

SEANAD ÉIREANN

Dé hAoine, 17 Nollaig 2010.
Friday, 17 December 2010.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Business of Seanad

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

The need for the Minister for Social Protection to introduce a scheme, whereby self-employed persons could apply for jobseeker's benefit.

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

The need for the Minister for Enterprise, Trade and Innovation to clarify the steps that will be taken to further develop and support local venture capital industry.

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

The need for the Tánaiste and Minister for Education and Skills to intervene in a school (details supplied) in which contracts for teachers are being revoked with a three week deadline ending on 17 December.

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

The need for the Minister for the Environment, Heritage and Local Government to ensure island residents will be allowed to cast their votes on the same day as other citizens of the State in all future elections.

I regard the matters raised by the Senators as suitable for discussion the Adjournment. I have selected the matters raised by Senators Carroll, Donohoe and Norris and they will be taken at the conclusion of business. Senator Ó Domhnaill may give notice on another day of the matter he wishes to raise.

Message from Dáil

An Cathaoirleach: Dáil Éireann passed the Public Health (Tobacco) (Amendment) Bill 2010 on 16 December 2010 without amendment.

Order of Business

Senator Donie Cassidy: The Order of Business is No. 1, Social Welfare and Pensions Bill 2010 — Committee and Remaining Stages, to be taken at the conclusion of the Order of

[Senator Donie Cassidy.]

Business, and No. 2, motion for earlier signature, to be taken without debate at the conclusion of No. 1.

Senator Frances Fitzgerald: I ask the Leader to clarify the date of return of the Seanad. What we have seen in the House again this week is legislation being rushed through; there has been no change in the way business is done, which is what the public is demanding — it is demanding reform. Yet again critical banking legislation, aspects of which, as we all know, are needed and about elements of which there are deep concerns, was rushed through the House in one day; adequate time was not provided to debate it. It is not good enough. I advise the Government that it is not a good enough way to do business in this House. I want it to reconsider how it will do business when the Seanad returns. What we saw this week was unacceptable.

The legislation we will deal with later is important, as it will impact on people's lives. The social welfare legislation we put through the House this week will have serious implications for those who are struggling to pay bills and get through the Christmas period and worrying if they will have enough money to repay the mortgage and meet basic bills. In terms of heating bills, fuel poverty is a critical issue this winter, one about which we must be extremely sensitive.

We are meeting on a day when the country's creditworthiness has been downgraded once again, but we see some hope in the exports sector. Clearly, people must have hope. We should focus on job creation in the new year. Creating jobs is critical and can make a huge difference to people's lives. If we can create jobs and provide access to training and education, people will have hope. I ask the Leader to ensure that, from early in the new year when the House meets, this will be a key focus for debate and discussion and in response to Ministers. We must not spare any effort to create jobs to give people hope because hope is very important and we can all play a part.

I refer to yesterday's important judgment from the European Court of Human Rights which will require the most careful consideration. The manner in which the debate on this judgment is conducted is critical because this is about women's lives and we must be sure we debate it in an extremely respectful and dignified way that does not add further stress to people in very difficult situations.

I thank the staff of the House and the Cathaoirleach, the Captain of the Guard and his staff, for their support to us in our work. It has been a very difficult year for the people of Ireland. The work of the House has been very demanding because of the crucial decisions for the country. We arrive at the end of the year where the country is in a very difficult situation and it has been effectively bankrupted by the decisions of this Government. It is time for a new Government and a general election. I conclude by thanking all the staff for their support.

Senator Joe O'Toole: I wish to be associated with Senator Fitzgerald's words of appreciation to the staff of the House and to the Cathaoirleach, to the ushers and all the staff who help Members through the course of the year. However, unlike Senator Fitzgerald I find it quite optimistic that for the past then days there have been announcements on job creation every day and that there has been growth in the third quarter of the year and there may well be growth in the fourth quarter. We need to look positively at the new year and let us hope there is no more bad news.

I agree the House needs to discuss the judgment of the European Court of Human Rights. It is good that the constitutional position has been endorsed but it is regrettable that our Government has been too cowardly to deal with the outstanding issue which has been requested of it by the Supreme Court for quite some time now.

Senator David Norris: Hear, hear.

Senator Joe O'Toole: We need to deal with that issue. While criticising the Government for being laggardly, I understand it has given a commitment it will be done. However, having failed for years to get any movement from the Church leadership to move to protect abused children and to deal with perverted clerics, where that arose, is it anything short of outrageous to witness the antics from Armagh in the past 12 hours? It has taken my breath away it is so disgraceful and the people should be told. One mention of pregnancy termination and the Church leadership is galvanised into action, immediately ready to take it on. I ask the Leader if in the course of the day he would ask the Minister for Foreign Affairs to send a cable to Armagh to outline where we stand and let the cobbler stick to his last. They can do the praying up there and we will do the legislating down here. If we want to legislate for Sharia law or whatever kind of fundamentalism they want to peddle to us, we will give them a call when that arises. It is quite outrageous that we should find ourselves in that position. In the meantime, as Senator John Hanafin said yesterday, we are an independent republic and we will do our own business and we will not be lectured to by any fundamentalist, whether he is wearing a red hat in Armagh or a white hat in the Vatican. We should get our act together on this issue and adopt a clear line.

This is not an issue of abortion, this is an issue of protecting pregnant women whose lives are in danger. Whereas I would not have expected the Church leadership to be championing women's rights, I really did believe that when it came to a straight position where a woman's life was in danger that they would not stand in the way of the appropriate medical treatment in those situations. I find it outrageous. I believe the people will give a clear black and white answer if they ever are asked the question on this issue. I certainly would not shy away from it. I do not think we need a referendum or anything else on it but I think it is time that we gave a clear answer in these situations. I ask the Church to take a more humane attitude and show some Christian humanity in its response to this issue.

Senator Ivana Bacik: I echo the words of Senators Fitzgerald and O'Toole in thanking the Cathaoirleach and the staff of the Seanad for all their work and for their support and help over the past year. I also follow Senator Fitzgerald and Senator O'Toole in welcoming the judgment of the European Court of Human Rights yesterday in the ABC case. The European Court faced up to an issue that we as legislators have failed to confront. It has restated the words of the late Mr. Justice Niall McCarthy in the Supreme Court in the X case in 1992 when he said the failure of the Legislature to legislate for the conditions under which a woman's life may be saved through abortion is inexcusable. He referred to it as an inexcusable failure and, 18 years on, the European Court of Human Rights has said the Government simply must legislate. It must confront and give effect to what is in the Constitution. It must provide for the conditions under which a life-saving abortion may be carried out upon a woman who faces a life-threatening condition as the applicant C did in the appalling circumstance in which she found herself. I agree with Senator O'Toole that the majority of Irish people will see this as an issue of compassion for women who are facing an appalling situation.

The European Court acknowledged that Ireland already in its law and in its medical practices terminates pregnancies in some life-threatening situations such as pre-eclampsia. It is simply a matter of legislating in order that doctors and women have clarity regarding the conditions of access to lawful abortion in this country. If the Government had any sense it would legislate as early as possible to give effect to the Supreme Court judgment in the X case and to take this issue out of the electoral domain, because clarity already exists on this issue and we simply need to put into effect in legislation what is law in the Constitution. If the Government were

[Senator Ivana Bacik.]

to introduce legislation early in the new year, this would resolve the issue for women like applicant C. There is no appetite for a referendum and indeed those calling for one have lost two referenda, in 1992 and in 2002, in which they sought to undermine and restrict the grounds for lawful abortion in the X case. The people have spoken on this matter.

I ask the Deputy Leader in particular what has happened to the climate change Bill, speaking of legislation that should be introduced——

Senator Paul Coghlan: Next February.

Senator Ivana Bacik: ——and that has been promised for three years now.

Senator Jerry Buttimer: St. Patrick's Day in the White House.

An Cathaoirleach: Please, no interruptions.

Senator Ivana Bacik: We all understood that the speech of the Minister, Deputy Gormley, yesterday would contain the silver bullet about climate change legislation but we have not seen it. I ask the Deputy Leader when we will see this legislation. Will it be published before Christmas? Friends of the Earth and other groups have been lobbying hard on this. There is consensus across both Houses and all parties and we need to see that legislation now.

Senator Dan Boyle: I join the other speakers in thanking the Cathaoirleach and the staff of the House for their help and co-operation during this past session. In reply to Senator Bacik, I am disappointed she did not listen to or read yesterday's speech which was emphatic regarding a climate change Bill. My expectation is that when we return after the recess, the first legislation in the Seanad will be the climate change Bill.

Senator Ivana Bacik: We look forward to that after three years of promises.

Senator David Norris: Great expectations.

Senator Jerry Buttimer: White smoke, carbon neutral.

An Cathaoirleach: No interruptions. Senator Boyle, without interruption.

Senator Ivana Bacik: When will it be published?

Senator Jerry Buttimer: Is there a date for leaving Government?

An Cathaoirleach: Please, if Members keep this up, people will be going home early.

Senator Dan Boyle: The Bill will be published next week——

Senator Jerry Buttimer: Give us a date for leaving Government as well.

An Cathaoirleach: No interruptions, please, Senator Buttimer.

Senator Donie Cassidy: He wants to go home early.

(Interruptions).

An Cathaoirleach: Senator Boyle, without interruption.

Senator Dan Boyle: It would be nice for once, before we get to the end of the year. I refer to yesterday's judgment of the European Court of Human Rights and I also agree with the previous speakers on the need for legislation. Whether it is possible to legislate in the remaining time left to the Government, at least a Bill should be published as the issue needs to be addressed. There is a logic to the referendum passed in 1983 and the court decision of yesterday. A proper legal definition of protection of the life of the mother has to be put into Irish law. This issue has been avoided by Irish politics and successive Governments since then.

My own wish is that when we return in the new year, and there are hopeful economic signs, we will become both a Legislature and a country that is more confident and hopeful in itself. I hope it is recognised that there is more than one Ireland. Some people are finding it very difficult while others are still doing quite well and it is a case of marrying the difference between those Irelands is the challenge that remains for all of us as we face into early 2011.

Senator Fidelma Healy Eames: I wish to convey my best wishes to everyone in the House for a happy Christmas and a bright new year. It is important to be positive in confronting the real challenges that face us. I state this as I learn Ireland has lost 200 top quality research jobs to Romania because of the lack of suitably qualified IT graduates at the top level, an issue we have flagged previously. This is happening because the education system is not delivering top quality graduates. We have asked the Leader for a debate on the Programme for International Student Assessment, PISA, which examines proficiency in mathematics, literacy and science which are fundamental to delivering top graduates. Throughout the year I asked the Leader for a debate — to be honest, I am quite ashamed he did not deliver — on early school leavers and the report in which Senator Bacik, others Members of the House and I were involved.

Senator Ivana Bacik: Hear, hear.

Senator Fidelma Healy Eames: We ignore the failings of the education system at our peril. As Senator Fitzgerald stated, we are not giving hope because we are not following the jobs. The OECD has indicated to me personally that we have a problem at the top and bottom ends. We are failing to educate the top 10% of elite students. We have the students who are the raw material, but we are not delivering top quality graduates. Will the Leader give an assurance to the House that in our first week back we will have debates on the PISA report and early school leavers? We need to do this and I look forward to participating in the debate.

I wish everyone a happy Christmas.

Senator John Ellis: Like other Members, I wish to be associated with the good wishes extended to the Cathaoirleach and the staff of the Houses, particularly the Seanad staff.

Having listened to the weather forecast for the coming week, we are facing serious problems. With all due respect, the NRA has failed us by not providing an adequate amount of salt and grit for local authorities.

Senator Paudie Coffey: Hear, hear.

Senator John Ellis: When this matter was the responsibility of local authorities, they dealt with it far more effectively. However, the amount of money they can spend is capped, as is the amount of grit and salt with which they are supplied. This is wrong. The NRA has failed totally. It would be well advised to hand back responsibility to local authorities, give them the money and let them administer what needs to be done. I take the opportunity to wish all the best to those will have to go out to grit the roads and provide public and health services during the

[Senator John Ellis.]

Christmas period. They are the unsung heroes of the country. They provide services 365 days a year. Will the Leader ask the Department of Transport to ensure the NRA will at least distribute as quickly as possible the salt it states it will have available next week? We do not want what happened last year to happen again this year because of a lack of planning by the NRA.

Senator David Norris: There is good news which we should celebrate. It is a remarkable tribute to those who have kept their heads down during this difficult period in industry and created these excellent export figures.

I appeal to everybody to consider taking the same view as me on the following matter. I will never quote without criticism the ratings agencies which are morally and intellectually bankrupt and corrupt. They have shown themselves to be wrong time and again. Members of this House should not quote them without stating they are scoundrels——

Senator Mary M. White: Hear, hear.

Senator David Norris: ——which have done damage and are not worth a tuppenny damn.

