-ranking officer? Could it not just be any member of the armed forces? How does one define who is a high-ranking officer? The reference to "specified official" is good. It refers to the fact that it could be an official of an institution of the European Communities or an international body. Is it not necessary to define an "international body"?

Deputy Dermot Ahern: We are transposing what is already in the main directive and the implementation directive. A certain bar is put in place by that directive, and it would be wrong to lower that bar because we could then be bringing in myriad other people with no relevance to this type of legislation. The concept of politically exposed persons is used to allow the legislation to take account of those who are former politicians or high-ranking officials and who are in some way evading justice. There are other laws that would take care of lower ranking officials or members of the armed forces. As I said, the aim is to replicate what is in the directive. We do not see any point in going further than this. With regard to the definition of an international body, I would have thought it would be up to the court to decide if there were no definition in the directive or the legislation.

Amendment, by leave, withdrawn.

Amendment No. 8 not moved.

Section 37 agreed to.

Sections 38 and 39 agreed to.

SECTION 40.

Government amendment No. 9:

In page 40, subsection (1)(a), to delete lines 38 to 40 and substitute the following:

“(iv) who is a tax adviser, and who is also a solicitor or a member of a designated accountancy body or of the Irish Taxation Institute,”.

Amendment agreed to.

Government amendment No. 10:

In page 40, subsection (1)(a)(vi), line 44, to delete “or of the Law Society of Ireland” and substitute “; a solicitor”.

Amendment agreed to.

Section 40, as amended, agreed to.

SECTION 41.

Question proposed: “That section 41 stand part of the Bill.”

Senator Ivana Bacik: The institute of chartered accountants, Chartered Accountants Ireland, raised with us the inclusion of the word “agent” in section 41 despite the fact that under section 44, there is a defence for an employee but none for an agent. I have no desire to water down the provisions of the Bill, but I am responding to a query put to me by the institute about the position of agents who are employees in all but name. There is a sort of halfway house of people who might technically be agents but are really more or less employees. Should these be covered by the section 44(2) defence, given that they are included in section 41 as potential designated persons? I raise this merely as a query.

Deputy Dermot Ahern: This is related to the conversation we had with Senator O’Donovan about solicitors and people presenting themselves as solicitors although they are not. The inclusion of the word “agent” in section 41 is intended to capture quite a number of people who might not necessarily be captured under the definition of “accountant”. Accountancy bodies have made such representations and we will consider the issues they have raised between now and Report Stage. I would be reluctant to make a change in this regard because we are trying to include as many as possible of the myriad people involved in this sector. That is the reason the word “agent” is included under the section. It is, in effect, a catch-all to try to include as many people as possible to ensure the terms of the legislation apply as widely as possible.

Senator Denis O’Donovan: Would the definition include banks or lending institutions, or limited companies or associations? I often wonder about the relationship between a customer and a bank. Throwing my mind back to the famous tax amnesty, although I will not go into the rights and wrongs of the situation, I recall that the banks carried out a unilateral disclosure with a settlement, which was not always in the best interests of their customers. They made a sweetheart deal, as we now know. I am wondering whether lending institutions, co-operative societies, credit unions and so on are covered under the section.

Deputy Dermot Ahern: To answer the question, yes, they are. It is with regard to reporting requirements, which are obviously the core of the Bill.

Senator Ivana Bacik: I thank the Minister for saying he would consider this again before Report Stage. I would be grateful if he would do so. I accept his explanation that “agent” is a catch-all word, but the problem is that there are people who are ostensibly agents but are really, in all but name, employees.

Question put and agreed to.

SECTION 42.

Senator Ivana Bacik: I move amendment No. 11:

In page 42, subsection (1), lines 34 and 35, to delete “and the Revenue Commissioners”.

I mentioned this on Second Stage because it seemed unnecessary to require duplicate reporting obligations to both the Garda and the Revenue Commissioners, given that one would hope for liaison between the two State agencies. I must point out again that I am not seeking to water down the Bill. I fully support the need for reporting requirements and the objectives of section 42, but I simply wish to ensure we avoid bureaucratic overload for those seeking to act in full compliance with the legislation. Should it not be sufficient to contact the Garda with such information, knowing it will pass it on, if necessary, to the Revenue Commissioners?

[Senator Ivana Bacik.]

In addition, there is the possibility, when reports are sent to two agencies, that a report might fall between two stools, with each agency thinking the other is doing something about it. It does seem there is an issue with regard to reporting. It may be that dual reporting is required under the directive although, I must say, I have not looked.

Reporting is also required under the existing Criminal Justice (Theft and Fraud Offences) Act 2001. I mentioned on Second Stage a particular hobby horse of mine, that is, the need to ensure better codification of our criminal law. Given that we already have such an Act in place as well as other money laundering legislation, it is a pity there is not more coherence among the different Acts. Thus, there is already some duplication of reporting requirements under section 59 of the 2001 Act. This places further obligations on people. I am not opposing these obligations in any way — it is important that we have them — but I wonder whether it would be more practical simply to require a report to the Garda.

Deputy Dermot Ahern: The purpose of this amendment is not to exclude the Revenue Commissioners from receiving suspicious transaction reports. The representative bodies are suggesting, as Senator Bacik said, that reporting should be done to one agency only. Both the Garda and the Revenue Commissioners, in the context of this legislation, feel it is important that there be an obligation to report to both of them. The suggestion that reports might fall between two stools is not realistic because of the fairly good connection between the Revenue Commissioners and the Garda in such areas. They already work on a multi-agency basis in this regard. Senator Bacik's original point was about the necessity of having a multi-agency approach. I can understand that representations would be made by a representative body in this respect because, obviously, they would wish to minimise bureaucracy. However, we as legislators have an obligation to ensure the legislation is comprehensive.

Under existing provisions of the Criminal Justice Act 1994 with regard to the reporting of suspicious transactions, designated persons are obliged to report both to the Garda and to the Revenue Commissioners. Section 42 does not in fact change this obligation. The system has worked particularly well. The reporting requirements to the Revenue Commissioners have proved a significant tool in combating tax evasion. I understand that about €40 million in additional taxes has been recovered in cases in which the information in a suspicious transaction report has been significant in bringing a case to the attention of the authorities or to a conclusion. Such reports have also assisted in a number of criminal prosecutions.

Senator Bacik raised a matter regarding section 59 of the Criminal Justice (Theft and Fraud Offences) Act 2001. The number of reports received by the Garda is very low, at approximately 100 annually, compared to a figure of approximately 14,500 annually on suspicious transactions. There is a distinct reportage requirement under this legislation.

Senator Ivana Bacik: I am interested in those figures which tell a story that might be worth pursuing. I accept what the Minister said and do not intend to seek in any way to have the provisions watered down. There is a concern that for too long we have allowed tax evasion offences and white collar crime to be dealt with and tackled in a different manner to theft offences. I accept circumstances have changed, which is good, but in the past the Revenue Commissioners were more inclined to settle with parties, whereas the Garda pursued individuals through the criminal courts. That was the issue underlying my amendment but I take the Minister's point on the reporting requirements specified.

Amendment, by leave, withdrawn.

Section 42 agreed to.

Sections 43 to 54, inclusive, agreed to.

SECTION 55.

Senator Ivana Bacik: I move amendment No. 12:

In page 49, subsection (1), line 24, after “Chapter 3” to insert the following:

“, as the Minister shall prescribe by way of regulation,”.

This amendment arises from an issue I raised on Second Stage on the requirements specified under section 55. I see the Minister has dealt with the issue in amendment No. 13 which spells out in much more detail the particular documents and records required to be retained. I look forward to hearing what he has to say but I wanted to ensure this could be done. I accept there is a provision in the Bill which allows the Minister to make regulations.

Amendment, by leave, withdrawn.

Acting Chairman: As amendments No. 14 is consequential on amendment No. 13, they will be discussed together.

