



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

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*Dé Máirt, 08 Iúil 2014*

*Tuesday, 08 July 2014*

Chuaigh an Cathaoirleach i gceannas ar 12.30 p.m.

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*Machnamh agus Paidir.*  
***Reflection and Prayer.***

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### **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator Marie Moloney that, on the motion for the Adjournment of the House today, she proposes to raise the following matter:

The need for the Minister for Health to outline whether or not he has any proposals to extend the BreastCheck service to women between 65 and 69 years of age.

I have also received notice from Senator Mary Moran of the following matter:

The need for the Minister for Health to advise of a suitable placement for a school leaver, details supplied, with an intellectual disability and who will require placement from September.

I have also received notice from Senator Denis Landy of the following matter:

The need for the Minister for Agriculture, Food and the Marine to provide a comprehensive update on the current situation pertaining to the control of ash dieback and on ash stock level projections in the short, medium and long term.

I have also received notice from Senator Martin Conway of the following matter:

The need for the Minister for Justice and Equality to consider a nationwide expansion of the small areas policing programme currently operated by An Garda Síochána in Dublin.

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

The need for the Minister for Foreign Affairs and Trade to include Rwanda in Irish Aid's programme for support in view of its critical stage of development and by way of marking the 20th anniversary this week of the ending of the genocide.

I have also received notice from Senator Cáit Keane of the following matter:

The need for the Minister for Education and Skills to discuss the requirement for a permanent school building for staff and pupils of Gaelscoil na Giúise in Firhouse, Dublin 24, who are currently operating out of Tymon Bawn Community Centre, which is not suitable for this purpose in view of its overcrowded and inadequate facilities which are shared with other organisations.

I have also received notice from Senator Thomas Byrne of the following matter:

The need for the Minister for the Environment, Community and Local Government to clarify the planning criteria which currently apply and will apply to applications for planning permission, whether under the Planning and Development (Strategic Infrastructure) Act 2006, for windfarms and whether guidelines expected to be published soon will apply to planning applications already submitted before their publication.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

Go dtabharfaidh an tAire Ealaíon, Oidhreacht agus Gaeltachta le fios céard atá beartaithe ag a Roinn maidir leis na h-aerstráicí ar an gCloigeann agus Inis Bó Finne i gContae na Gaillimhe.

I have also received notice from Senator Michael Comiskey of the following matter:

The need for the Minister of State with responsibility for public and commuter transport to confirm how many staff currently employed by the rural transport programme will have their positions made redundant due to the restructuring of the programme into the 18 transport coordination units and to confirm what redundancy package is being offered to those staff members whose positions are being made redundant.

I regard the matters raised by Senators Moran, Keane, Byrne and Healy Eames as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

Senators Landy, Conway, Moloney and Ó Clochartaigh may give notice on another day of the matters they wish to raise. I regret I have had to rule out of order the matter raised by Senator Comiskey as the Minister has no official responsibility in the matter.

### **Order of Business**

**Senator Maurice Cummins:** I would like to get the week off to a good start by extending good wishes to the Leader of the Opposition, Senator Darragh O'Brien, on the occasion of his 40th birthday today.

**Senator Terry Leyden:** He does not look a day over 39.

**Senator Maurice Cummins:** The Order of Business is No. 1, Housing (Miscellaneous Provisions) Bill 2014 - Committee Stage, to be taken at 1.45 p.m., to adjourn no later than 3.45 p.m. and to be resumed for two hours on the conclusion of No. 3; No. 2, Competition and Consumer Protection Bill 2014 - Second Stage, to be taken at 3.45 p.m. and to conclude no later than 5.45 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes and the Minister to be called upon to reply to the debate not later than 5.35 p.m.; and No. 3, Health Service Executive (Financial Matters)

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Bill 2013 - Committee and Remaining Stages, to be taken at 6 p.m.

**Senator Darragh O'Brien:** I thank the Leader for his good wishes. I was trying to keep my birthday under the radar, but that is not possible in this era of social media. I am sure my folks got the date wrong on my birth certificate.

I would like to formally call for the immediate suspension of the review of the travel pass. As Members will be aware, in recent years the Department of Social Protection has abolished the telephone allowance, slashed the household benefits package, cut the fuel allowance season by six weeks, abolished the bereavement grant and taken 30% off the respite care grant. All of those measures have affected the most needy people in this country. The review of the travel pass is causing a great deal of concern. All Senators will have received correspondence from people in their own areas and from Age Action Ireland and other groups that are greatly concerned about the purpose of this review. I am calling on the Government to suspend the review until it is clarified properly. It is causing a great deal of concern.

The Government has a track record of holding reviews, such as the review of probity with regard to medical cards, that cause great concern and distress across the country. This review has the potential to do likewise. The sensible thing to do in the last couple of weeks of this session would be to halt the review, publish it and make it public. If the aim of the review is to reduce fraud and the misuse of travel passes, that is fine. I do not think anyone would have a difficulty with that. Many people, particularly those who are coming into the realms of being eligible for these travel passes, are concerned that the Government is planning to change the goalposts for new entrants to this scheme. I do not think anyone of us would want that. It would be sensible to suspend the review. If the Government and the Department of Social Protection are looking at this matter purely on the basis of fraud and misuse, we can discuss those aspects of the matter. The new travel passes that are being issued are much more effective when it comes to reducing the level of fraud.