Will the Leader examine the crisis in the equine industry in the treatment of horses? The number of abandoned and mistreated horses referred to the DSPCA has increased from 26 in 2008 to 112 this year, 50% of which have to be humanely euthanised. This is a very significant problem which has been written about in the international media, in the United States and Britain. These articles do damage to our very important horse breeding industry. There is also a risk of infection being spread throughout the country by untraceable and unclipped animals. Will the Leader refer this matter to the Department of Agriculture, Fisheries and Food and ask that action be taken? Owners who cannot afford veterinary care or to pay for the humane destruction of their animals should be given an amnesty immediately in order that they can surrender them to the Department or a local authority. All unregulated horses, particularly those in cities, should be impounded by local authorities and taken to the horse pound where they could be offered for rehoming following the payment of the necessary fees, if people need assistance. All horses which cannot be rehomed should be humanely put down. There is an urgent need for a centralised microchip database. Unregulated markets such as the one in Smithfield should be either regulated or shut down. The Government and the Department know about this matter. The Joint Committee on Agriculture, Fisheries and Food has been informed by local authorities of the situation. A very good document, Challenges and Solutions to Support Good Equine Welfare Practice in Ireland, has been produced by UCD. It has been transmitted to the Government but nothing has been done. I ask the Leader to bring this matter to the attention of the Minister for Agriculture, Fisheries and Food as a matter of urgency.

Senator Ivor Callely: I have stated before and will say again that I look at the glass as being half full rather than half empty. Unlike the Leader of the Opposition, I have a positive attitude.

(Interruptions).

Senator Ivor Callely: I have hope and confidence.

An Cathaoirleach: No interruptions, please.

Senator Ivor Callely: Does the Leader share the optimistic opinions of certain qualified authorities that Ireland is on the right course for economic recovery, with continued generous

increases in our exports and gross national product and gross domestic product showing increases in the third quarter of 2010——

Senator Paudie Coffey: No thanks to the Government.

Senator Ivor Callely: ——for the first time since 2007?

Senator Frances Fitzgerald: We welcomed the increase in exports.

Senator Ivor Callely: Does the Leader agree that, as a member of the European Union, Ireland needs not only to co-ordinate its recovery within the Single Market on which I have sought a debate but also to acknowledge the importance of the US and Asian markets as the global recession warrants a global response to avoid protectionism? I hope we can discuss these matters when the Leader allows time for a debate on the Single Market, as requested.

I also seek a debate on water services. Water has a more fundamental value than oil in the past. It is the new oil. I call for a debate on the issue to delve deep and examine how best to protect water supplies and water plains and address related issues such as planning and pollution.

The House is politically charged and certain Members hold deep and adverse positions which at times are more prominent. Some try to trample down others. With courage, things do come right. Having said that, in a good spirit——

Senator Paudie Coffey: A mé féiner.

Senator Ivor Callely: ——I wish everyone a happy, holy and peaceful Christmas.

Senator Paul Coghlan: I wish to be associated with the words of appreciation extended to the Cathaoirleach and all of the staff.

I welcome the transfer of major files, following two years of exhaustive investigation into the circular transfer of funds between some of our financial institutions. It is hoped we will now see the fruits of this work, particularly regarding the transfer in 2008 of approximately €7.2 billion from Irish Life & Permanent to Anglo Irish Bank which at the time the auditors described and signed off as deposits. This was a cover to mask a situation, but we will hear about this when the charge is heard. I fail to understand, while people's positions have been untenable for a number of years, why several but not all of them have fallen.

I say to the Leader in a serious but light way that he is a gas man. For years — for as long as I have been a Member, since 1997 — he has bragged and prided himself on the fact——

An Cathaoirleach: Questions to the Leader, please, not a speech.

Senator Paul Coghlan: The Cathaoirleach knows as well as I do that he is the man who tells the Irish nation and would tell the world if he could get away with it that we never employ the guillotine in this House. For a while early in his career it was true——

An Cathaoirleach: That is not relevant on the Order of Business.

Senator Paul Coghlan: ——but look at what he has done to us this week. He is bringing the House into disrepute.

Senator Frances Fitzgerald: He was still saying it this week while doing the opposite.

Senator Paul Coghlan: Perhaps the Leader will respond because he must return to the way we should do business.

Senators: Hear, hear.

Senator John Hanafin: Like others, I share in the good news and recognise that the economy has finally turned a corner. The Minister for Finance has spoken about this issue on number of occasions and it is now becoming clearer——

Senator Jerry Buttimer: It has had so many turns it is like a roundabout.

An Cathaoirleach: I want no more interruptions when anyone is speaking, from either side.

Senator John Hanafin: Third quarter CSO results indicate growth in the economy from which the Exchequer has taken €15 billion in revenue over the past couple of years. When we speak about the Irish economy in future we will have to recognise its globalised nature. We are like a cork on the ocean in our dependence on world markets for wealth generation in this nation. The world growth rate is expected to be 4.5% next year and in following years. We seem to have turned the corner.

There were calls for the Lower House to sit next week to complete the Finance Bill. The Labour Party offered to put through a climate Bill on behalf of the Green Party. I am reminded of the Ian Paisley's line, "come into my parlour, said the spider to the fly". My Green Party colleagues recognise that the Opposition is anxious for an election because we have turned the corner.

Senator Maurice Cummins: Into a cul-de-sac.

Senator John Hanafin: They will do anything to ensure a speedy election.

Senator Frances Fitzgerald: Tell that to the unemployed.

Senator Maurice Cummins: Corner boys.

An Cathaoirleach: Allow Senator Hanafin to speak without interruption.

Senator John Hanafin: When we voted on Article 23.3.3°. There was a wish among the Irish people for a pro-life referendum. Everything since then has been clouded and shrouded but the reality is that the Irish still are pro-life and I call for another referendum.

Senator Ivana Bacik: How many times has the Senator called for a referendum?

An Cathaoirleach: No interruptions.

Senator Paudie Coffey: I would like to be associated with the good wishes expressed to the Cathaoirleach, staff and Members of the House and hope they have a peaceful and happy Christmas.

As we brace ourselves for another bout of bad weather, I share Senator Ellis's concern about the resources available to local authorities. I am informed only 15,000 tones of grit and salt will be available until next Wednesday and if the weather deteriorates over the weekend our roads and infrastructure will be vulnerable. Thousands of local authority workers and volunteers from the Civil Defence, the Irish Red Cross and other organisations are now on stand-by around

the country in case the bad weather comes to pass. The NRA and the national co-ordination centre need to get their act together because their response to date has not been good enough.

I understand an additional carbon tax will be levied on solid fuels from January. This could not come at a worse time for many families and elderly people who depend——

Senator Dan Boyle: It is already in place.

Senator Paudie Coffey: I said “additional”.

Senator Dan Boyle: The Senator is wrong.

Senator Niall Ó Brolcháin: Do not mind the facts.

An Cathaoirleach: No interruptions.

Senator Paudie Coffey: It shows how out of touch——

Senator Dan Boyle: He is wrong.

Senator Paudie Coffey: Senator Boyle might go home to his nice oil fired heating system this Christmas but thousands of people around the country depend on bags of coal or peat briquettes.

Senator Dan Boyle: He is wrong.

Senator Paudie Coffey: That is all they have to use.

Senator Dan Boyle: Do not perpetuate untruths. Admit you are wrong.

Senator Paudie Coffey: Thousands of people in rural Ireland depend on the bag of coal or briquettes.

An Cathaoirleach: No interruptions. The Leader will reply to the Order of Business.

Senator Paudie Coffey: If this is the priority of the Green Party and the Government, they are sadly wrong.

I am an optimist but I am also a pragmatist. Unless we take the measures necessary to help our exporters, we will not recover. Our exporters and manufacturers have thrived over the past several years despite this Government. We need to support them with pragmatic measures.

Senator Niall Ó Brolcháin: I join other speakers in wishing the Cathaoirleach, staff and Senators a very happy Christmas. It is important to acknowledge the work that has been done. I have been in this House for one year and three days and people have been decent in the main. I respect Members on all sides of this House.

Senator Fitzgerald raised an important issue in regard to fuel poverty. We need to have that debate at this time of the year. I acknowledge the success of the warmer homes scheme, which is funded by the carbon tax, and the home energy savings scheme, which doubled this year in my area of Galway.

Senator Paudie Coffey: Poor people cannot afford it. Only the rich can take advantage of it.

An Cathaoirleach: No interruptions.

Senator Niall Ó Brolcháin: To correct Senator Coffey, the warmer homes scheme is free of charge.

Senator Paudie Coffey: Poor people cannot afford the energy scheme.

Senator Niall Ó Brolcháin: Those on fuel allowance get the warmer homes scheme in their houses for no money. Anybody can afford no money. It is zero. I ask the Senator to get his facts right because he seems to be all over the place today.

Senator Paudie Coffey: I am not all over the place. Ask the Society of St. Vincent de Paul.

Senator Niall Ó Brolcháin: As for his colleague who is putting corners on roundabouts——

An Cathaoirleach: The Senator should address his comments to the Leader rather than across the floor.

Senator Niall Ó Brolcháin: I encourage the Leader to arrange a debate on the important issue of fuel poverty. I would prefer that we did not end on this aggressive note but as we leave for Christmas it is important we acknowledge people who are facing financial difficulties and hardship. Nobody in this House wants to see people suffering hardship over Christmas.

Senator Feargal Quinn: I express my appreciation for the service we received from all the staff of the Houses of the Oireachtas. Senator Fitzgerald spoke about the good news for the economy. However, large multinationals are not our only exporters. Yesterday I heard a lovely story about a small 106 year old Irish polish manufacturing company, Malones of Dublin. The Asthma Society of Ireland, which advises that most cleaning products can trigger asthma, gave its *imprimatur* to Malones of Dublin. Asthma affects 500,000 people in Ireland and is very dangerous and easily triggered. It is great to discover the success of a small Irish company.

During the Lisbon referendum we were warned by “No” campaigners that Europe would be allowed to tell us what to do. My understanding of yesterday’s judgment from the European Court of Human Rights is that it is in our own hands. Europe is not enforcing the judgment on us. As I am sure we will have to hold a referendum, I advise people to watch their language and avoid intemperate words. I do not wish to criticise Senator O’Toole because I greatly admire him but he used intemperate language in referring to a leader of a church in Ireland. We should be careful with the words we use when we hold the referendum because they can trigger reactions we do not want.

I realise Deputy Boyle hopes the climate change Bill will be the first matter on our agenda in the new year. I hope we deal with the Construction Contracts Bill 2010 beforehand, however.

Senator Mary M. White: My colleagues will be aware that I have on many occasions called on the Government to support the 32 survivors of Thalidomide in this country. Yesterday, the Irish Thalidomide Association met the Minister for Health and Children, Deputy Harney, for the first time since the derisory offer in April of €62,000 per person. That offer was rejected by all 32 survivors. They are dealing with catastrophic disabilities on a daily basis. This drug was so toxic that one tablet left babies born internally damaged and without arms and legs. The Joint Committee on Health and Children has given all-party support for a proper compensation package and the release of legal documents relating to issues arising in the 1970s.

Not one page was released to the families or the survivors. Excuses were given about there not being enough photocopying machines in the Department of Health and Children. I am not

surprised the Irish Thalidomide Association, representing the 32 survivors, is taking instant legal action against the Minister for Health and Children, Deputy Harney, because of her refusal to renegotiate her offer of April of this year.

Senator Jerry Buttimer: I join Senator O'Toole and other speakers in saying there is good news and there are positive signs and optimism that Ireland will have a new Government this time next year.

An Cathaoirleach: We are not making political speeches now.

Senator Jerry Buttimer: They are very much looking forward to having a change of Government——

An Cathaoirleach: A question to the Leader.

Senator Jerry Buttimer: ——and having a positive outcome——

An Cathaoirleach: No Senator is entitled to make political speeches.

Senator Jerry Buttimer: The difficulty with Senator Boyle is that the Green Party does not know when it is leaving Government.

An Cathaoirleach: Questions to the Leader.

Senator Jerry Buttimer: It is either in or out of government, but it is not sure. Senator Boyle might tell us if the Green Party is leaving Government. He seems to be kind of ambivalent.

Senator Dan Boyle: I keep telling Senator Buttimer. His hearing is the problem.

Senator Jerry Buttimer: Senator Boyle is like the fellow learning to ride a bicycle——

An Cathaoirleach: Senator Buttimer, it is questions to the Leader. Senator Cassidy is the Leader.

Senator Jerry Buttimer: ——and who cannot find the brakes.

An Cathaoirleach: I will ask Senator Buttimer to resume his seat if he continues like that.

Senator Jerry Buttimer: More important, we need a debate in the new year to give optimism to the unemployed, those forced to emigrate, those on disability and those on the minimum wage. The Government has not done that.