Government amendment No. 13:

In page 49, lines 36 to 45, to delete subsection (4) and substitute the following:

“(4) The documents and other records referred to in subsections (1) to (3) shall be retained by the designated person, at an office or other premises in the State, for a period of not less than 5 years after—

(a) in the case of a record referred to in subsection (1)(a), the date on which the designated person ceases to provide any service to the customer concerned or the date of the last transaction (if any) with the customer, whichever is the later,

(b) in the case of a record referred to in subsection (1)(b), the date on which the correspondent banking relationship concerned ends,

(c) in the case of a record referred to in subsection (3) evidencing the carrying out of a particular transaction by the designated person with, for or on behalf of the customer (other than a record to which paragraph (d) applies), the date on which the particular transaction is completed or discontinued,

(d) in the case of a record referred to in subsection (3) evidencing the carrying out of a particular occasional transaction comprised of a series of transactions, with, for or on behalf of a customer, the date on which the series of transactions is completed or discontinued, or

(e) in the case of a record referred to in subsection (3) evidencing the carrying out of a particular service for or on behalf of the customer (other than a record to which paragraph (c) or (d) applies), the date on which the particular service is completed or discontinued.

(5) Subsection (4)(a) extends to any record that was required to be retained under section 32(9)(a) of the Act of 1994 immediately before the repeal of that provision by this Act.

(6) Subsection (4)(c) to (e) extends to any record that was required to be retained under section 32(9)(b) of the Criminal Justice Act 1994 immediately before the repeal of that provision by this Act and for that purpose—

(a) a reference in subsection (4)(c) to (e) to a record referred to in subsection (3) includes a reference to such a record, and

(b) a reference in subsection (4)(d) to an occasional transaction comprised of a series of transactions includes a reference to a series of transactions referred to in section 32(3)(b) of the Criminal Justice Act 1994.”.

Deputy Dermot Ahern: Following further consideration of these provisions, I have decided to make a number of amendments to the record-keeping provisions, the purpose which is to clarify and amend. Article 30 of the third money laundering directive states records must be kept for at least five years. However, this does not preclude a member state from applying a longer period. The Bill provides for a period of not less than six years and the amendment will change this to five years. Some domestic legislation on record-keeping provides for a period of five years and some for six. I have decided, following further consideration of the matter, that it would be more appropriate to apply a five-year threshold which is being applied in most member states.

The amendments also deal with the time period for which records relating to transactions and services will be kept. It is five years from the date on which the transaction or service is completed or discontinued, whether a business relationship applies. In this respect it is important to note a business relationship is a business, professional or commercial relationship between a person and a customer that the person expects to be ongoing. This is defined in section 24.

There can be relevant transaction and service records for a customer that do not fit these criteria. An example is an occasional transaction, a matter already discussed in amendments Nos. 3 and 5. Subsection (4), paragraphs () and (), provides that records relating to transactions must be kept for five years from the date on which the transaction or series of transactions is completed or discontinued. This means that, whether the transaction takes place in the context of a business relationship or is a once-off or occasional transaction, the period is the same; it is five years from the date on which the transaction or series of transactions is completed or discontinued.

The same principle applies to subsection (4)() with regard to a service. The reason for providing for these separately was touched on in the discussion on amendment No. 6, as there is a difference in the terms. The proposed text of subsections (5) and (6) arises from the fact that section 32 of the Criminal Justice Act 1994 is being repealed in this Bill. As Senators will appreciate, the current money laundering record-keeping requirements are contained in subsection (9) and these provisions will ensure record-keeping requirements will still apply.

Amendment No. 14 changes the subsection references in what is currently known as subsection (5) to reflect the other amendments and the additional subsections involved.

Amendment agreed to.

Government amendment No. 14:

In page 50, subsection (5), line 2, to delete “(1) to (3)” and substitute “(1) to (6)”.

Amendment agreed to.

Section 55, as amended, agreed to.

Sections 56 to 77, inclusive, agreed to.

SECTION 78.

Senator Ivana Bacik: I move amendment No. 15:

In page 58, subsection (1), line 45, after “oath” to insert “or affirmation”.

This is a very simple and straightforward amendment which is not strictly necessary. It simply seeks to insert the words “or affirmation” after “oath”. I know the law allows affirmations as well as oaths and the Minister may say it is not strictly necessary — if I can pre-empt what he will say — by virtue of the Oaths Act 1888 and the Interpretation Act 2005. However, it would be welcome clarification and improvement of the Bill. As a more general principle, the Labour Party has consistently mentioned the need to say, “oath or affirmation.” It would not add very much by way of word count to the text of the legislation but it would present a more inclusive message that persons would not have to swear an oath but may swear an affirmation instead.

Deputy Dermot Ahern: I nearly know the note off by heart at this stage because the Labour Party constantly refers to the issue. The Interpretation Act 2005 already creates the template for the definition of terms commonly used across legislation. This is in preference to changing on a piecemeal basis parts of legislation, leaving one piece with a different definition to another. I cannot accept the amendment.

Senator Ivana Bacik: In that case I practically wrote the Minister’s script. It would be nice in future legislation if the word “affirmation” instead of “oath” was used. That would be a little change.

Amendment, by leave, withdrawn.

Section 78 agreed to.

Sections 79 to 111, inclusive, agreed to.

Senator Ivana Bacik: I move amendment No. 16:

In page 78, subsection (2), line 44, after “purpose,” to insert “as giving rise to civil or criminal liability or”.

We welcome and support section 112, which relates to whistleblowers. However, we are of the view that it is inadequate because it only covers protection against an action for breach of confidence and does not provide an immunity from liability for such disclosures. Amendment No. 16 seeks to rectify what we perceive to be an omission in this regard. The Minister outlined on Committee Stage in the Dáil his view that this amendment is unnecessary. It is our contention that it would assist in stating the position more clearly for potential whistleblowers.

Deputy Dermot Ahern: This amendment was tabled on Committee Stage in the Dáil and proposes to amend section 112, which provides protection to a person who discloses, in good faith, a suspicion relating to possible money laundering or terrorist financing in the circumstances set out in the section. I appreciate that the intention behind the amendment is to ensure that persons acting in good faith will be fully protected. However, we are of the view that it is not required. Civil or criminal liability could not arise unless there is a breach of an enactment or rule of law. The section specifically states that in the circumstances set out it will not constitute such a breach. The inclusion of any express reference to liability is, therefore, not required.

Senator Ivana Bacik: Again, I knew what the Minister would say in respect of this amendment. We are of the opinion it would clarify the position further for potential whistleblowers. However, I will not press the matter at this stage.

Amendment, by leave, withdrawn.

Section 112 agreed to.

Sections 113 to 122, inclusive, agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill reported with amendments.

Deputy Dermot Ahern: As already indicated, I am considering a number of possible amendments for Report Stage. Certain representative groups — such as the Irish Taxation Institute, the Incorporated Law Society and those representing the accountancy profession in general — have raised various issues. We will be examining those issues and returning to deal with them on Report Stage.

Senator Ivana Bacik: I thank the Minister for that and for the fact he has committed to return to a number of my amendments on Report Stage.

Report Stage ordered for Tuesday, 23 March 2009.

Head Shops: Statements (Resumed)

Senator Frances Fitzgerald: I welcome the Minister of State, Deputy Curran, who is a constituency colleague of mine, and I wish him well in the initiatives he is taking in this area. I look forward to hearing what is currently being planned and what is the timeframe relating to the introduction of the various initiatives.

We are continuing a debate which commenced in the House a number of weeks ago. I am sure previous speakers outlined to the Minister of State the concerns of many communities, persons and health professionals about the risks posed to health and welfare by so-called head shops. The seriousness of this issue was brought home to me last week when a those representing a head shop which serves the areas of Lucan and Clondalkin delivered flyers to homes. The flyers to which I refer advertise the home delivery of products on sale at the shop. On the back of the flyer is a menu, which contains the declaration “Not for human consumption”.

Senator Denis O’Donovan: It is like a menu for a Chinese restaurant.

Senator Frances Fitzgerald: It is similar to such a menu. Rather than food, however, it advertises the various products on offer at the shop. It also contains the nonsensical declaration that products will be supplied only to those over 18 years of age and that photo ID will be required. That is a complete farce. Furthermore, the flyer lists information relating to delivery times, delivery charges and the fact the home delivery service applies to all areas of Dublin.

Parents are very concerned about this and I would like to know whether any action can be taken. What issues arise with regard to the distribution of and the information contained in the flyer?

I am sure that, like me, the Minister of State has been contacted by many concerned parents. I received a letter from a woman who lived in Spain at a time when the sale of blocks of cannabis resin through tobacco kiosks was legalised. She explained that the experiment was abandoned after two years as drug dealers undercut the kiosks and offered higher highs. She stated that it has taken Spain years to claw back from the social harm and questions whether it has done so. She expressed concern for her children because of the flyers coming in the door. It is a very particular issue.

The flyer describes a list of products available. People know the meaning of these products and the question of what is in the products and the dangers they may cause is very serious. We received a number of reports from hospitals and my colleague, Senator Buttimer, put on the record what was happening in hospitals in Cork. He mentioned that over one
1 o'clock weekend five young people were examined in the Mercy University Hospital following adverse reactions to legal highs. The risks to young people posed by these shops are very serious. Doctors from accident and emergency units in Dublin and elsewhere have discussed the health effects of some of these products.

Flyers being delivered to homes raises issues about the availability of and access to these products. It heightens the concerns of parents particularly. It seems to be as easy to order products from these shops as it is to order a takeaway pizza. I have a number of questions on which everybody wants further information and clarity. What is the timeframe for the legislation to restrict the sale of these products? Does the Minister of State believe it can be done? What element of cross-departmental work is being done to pull together the various elements of addressing this issue? Issues are raised on planning, health, education and safety. Will the Minister of State provide an update to the House on the work being done to address the availability of these products at EU level? How does Ireland compare at present? What does the Minister of State consider will be the type of controls we will be able to put in place? Does the Government intend to work with local authorities to provide planning regulations to restrict the opening of these shops, limit where they can locate and restrict their trading hours? My colleague in the Dáil, Deputy Reilly, suggest that the Finance Bill might be used in an approach to license these shops, with a very high licensing bar put on them. He wondered whether this would be feasible to discourage the opening of more of these premises.

Issues are also raised for the Department of Education and Science. Teachers get very concerned when we ask schools to do even more but it is clear that schools are already very concerned about the use of drugs and alcohol and students presenting under the influence of these products in various ways. This is another issue in which there is a role for the Department of Education and Science.

It would be helpful for us to know about the actual health impact of what is being sold. How much data does the Minister of State have on this at present? Is there enough data available on it? There is much speculation and discussion on the products and what is in them and we have heard medical evidence that they have effects, but do we have much data available at either an EU level or in Ireland? Is the Garda Síochána clear that the products being sold are legal?

To deal with the issue, a multifaceted approach is needed. I do not think a vigilante approach is the right one but communities are concerned and have expressed their views on the establishment of these shops. The best way for the Government to act is to ensure all relevant stakeholders, namely, the Garda, health professionals, educationalists, the Government, local authorities, business communities and communities themselves are brought together, understand the approach, and are clear about the threats, what can be done and what the Government is doing to manage the issue. The availability of premises to open such businesses is also a factor.

[Senator Frances Fitzgerald.]

Is it possible for the legislation to be brought forward? Is the Minister of State confident it will come through in June? Will he outline his response to the other issues I raised which impact on this matter? If we see action in planning, licensing, education and justice, the anxieties people have can be reduced. Will the Minister of State also address the matter of the flyers being distributed? Is it possible to do something about them or are the people involved cleverly getting around the law as they did in establishing the shops? I look forward to hearing what the Minister of State has to say about the Government's progress in tackling this very current issue.

Senator Denis O'Donovan: I welcome the Minister of State to the House. I do not have a prepared script but I have a significant interest in this area. I encourage the Minister of State to tackle this appalling vista as soon as possible. I do not know where we are going in our lives. I felt like quoting something from Thackeray but I thought I would bore the House. There seems to be a phenomenon about getting high and getting over those highs. We also read much about threats to the head shops and a number of arson attacks have taken place, including two in Dublin. One wonders whether these are the work of concerned citizens or irreputable drug dealers who see the shops as eating into their ill-gotten gains. As a parent it is of concern that these head shops have sprung up almost unnoticed throughout the country. As far as I am aware, in my constituency of Cork South-West, which is remote although I know we have made a name for the importation of large quantities of drugs off our coastline, four or five of them have opened in towns.

Recently, I came across a constituent who, because business had gone quiet, closed a particular office and wanted to let out the premises to a legitimate small retail unit. Lo and behold he had to deal with all types of planning and restrictions and the Valuation Office re-rated the property even though very few changes were made, perhaps just a new front window and internal alterations. Is it appropriate that people selling hallucinogens or drugs of any description in chemical format can obtain permission for planning or change of use without any application? Do the enforcement sections of local authorities, be they the urban councils of old, county councils or city corporations, have any input on such properties or licensing? Is it possible to impose stricter controls on these? I am sure a person opening a chemist's shop would have to deal with regulations from the pharmaceutical industry and the profession on such shops being opened.

Recently in Limerick, and I do not doubt the rights or wrongs of the issue, a large public debate took place about somebody who opened a shebeen. It also happened in Donegal. Those responsible were brought to court for selling intoxicating liquor. Based on my life to date, the highs, or lows, experienced from imbibing a few drinks would not match the alleged intensity of hallucinogenic drugs taken primarily by young people who are the target market. Home distilleries for brewing the mountain dew, poitín, are like the dodo, nearly extinct. There are laws to deal with such activities.

I note the strong views of the Minister of State, Deputy Curran, who has responsibility for the area. He has expressed, in the House and outside of it, his deep and serious concerns on head shops. We should use a more appropriate name. The name head shop brings to mind a head massage or psychotherapy to clear one's thought processes. I do not welcome such outlets under any guise. The Minister of State explained previously that if one bans 25 types of drug or chemical components, within a year or two the drugs reappear under a different name with a slightly different composition. Given the situation, it is impossible to play catch-up. To use a fishing analogy, the approach to take would be to throw one's trawl deep enough and wide

enough so that such shops should be licensed and require proper planning. They should not be allowed at all. Unfortunately, for various reasons, many in society need to go to pharmacists and doctors for drugs, perhaps to come down from a high.

I record my deep concern about the situation that exists which is uncontrolled and unregulated. It is about time the Minister of State grasped the nettle to deal with these atrocious outlets that drive primarily young people, many of whom are teenagers, around the bend. It is a concern for parents and we should tackle it with the greatest vigour. I have no doubt the Minister of State will do that. I have great faith in his ability to deal with the matter and his desire to tackle it head on.

An Leas-Chathaoirleach: Before I call Senator Glynn, I welcome my cousins, Pauline and Joe Kerins, to the Gallery. They are in the company of Senator Norris.

Senator Camillus Glynn: Ba mhaith liom fáilte a chuir roimh an Aire go dtí an Teach agus comhghairdeas a ghabháil leis as ucht an dea-obair atá déanta aige mar gheall ar an ábhar seo. I welcome the Minister of State, Deputy Curran. I thank my colleagues for the frank and open manner in which they have given their views pertaining to this important matter. We need many things in society but head shops are not one of them. In fact, we need them like a hole in the head because that is precisely what they are.

I have a menu in my possession that was given to me by a friend. It is not dissimilar to the one displayed by Senator Fitzgerald. Delivery services are on offer for a fee. There is another name for head shops. They are called “dealers in death” because, ultimately, that is where they lead. I am someone who has spent many years working in the psychiatric services dealing with people with addictions. Often one finds that people who become addicted to illicit substances end up dead, in some cases through taking an overdose or in other cases by their own hand.

There are two head shops in Mullingar. Soft drugs are displayed in them. They are gateway drugs in the same way as cannabis and marijuana lead to the taking of harder drugs such as cocaine, opium and heroin. There is a great antipathy on the part of local people towards such establishments, hence the attacks that have taken place. I believe a shop was attacked last night.

I compliment the Minister of State who has responsibility for this area on the strong and proactive manner in which he has dealt with the matter to date. In fairness to him, he has to deal with it in a legislative void. It is incumbent on both Houses of the Oireachtas to address the matter. As a Member of this House I wish to add my tuppence worth to assist the Minister of State in drawing up legislation. I exhort him, as others have done, to bring legislation forward sooner rather than later. Yesterday would be too soon.

I referred to the great antipathy on the part of local communities towards such establishments. A number of them have been attacked, including one last night. That indicates the ordinary Mary and Joe Citizen, who in the main are law-abiding people, are frustrated because they recognise the potential dangers of those establishments to young people who are our future.