This morning another member of the Cabinet jumped ship. The Minister for Transport, Deputy Dempsey, decided to bail out.

An Cathaoirleach: That is not relevant to the Order of Business.

Senator Jerry Buttimer: I hope the people will see that many members of a Government party are afraid to go before them. They are afraid to face the people.

An Cathaoirleach: That is not relevant to the Order of Business. The Senator should ask questions of the Leader on the Order of Business.

Senator Jerry Buttimer: It is exemplified by the Green Party Members who cannot make up their mind whether they are in or out of government. They should do the honourable thing, walk out and call an general election.

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

Senator Dan Boyle: I will do it for you, Jerry.

Senator Jerry Buttimer: The Green Party Members should do the honourable thing.

An Cathaoirleach: I call Senator Leyden.

Senator Jerry Buttimer: Finally, I thank the members of staff——

An Cathaoirleach: No. Senator Buttimer had all the time in the world to ask the Leader questions.

Senator Jerry Buttimer: ——and Members of the House for their great work during the year.

An Cathaoirleach: Senator Buttimer is not interested in asking questions. I call Senator Leyden.

Senator Jerry Buttimer: I understand the Cathaoirleach's embarrassment at the Government.

An Cathaoirleach: I am not one bit embarrassed.

Senator Jerry Buttimer: I understand that.

An Cathaoirleach: I am not one bit embarrassed. I call Senator Leyden.

Senator Terry Leyden: Senator Buttimer will be unable to contain himself for the next six months waiting for the election.

An Cathaoirleach: It is questions to Leader. We are on the Order of Business. I will call another speaker if needs be.

Senator Terry Leyden: I wish the Cathaoirleach, the Clerk, the Clerk Assistant and all the staff of the House a happy Christmas. I also compliment the reporting staff and the sound engineers who do a fantastic job throughout the year. In fact, the record is second to none. Of any parliament in the world, the record of the Irish Parliament, including all the contributions made in this House, is the best. It is a very difficult task and I compliment the Editor of Debates and the staff. I wish all the other staff and all Members of the House well in the year ahead.

It is regrettable that many excellent people are leaving public life. I very much regret the fact so many fantastic women Deputies have decided to leave, such as Deputies McManus, Upton and Enright.

An Cathaoirleach: We do not want names but questions to the Leader. That is not relevant to the Order of Business.

Senator Terry Leyden: I appreciate that. May I also mention Deputy Flynn?

An Cathaoirleach: No.

(Interruptions).

Senator Terry Leyden: As I mentioned the other Deputies, I had to mention Deputy Flynn. I am trying to make a point here. Will the Leader and all the party leaders to try to make this Parliament more women-friendly and make it possible for women to be elected to both Houses? It is very difficult for women to be Members of the Houses of the Oireachtas given the sitting hours.

Senator Fidelma Healy Eames: Are you not the nice man? Honestly.

Senator Mary M. White: I can guarantee Senator Healy Eames that Senator Leyden has loads of empathy for the lady politician.

An Cathaoirleach: Please, Senator White. No interruption now. I call Senator McFadden. I will call the Leader to reply to the Order of Business if Senators keep this up across the floor.

Senator Nicky McFadden: I wish everyone a very happy Christmas and especially thank the Cathaoirleach for his courtesy and decency to all of us. I hope I will be elected again in order that I can remain friends with many of the Senators. I have valued the decency across the House. Senators are all here for the common good, despite their political banter which is very important and necessary.

I take issue with Senators Boyle and Ó Broilcháin about the carbon tax. In my constituency, people depend on solid fuel and if there is an increase in the price of a bag of coal, it will be a very serious issue for them. Some people are wearing extra coats, jumpers, etc. to try to stay warm.

Senator Dan Boyle: The fuel allowance was increased.

Senator Nicky McFadden: There was an announcement yesterday but the carbon tax will have a very serious impact on people, especially due to the fact the weather is getting colder.

Senator Fiona O'Malley: Like everybody else, I will start by being nice and wish the staff and Members a happy Christmas. I hope everyone has a good rest over the holidays, and I direct that at the Green Party, in particular. It particularly needs a rest. If it gets a rest, the rest of us might get one and we can come back and work hard in the new year.

An Cathaoirleach: Questions to the Leader.

Senator Frances Fitzgerald: What does that mean? What exactly is Senator O'Malley saying?

Senator Fidelma Healy Eames: It sounds like constant pressure.

Senator Fiona O'Malley: I refer to an article in today's newspaper which states that in light of yesterday's judgment in the European Court of Human Rights, abortion will become an election issue. When we are setting the agenda for the next session next month, will the Leader ask the Minister to bring forward legislation on abortion, as previous Senators have indicated? That very correct judgment yesterday indicated that the people, through a referendum, have spoken on this matter. It has been a consistent failure of Government to legislate for their desired choice.

It is a simple issue that we can resolve straight away so that it does not become a divisive issue at election time. We have been given the consent of the people in a referendum and the

[Senator Fiona O'Malley.]

European Court of Human Rights has stated that it is within our ability to legislate for this. There is a moral obligation on the Government to do so. We could resolve this matter, as the people have determined.

Senator Paschal Mooney: I share the opinions expressed by Senators O'Malley and Hanafin in regard to yesterday's European Court of Human Rights judgment. The people have spoken on this issue and it is up to the Government to reflect the majority view of the people, as indicated in a referendum.

As everyone said, it is a time of hope. In that context, will the Leader arrange a debate on the state of the economy early in the new year? The level of US investment in Ireland is greater than the total US investment in China according to Alan Gray in a wonderful analysis of our current economic state in yesterday's *The Irish Times*. He went on to say that Ireland also offers a highly educated labour force and the percentage of the Irish population aged 25 to 34 with third level education is almost 50%, the second highest of any EU country.

I do not wish to detract from what Senator Healy Eames said about the regrettable loss of 200 IT jobs to Romania but this came in a week when almost 1,000 new high end jobs were introduced into this economy.

Senator Fidelma Healy Eames: We could have so many more.

Senator Paschal Mooney: That is the reality.

Senator Fidelma Healy Eames: It is good news.

An Cathaoirleach: Please, no interruption or I will ask the Senator to leave the Chamber. Senator Mooney, without interruption

Senator Paschal Mooney: Those 200 jobs were up for international competition. The almost 1,000 job are real jobs in a real economy in this country and they are welcome.

Senator John Paul Phelan: What about the thousands leaving the country?

Senator Paschal Mooney: With all due respect to those opposite, and I am not trying to bait them in any way, in the context of my question——

Senator John Paul Phelan: Senator Mooney is talking complete rubbish.

Senator Paschal Mooney: ——I am trying to put the facts. It is about time the facts were given in this House.

Senator Maurice Cummins: What about the 450,000 who are on the dole?

Senator Paschal Mooney: The common language with the United States is estimated to have a tax equivalent cost advantage for Ireland of approximately 7%. The availability of high quality professional services constitutes an advantage for certain sectors.

Senator John Paul Phelan: Tell that to the people who are leaving the country.

Senator Paul Coghlan: Our best graduates.

Senator John Paul Phelan: What world does Senator Mooney live in?

An Cathaoirleach: Senators, please.

Senator Paschal Mooney: Unfortunately whenever there is good news——

An Cathaoirleach: The point is made now.

Senator Paschal Mooney: ——and whenever facts are put before the House——

An Cathaoirleach: The Senator's time is up.

Senator Paschal Mooney: ——the Opposition lapses back into rhetoric.

Senator Fidelma Healy Eames: It is just that more can be done.

An Cathaoirleach: Please.

Senator Paschal Mooney: Patrick Hickey, the managing director of the advertising agency, Rothco said: "Nothing repairs like success."

An Cathaoirleach: The Senator has made the point.

Senator Paschal Mooney: He said "The changed media landscape means our audience will consume many different opinions and various 'facts'——

An Cathaoirleach: I call Senator Butler.

Senator Paschal Mooney: ——as propagated by some quarters. The truth is that the world still knows our strengths, it's our own citizens who have forgotten."

An Cathaoirleach: The Senator must obey the Chair.

Senator Paschal Mooney: It is particularly true of those on the other side of the House.

Senator Fidelma Healy Eames: The Senator should run for election.

Senator Terry Leyden: He did and he got a great vote in the European Parliament elections.

An Cathaoirleach: Senator Butler without interruption. Senator Leyden got his opportunity to speak.

Senator Larry Butler: I wish you, a Chathaoirligh, and your staff along with all Members of the House a very happy and holy Christmas. We look forward to the new year in the hope that it will be a much better year for us all. I welcome the 300 jobs that were created in the past week, which is an indication of how the economy is beginning to have some sort of upturn. This week we also received the welcome news that the past quarter has been extremely good for our exports. The value of our imports has increased by 1.25% indicating that the domestic market will improve somewhat. Early in the new year we should have a debate on the strong parts of the economy and how we could create more jobs in that regard. It is important that this House recognises and reports good news when we are debating various issues.

Senator Labhrás Ó Murchú: Ar nós gach éinne eile, guím rath Dé ort, a Chathaoirligh, ar na Baill go léir agus ar na hoifigigh ar fad a bhíonn ag saothrú ar ár son. Cé go mbíonn easaontas go minic sa Teach seo, bíonn aontas anseo freisin. Caithfidh easaontas a bheith ann — is é sin buntáiste an daonlathais. Bíonn seans againn ár dtuairimí a nochtú agus na torthaí is fearr a

[Senator Labhrás Ó Murchú.]

bhaint amach. Bíonn aontas eadrainn maidir leis na rudaí bunúsacha; mar shampla, dínit na ndaoine, ina measc iad siúd atá thíos sa saol nó nach bhfuil cearta sibhialta acu.

Senator Jerry Buttimer: Na daoine faoi bhrú.

Senator Labhrás Ó Murchú: Tá sé tábhachtach go seasann an Teach seo i gcónaí le chéile maidir leis na daoine sin. I rith na bliana, bhí aontas eadrainn maidir le stádas na Gaeilge. Is cúis áthais é dom go mbeidh an straitéis 20 bliain don Ghaeilge á lánseáil ag an Taoiseach Dé Máirt seo chugainn. Tá Baill an Teach seo agus an Teach eile aontaithe ar an ábhar seo. Tugann sé sin dóchas dom go bhfuil féiniúlacht náisiúnta na tíre seo fós beo agus bríomhar. Is cuma faoi easaontas maidir le polasaithe na bpáirtithe má táimid aontaithe maidir le gach rud a bhaineann leis an tír seo, ar nós ár stair agus na daoine a sheas an fód nuair a bhí gá leo.

I am delighted that on Tuesday we will show the unity that existed in this House and the Dáil to bring about the 20 year strategy for the Irish language. It was one of the most edifying experiences for me personally. I am delighted that at 2 o'clock on Tuesday the Taoiseach will launch that strategy. The language is not just a matter of words; all our background, ambitions and aspirations are linked to that. Let us take that as a signal of hope and a focus for the future. In wishing everybody well, for me it has been an experience to meet so many fine people in this House who had the good of the people at heart and that applies to every single Member of this House without exception.

Senator Mark Dearey: I wish you, a Chathaoirligh, the Clerk and staff of the Seanad a very happy Christmas. I thank them for the welcome they gave me earlier this year when I arrived in the House. I extend those wishes to all the Members opposite and on this side. I have a particular affinity for sound engineers. I wish them, all the technical staff and the people who provide us with the Official Report well.

The domestic economy has not been mentioned this morning and I am afraid the news is not as good as it is in the export sector. I do not wish to rain on the parade, but it is important we acknowledge the need to address strengthening the domestic economy and finding ways in which we can transfer the growth in GNP and GDP to the local economies about which we all so passionately care. I support Senator Ellis in saying that we need to find the most effective mechanism for keeping our streets and roads clear in the week ahead so that people can go about their religious, civic and commercial tasks in what will be another cold spell.

I call for greater support for employers who, I know, are taking wage cuts themselves and yet are not eligible for family income supplement, on which we should have a debate early in the new year. They are very often the first to take the hit in order to protect employees. I am not saying all is rosy and there are some unscrupulous employers, but most are not.

I ask for a definitive statement on the position *vis-à-vis* the amendment to the Lisbon treaty agreed at the seventh summit this year which, incidentally, Herman Van Rompuy announced by Twitter during the meeting I understand. As I understand it the agreement on the financial stability fund means that last-resort interventions can be made. As it is an intergovernmental facility and does not increase the competencies of the European Union, it therefore does not require us to hold another referendum. There are many on both extremes of the political spectrum who suggest it requires a referendum. If it does, so be it, but if it does not, we need clarity. I call for a statement on that early in the new year.

Senator John Carty: I join my colleagues in wishing you, a Chathaoirligh, and the staff a happy Christmas and new year. I also support Senator Ellis in what he said about the weather conditions because at present we are suffering quite badly in the west and I hope we will get out of here reasonably early in order to make it home.