Head shops are sending out flyers in large urban areas. On the flyers the words “Over-18s only” is written in very small writing. When I was in a taxi recently the taxi driver told me he saw two boys aged approximately 12 exiting one of those shops at an hour of the night when they should have been at home. That begs the question of where their parents were. It is a matter of parental control. Children are controlling their parents very well.

I am prepared for the House to sit until any hour of the night — as I am sure would every other Member — to pass the necessary legislation to put these establishments in a position

[Senator Camillus Glynn.]

where they ought to be — out of business. We must examine the implications of head shops and what they do. I have seen the results and they are not a pretty sight. The view is peddled by the proprietors that they are only harmless substances. Like hell they are. I raised on the Order of Business a report in a national newspaper of a boy of 12 or 13 years of age who was so disorientated after consuming one of these substances that contact had to be made with his mother. He did not know how to get home. That does not fit with the type of harmless substance the owners of head shops claim to sell.

Let us consider the financial implications. A considerable amount of money is being made by such shops. I have heard of a shop in a certain part of the country where the VAT returns amount to several thousand euro in a week. That speaks volumes. We owe it to our society and to our youth in particular to step into the breach and do whatever must be done to take appropriate actions that will meet this challenge head on. This is not a matter for other people as Members must do something about it. The Minister of State has indicated that he is doing something in this regard and he has my full support. The problem with making a contribution at this stage of the debate is that most of what I would like to say already has been said and I will not be repetitive. I again welcome the Minister of State to the House. May the good God strengthen his arm and the resolve of all Members to assist him in meeting this challenge head on. I wish the Minister of State well in his endeavours.

Senator Nicky McFadden: I welcome the Minister of State to the House and thank him for his keen interest in this matter. I believe he has adopted a hands-on approach and is highly attuned to this serious issue. I raised this issue in the House approximately two years ago. I recounted how a mother had told me that her 14-year-old son had been about to take his own life in the River Shannon when she, for a reason she cannot explain to this day, decided to ring him. While this is the reason he is still alive, he ended up in intensive care in Portiuncula Hospital, Ballinasloe, and it took him months to recover from the induced psychosis arising from the substances with which he had tampered from such head shops. I am sure other Members can identify with me when I note that other parents of youngsters have approached me about this issue subsequently.

A number of such head shops operate in the Mullingar and Athlone areas. It is something of a myth to suggest this phenomenon is Dublin-based, as head shops exist throughout the country. As Senator Glynn has correctly observed, it is a huge revenue-generating business. Consequently, a double standard is in operation whereby the Government is prepared to take money from shops that Members simultaneously are castigating. This issue probably should be addressed, if possible. A disturbing feature is that head shops now remain open late into the night. They wait until after the closure of nightclubs and perform delivery services. I wonder whether it would be possible to use the planning laws to close them down. Another frightening fact is that scientific developments have enabled the manufacture of products which replicate heroin and cocaine. Although the packages in which such substances are sold are marked “unfit for human consumption”, the vendors are getting away with it. Legislation should be put in place on this issue as a matter of extreme urgency. I believe that regulation is insufficient and that head shops should be closed down. They sell paraphernalia such as pipes and all sorts of equipment that can be used to smoke or inject illegal substances. Moreover, such products are being blatantly advertised in the head shop windows. Gardaí are wringing their hands in absolute frustration. They have expressed to me their frustration regarding the devastation such head shops are causing. One must wake up and acknowledge this blatantly is going on and, in the Athlone area at least, has been going on for years.

Another issue concerns the present vigilantism in respect of head shops. I notice the arson attacks on head shops in Dublin in which premises were burned down. Only yesterday in Athlone, the entire main street was closed down because two incendiary devices were placed outside head shops. This is a highly worrying trend because it appears as though the public now are beginning to take the law into their own hands. Alternatively, as a colleague noted in the House last week, drug barons may be responsible. The latter are losing their position because rather than going to drug pushers to get heroin and cocaine, young people are availing of the substances stocked in head shops. I believe such people are responsible. Moreover, the incendiary devices found in Athlone yesterday were not hoaxes but were life-threatening mechanisms and it was lucky that no one was killed. As for the siege-like conditions in Athlone yesterday, the question is whether drug barons or concerned people were responsible. I assume the former. Yesterday, I appealed to the people of my local area not to take the law into their own hands but to leave the issue to the legislation and to the Garda. This is the reason I believe it is incumbent on the Minister of State to urgently put in place legislation that will ban these people once and for all and will put them out of business.

I have nothing further to add except to thank the Minister of State for his concern and for the time he has spent in meeting people who are down on their luck, as some people think there is nowhere to turn, except to such substances. I appreciate the Minister of State's concern and involvement with those who are down on their luck.

Senator Feargal Quinn: It has been interesting to listen to the contributions of Senators McFadden and Glynn, and events in Sligo last night clearly are of great concern. I must admit that as I did not know a great deal about head shops, I have investigated the subject to learn something. I apologise if I stick to some of the information about which I had no personal experience. For example, I have just learned about legal highs. I gather that since studying the issue, the Minister of State now knows a lot more than did he or any Member previously. Salvia is the name of one product that causes hallucinations and which often is on sale as "potpourri". Possession and sale of salvia has been banned in various countries, including Australia, Belgium, Denmark, Italy and Sweden. A person needs a doctor's prescription to use it in Estonia, Finland, Iceland and Norway, while Spain and Russia also ban its sale. Another substance, JWH, is an active ingredient that is considered addictive and has been banned in at least four European countries, namely, Germany, Austria, Netherlands and Switzerland. Another substance is mephedrone, also known as "bubbles" or "meow meow". The substance is often advertised as plant food or bath salts, which surprised me. The drug, which comes in powder or pill form, is banned in Norway, Finland, Denmark, Israel and Sweden and is restricted in both the United States and Germany. Doves, which are pills that according to experts contain certain properties that are similar to ecstasy, are packaged as plant food — I did not understand the reason but do now — and are advertised as encouraging healthy growth and strong root development. Moreover, Dr. John P. Thompson, who is a clinical pharmacologist at the University Hospital of Wales, Cardiff, has stated that doves are in the same family of drugs as ecstasy.

We are dealing with a situation in which there is a lack of scientific research into the effect of such so-called legal highs. However, it is known that the results of taking such drugs are often unpredictable and there have been a number of deaths linked to drugs bought in head shops. Such drugs are often taken in conjunction with alcohol, which increases the risk of serious harm. There is an argument to the effect that such drugs are merely drug substitutes but by that logic, the Government should ban cough syrups, glues and other material which

[Senator Feargal Quinn.]

could be used as drug substitutes. Consequently, I am unsure how this problem should be solved or resolved.

However, the effect of such drugs has been increasingly apparent in recent months. I read of a story from Scotland in which the police have issued a warning about the use of legal highs following the death of a woman in Dunfermline. The 49 year old is thought to have died after taking mephedrone, which also is known as “bubbles”. The drug has also been linked to two deaths in Sweden and a number of other deaths in Europe. Amazingly, the substance is often advertised as plant food or bath salts. As I noted, the drug, which comes in powder or pill form, is banned or restricted in Norway, Finland, Denmark, Israel, Sweden, the United States and Germany. A group of Scottish psychiatrists has called for a ban on mephedrone because, according to them, it can cause hallucinations and psychosis. After researching some of its effects, they believe that mephedrone has the potential to cause similar physical and psychiatric complications as illegal drugs. In their opinion, there is an urgent need for the UK Government’s legislation to reclassify mephedrone as an illegal substance. Their findings should be taken on board.

It is interesting that Cyprus is discussing a ban on so-called legal highs. A proposal is due to be approved to ban six of the most common active ingredients in so-called legal highs being sold there. When we legislate on these legal highs, a mechanism to counter these drugs, if they are dangerous, will be strongly required. Part of the purpose of the current initiative in Cyprus, according to the director of its State General Laboratory, is to put in place a rapid mechanism whereby new active ingredients can be banned so as to protect the island’s youth and make things difficult for suppliers. The more I read on this matter, the more I discover how difficult it will be to handle. I do not envy the Minister of State’s responsibility for finding a way around it. The Cypriot health Minister has stated that active ingredients in legal highs analysed by Cyprus’s state laboratories will be added to the list of banned substances.

We must remember that one of the greatest legislative problems we face in dealing with the relatively new prevalence of legal highs is that, once one range of substances is legislated against, producers simply introduce a new range of substances with different ingredients. We need a mechanism through which it does not take months or years to examine new active ingredients. They should be analysed quickly in an attempt to stay one step ahead of the supplier. Otherwise, the supplier will move on.

We must also consider whether a ban will work. Last December, the UK banned a number of mind-altering drugs as a result of health fears. I am a little afraid to give any names out, as they could be of help to someone, but some substances, including GBL and BZP, became class C drugs, with a possible two-year jail sentence for possession. However, a BBC investigation in January found that many such drugs are still readily available in shops across the UK. They have a tendency to change name, a clever move, or move under the counter. A ban will not be a fix-all. It must also be remembered that, when magic mushrooms were banned in 2006, it reportedly resulted in users moving on to other substances.

A new legal high posing problems in the US is called K2. It is also referred to as JWH-018, “fake weed” and “spice”. It is a new substance, smoked as a recreational drug, that claims to be marijuana-esque but poses more serious health concerns from seizures to life-threatening hallucinations and cardiovascular effects. The states of Kansas and Missouri are already moving to outlaw K2. This case demonstrates how quickly new drugs are pushed onto the market. Will K2 become available in Ireland or is it already available by another name and will we be debating its banning in the coming months? Will we then be discussing K3, K4 and K5? I imagine this is what the drug pushers will do. It is not an easy task to monitor the situation.

I noticed a story from San Francisco whereby a local community was worried about head shops. Of particular concern was a shop selling drugs paraphernalia, an issue mentioned by Senator McFadden, that could be used for illegal drugs. What are drugs paraphernalia? They include hand-held scales that could be used for weighing illegal drugs. We must examine this aspect as well. I do not know whether such paraphernalia are being sold in Ireland, but I would not be surprised. I would be against them being sold, as there is a real danger that they may encourage people to move on to harder or more hazardous drugs.

We must also take action against those head shops that are reportedly staying open until 4 a.m. I gather that the Dublin head shop referred to has a hatch through which one can be served. This does not seem to be logical, given that off-licences have much stricter rules on opening hours. Along with pubs, they must close earlier than 4 a.m. If we are to tackle this problem, I welcome the moves to introduce strict regulations and licensing laws for the premises of head shops as opposed to depending solely on banning the products they sell. However, there is no easy answer.

This debate is necessary and I am glad we have discussed the matter over two days. There are some obvious active ingredients in such drugs that must be banned. They can be banned quickly and will be banned shortly because they pose a real risk to health. However, we cannot let the situation be purely political and turn into a banning frenzy. I have touched on some of the difficulties in this regard. We need sound scientific evidence. Britain has just launched the Independent Scientific Committee on Drugs, ISCD. One of its first priorities will be to investigate legal highs. Such evidence must be heeded so that our decisions are made rationally and are not unduly influenced by the current media frenzy.

I am pleased this matter is getting attention, as there are reasons for that being the case. Many citizens, not just parents, are concerned about what is occurring. I am pleased the Minister of State is showing such an interest and that he and his team are taking this issue to heart. I am not sure what the answer is, but I wish him every success.

Minister of State at the Departments of Community, Rural and Gaeltacht Affairs, Education and Science and Justice, Equality and Law Reform (Deputy John Curran): I welcome the opportunity to speak on this motion. I thank all Members who have spoken on the matter today and on 3 February and I acknowledge the work of the Seanad in pursuing this important and immediate issue and for adopting a broadly unanimous stance.

Without going through the debate in great detail, I divided the contributions into two clear halves, namely, those who demonstrated the ill effects caused by the products sold and those who posed a range of possible solutions for dealing with the problem. As was abundantly clear, everyone acknowledged there is no simple answer. Reducing the risk and minimising the harm posed by head shops and the range of products they sell will require a number of initiatives.

I have voiced my concerns regarding the activities of head shops and substances represented as legal highs numerous times since my appointment as Minister of State. My concerns about the new psychoactive substances head shops sell centre primarily on the potential health hazards arising from the use of these products and the possibility that their use may act as a gateway to illicit drugs. In light of the banning of a number of substances and groups of substances in the UK last December, I have concerns around the possibility of Ireland becoming a “dumping ground” for some of its banned products.

The problem of legal highs is not unique to Ireland and head shops are causing concern across Europe. A number of countries, including the UK, have taken action, each taking its

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own approach to the matter in line with its laws and experiences. However, no EU member state has come up with a comprehensive response thus far.

As outlined in the previous debate by my colleague, the Minister for Health and Children, Deputy Harney, the importation, exportation, production, supply and possession of a range of named narcotic drugs and psychotropic substances are regulated and controlled under the Misuse of Drugs Acts. Substances sold in head shops are not scheduled under this legislation. However, the Minister, who has overall responsibility for the Acts, has confirmed that her Department is finalising regulations to introduce controls on a range of substances. These regulations will make the possession and sale of the substances illegal and subject to criminal sanctions. In preparing the required regulations, officials of the Department of Health and Children are consulting the relevant authorities to ensure any legitimate uses of the substances involved are not impinged upon.

Meanwhile, the Government has approved the commencement of a required notification process to the EU. It is envisaged that the regulations controlling the various substances will come into effect in June at the conclusion of that three-month process. I should point out that a number of the products being added to the controlled list under the Acts have legitimate commercial and industrial uses. While they will be banned for some uses on the one hand, they will be licensed and regulated on the other. It is not by choice that we will be giving three months notice to Europe. Rather, it is an absolute legal obligation on us that focuses primarily on a restriction on trade in respect of which there are a number of EU directives. We gave our mandatory notice and the ban on the range of products referred to will come into effect in June, the end of the three-month period.

I have also had correspondence with the Attorney General about other possible approaches to the matter. Associated with this, I have raised issues around public liability insurance, product liability insurance and consumer protection with the Tánaiste and Minister for Enterprise, Trade and Employment, as well as planning issues with the Minister for the Environment, Heritage and Local Government. The matters involved are being considered by their Departments and I expect to have their reactions shortly.

Meanwhile, I have asked the national advisory committee on drugs to carry out some research in the area of the psychoactive substances sold in head shops. The research advisory group established to oversee this research will report to me regularly and I have already received its first two such reports and these have proved very useful in informing our overall approach to the issue.

The specific identification of the issue of the proliferation of head shops and the availability of so-called legal highs in the National Drugs Strategy 2009-2016 reflects my concerns in this issue. Head shops have received considerable attention in recent months. The national drugs strategy was published and launched by the Taoiseach in September 2009. In the consultation period in the run-up to its publication, we became aware of the emergence of head shops and specific actions in the strategy reflect that awareness. Work on those actions has commenced. Senator Quinn referred to the fact that a group is being established in the United Kingdom. We already have a national advisory committee on drugs and it has a research advisory group which is actively working. This is not something we are going to do. In some senses, we have progressed in this regard.

Two actions of the strategy deal with head shops and legal highs. One is action 14: monitoring the activities of head shops and all businesses involved in the sale of psychoactive substances, with the objective of ensuring no illegal activity is undertaken and taking appropriate steps to

reform legislation in this area where it is deemed to be appropriate. The other is action 15: keeping drugs related legislation under continual review, with particular focus on new synthetic substances and new or changed uses of psychoactive substances, against the background of EU and broader international experience and best practice. I am determined these and all other actions of the strategy will be implemented.

As also provided for under the new strategy, I held a number of meetings with the Ministers for Health and Children, Justice, Equality and Law Reform and Education and Science in recent months. I have also met the Garda Commissioner and senior officials of various Departments and offices. Head shops and the sale of legal highs were discussed at many of these meetings and various possibilities for addressing the activities of head shops were considered. Meanwhile, the activities of head shops are being monitored on an ongoing basis by the Garda Síochána and Revenue's customs service with a view to ensuring no substances that are currently illegal are being sold.