I ask the Leader to have a debate on Dáil reform for the other House and more especially Seanad reform in order to make this House more friendly to female Members. This House and the other House would be much poorer for having fewer female Members. Something should be done to make it more friendly to female Members with families.

Senator Ann Ormonde: I thank you, a Chathaoirligh, and members of the staff for your co-operation during the year and I wish you a very happy Christmas and good luck in the new year. I have frequently raised the issue of education, which I believe needs a complete overhaul. We have often asked for a debate on issues such as the Student Support Bill, which I know has completed its passage through the Dáil, and also reform of the second level curriculum leading to the junior and leaving certificate examinations.

Regarding reform of the Seanad, God knows how many of us will be back in the next Seanad. We need to keep discussion of the Seanad on the agenda for early in the new year. It is not about abolition of the Seanad it is about——

Senator Mary M. White: Reform.

Senator Ann Ormonde: ——how best we can improve legislation in our debates. The constructive thinking across the board when it came to the Appropriation Bill and the Credit Institutions (Stabilisation) Bill that came through the Dáil resulted in a superb debate yesterday across the floor, and it was reasonably done by all sides. That is what this House is about. It was a pleasure to listen to it on the monitor. I would be fighting to the best of my ability to try to reform the House. Go about it and please get a commitment that there will be reform, not abolition.

I take this opportunity to thank the Leader again for his co-operation during the year.

Senator Donie Cassidy: I thank Senator Ormonde for her kind wishes.

I join with all colleagues in wishing the Cathaoirleach, the Leas-Chathaoirleach, the Clerk, the Clerk Assistant, the Captain of the Guard, all the ushers, of course, Mr. Jimmy Walsh who never fails to report us on *The Irish Times*, the Whips and the leaders of the groups, the Senators, in particular, and their families, and all who assist us here, the reporting staff, as has been said, the sound and technical engineering staff, a happy and holy Christmas. I look forward to the challenge once again to assisting our nation get out of the downturn and the recession and look forward to working in the interest of our country with all Senators on 12 January, when it is hoped that we will have the climate change Bill on the Order Paper for our deliberations.

Like colleagues, I welcome all the job announcements this week. There were 75 more new jobs announced for Letterkenny yesterday. There were 115 announced for Galway yesterday——

Senator Niall Ó Brolcháin: Good.

Senator Donie Cassidy: ——with the Japanese company coming with its medical services and 107 the previous day for Galway. Galway has done extremely well this week. Senator Ó Brol-

[Senator Donie Cassidy.]

cháin, our colleague, Senator Healy Eames, and all colleagues from the Galway constituency will be pleased that Galway is doing so well in job creation.

Senator Fidelma Healy Eames: Delighted.

Senator Donie Cassidy: Deputy Fahey and the Minister, Deputy Ó Cuív, have worked extremely hard to make this possible.

Senator Fidelma Healy Eames: And the IDA.

Senator Paddy Burke: What about Senator Healy Eames?

Senator Paudie Coffey: We are obviously missing our Minister in Waterford.

An Cathaoirleach: The Leader without interruption.

Senator Donie Cassidy: That is the strength of having good Fianna Fáil TDs working in a constituency.

(Interruptions).

Senator Donie Cassidy: I know exactly how Senator Coffey feels because I am in the same boat myself.

Senator Frances Fitzgerald: There are 400,000 unemployed. Give us a break.

Senator Donie Cassidy: The wheel will turn, please God.

Senators Norris, Callely and Hanafin welcomed——

Senator Nicky McFadden: I will look after Senator Cassidy.

Senator Fidelma Healy Eames: Did Senator Cassidy hear that offer? The Leader must respond to that.

An Cathaoirleach: The Leader is replying.

Senator Fidelma Healy Eames: That was a fantastic offer.

An Cathaoirleach: The Leader is replying.

Senator Donie Cassidy: I am very good friends with Senator McFadden——

Senator Fidelma Healy Eames: She is going to look after Senator Cassidy.

Senator Donie Cassidy: ——and the path of her success could quite well impinge on my success also. She has a formidable task, as I have.

We read in the newspaper this morning about the new CSO figures on the economy picking up and the very good three months' returns for July to September. Certainly, it was a breathe of fresh air. It was wonderful on the concluding day of the Upper House that we have really positive 3.5% growth in exports for the past three months.

I must join Senator Norris in his comments on the rating agencies. They have a significant conflict of interest and it is becoming apparent.

Senator Mary M. White: Hear, hear.

Senator Donie Cassidy: Ireland will be a shining example once again to the entire world of how a small energetic economy, properly led and taking the international advice, will get out of this global downturn.

Senators O'Toole, Bacik, Boyle, Hanafin, Quinn, O'Malley, Mooney, Buttimer and Dearey all voiced strong views regarding the judgment given yesterday. I will pass the views of colleagues on to the Minister and we certainly can debate the matter here on the floor of the House in the first two weeks back.

Senator Boyle, in his final remarks, spoke of confidence and being hopeful for a better chance in the year ahead and I certainly join him in those good wishes.

Senators Healy Eames and Ormonde called for a debate on education. I have no difficulty in having this take place. I accept I stated we were to have it this week but, because of so much legislation, I had to make a judgment call and I opted, with colleagues, for an up-date on the Croke Park agreement. I hope the Senators understand. I certainly will have it on the Order Paper within the first two weeks of coming back.

Senators Ellis, Coffey and Dearey raised the weather and the difficulties in which local authorities find themselves with, perhaps, shortages of salt. I too want to make a case for smaller towns and villages, as Senator Dearey stated yesterday morning, that the NRA would give the same priority to them as it gives to the larger towns and cities. Apart from keeping the roads safe for those who want to go to church or who want to go to the shops, retail and family businesses should be given the same chance as those located in the bigger towns.

Senator Norris raised animal welfare once again, and the horse industry. He quite correctly pointed out to the House the difficulties being experienced. I have no difficulty in us having a debate on this with the Minister for Agriculture, Fisheries and Food.

Senator Callely called for a debate on water, its cost and the importance of quality water. I have no difficulty discussing this also.

Senator Coghlan raised the transfer of the files to the DPP's office. I certainly await the developments that will take place in this area.

Senator Mary White raised the Irish Thalidomide 32 persons who were in with the Minister yesterday. We fully support the Senator, who has been a champion of these 32 persons.

Senator Fidelma Healy Eames: Hear, hear.

Senator Donie Cassidy: I certainly commend Senator Mary White on it. We should help and assist them in every way possible.

Senator Fidelma Healy Eames: Absolutely, tell the Minister, Deputy Harney.

An Cathaoirleach: No interruptions.

Senator Donie Cassidy: Senator Mooney called for a debate on the state of the economy. I have no difficulty in us having this when we come back.

I must say something on the announcement by the Minister, Deputy Dempsey, that he is retiring. As one of the three Fianna Fáil Oireachtas Members in the Meath West constituency, along with Deputy Johnny Brady, I have known Deputy Dempsey a long time. There was no

[Senator Donie Cassidy.]

more decent or hard-working public representative representing any constituency in the country than Deputy Dempsey for the people of Meath, and now Meath West.

Senator Mary M. White: Hear, hear.

Senator Fidelma Healy Eames: There is a chance for Senator Cassidy now.

Senator Donie Cassidy: I come from Castlepollard and as Minister for Education and Science he gave us a brand new second-level college——

Senator Frances Fitzgerald: Paid for by the taxpayers, no fiefdoms.

Senator Donie Cassidy: ——and a brand new one-stop-shop which, in a stand-alone rural community, has been of considerable assistance. I wish himself and his wife, Bernadette, and family every good wish on his announcement today and wish him well in the future.

Senator Fidelma Healy Eames: It is a real opportunity for Senator Cassidy.

Senator Donie Cassidy: Senator Ó Murchú spoke of next Tuesday's 2 p.m. launch by the Taoiseach of the new 20 year strategy for the Irish language. I congratulate everyone involved in this. No more committed an Irish person has ever walked in here and become a Member of Seanad Éireann or Dáil Éireann than Senator Ó Murchú in what he has been doing for Irish culture and the Irish language. I certainly wish everyone concerned well in their deliberations. We can debate this in the House on our return.

Senator Dearey sought a debate on family income supplement, particularly for the self-employed. I have no difficulty in us having a debate on this, and also on retail. This will be a defining time for retail and I certainly will be putting this down for a debate on our return also.

Senators Carty and Ormonde called for a Dáil and Seanad reform debate as a matter of importance, particularly in making it much more friendly towards women Members. I certainly have no difficulty in debating this on our return also.

An Cathaoirleach: I thank the Members for their kind remarks. I wish all Members, the Clerk, the Clerk Assistant and the staff of Seanad Éireann and all staff of the House a most enjoyable, safe and holy Christmas.

Order of Business agreed to.

Social Welfare and Pensions Bill 2010: Committee and Remaining Stages

An Leas-Chathaoirleach: Before going through the sections I welcome the Minister and wish the Cathaoirleach, Members and staff of the Houses a very happy and safe Christmas. I thank everybody for their co-operation during 2010 and we look forward to 2011.

Senator Maurice Cummins: Thank you.

Senator Nicky McFadden: We thank the Leas-Chathaoirleach.

Question, "That section 1 stand part of the Bill", put and declared carried.

Question, "That section 2 stand part of the Bill", put and declared carried.

Question, "That section 3 stand part of the Bill", put and declared carried.

SECTION 4

Senator Nicky McFadden: I move amendment No. 1:

In page 7, line 19, after “amended” to insert the following:

“, for a period of 2 years from the passing of this Act, and in respect only of such sample or pilot cases as are prescribed by the Minister”.

An Leas-Chathaoirleach: Does the Senator have the permission of those who tabled the amendment?

Senator Nicky McFadden: Yes.

Minister for Social Protection (Deputy Éamon Ó Cuív): We are providing for the technical feasibility to use electronic means for signing on. There are many technologies that could be used but a simple proposal we are likely to use is an electronic signing pad, where a person would physically come into the social welfare office to sign on a pad. If the machine is satisfied with the signature it will register that the person has signed. This cannot be done without the person being present. I understand it is very difficult to forge a person’s signature with such accuracy that an electronic signing pad would not know the difference. There would be more chance of a person falsely signing in front of a human being and getting away with it than with the electronic signing pad.

Another proposal is a very innovative mobile technology that will be used on a very small basis until it is proven. All the law will give us is the right to use electronic means. To say that we can use electronic means to fly aeroplanes and deal with banks but not deal with signing people on would be to return to the past.

Senator Maurice Cummins: We have no problem at all in using electronic means. We are wondering why the electronic means were not used already for fingerprinting machines to be used in the Garda immigration bureau. That was meant to happen four years ago. We are all in favour of using electronic means in order to combat fraud in particular in the social welfare system. We support such efforts but perhaps the Minister will comment on the fingerprinting machines.

An Leas-Chathaoirleach: That is a matter for the Minister for Justice and Law Reform.

Senator Maurice Cummins: The matter is relevant to the amendment as we are speaking about electronic means. The Minister mentioned it himself in discussing signature pads.

Senator Nicky McFadden: I understand where Senator Cummins is coming from and any means to combat fraud must be welcomed. We are concerned about how effective is the technology and the impact it will have on fraud. The Labour amendment asks if there will be a pilot scheme, and Fine Gael is also wondering about that. How will the scheme be effected and where will it be rolled out? What will be the period of operation?

The Minister previously responsible for social welfare, Deputy Hanafin, indicated in 2008 that face to face contact with social welfare recipients is a good thing. I have grave concerns about how effective the signing pad and other technological aids to recognition will be.

Deputy Éamon Ó Cuív: The trial is to commence in 2011 with between 150 and 200 people; with approximately 300,000 people signing on in one form or another, the number is very small. We will select clients considered low risk. If we are to combat fraud we should consider people

[Deputy Éamon Ó Cuív.]

who are low and high risk, and we know from experience that perennially putting effort into low-risk people disperses efforts against high-risk people.

We will make a dramatic change in personal contact. The rules were changed by Deputy Hanafin and people must personally attend at a local post office to get payment. People cannot get it by electronic transfer any more. The only flaw is that in the bigger urban post offices and even in rural Ireland, people do not know everybody. With the introduction of the public services card it will be much easier for the post office personnel to be absolutely sure the right person is present. That relates to weekly attendance, which is even more important than the monthly signing on. I am absolutely happy that we must have this legal facility to use electronic means.

I assure Senators that whatever technology is adopted or brought to the system, it will not be rolled out on a wide basis until we are sure the technology gives more benefit than risks. The idea is to free up staff, reduce risk and target resources better. If anybody ever goes into a local social welfare office, much time is taken just signing, and that is totally disproportionate to the benefit.

Senator Maurice Cummins: There is talk that a number of people have various PPS numbers, with people of the same identity having two, three or four numbers. If they get a card and sign on for one number, what is preventing such people from using the same signature for several PPS numbers? The signatures will match the numbers so how will people with various numbers be found out?