We all see the harm caused by drug misuse to individuals, their families and their communities. This harm manifests itself in many ways, through negative health, socioeconomic impacts and crime, such as the intimidation and violence often orchestrated and perpetrated by those supplying drugs in our communities. Head shops and legal highs might be regarded as a relatively new aspect of the ever-evolving issue of substance misuse in our society and I am determined to tackle it as such.

The decision to control new psychoactive substances under the misuse of drugs legislation should be welcomed, but it should be noted that this is a first step in tackling this problem. I assure the House that I and my Government colleagues are fully committed to pursuing appropriate responses to counter the potential threats posed by head shops and legal highs.

The range of substances, the scheduling of which will become effective in June, includes synthetic cannabinoids and benzylpiperazine, BZP, derivatives. BZP is already banned but its derivatives, in particular mephedrone, methylone and related cathinones, will be scheduled. That range seems to be particularly problematic. Brand names to be scheduled include Spice, which is a synthetic cannabinoid, and Charge, White Ice and Snow Blow, from mephedrone. Senator Quinn mentioned the ban on mephedrone in Germany. The ban in that country is for one year only. Ours will be a substantial measure. With regard to mephedrone, which is one of the more problematic substances, we have gone much further than other European countries. We are not playing catch-up in this regard.

Senator Quinn made the point that we ban a number of items but we are not sure what happens next. That is why we have a national advisory committee on drugs and a research advisory group. They look at what is coming on the market and identify the chemical components of new products. We can only ban a substance when we know its detrimental health effects. When a substance comes on the market, we identify it and deal with it. We have put structures in place to do this.

Senator Quinn also referred to a product which is banned in the United Kingdom and is still available in this country. I have had discussions with the Garda Commissioner on this. As we bring forward legislation and add new products to the range of controlled substances, the Garda Commissioner is capable, willing and able to enforce it. Sample products are tested continually to ensure the law, as we pass and amend it, is implemented in full.

While the issue of head shops has received much debate, Senator Frances Fitzgerald referred to home deliveries. Not all products are bought through head shops. There are also home deliveries and Internet sales. While we might consider planning legislation and other issues, the primary concern is the product being sold. While one might stop the sale of a product in a

[Deputy John Curran.]

particular premises, if it has a negative health effect, we must deal with it under the misuse of drugs legislation. I have also met Customs and Excise officials to ensure they have the capacity to deal with the new range of products coming through the post.

A number of Senators spoke about the possibility of planning and licensing. The primary planning issue is that a head shop is no different from a newsagents. If a premises has retail planning permission, there is no specific requirement for head shop planning. I am looking at this issue but at present a head shop business can move into any existing retail premises. A number of years ago we changed planning legislation for the retail sale of alcohol. An off-licence now requires specific planning permission.

A number of speakers raised the issue of the licensing and control of head shops. We have anecdotal evidence from those who work in drugs clinics and accident and emergency departments about the effects of drugs on people who present. We also have good scientific evidence and advice from Dr. Des Corrigan and the national advisory committee on drugs. They are specifically tasked to monitor and advise me on the detrimental health effects of substances. I think Senator McFadden is closer to my view than to that of Deputy James Reilly. She referred to using the Finance Bill to impose a high licence fee. Dr. Corrigan made the point that the range of products we are about to ban could never be licensed because their negative health effects are too great. They would be more detrimental than other products which are already banned.

The current situation is evolving and while we are looking at issues of planning, product liability and other initiatives, our primary concern is to identify the chemical components, assess their detrimental or negative health effects and use the misuse of drugs legislation. We must bear in mind that closing down a head shop does not necessarily reduce supply because home deliveries from warehouses and the Internet are also available.

This is a complex issue and I am determined to tackle it head on. It is not unique to Ireland. We are looking at best international practice and sharing ideas. The ban which will become effective in June will remove the first tranche of serious products which we know are having detrimental health effects.

I must emphasise two aspects of the health issue. First, the long-term use of psychoactive substances seems to be causing a range of mental health issues for people. Second, we should not forget that taking any of these substances on a single occasion can also cause health problems because they affect the user in different ways. They can cause increased heart rate and raised blood pressure or hallucinations. A person who is hallucinating is at risk of causing an accident to him or herself. It could be an immediate health effect or a long-term use health effect. Health effects can be put in two categories. This is a summary of the range of issues we are trying to address. This is a complex issue. Neither I, nor the officials in my office have infinite wisdom in this regard and we constantly examine best practice and what is happening internationally. We are open to ideas from Members of both Houses and relevant committees on how to tackle it. It is an evolving issue and we need to deal with it on a number of fronts. I thank members for their contributions to the debate on both days.

An Leas-Chathaoirleach: There is no provision for further debate but I will allow Senator Glynn to ask a question.

Senator Camillus Glynn: The Minister of State mentioned drugs sent in the post. Some years ago, when I was spokesperson on health and children, I published a report on the harmful effects on society of pharmaceuticals. One of the issues raised was the ordering of drugs on-

line, to which the Minister of State referred briefly. I would like him to elaborate because this problem must be tackled in a serious way.

Senator Nicky McFadden: I referred to the revenue generated for the Exchequer by head shops and the fact that many people were employed in them. Will the Minister of State comment on how this issue can be addressed? I acknowledge it is complex.

Athlone Drug Awareness is holding a public meeting tonight. I agree with the Minister of State that the drug awareness groups and drug task forces are doing excellent work.

Deputy John Curran: Senator Glynn referred to products sent in the post. There are two distinctions. I am not dealing with medicinal products, but products sold as plant food and so on which are obviously not intended for human consumption will be added to the controlled list and made illegal. I met Customs officials to ensure they would be able to intercept these products in the postal system and take appropriate steps.

Senator McFadden raised the complex revenue issue. Until something is declared illegal, it can be sold and the normal tax liabilities apply. It is only after we declare a product illegal that we can take action. This is the dilemma in saying we will not take revenue and the shops can sell what they want, while, at the same time, the product is not illegal *per se* but we have gone after it.

Education and awareness are hugely important. While we address head shops and their products and try to reduce supply, it is equally important that we increase people's education and awareness of the dangers. The HSE is working on an education campaign. If we did no more than encourage young people to be aware that just because these products are currently legal, they are not safe, it would be positive. There are no guarantees with them. Task forces, youth projects and educators have a significant role to play in getting across this message because the perception of these products is as they can be bought in a retail premises, therefore, they must be legal and safe. They are not regulated or safe; because something is not illegal does not necessarily mean it is safe. It is hugely important to get this message across.

The drugs strategy has always been based on five pillars. We have addressed supply reduction, but if we are to radically address the drugs problem over a generation, it will only be done through education, increasing awareness and empowering young people to know the difference. When I visit classrooms, particularly those with junior and leaving certificate students, I often refer to the fact that in ten years or more they will be the parents of the next generation. This comes around quickly. We need to make people aware and change attitudes.

An Leas-Chathaoirleach: When is it proposed to sit again?

Senator Camillus Glynn: At 2.30 p.m. on Tuesday, 23 March 2010.

Adjournment Matters.

Pension Provisions

Senator John Paul Phelan: I welcome the Minister of State. This matter relates to last week's announcement by the Government of the pensions framework for the future. Everybody acknowledges that the State faces a significant liability in pension provision. However, I was contacted by a constituent who represented a number of others in a similar position. He highlighted that his pension agreement provided for a reduction in his occupational pension from

[Senator John Paul Phelan.]

his private sector employer when he turned 65 years because he would then be eligible for the traditional State contributory pension. As a result of the Government's announcement that pension age will increase to 68 years, for these individuals it will mean that between the ages of 65 and 66 years they will experience a significant shortfall in their pensions, as they will only be entitled to €107 per week. Has the Government examined this potential anomaly if pension age is to be increased to between 66 and 68 years? The means test will also affect many people like my constituent. This man's wife is employed part time. Therefore, if a supplementary payment is made during the 12 months he is without a full pension and it is means-tested, that will have a serious knock-on effect for him.

I will reserve a number of questions until the Minister of State has replied. Perhaps there is a straightforward answer and the Government has foreseen his loophole. If not, I will have further questions.

Minister of State at the Departments of Community, Rural and Gaeltacht Affairs, Education and Science and Justice, Equality and Law Reform (Deputy John Curran): I am taking this matter on behalf of the Minister for Social and Family Affairs.

The national pensions framework which was launched on 3 March sets out the Government's intention for a radical and wide-scale reform of the pensions system. The framework contains a new approach to pensions policy which will allow Ireland to meet the challenges of an ageing society and a reducing workforce. The framework is our plan for future pensions reform and encompasses all aspects of pensions from social welfare to private occupational pensions and public sector pensions reform.

In developing the framework we were informed by the range of views expressed during the comprehensive consultation process that followed publication of the Green Paper on pensions. The aim of the framework is to deliver security, equity, choice and clarity for the individual, the employer and the State. It also aims to increase pensions coverage, particularly among low to middle income groups and to ensure State support for pensions is equitable and sustainable. It is set in a context in which people are living longer and the cost of financing pensions is falling to a diminishing share of the population.

There are currently six workers for every pensioner and by 2050 this ratio is expected to have decreased dramatically to only 2:1. The task of financing increasing pension spending will therefore fall to a diminishing share of the population. If we want to be in a position to maintain the value of the State pension at 35% of average earnings, it is necessary to increase the State pension age.

At present the contributory State pension is paid at the age of 66. A minority of people qualify for a transition State pension at the age of 65. From 2014, age 66 will be the standard for everyone. The qualifying age for the State pension will also be increased to 67 years of age in 2021 and 68 years of age in 2028. The changes relating to State pension announced in the framework will also enable people to work longer and receive an actuarially increased benefit or lump sum or to make up any shortfalls in their contribution record, thereby allowing them to receive additional benefits at a later date. Even with the changes to the State pension, State expenditure on pensions is still expected to increase dramatically. These changes will just help to keep the increase at a manageable level.

Average life expectancy is set to rise even further in the future, up to 89 years for women and 83 years for men. People will still, therefore, be spending at least the same amount of time in retirement as they are today, even though with a later State pension age.

The majority of people covered by Irish defined benefit occupational pension schemes are members of schemes which integrate with the contributory State pension. An integrated scheme is one where the pension payable takes into account the contributory State pension and looks at the State pension as part of the pension package promised to employees on retirement. There is a linkage, therefore, between the date on which retirement benefits are paid from the scheme and the date on which the contributory State pension is payable.

Where an occupational pension scheme provides for retirement before the date on which the State pension is payable, the scheme may, in addition to the pension payment due from the scheme, pay a supplementary or bridging pension in respect of that part of the pension which would equate to the appropriate rate of contributory State pension payable up to the date specified in the scheme rules. It is acknowledged that the changes to the date for eligibility for a contributory State pension will have an impact on these schemes. A person can apply for another social welfare payment in any intervening period between the termination of the supplementary or bridging pension and the commencement of the contributory State pension. It is also important that a person who retires before the age on which the State pension is paid would continue to maintain his or her social insurance record either through employment, by making voluntary social insurance contributions or by securing credited contributions so that his or her State pension entitlement is optimised.

Senator John Paul Phelan: While I welcome most of what the Minister of State said, a difficulty that arises is that the individual concerned had an agreed contract with his former employers who provided major employment in Waterford city in the south eastern region but who are now no longer in existence. The possibility that the scheme, of which this individual is a member, would pay a supplementary bridging pension does not and will not arise for him.

While I welcome that the Minister of State indicated in the last paragraph of his reply that a person can apply for another social welfare payment in the intervening period, that is not a good enough answer. I acknowledge that the Minister of State is not the Minister responsible for this Department but if this pension framework is to work, that line must be much stronger and there must be a firm commitment from the Department of Social and Family Affairs that a mechanism will be put in place for the very small number of people who will find themselves in this position with potentially devastating consequences in terms of their household income. The income of the individual to whom I refer will fall to €100 a week and there is also the question of the introduction of means-testing to which his wife's part-time job might be subject. The Minister of State said that: "A person can apply for another social welfare payment in any intervening period". I want him to convey to the Department of Social and Family Affairs that this provision needs to be firmed up and clarified if the pension framework is to work. I do not have a problem with the pension framework. The pension time-bomb has been referred to in this House and most people acknowledge it. However, for the specific people in occupational pension schemes of businesses that are not in a position to top up those schemes and to give those people that extra allowance for the 12 or 24-month period, the position of the Department of Social and Family Affairs must be clear in terms of ensuring that top-up is made.

Deputy John Curran: I acknowledge the points raised by the Senator and will relay them to the Minister. If one tries to moderate or vary a scheme in any way, a concern and caution is that anomalies can be created, but I take the Senator's point. He appreciated the point about welfare payments and so forth. While the broad framework of the scheme has been published, an implementation group will go through the finer detail in the coming years. I will refer the Senator's points to the Minister.

Export Trade

Senator Feargal Quinn: I know this issue is not the Minister of State's area of responsibility but it is a matter of concern and is worth expressing. The law that relates to this matter is called HR1 and was enacted in 2007 as part of the United States response to the attacks of 11 September 2001. It means that all containers bound for the United States will have to be scanned at the port of exit, for instance, in ports in Ireland. The 100% scanning policy is based on the scenario that terrorists might try to smuggle a weapon of mass destruction into the United States inside a shipping container. However, the US law does not require containers on ships leaving the United States bound for Ireland or the European Union to be scanned in the same way, and this is understandable.

While it is understandable that the United States wants to protect itself and enhance its own security, the law will have a massive impact on business worldwide, including on businesses in Ireland. The policy entails the installation of 2,100 scanners worldwide at a cost of \$8 million each. Interviews conducted by European Commission showed that neither terminal operators nor customs authorities are ready to bear these costs. The cost of sending a container to the United States would rise by a massive amount, by about 10%.

Irish ports are not ready to introduce all this scanning and other necessary equipment and it is probably fair to say that currently we do not have the money to do so. It could cost of tens of millions of euro to do so at each port and this could result in a massive backlog of containers in Ireland bound for the United States. This would create a huge break in trade and severely affect our economy. There would be longer shipping times and the Irish taxpayer might have to foot a large part of the bill to implement the United States requirement.

The European Union anticipates that for the smaller or older ports in Ireland, the costs would be so high that it may not longer be financially viable for them to continue shipping to the United States. It must be remembered that the 100% container scanning law is an extra-territorial and unilateral measure by the United States which will, in effect, supersede any Irish or European legislation. Legislation and control measures laid down by Ireland and the EU will be usurped by those of a third country.

The European Commission published three new external impact studies on 17 February on the 100% container scanning law. The three studies predict higher costs without ensuring any greater security. The conclusion of the report is that the 100% mandate is the wrong course for the global supply chain. The first study estimates the investment required in the European Union to bring the European Union customs industry in line with the United States law would be approximately €430 million. Extra operating costs for customs offices would total another extra €200 million and some 2,200 extra staff would have to be recruited. Given that Ireland currently accounts for approximately 10% of EU exports to the United States, it would be reasonable to assume that the cost of investment at Irish ports to bring us up to the United States standard would be approximately €43 million. On top of this, it could cost Irish ports more than €10 million to perform scanning in the first year of the legislation coming into effect. European Union ports, including Irish ports, that would be unable to adapt the new US law would lose market share and there would be greater congestion in the other ports. The fact is that, at best, the 100% scanning requirement is a trade impediment and, at worst, it is pure protectionism. Much needs to be done in this respect.

The United States is Ireland's largest export market, accounting for approximately 21% of our exports in the first half of 2009. In 2008, according to the Central Statistics Office, seven Irish ports exported goods to non-EU countries, including the US. The introduction of 100% scanning will particularly affect the competitiveness of Irish ports which have significant US-

bound exports, for example, Bantry Bay, Shannon-Foynes Port, Cork Port and Dublin Port, which could face a reallocation of the market share, possibly to other EU or even Asian ports, depending on their ability to implement the US legislation. At the same time a number of Irish ports with a small US-bound export volume, for example, New Ross or Tralee-Fenit, would be at risk of closure or may lose this part of the business as it would be unrealistic for them to invest in the required infrastructure and equipment. Ireland needs to use its disproportionate influence in the United States in dealing with this matter, in particular given the possibility that President Obama will visit here in the summer. What is the Minister doing? Have negotiations taken place with the Obama Administration to emphasise the effect H.R. 1 could have on Ireland? Given that Ireland relies so much on trade with the USA, we need a policy now. I am anxious to bring the matter to the attention of the Department.