Deputy Éamon Ó Cuív: The card will come into use.

Senator Maurice Cummins: I have one of the old cards in my pocket.

Deputy Éamon Ó Cuív: I saw one of the new cards yesterday and they are basically of the same standard as a passport. To believe that one can get duplicate cards with the same face and signature registered electronically is like saying three or four passports can be obtained by one person at the passport office. Significant controls have been introduced with electronic issuing of passports to ensure that is not possible, and this is one of the attractions of the new card.

The Senator asked a question about fingerprinting equipment. I understand there were some IR issues to be resolved and the Minister has asked that the matters be expedited and resolved. That does not relate to my Department. The staff in my Department have been amenable to change and a substantial amount of new technology has been introduced. As part of the Croke Park agreement, new technology is developed, in many cases, in consultation with front-line staff who know best what the challenges are. Having staff involved in the process from the beginning means they buy into the introduction of new technology. This would not be the case if it was imposed from the top down.

Amendment put.

The Committee divided: Tá, 17; Níl, 22.

Tá

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

Coghlan, Paul.
Cummins, Maurice.
Donohoe, Paschal.
Fitzgerald, Frances.
Healy Eames, Fidelma.

Tá—*continued*

McFadden, Nicky.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.

Regan, Eugene.
Ross, Shane.
Ryan, Brendan.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.

Hanafin, John.
Keaveney, Cecilia.
Leyden, Terry.
Mooney, Paschal.
Ó Brolcháin, Niall.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Wilson, Diarmuid.

Tellers: Tá, Senators Ivana Bacik and Nicky McFadden; Níl, Senators Niall Ó Brolcháin and Diarmuid Wilson.

Amendment declared lost.

Question put: "That section 4 stand part of the Bill."

The Committee divided: Tá, 23; Níl, 18.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.

Hanafin, John.
Keaveney, Cecilia.
Leyden, Terry.
Mooney, Paschal.
Ó Brolcháin, Niall.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Wilson, Diarmuid.

Níl

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

Healy Eames, Fidelma.
McFadden, Nicky.
Mullen, Rónán.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Maurice Cummins and Nicky McFadden.

Question declared carried.

Question, "That section 5 stand part of the Bill," put and declared carried.

Question, "That section 6 stand part of the Bill," put and declared carried.

SECTION 7

An Cathaoirleach: Amendments Nos. 2 and 3 are related and may be discussed together.

Senator Ivana Bacik: I move amendment No. 2:

In page 10, line 37, after "number" to insert "and a tax clearance certificate".

Conscious that these amendments were discussed and put by my colleague Deputy Shortall in the Dáil, I am only moving them formally in this House.

Deputy Éamon Ó Cuív: As I explained in the Dáil, we are making provision to ensure every landlord will have to provide a PPS number. I have been very anxious to achieve this since I entered the Department. Other issues would arise if we were to take the step of requiring the presentation of a tax clearance certificate. The Minister of State, Deputy Finneran, and I are examining the rent supplement scheme as a whole in this regard and I am not ruling out the proposal as part of a next phase. However, it was not possible to go as far as proposed as fast as desired. I have no objection to the suggestion in principle.

What occurs is that we give the details of all tenancies to the Revenue Commissioners. We will require the provision of a PPS number for every tenancy. I understand that, while we do not have all PPS numbers in the data matching exercises undertaken, there is a high level of compliance. We will obviously be able to secure a much greater level of compliance and this will involve much less work as we will have all of the numbers.

Sometimes there are misunderstandings about tax clearance. If a tax clearance certificate was required before the tenancy, it would never prove tax was paid. It would not prove tax clearance had any relevance to the payment of tax in respect of the tenancy and would not resolve the issue. However, I am open to considering the Senator's suggestion in the future. I am about to reform the supplementary welfare scheme in full and will certainly take the Senator's suggestion into account. It was not possible to accept it in this instance. I took the view that perfection was the enemy of doing anything and that requiring the provision of a PPS number would be a huge step in the right direction. However, I regard it as just one step.

Senator Ivana Bacik: I will be very brief because I know the matter was debated in the Dáil. I am glad to hear the Minister say he is not ruling this proposal out in principle. The purpose of the amendments is to strengthen the pressure for compliance. I accept the Minister's point that a tax clearance certificate would not prove anything in respect of the payment of tax on the tenancy because it would be retrospective. It is still, however, part of an overall movement towards encouraging compliance in tax affairs among landlords. I am glad to hear the Minister say he is not ruling out my suggestion in principle and hope we will see it introduced in future legislation.

Senator Frances Fitzgerald: I welcome what Minister said about a further review of the rent supplement scheme. Will he outline the most up-to-date figures for the cost to the Exchequer of the scheme? It is critical that we obtain as much value for money as possible. The scheme is necessary for many, but there is certainly scope within it for reform. What we are discussing is part of that reform. There ought to be as much accountability as possible built into the

system with regard to the allowance. In many ways, distortions are caused by it in the housing market. I am sure the Minister will agree with me in that regard. Questions arise as to entitlements. Clearly, major problems arise over access to housing, to which we must be very sensitive. At the same time, however, we must have a system that delivers value for money, gets the money to the right people and is fully accountable. Will the Minister tell the House the cost of the system to the Exchequer? He has announced that he intends to engage in further reform of the system. What else is he considering doing in respect of the allowance? What other areas will he be examining?

Senator Jerry Buttimer: I will be very brief because we discussed this issue on Second Stage. It is important that we tackle the issue of landlords who are not doing their duties. I cannot comprehend why we do not have PPS numbers for landlords. The PRTB which does a very good job has a waiting list when one tries to meet it.

Senator Fitzgerald referred to access to housing. It is important that those who avail of the scheme are living in conditions that are fit for human habitation and that the landlord is accountable. We must remember that many landlords are very good, comply with all of the regulations, maintain their properties and look after their tenants. Some, however, are at the bottom of the barrel regarding the fulfilment of obligations. They are flying away scot-free, pay no tax, get their money, do not maintain their properties, increase the rent and change the conditions of the tenancies.

Directly behind my office on Glasheen Road in Cork is the premises of an absentee landlord who has no respect for the law, Departments or the enforcement powers of Cork City Council, yet he was able to obtain a tenant through the HSE. This is crazy. I accept the Minister's bona fides regarding this matter, but the time for reviews is over. Senator Fitzgerald is correct; we are spending vast sums of money and require not only a review but also root and branch reform.

Senator Brendan Ryan: Although we are considering amendments Nos. 2 and 3 together, the Minister's response seemed to refer only to amendment No. 2. Dealing directly with the landlord and cutting out the tenant-landlord relationship removes the potential for landlord-tenant contact which sometimes results in pressure to pay additional moneys over and above the value of the rent supplement payable for various properties. Will the Minister address this issue?

Senator Martin Brady: On Senator Fitzgerald's point, I was speaking to a city council official this morning about social housing. One of the complaints of the city council is that offers of housing are refused. In the case in question, three offers of housing were made to an individual on three occasions and refused because the houses in question were not in the location desired by the individual. He or she wanted to be beside his or her relations. That is not acceptable anymore because there are thousands of houses unoccupied in Dublin city, in respect of which the owners would be prepared to charge but one quarter of what is being paid in rent supplement. This is a disgraceful set of circumstances. In the case in question, three good houses were offered within a period of approximately seven or eight months.

An Leas-Chathaoirleach: The Senator is straying a little from amendments Nos. 2 and 3.

Senator Martin Brady: I just want to clarify the matter.

Let me address the points raised by Senator Buttimer. There are landlords, particularly in Dublin's city centre, who are acting the blackguard with tenants. During the flooding, we came across a house with approximately 30 people living in it. It was a dangerous place in which to

[Senator Martin Brady.]

be living. This problem has not been rectified and still arises in the city centre in places such as Mountjoy Square. Senator Buttimer is correct in this regard.

Deputy Éamon Ó Cuív: Many issues were raised which I will try to address. The responsibility for setting and enforcing household standards rests with local authorities. If, however, a property is occupied by rent supplement tenants, it must meet the minimum standards. Regulations were introduced that allowed the HSE to refuse rent supplement for a property that does not reach the required standard.

There is, however, a weakness in the system. At the moment, the tenancy is taken up and then registered with the PRTB. That is akin to a hotel taking guests then registering with Fáilte Ireland. The Minister of State and I are examining a situation where the property is registered as being to let first and if it is not registered as being to let, the landlord would not be able to get a rent supplement tenant.

The local authority does the inspections. I would like those inspections to be extended to cover energy ratings, because those in rented accommodation make up the greatest percentage of those suffering from fuel poverty. People think about money for fuel poverty but when the figures are analysed, it is not a function of money but of the poor thermal properties of the properties in question, where no matter how much heat is generated, it just goes out through the windows and doors. I am committed to resolving this issue and we need to approach it differently.

Another idea that has been floated is that before a property had to be registered with the PRTB, allowing that local authorities do not have the resources to check all properties, a certificate of compliance to building and energy standards would be needed. We must do a lot of work but it is incremental. The big mistake in the past was that we tried to do everything in one go or did nothing at all. My view is that if every six months we know what we want to do, we can change direction and that is a better way to institute long-term change than waiting for the entire package. Perfection can stymie progress when we could probably achieve 90% quickly and any issues that require extra time could then be approached.

There are both bad landlords and bad tenants. The issue was raised with me of a tenant purposely starting a dispute with a landlord, referring it to the PRTB and then not paying the rent while the PRTB is adjudicating, which could take nine months. When the issue is resolved, the tenant simply leaves taking the rent supplement money. We are looking at this but my view is that if the tenant is not paying the landlord because of a dispute, we should withhold payment until the dispute is resolved. The temptation exists for the tenant to leave with the money. Similarly, if landlords are blackguarding, there should be measures in place to ensure payment is withheld.

There are three types of people: those who pay by the book, those landlords who do not bother to collect the tenant's contribution of €24 per week and who settle for what we pay, and the totally illegal situation of the further top-up. The only way I can stamp that out is by establishing equitable market rents all over the country. If someone can prove an area is out of kilter, we will look at it, but there are unscrupulous people out there. Unless people are willing to give us information, however, we are powerless to prove it. That is always a problem.

With the surplus properties on the market, however, we should be able to secure enough honest providers of property that we should not be in this situation. Because of the €24 charge, however, whether there are two people or 20 people in the house, it is possible that not just landlords are crowding the houses, it is possible tenants are getting a house on rent supplement

and are bringing people in. That is a weakness in the system. If there was a differential rent, the tenant would legally be obliged to pay some contribution for every adult in the House.

I agree about refusals of local authority housing where a reasonable offer is made. We must clampdown on that; people must take what is available within reason after a certain number of refusals. It is important, however, that local authorities keep their accommodation in good order and do not place people in the tenancies from hell. I agree with the Senator in principle but we must be careful; I have seen offers being made where the houses were not habitable.

We need a huge degree of change. The rental scheme makes up half of the housing market, with €510 million spent on the rental scheme in 2009, €512 million this year and €465 million next year. I am making the necessary changes, such as the marrying of rent allowance with differential rent schemes. At the moment, rent allowance acts as a disincentive to work. We want this to become more short-term in nature and get local authorities to assume control without discommoding tenants.

Senator Frances Fitzgerald: We are spending €500 million on the scheme, a huge amount of taxpayers' money. Clearly, people need housing but the point about housing standards is critical, particularly when fuel poverty is increasingly an issue. If we give money to people to stay in substandard houses, they must then spend more money on fuel, thus becoming more reliant on the State. It is a vicious circle.

An Leas-Chathaoirleach: The Senator is moving away from the amendment.

Senator Frances Fitzgerald: It is relevant to the amendment. It is about standards.

An Leas-Chathaoirleach: It may well be, but it is irrelevant to the amendment.

Senator Frances Fitzgerald: The amendment is about standards.

An Leas-Chathaoirleach: The amendment is about holding a tax clearance certificate and the method of payment.

Senator Frances Fitzgerald: It is about holding the landlords to account.

An Leas-Chathaoirleach: No, it is not.

Senator Frances Fitzgerald: It is about holding them to account and the Minister must move as quickly as possible on this area to change the situation. I welcome the Minister's comments on the need for change but the whole area is in need of reform.

Deputy Éamon Ó Cuív: I remember introducing a scheme in the Gaeltacht to include central heating in houses for older people. I would go into a house where there was a roaring fire but there was no thermal quality to the house and it would be perishing cold. There would be plenty of turf, probably enough to heat a much bigger house, but the heat all escaped. It is all about energy regulations.

Our relationship is with the tenant so there are two reasons why it might not be a good idea to pay the landlord directly. First, we do not have a tenant relationship with the landlord, and to do so would create implications beyond payment of money. Second, the tenant has the right to privacy in his financial affairs. Some people are on variable incomes and rent supplement varies depending on income. We reference rent supplement to social welfare payments plus any other payment above €75 per week, deducting that amount from the rent supplement. If

[Deputy Éamon Ó Cuív.]

that was paid directly to the landlord, he would know the tenant's income and that would be unfair on that tenant. We operate the scheme in favour of the tenant, whereby he can assign the payment directly to the landlord and we have instructed CWOs to ensure that is a convenient option. Where a tenant asks that the money be given to him or her, we pay the money to the tenant who then adds it to his or her personal contribution and gives the full rent to his or her landlord and in that way the landlord would not know the tenant's business. It would be only right to preserve the right of the tenant to make that call rather than to remove from him or her that option of a fairly personal nature.

Senator Brendan Ryan: I thank the Minister in that regard. On amendment No. 2, I accept his commitment to examine these various matters and incremental change in the future. Does the Minister have the power to implement this incremental change by way of statutory instrument or ministerial order rather than having to introduce new legislation every six months?

Deputy Éamon Ó Cuív: A good deal of what I want to address relates to the Department of Environment, Heritage and Local Government. Some of these changes will require legislative change. For example, the change to pay a landlord directly if that is the tenant's choice was made by writing an instruction to that effect to the community welfare officer. That option depends on each individual's circumstances. What I intend to do, as I am doing in the case of the mortgage interest supplement, is to make a list of all the changes proposed and to decide those that can be made by the issuing of a circular, those that can be made by way of a statutory instrument and those that will require legislation. I hope that when Minister of State, Deputy Finneran, and I are ready with our work in January we can put forward a headline list of things to do and specify what is required in respect of each matter. If such a change requires legislation, we should not make a big issue, as many people do, of introducing necessary legislation.

Senator Nicky McFadden: Hear, hear.

Deputy Éamon Ó Cuív: All that legislation involves is writing rules through the Houses for the good of the people. If legislation is required, we should introduce it and if that has to be done on an incremental basis, so be it.

Senator Brendan Ryan: Is it the Minister's intention to publish that list?

Deputy Éamon Ó Cuív: Yes, absolutely.

An Leas-Chathaoirleach: Is amendment No. 2 being pressed?

Senator Brendan Ryan: No. I will not press it based on commitments given by the Minister.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

Senator Brendan Ryan: I move amendment No. 4:

In page 13, between lines 34 and 35, to insert the following subsection:

“(4) A payment of rent supplement under the Principal Act shall be suspended where the Minister has reasonable grounds to believe that the tenant has engaged in anti-social activity.”.

Deputy Éamon Ó Cuív: The issue of anti-social behaviour will have to be examined and it is part of what we will discuss. I will not accept the Deputy's amendment today but I would like to return to this matter as an issue that must be dealt with.

Senator Nicky McFadden: I would be interested to hear the outcome of the Minister's deliberations on this amendment following his meeting with the Minister of State, Deputy Finneran. People have moved into settled housing estates where some of the residents are elderly and they have found that anti-social behaviour is a major issue. Those engaged in this behaviour have caused havoc. Landlords have no regard for the tenants affected and those who engage in this behaviour seem to be able to do as they please. This is a worthy amendment.

Deputy Éamon Ó Cuív: Existing legislation provides the HSE with the authority to refuse, suspend or terminate payment of a rent supplement in the case of a person who has been required to deliver up possession of a dwelling provided by a housing authority or an approved body where the reasons for that requirement include anti-social behaviour or the interests of good estate management.

In regard to private rented accommodation, tenancy arrangements are a contract between the landlord and the tenant. It comes back to that issue. If there is anti-social behaviour, the primary onus is on the landlord to deal with it. I gather Senator Ryan is asking what we would do in circumstances where there is a rogue landlord and a rogue tenant. I will reflect on this issue because it has validity. We need to resolve these types of issues, although they cannot be easily answered. I accept we cannot have anti-social behaviour taking place and, on the other hand, we cannot have people sleeping on the streets. We need to reflect on how we will deal with this very tricky issue. We all know of areas where people involved in anti-social behaviour have literally cleaned out whole estates and left estates with rows of boarded up houses, which is a major problem.

An Leas-Chathaoirleach: Is amendment No. 4 being pressed?

Senator Brendan Ryan: In tabling these amendments, we are not seeking perfection. We are not suggesting by any means that what they propose are the right answers and the one and only way to deal with this problem. My objective in tabling them is to seek a commitment from the Minister to come back on the next Stage with an amendment to improve the position or, as he has done today, to make a commitment to examine the position later and to do something about it. I accept the Minister's bona fides on this matter and, therefore, I will not press the amendment.

Amendment, by leave, withdrawn.

Section 7 agreed to.

SECTION 8

Senator Nicky McFadden: I move amendment No. 5:

In page 13, line 40, to delete "where required,".

This amendment relates to changes to be provided for a personal public service, PPS, number. The Social Welfare Consolidation Act requires that a photograph and signature be submitted for any customer registering for a PPS number. The purpose of this amendment is to ensure that persons applying for a PPS number who do not live in the country are not exempt from

[Senator Nicky McFadden.]

providing documentation or signatures. It is perfectly possible for people to provide these by post. To reduce potential fraud, it should be a minimum requirement that anyone who is not applying in person should comply with the same documentation and authenticity requirements as any other applicant.

Deputy Éamon Ó Cuív: The purpose of this section is to provide for certain circumstances. For example, as we discussed previously, certain people such as babies cannot provide signatures to register for a PPS number. Neither signatures nor photographs can be provided in respect of deceased persons. The section is to provide a facility to the Department whereby it is not required to obtain such information in cases where it is impracticable to do so. This is a purely technical amendment to the principal Act. I assure the Senator that every effort is and will continue to be made in this respect and these requirements will be obligatory. The call lies with the Department whether it requires such information. In the cases I cited, it would not need it. The call is ours, it is not the choice of the applicant and absolute security will be maintained. With the roll-out of this sophisticated card from January next, we will insist on everything that is required from applicants, but this cannot be a requirement in the case of certain people for obvious reasons. This is a technical provision. It is a case of where we introduced a simple measure and suddenly realised there were technical glitches. If someone needs a PPS number for some State business and the person concerned is deceased, obviously there are certain challenges.

An Leas-Chathaoirleach: Is Senator McFadden pressing the amendment?

Senator Nicky McFadden: No.

Amendment, by leave, withdrawn.

Amendment No. 6 not moved.

Section 8 agreed to.

Sections 9 to 11, inclusive, agreed to.

SECTION 12

Senator Nicky McFadden: I move amendment No. 7:

In page 17, line 12, after “assessor” to insert the following:

“, vocational rehabilitation assessor, labour market integration expert or other specialist placement officer”.

We discussed partial capacity benefit in great detail on Second Stage and I welcome the Minister's initiatives in this regard. I raised at that time whether it is only necessary for people to be assessed medically and said that I believed they should also be assessed socially. It is undesirable and demeaning to require a person with a disability to be repeatedly examined and assessed for the purpose of receipt of various rights and entitlements. Duplication of assessments should be avoided where another Department has authorised a recent assessment of a disability. Thus, section 8 of the Disability Act 2005 provides for the assessment of a person with a disability on request. Its commencement is awaited by many young people and adults.

Section 8 provides for the HSE to assess the needs for services and this is already the case. The Act provides for reports of such assessments to be provided to applicants.

On commencement of the Disability Act 2005, with regard to assessment of need for adults, it would be undesirable and a waste of public resources to repeat such assessments for the purposes of ascertaining partial capacity for work.

Deputy Éamon Ó Cuív: Different organisations assess for different purposes. We discussed this point before. There is not a direct correlation between a specific disability and a person's ability to work. The scheme is based on ability to work. I gave the very simple example of one of our Oireachtas colleagues in the other House who has a very obvious disability but who can perfectly perform his function as a Minister of State. There is no dispute about the medical issue but while his ability to work in that job is proven, the ability of a person with the same physical disability to work as a plasterer or a blocklayer or in some other manual job would be very different. Therefore, the Department measures a person's ability to work. We must keep it that way because this is the basis for the payment.

The capacity assessment process will represent an extension and development of the existing medical assessments which determine entitlement to invalidity pension and illness benefit. The medical protocols which will underpin the capacity assessment will draw on best international practice and are being developed in accordance with established evidence-based disability evaluation protocols and will be set out in regulations. The medical assessors in my Department will also have specific training provided for the undertaking of capacity assessments in order to ensure that a consistent approach is taken to the key element of the scheme.

It is not possible to do this other than by assessment of a person in the context of his or her work, education, training and so on and his or her capacity to work. This will be done in a professional manner to the highest standards. I look forward to the chief medical officer of my Department being invited to the Joint Committee on Social and Family Affairs to talk about the issue of medical assessment for the domiciliary care allowance or for partial capacity. I have been very impressed with his approach, as I think have most Members, to how the system processes these assessments. He has made it clear to me that he is more than willing to discuss these issues with the committee. We need to have a good process in place but we also need to satisfy the Members of the House that a good process is in place which is well thought-out and which conforms with best international practice.

Senator Nicky McFadden: My amendment refers to duplication. Taking account of any assessment undertaken under the Disability Act 2005, I fail to understand the reason if a person has already been medically assessed, he or she must be subject to the bureaucracy of having another assessment. It seems to be a waste of resources.

Deputy Éamon Ó Cuív: I do not wish to be too leadránach on this point. It is often the case that a person sends in medical certification only to be refused a benefit. The person will argue he or she has the medical condition but the point in the legislation is being missed. I do not mean to say the Department disputes the person's medical condition but it disputes whether that condition prevents the person from working, taking into account ability, training and education. Whereas the person making the application can use all the medical evidence from any previous assessment, it all has to be put into the context of the terms of the scheme, for example, if a person needs constant care and attention. It is not just the medical condition but whether that medical condition leads to a further step of either inability to work or the need for constant care and attention or whatever the scheme requires in the various cases. Sometimes people do not see the subtle difference between accepting or not accepting what the medical

[Deputy Éamon Ó Cuív.]

condition is and accepting or not accepting whether that then stops a person participating in the workplace at various levels. That is the challenge. The people who will be making these judgments will be highly trained to do so according to best international practice.

Senator Nicky McFadden: My amendment refers to a vocational rehabilitation assessor, labour market integration expert or other specialist placement officer. Such a person would be aware of people's needs. The Minister referred to workplace programmes to suit an individual. I suggest such a specialist officer would not necessarily require psychiatric training but rather would be an expert in negotiating and dealing on behalf of the person with a disability in order to place them in the best possible position. This is a very worthwhile section of the Bill and I commend the Minister for his interest in the details.

Amendment put.

The Committee divided: Tá, 19; Níl, 22.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Donohoe, Paschal.
Fitzgerald, Frances.
Healy Eames, Fidelma.

McFadden, Nicky.
Mullen, Rónán.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ryan, Brendan.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.

Hanafin, John.
Keaveney, Cecilia.
Leyden, Terry.
Mooney, Paschal.
Ó Brolcháin, Niall.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Wilson, Diarmuid.

Tellers: Tá, Senators Maurice Cummins and Nicky McFadden; Níl, Senators Niall Ó Brolcháin and Diarmuid Wilson.

Amendment declared lost.

Section 12 agreed to.

Question, "That section 13 stand part of the Bill," put and declared carried.

Sections 14 to 16, inclusive, agreed to.

Question, "That section 17 stand part of the Bill," put and declared carried.

Question, "That section 18 stand part of the Bill," put and declared carried.

Question, "That section 19 stand part of the Bill," put and declared carried.

Question, "That section 20 stand part of the Bill," put and declared carried.

Question, "That section 21 stand part of the Bill," put and declared carried.

Sections 22 to 24, inclusive, agreed to.

Question, "That section 25 stand part of the Bill," put and declared carried.

Section 26 agreed to.

Question, "That section 27 stand part of the Bill," put and declared carried.

Question, "That section 28 stand part of the Bill," put and declared carried.

NEW SECTION

Senator Nicky McFadden: I move amendment No. 8:

In page 42, before section 29, to insert the following new section:

"29.—The Minister shall, within 3 months of enactment of this Act, publish a strategy on how he will reform the practices of An Foras to assist people to get back to work."

I will not rehearse what was said in our previous lengthy discussions on FÁS because I am aware that people are worried about the state of the roads and anxious to get home. However, it is reasonable to ask the Minister to lay before the House a strategy to assist people to get back to work.

Deputy Éamon Ó Cuív: The Deputy's amendment provides that An Foras Áiseanna Saothair would provide a strategy, but given that it will be subsumed into the Department, it will not be able to publish such a strategy.

Senator Nicky McFadden: Tús then.

Deputy Éamon Ó Cuív: Tús is only a scheme. The Department is obliged by statute to publish its strategy statements. Like Manpower, community employment services will become a regular part of the Department and, as such, be covered by departmental strategy statements.