Deputy John Curran: I am taking this matter on behalf of the Minister for Transport, Deputy Dempsey.

There are currently no container vessels trading directly between Irish ports and the United States. Therefore, there are no direct costs for any ports in Ireland as a consequence of this legislation.

The United States legislation, Implementing Recommendations of the 9/11 Commission Act of 2007, unilaterally introduced a 100% scanning requirement for US-bound containerised maritime cargo to be in place by 1 July 2012. The legislation requires that a container loaded on a vessel outside the United States shall not enter the United States, unless it is scanned by non-intrusive imaging equipment and radiation detection equipment before it is loaded on such a vessel.

Containerised traffic from Ireland, destined for the United States, is carried on so-called feeder vessels to other European ports where the containers are transferred to other vessels departing for the United States. These ports are directly affected by the legislation, as the containers would require to be scanned in the port before being loaded onto such vessels. The matter will be kept under review and any implications for Irish ports arising from the legislation, or any amendments to it, will be closely monitored by all the relevant Departments.

By way of providing further background information on the matter, the Minister can report that in April 2008 the European Commission, with support from EU member states and the business community, carried out a preliminary impact assessment of 100% scanning. This was sent to US Customs Border Protection, CBP, and included in the report of the Department of Homeland Security to the US Congress in June 2008. The paper pointed out that if 100% scanning was introduced in European ports, it would be excessively costly, unlikely to improve global security, would absorb resources currently allocated to EU security interests and disrupt trade and transport within the Union and worldwide. It advocated shifting the policy focus towards developing a package of measures to cope with the wide diversity of security risks and address supply chain security not only from a national perspective but also as a global and complex challenge. An alternative package is suggested by the European Union based on the principle that all exports and imports undergo comprehensive and effective multi-layered risk management processes using a range of methods and technologies commensurate with the risks associated with specific consignments and that no consignment should go unchecked.

In December 2009 the US Government Accountability Office issued a report on the requirement to scan 100% of US-bound containers. It noted that Customs and Border Protection had been unable to achieve 100% scanning at any of the limited number of participating foreign ports. The programme faces numerous challenges, including technology problems, high costs

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and opposition from some foreign governments. The report puts the cost of 100% container scanning as high as \$1.6 billion, plus the increase in time for cargo to be processed.

On Wednesday 17 February the European Commission published a Commission staff working paper on secure trade and 100% scanning of containers. The paper reports the main conclusions of three studies on the impact on EU customs, transport and trade of the US legislation requiring 100% scanning at foreign ports of US-bound maritime containers conducted by DG's TAXUD, TREN and TRADE. The three studies confirm a negative impact of scanning all freight containers destined for the United States and predict higher costs without ensuring greater security. Notably, the investment required in the European Union to bring the EU customs industry into line with the US law is estimated at approximately €430 million. Extra operating costs for customs offices would total €200 million a year, while 2,200 extra staff would have to be recruited. The cost of sending a container from the Union to the United States would rise by approximately 10%. EU ports unable to adapt to the new US law would lose market share and there would be greater congestion in other ports. Total lost trade in the Union and the United States would be close to €10 million a year and as high as €17 billion at global level.

It is understood the Department of Homeland Security intends to issue a blanket two-year extension of the 2012 deadline as authorised by law.

Senator Feargal Quinn: I appreciate what the Minister of State said. Currently, no containers are trading directly between Irish ports and the United States. The Minister of State confirmed my figures. This would have a huge effect at European level. Obviously, therefore, it would have an effect on Ireland. I am pleased an investigation is taking place and that it looks likely there will be a two-year extension. The matter has been put off for two years but it is of such importance that I urge the Department to emphasise that we cannot allow this to happen or ignore it. I am not sure how easy it will be to solve the problem because the United States will be loath to step back from something it proposed. While I am pleased with the information the Minister of State gave, I am disappointed that no containers are trading directly between Ireland and the United States, although Irish containers pass through other European ports.

Deputy John Curran: The Senator said he was disappointed that no containers were trading directly between Ireland and the United States. We would all like to see development of our trade in that regard. It is expected there will be a two-year extension to the 2012 deadline which will allow an opportunity to address the issue, in particular given the fact that 100% scanning is not being achieved in areas where it should be.

Health Services

Senator Nicky McFadden: I refer to St. Mary's day care centre in Mullingar because so many elderly people and their families have contacted me about it. Some 245 elderly people use this well respected and loved day care service which covers a large area of County Westmeath, including Streamstown, Castletown Geoghegan, Horseleap, Clonmellon, Dalystown and Mullingar.

The service provided in this homely and warm day care centre is second to none. Some of the services provided are essential to the well-being of our elderly folk. For instance, service users have a warm dinner when they arrive. There is much social interaction, which is so important when one is older. Some of the ladies told me they would not see anyone from one end of the week to the other if they could not avail of this service. Some of them have been using it for up to ten years. They avail of services such as chiropody and hairdressing, as

everyone needs to have his or her hair done. It is a great facility. On personal hygiene, some older people are unable to get in and out of the bath; therefore, they avail of nursing care. Others play bingo and look forward to going to the centre perhaps one or two days each week to meet their friends. When people work all their lives — we are extending the length of time one must work — it is important they have something to look forward to and a place to go to that is warm and safe to meet their friends.

When I spoke to the HSE manager, I was told the reason there was a concern about the day care centre was that a nurse was retiring and there was a HSE embargo on staff recruitment. It is extraordinary that because someone is retiring, 245 people will be deprived of this essential and worthy service. Therefore, staff and service user morale is at an all time low. People who have worked all their lives and laid the ground for the Celtic tiger, the benefits of which have been wasted, deserve quality of life in their remaining years. I am curious to know how the Minister of State will respond. An insecure agency nursing service is not acceptable. The embargo must be lifted and a full-time staff member appointed to the service to ensure it is maintained.

Deputy John Curran: I am responding on behalf of the Minister for Health and Children, Deputy Harney. I thank the Senator for raising the issue and welcome the opportunity to update the House on Government policy on community services in general.

The Government is committed to supporting people to live in dignity and independence in their homes and communities for as long as possible. Where this is not feasible, the health service supports access to quality long-term residential care where this is appropriate. We are continuing to develop and improve health services in all regions and to ensure quality and patient safety.

A key element of Government policy is the provision of community services such as home help, home care packages and day care. In the Health Service Executive national service plan for 2010, approved by the Minister for Health and Children earlier this year, the HSE has undertaken to provide almost 12 million home help hours for 54,500 people, more than 5,000 home care packages for more than 9,500 people and 21,300 day care places which we estimate will cater for up to 80,000 people. Between 2006 and 2010, an additional sum of more than €200 million was provided by the Government for the HSE to increase these services to enable older people to remain at home and in their communities.

The Health Service Executive has operational responsibility for the delivery of health and social services, including those at facilities such as St. Mary's day care centre in Mullingar. The Senator will appreciate that all developments have to be addressed in the light of current economic and budgetary pressures. The Health Service Executive has been asked to make a rigorous examination of how existing funding could be reconfigured or reallocated to ensure maximum service provision is achieved. This will require a stringent ongoing review of the application of the resources available.

Unfortunately, owing to the current industrial action, the Minister did not have information to hand on the specific issue regarding St. Mary's day care centre, Mullingar.

Senator Nicky McFadden: The Minister of State's response is unacceptable and raises again the issue of responsibility and accountability. On the Order of Business this morning Senators described the Health Service Executive as being a law unto itself and asked where the buck stopped and who was responsible for it. Is the Minister running the health service? I am not satisfied with the reply. It is an outrage and insult to me and those who use the services of St. Mary's day care centre that the Minister was unable to obtain the information sought owing to

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industrial action. I am sorry that, unlike other Senators, I did not call for the Minister to resign this morning because I did not want to personalise the issue. The reply provided is trite, inconsiderate and insensitive. I am sorry for shooting the messenger.

Deputy John Curran: I accept the Senator's point regarding the reply, in particular, the allusion by the Minister to industrial action. I will try to elicit further information on the Senator's behalf.

The Seanad adjourned at 2.25 p.m. until 2.30 p.m. on Tuesday, 23 March 2010.