Senator Nicky McFadden: When will the next strategy on job creation be announced? That is a reasonable request.

Deputy Éamon Ó Cuív: I am committed to promoting job creation. We have announced new schemes on internships in the public and private sectors, as well as the Tús scheme. We are developing a comprehensive employment strategy and many of our efforts are aimed at facilitating people to get back to work. We will continue to publish policies on employment. However, there is also a need for practical reforms to allow us to get on with the job. I would be happy to return to the Seanad to debate the Department's role in employment creation.

Senator Nicky McFadden: That would be great.

Deputy Éamon Ó Cuív: We are developing pilot schemes to bring people to group interviews. I expect to have the results of the first phase of the schemes at the beginning of the year, at which point I will present a detailed account of our progress.

Amendment, by leave, withdrawn.

Question, “That section 29 stand part of the Bill,” put and declared carried.

Sections 30 to 44, inclusive, agreed to.

Question, “That section 45 stand part of the Bill,” put and declared carried.

Schedules 1 to 3, inclusive, agreed to.

Question, “That the Title be the Title to the Bill,” put and declared carried.

Bill reported without amendment.

Amendment put.

The Seanad divided: Tá, 23; Níl, 17.

Tá

Boyle, Dan.
Brady, Martin.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.

Keaveney, Cecilia.
Leyden, Terry.
Mooney, Paschal.
O'Malley, Fiona.
O'Sullivan, Ned.
Ó Brolcháin, Niall.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
Ormonde, Ann.
Quinn, Feargal.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Donohoe, Paschal.
Fitzgerald, Frances.
Healy Eames, Fidelma.

McFadden, Nicky.
Mullen, Rónán.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Regan, Eugene.
Ryan, Brendan.
Twomey, Liam.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Maurice Cummins and Nicky McFadden.

Amendment declared carried.

Question put: “That the Bill do now pass.”

The Seanad divided: Tá, 23; Níl, 19.

Tá

Boyle, Dan.
Brady, Martin.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.

Keaveney, Cecilia.
Leyden, Terry.
Mooney, Paschal.
O'Malley, Fiona.
O'Sullivan, Ned.
Ó Brolcháin, Niall.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
Ormonde, Ann.
Quinn, Feargal.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Donohoe, Paschal.
Fitzgerald, Frances.
Healy Eames, Fidelma.

McFadden, Nicky.
Mullen, Rónán.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Maurice Cummins and Nicky McFadden.

Question declared carried.

Social Welfare and Pensions Bill 2010: Motion for Earlier Signature

Senator Donie Cassidy: I move:

That, pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Social Welfare and Pensions Bill 2010 *changed from* Social Welfare (Miscellaneous Provisions) (No. 2) Bill 2010 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her.”.

Question put.

The Seanad divided: Tá, 23; Níl, 19.

Tá

Boyle, Dan.
Brady, Martin.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.

Keaveney, Cecilia.
Leyden, Terry.
Mooney, Paschal.
O'Malley, Fiona.
O'Sullivan, Ned.
Ó Brolcháin, Niall.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
Ormonde, Ann.
Quinn, Feargal.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Donohoe, Paschal.
Fitzgerald, Frances.
Healy Eames, Fidelma.

McFadden, Nicky.
Mullen, Rónán.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Maurice Cummins and Nicky McFadden.

Question declared carried.

An Cathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: At 2.30 p.m. on Wednesday, 12 January 2011.

Adjournment Matters

Social Welfare Benefits

Senator James Carroll: I start by wishing the Leas-Chathaoirleach a happy Christmas.

I thank the Minister for Social Protection, Deputy Ó Cuív, for taking his motion himself. It is a sad reality that jobseeker's benefit is not available to the self-employed. It is a significant issue for so many constituents who have contacted me. They all know that if one meets the required level of PRSI contributions, one can get certain benefits from the State such as maternity benefit, adoptive benefit, bereavement grant, widow's/widower's contributory pension, guardian contributory payment and the State pension contributory, but the key issue, as I mentioned at the start, is that a self-employed person is not entitled to receive any form of guaranteed jobseeker's benefit from the State.

In my constituency offices in Ardee in Drogheda, I have had numerous self-employed persons, from owners of bus companies to restaurateurs, small builders and driving instructors, who often have sacrificed their savings to keep their business going. If they had one member of staff, often they have sacrificed any savings and payment or money that they had to try to keep their business and their employees going. They often said to me that the employee is the only person taking a wage from the business. A real concern expressed to me at the Drogheda and District Chamber of Commerce budget breakfast last Wednesday, 8 December, the day after the budget, was the sense that there is a twin-track approach to the economy. We are actively helping the export sector of our economy but perhaps we are not doing enough to help our indigenous industry and business. That is something I would like the Minister to address.

I am sure the Minister will outline the differences in payment, with jobseeker's allowance being a means-tested payment and jobseeker's benefit a guaranteed payment based on PRSI contributions. As I have indicated, a self-employed person is not guaranteed any unemployment benefit from the Government and only receives a payment if income is at a low enough

level to meet the requirement of a means test. Matters may have gone beyond the point of no return when the self-employed person reaches this stage and the significant concern is that businesses and the self-employed only get to that point when they have gone to the wall or much savings have been sacrificed.

The State and some people may feel that these people have some savings, money under the mattress or some other assets, and that is why the guaranteed jobseeker's benefit cannot be given. In the new reality of the past two or three years, we have gone beyond such a position to a point of no return. Businesses have often ended up selling assets just to stay afloat.

I look forward to the Minister's reply to this very significant issue, as coming to Christmas many shop owners have been in contact with me. They have been badly struck by the weather over the past two weeks but have hoped that this Christmas can get them to the new year. They are praying for good weather and a good Christmas period in order that they can look forward to 2011. Many such businesses are concerned about getting money in over the Christmas period because they may not see 2011.

Minister for Social Protection (Deputy Éamon Ó Cuív): I thank the Senator for raising this very valid question. I hope the answer will explain somewhat the challenges inherent in the matter raised. The social insurance system draws together a relationship between the employment or self-employment status and the rate of contribution payable and benefits or pensions receivable as a result of these contributions. In common with many social insurance systems throughout the world, the system is not actuarially based but funded through a pay as you go approach. Today's contributors support both past and current contributors while also ensuring their own future security by building up entitlement to later benefits and pensions and paying into a mechanism that redistributes income over one's lifetime.

In 2011, self-employed workers will be liable for PRSI at the class S rate of 4%, the same personal rate as is paid by ordinary employees. Employers also make a PRSI contribution of 10.75% in respect of their employees, resulting in the payment of a combined 14.75% rate per employee under full-rate PRSI class A. As a result, ordinary employees can build entitlement towards the full range of social welfare benefits. Class S contributions will continue to provide cover for long-term benefits such as the contributory State pension and widow's and widower's pension only.

PRSI coverage is related to the risks associated with employment or self-employed, the annualised system of contributions for self-employed people and the practicalities of administering and controlling access to short-term payment for the self-employed. A system of separate arrangements for employed and self-employed workers within a social insurance context is common in other European social protection systems. It may also be noted that the 2005 actuarial review of the social insurance fund indicated that the fund favours the self-employed over the employed when both employer and employee contributions are included in respect of the employed person. The analysis demonstrates that despite the fact that they are eligible for a narrower range of benefits, self-employed persons can gain substantially more from the fund than employees. This relates to cost of pensions and the length of time people draw down such pensions.

There are no plans to extend cover for short-term benefits to this group of insured workers. Any such measure would have significant financial implications and would have to be considered in the context of a much more significant rise in the contribution payable. In terms of current supports available to self-employed persons, it may be noted that in certain cases a self-employed person who had insurable employment in the relevant year, currently 2008, and

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had paid sufficient class A contributions may qualify for a jobseeker's benefit payment, provided all the conditions of the scheme are satisfied.

A self-employed person who has paid insufficient class A contributions may instead qualify for jobseeker's allowance. Jobseeker's allowance is a means-tested payment and in assessing a person's means for the purposes of this allowance, account is taken of all income which the person may reasonably expect to receive during the succeeding year. In general their means will take account of the level of earnings in the past 12 months in determining their expected income for the following year.

In the current climate account is taken of the downward trend in the economy and it is accepted that future earnings may be lower than those of previous years. The process also recognises the potential for significant upward or downward variations in income from one year to the next. If a self-employed person's position changes after making an initial claim for jobseeker's allowance, the person can apply to have his or her means reviewed in the light of these changed circumstances.

Self-employed people on jobseeker's allowance for 12 months or more will be eligible for the new Tús initiative of community work placement which will pay the full rate of jobseeker's allowance plus an extra €20 per week. This is key as someone who establishes any eligibility for jobseeker's allowance for a year will be able to get this payment, which is in lieu of work done and can be added to adult and child dependant allowances, etc. I often find schemes such as this and the rural social scheme are very attractive to self-employed people.

Industrial Development

Senator Paschal Donohoe: This motion concerns the venture capital industry in Ireland which consists of private bodies that play a role in investing in local entrepreneurial companies and people looking to set up ventures. I have recently seen some information showing that the size of the venture capital industry in Ireland is much bigger than one might expect it to be given the size of our economy and the pressure which the economy is under. It is a source of real competitive advantage for our country as it allows entrepreneurs to access funding which they otherwise might not be able to. That has been recognised by other jurisdictions, such as the UK, which is now taking steps to attract international companies in a way that would allow funding to be made available in the same way as within Ireland.

This has been drawn to my attention, particularly as it relates to companies looking to set up on enterprise campuses. These would have a basis in technology and research and development. The appropriate venue for such companies may not be within the Enterprise Ireland or State funding route but rather in seeking private investment and equity.

Given the pressure the Exchequer is under and the difficulty it is having in supplying such funding, I raise this matter to ensure the Government and the political system is aware of the overall size of the venture capital industry in Ireland. Are measures planned to ensure we will continue to be attractive to that industry? Will we continue to incentivise the industry to invest in local businesses here?

Deputy Éamon Ó Cuív: I thank the Senator for raising this matter. I am replying on behalf of my colleague, the Minister for Enterprise, Trade and Innovation, Deputy Batt O'Keeffe.

Like many of our international competitors, including our European partners, Ireland makes commitments to venture capital funds. The State, through Enterprise Ireland, provides significant investment for the domestic venture capital industry to ensure a healthy flow of seed and

venture capital investment is available to new and developing Irish companies. On three occasions to date the Government, with Exchequer funding, has made commitments to venture capital funds. The current seed and venture capital programme, 2007-12, has made a total of more than €600 million in seed and venture capital investment funds available to Irish businesses. The taxpayer, through Enterprise Ireland, has provided approximately 25% of this seed and venture capital investment, with the balance provided by national and international financial institutions such as pension funds.

The Government has shown ongoing commitment to investment in the sector as the market failure in the provision of risk capital for small and medium enterprises, SMEs, was strongly recognised. In 2006 Enterprise Ireland, in conjunction with Forfás and the Department of Enterprise, Trade and Innovation, commissioned PricewaterhouseCoopers to overview and report on the venture capital market in Ireland and Europe and make recommendations regarding future State involvement in the sector. The report concluded that there continued to be a clear market failure in the availability of risk capital for Irish companies. It stated the State needed to continue to invest in the sector to continue the process of developing a self-sufficient seed and early stage venture capital industry in Ireland. At the time PricewaterhouseCoopers recommended a greater focus on the long-term commercial viability of funds, particularly by only supporting larger funds and funds which had a reasonably wide investment strategy, investing in companies at differing stages of development.

Enterprise Ireland has adhered to this strategy, with the majority of the non-seed funds supported under the scheme having total commitments of €75 million or higher. This makes the funds more commercially viable as the fund managers will be able to follow their investments and thereby maintain investor value. A showing of positive returns and commerciality is also particularly important when the venture capital funds next seek to raise further capital among the decreasing number of limited partners who are willing to invest venture capital funds. Therefore, Enterprise Ireland's continued emphasis on international investment syndication by the Irish funds will also continue to be important. Enterprise Ireland envisages that the fund managers with whom they have invested will raise further larger funds and are, therefore, poised to invest in the smart economy. It is important for several managers to have raised at least four or five funds with positive returns before they will be considered for investment by the larger fund of funds, international endowments and family offices.

The venture capital sector is a crucial aspect of any innovation system and central to the Government's continued focus on exports as a platform for economic growth. A dynamic and healthy venture capital market is a prerequisite for the development of high potential start-up companies and innovative scaling companies. Investment in venture capital is also important in commercialising the Government's investment in research and development and complementary to the direct investments made by the State in Irish companies through Enterprise Ireland.

The innovation task force recognised the importance of the continued long-term viability of the Irish venture seed capital sector, recommending that investment continue in developing a sustainable, forward-looking and high quality Irish venture capital industry. Reiterating the findings of the 2006 PricewaterhouseCoopers report, the task force report also recognised the need for Irish venture capital funds to continue their journey to full commercial viability raising funds of significant size and achieving returns. The innovation task force noted that the Irish venture capital funds did not invest in significant bite sizes to drive scaling companies and that larger funds should assist the venture capital funds investing greater amounts. However, the report also emphasised that it would be important that venture capital funds did not move away from investing in seed and early stage companies as a means of reducing risk as these

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types of investments had the potential for above average returns when successful. The difficulties experienced by small and medium enterprises in accessing capital is fully recognised by the Government and the more diverse and competitive the sources of risk capital for Irish labour the better.

Building on the three iterations of the seed and venture capital programme, the announcement of the Government's allocation of €125 million of Exchequer funding for Innovation Fund Ireland is the fourth phase in the programme. Innovation Fund Ireland will work in a complementary manner with domestic venture capitalists and does not, therefore, negate the importance of continued investment in the domestic venture capital market. The domestic market is still critical to ensuring a dynamic and diverse risk capital market for Irish companies in the short to medium term.

Innovation Fund Ireland is part of a suite of policy initiatives to position Ireland as a global innovation hub by driving entrepreneurial activity, the scaling of firms, employment creation and productivity growth. Through Innovation Fund Ireland, the State will continue to invest on a *pari passu* basis with the private sector. The deadline for the expressions of interest process closed on 26 November and 32 expressions of interest were received. Enterprise Ireland, in conjunction with the National Pensions Reserve Fund, is reviewing these expressions of interest. To date, the National Pensions Reserve Fund has made two investments under the banner of Innovation Fund Ireland, the most recent of which was announced on 16 December and involved the fund making a commercial investment in Polaris Ventures which is, in turn, establishing the first Dogpatch Labs outside the United States. Dogpatch Labs are dynamic open plan spaces for entrepreneurs working on new business ideas. This facility will benefit Irish entrepreneurs and make Ireland even more attractive for mobile entrepreneurs to establish new start-ups.

In the light of the particular difficulties that early stage entrepreneurs were experiencing in 2009 in raising capital, the Government, as part of the bank recapitalisation process, obtained new seed capital investment of €32 million from Allied Irish Banks and Bank of Ireland which, when combined with additional seed capital investment of €16 million from Enterprise Ireland and €1 million from the University of Limerick Foundation, led to an increase of €49 million in the seed capital funding available to Irish companies in 2009. Following the €40 million increase in seed capital funding from the banks on 13 December, the Minister for Enterprise, Trade and Innovation launched the €17 million Bank of Ireland start-up and emerging sectors equity fund. Enterprise Ireland is also working with AIB to establish an additional seed fund. Therefore, by early 2011 there will be a total of €124 million seed capital under management in the Irish venture capital market. Furthermore, on 15 November the Minister launched the €85 million Atlantic Bridge II fund. This brings the total venture capital moneys under management through the seed and venture capital scheme to €623 million in December this year. This increased availability of risk capital for Irish start-ups and scaling companies will provide a foundation for increased employment and productivity and contribute to Ireland's further development as a global innovation hub.

School Staffing

Senator David Norris: I welcome the Minister. I am relieved to have made it to the House by the skin of my teeth. I was at an educational establishment, St. Patrick's Cathedral Choir and Grammar School, which dates back in some ways to 1432. I thank the staff of the House with whom I kept in contact by telephone and who were exceedingly helpful, as they always are.

The matter I raise refers to a special school which operates under the ABACAS — Applied Behaviour Analysis Centre for Autism Schooling — system. I have the highest regard for those involved in this process — the teachers, pupils and parents — and what I say is not intended to be negative, nor should it be interpreted as carping with regard to them. I have mentioned one specific school and should also declare that I have an interest in it to the extent that my niece is one of the teachers in the school. She is not alone, however, in her concern about developments involving the Department, as her concerns are shared by parents and other members of staff.

The school in question is one of 12 in the same position. A new contract which alters the status of teachers from being tutors to special needs assistants is being issued by the Department. The deadline for making a decision on whether to accept the contract has just passed. I do not intend to be critical in any way of special needs assistants and Members will know that I have spoken very positively on their behalf, defended their interests and praised them in previous debates and at the Joint Committee on Education and Skills when I sat in on proceedings related to this matter.

The new contract was issued in a letter dated 8 December and recipients of the letter were given until today, 17 December, or nine days, to make a decision on whether to accept it. This is a short timescale in which to require someone to make such a serious decision, particularly where there are questions marks. The matter is of such concern, as I discovered during my research, that it has already been the subject of a parliamentary question in the other House. I am not alone, therefore, in expressing concern.

The issue is worrying, particularly in the light of the final paragraph of the letter accompanying the forms which were sent to the tutors in question. It reads:

Should the BOM [Board of Management] not have a written response from you in order to offer back to the DES [Department of Education and Skills] by December 17th 2010, the DES will take that as a request for voluntary redundancy. We wish to avoid this action based on lack of response and so ask that you make every effort to respond in writing by the designated deadline.

That means the board of management is placing responsibility on the Department of Education and Skills for this very short deadline and the requirement for a definite answer.

The offer of contract documents also contains a final paragraph which is similar but is highlighted by being placed in bold type and underlined. It states: “If a completed option form is not received from a staff member by close of business on 17 December 2010 it will be assumed that you will opt for the voluntary redundancy option, Form B1, and this option will then be processed.” That appears to be rather high-handed and bullying. I wonder if it is actually legal because to be enforceable, there must be mutuality in a contract. The letter also states, “Please feel free to seek assistance from your union and any other external supports.”

I am a very strong union person but the union in question has not been responsive, whatever may be the reason. Perhaps it is SIPTU which does not have a massive engagement with the teaching area. My understanding is that a number of people attempted, without success, to obtain a response from the union which apparently has been negotiating on behalf of people who it has not consulted. If this is accurate, it is very odd. I will be in contact with the union to find out if it is the case. Texts have been sent and phone messages have not been answered. This is a very poor response.

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The degree of coercion involved would probably lead to a successful action for constructive dismissal but I do not believe anyone wants that. My understanding is that all the teachers, including those to whom I have spoken, and the staff in general are very supportive of this measure and allied schools and do not want to take redundancy or be unnecessarily critical.

The issue arises as to the implication of being re-designated from tutor to special needs assistant. I understand this would involve a restriction on the activities that may be completed professionally by those designated as special needs assistants. There is a concern about whether they would be covered should they be required to do such work. My understanding is they are being required to do so. There is a very clear conflict. I refer to the question posed by Deputy Joanna Tuffy in the Dáil on 6 July 2010. She asked the Tánaiste and Minister for Education and Skills, Deputy Mary Coughlan: “the circumstances under which qualified tutors in the applied behaviour analysis programme are having their status changed to that of a special needs assistant; the reason her Department is ignoring its own circulars by requiring current applied behaviour analysis tutors under the proposed changes to fulfil a teaching role as a special needs assistant when previous circulars have clearly stated that a special needs assistant is prohibited from teaching; and if she will make a statement on the matter”. That is the nub of the question. On the one hand, the Department states they should not teach and on the other it states they must because they will have the same role. The reply of the Minister was unsatisfactory:

The Deputy will be aware that the 12 centres in the ABA pilot scheme have applied to be recognised as special schools. Following discussions with the ABA tutors’ union it has been agreed that the ABA tutors will become Special Needs Assistants . . . in the special schools. The question of ignoring Departmental circulars does not arise as the normal terms and conditions of the SNA grade will apply.

That is a very legalistic reply and does not cover the question at all. It is a trade union reply quoting terms and conditions and does not supply an answer. Redundancy packages have been agreed.

I wish to put on the record a communication from a very worried parent whose identity I will not indicate. It refers to the Minister’s answer and is definite in its wording. Therefore, any nonsense about ABA tutors being able to fulfil their current role under new SNA contracts is hogwash. The parent states:

I believe that knowingly operating outside the terms of the contract and outside the terms of the circular could leave the teacher personally in the classroom and the school at risk of legal action . . . I don’t believe the insurance company will cover it. Ask them if they have a written statement from ABACAS’s legal advisers or its insurance company overtly stating that teachers can continue with their present duties under an SNA contract.

That appears to be the critical element. I understand the Minister has special responsibility and expertise in another area. Within the past week I have heard him speak very extensively about this area. I do not say he has no knowledge of or competence in the area of teaching. I assume he will read the prepared reply. I ask him to bring the subject matter of this debate directly to the attention of the Minister in order that the situation can be resolved. The most urgent and primary concern is the welfare and assistance supplied to students who are autistic in order that they may have the best possible capacity to develop. That is what all the tutors, special needs assistants, staff, parents and pupils want.

A final point is that in a number of these schools, including the one in question, when this action is taken the school will be left without any persons on the staff who are designated as qualified teachers. They will all be special needs assistants. I wonder if that is best management practice.

Deputy Éamon Ó Cuív: I thank the Senator for raising the question and am delighted he made it back in time to the Chamber. It is always a pleasure to listen to him. In Connemara there is a very apt saying when one wishes to refer to a person who is a tremendous orator, namely, sheasfá sa sneachta ag éisteacht leis. One would stand in the snow listening to him. That is a very appropriate compliment to Senator Norris on his oratory and his ability to convey his point.

I am taking this Adjournment matter on behalf of my colleague, the Tánaiste and Minister for Education and Skills, Deputy Mary Coughlan. I thank the Senator for raising this matter as it provides me with the opportunity to clarify the position regarding the staff employed under a pilot scheme funded by the Department who are due to take up employment in newly recognised special schools. The Senator will be aware of the Tánaiste's commitment to ensuring all children, including those with autism, can have access to an education appropriate to their needs, preferably in school settings through the primary and post primary school network. This facilitates access to individualised education programmes, fully qualified professional teachers who may draw from a range of autism-specific interventions, including ABA, special needs assistants, and the appropriate school curriculum.

There is now a nationwide network of autism-specific education places in place, with 420 special classes approved for children with autism. This network has been the culmination of much work, including the consideration of the available research, the task force report, advice from autism experts, the National Educational Psychological Service, NEPS, and the inspectorate on the provision of education for these children who have such individual needs.

In the absence of the current network of special classes that now exist in our schools, the Department provided funding for an ABA pilot scheme which funded a number of stand-alone autism units using the applied behaviour analysis methodology. The centre referred to by the Senator is being funded through this scheme. He will be aware that the 2007 programme for Government committed to the long-term funding for the centres in the ABA pilot scheme, subject to agreement with the Department on standards that will enable them to be supported as primary schools for children with autism. Agreement on transitional arrangements for the pilot centres was reached following a long process of discussions and engagement with the representative body of the pilot centres.

The Tánaiste is pleased to advise the Senator that earlier this year she was able to respond positively to applications for recognition as special schools from all the centres in the pilot scheme and they have now been granted recognition as special schools for children with autism. Managers have been appointed by the patrons to manage the transitional process from centre to special school. The new schools are recruiting principal teachers and the Tánaiste understands the school in question is due to interview for this position today. The appointment will facilitate the recruitment of five additional teaching staff in the coming weeks.

The Tánaiste wishes to clarify for the Senator that the staff currently employed as tutors and supervisors in the centre have been requested to indicate by today their preference with regard to employment in the new school. They have also been offered a voluntary redundancy package. However, it may be the new year before the teaching staff are in place and, therefore, the current staffing and reporting arrangements will pertain in the interim. As part of the transition

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process, the Department is arranging for training in a range of autism-specific interventions for the new principals and teachers once they have been appointed. In addition, training has been provided for the managers and the new boards of management. It is the Tánaiste's intention to continue to support the transitional process. Departmental officials will continue to liaise with the school to ensure there are adequate staffing levels in place to ensure the children who are attending the school will receive appropriate educational provision.

The Tánaiste fully appreciates that change in any organisation can cause concern and anxiety. This is particularly true when the organisation is a centre catering for children with special educational needs. However, the Tánaiste understands each of the centres engaged with parents and staff before applying for special school status and will continue to update them on progress in this regard. I hope this clarifies the position for the Senator and thank him once again for raising the matter with me.

Senator David Norris: I thank the Minister for that welcome news. It seems to be very positive and I am sure it will provide considerable reassurance for those members of staff and the parents who have been in touch with me. Is it possible to keep us informed of progress? I am glad to hear interviews are being conducted today and that there will be fully qualified, professional teachers. That is an excellent development. I congratulate the Minister, the school and its staff.

It is always nice to have the last word and I believe that in this session I will be having it. The most appropriate last words I can utter echo the phrase by Tiny Tim, not the vaudeville artist but the character in *A Christmas Carol* by Charles Dickens: happy Christmas everyone.

Deputy Éamon Ó Cuív: I will leave the Senator with the last word.

An Leas-Chathaoirleach: I also wish everyone a happy Christmas.

The Seanad adjourned at 2.15 p.m. until 2.30 p.m. on Wednesday, 12 January 2011.