According to a study that was carried out by Age Action Ireland, approximately 70% of those over the age of 65 use their travel passes once a week and 30% of them use their travel passes every day. I find it difficult to trust the Government's contention that there is nothing to be seen here as this is merely a review, particularly in light of the track record of the Minister, Deputy Burton, in the Department of Social Protection. I have recently heard members of the Labour Party calling for the reinstatement of the respite care grant and other things. We all wanted those things to be retained. The Senators on the other side of the House voted for all the changes I have mentioned - the abolition of the bereavement grant and the telephone allowance and the reduction of six weeks in the fuel allowance season - when they were proposed by the Minister, Deputy Burton. Why should this country's senior citizens who are in receipt of travel passes trust the Tánaiste, regardless of whether she is still Minister for Social Protection after today or tomorrow? Why should they believe that this is merely a simple review? The most sensible thing to do is suspend the review immediately and talk about fraud and misuse, if that is really the issue. If the Government does that, it will get support from groups like Age Action Ireland. People in this House and the other House are in favour of anti-fraud measures in this regard.

### **Visit of British Ambassador**

**An Cathaoirleach:** I would like to welcome His Excellency, the British ambassador, Domi-

nick Chilcott, and his cousin to the Visitors Gallery. They are very welcome.

### **Order of Business (Resumed)**

**Senator Aileen Hayden:** I would like to remind our colleague on the other side of the House that all of the measures that were taken in last year's budget would not have been necessary if it had not been for the mismanagement of the economy by his party.

**Senator Darragh O'Brien:** I knew the Senator would say that.

**Senator Aileen Hayden:** All of that having been said, I would like to ask the Leader to arrange a discussion in advance of the budget on the basis of some of the pre-budget submissions all of us have received from groups like Age Action Ireland. This House could usefully contribute to such a debate. On behalf of the Labour Party group, I would like to wish my colleague a very happy birthday.

**Senator Darragh O'Brien:** I thank the Senator.

**Senator Aileen Hayden:** I would also like to congratulate the Minister, Deputy Burton, on her election as leader of the Labour Party. She is the first woman in the history of the Labour Party to be elected into that position. Indeed, she is the first woman to be elected to lead any significant political party in this State.

**Senator Darragh O'Brien:** The Labour Party might not be significant for long.

**Senator Aileen Hayden:** I welcome the comments she has made since her election, particularly about improving the plight of those on low incomes. I was personally impressed by what she said about prioritising social and affordable housing. At present, six people are presenting to the services of Threshold every day because they are at risk of becoming homeless. There is a huge and crushing need for additional housing in Dublin, in particular. I appreciate the new Tánaiste's decision to make that a priority. I also welcome her comment that we will rule with our heads and our hearts, and not just with our heads, as we go forward.

**Senator Darragh O'Brien:** Does that mean all the cuts that were introduced in the last two social protection budgets will be reversed?

**Senator Aileen Hayden:** I can understand why Senator O'Brien is reluctant to disclose his age.

**Senator Darragh O'Brien:** Why? Is it because the Government might take something off me?

**Senator Aileen Hayden:** During the Labour Party leadership elections, I heard some very worrying comments from the media to the effect that older people have to make way for the youth. Such comments are very worrying in a society with an ageing population. At a time when we are consistently pushing out the retirement age, it is a very negative attitude to be giving.

**Senator Darragh O'Brien:** It was started by the Minister of State, Deputy White.

**Senator Aileen Hayden:** I am very happy that the Tánaiste, apart from being clearly the

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most suitable candidate in the minds of the electorate, was also the oldest candidate presenting for election. This is a matter of record.

**Senator Darragh O'Brien:** Is this a Labour Party broadcast? Is the Senator going to ask any questions of the Leader?

**An Cathaoirleach:** Does Senator Hayden have a question for the Leader?

**Senator Aileen Hayden:** We need to be very aware of any comments that are allowed to go forward, in the media or elsewhere, on the issue of age in Irish society. We should be cautious and concerned about this very worrying development. I ask the Leader to invite the new Tánaiste into this House at an early opportunity to discuss her views on the development of this country and her priorities as Tánaiste.

**Senator Sean D. Barrett:** I welcome the ambassador of the United Kingdom to the House. I also welcome the invitation that has been extended to President Higgins from the Grand Master of the Grand Lodge of Ireland to attend next year's parade in Rosstown. I hope the processing of that invitation in the normal way will enhance relationships and promote friendships, which is what happened during President McAleese's time in office. I note in his speech after the parade in Rosstown, County Donegal, the Orange Lodge grand master said, "Two years ago, our grand secretary, Drew Nelson, made a landmark and historic speech in the Irish Senate in Dublin". These are valuable links which I hope will be promoted.

In the same vein, I welcome the initiative of Trinity College Dublin to increase its intake number of Northern Ireland students which has been welcomed by the Minister, Deputy Ruairí Quinn, praising the all-Ireland approach to education, as well as by John O'Dowd, the Northern Ireland Minister for Education, and by Dr. Stephen Farry, Minister for Employment and Learning. These contacts between young people from both sides of the Border can only do good. Both initiatives are important in a week when we wish the parades season will pass off peacefully.

**Senator Tom Sheahan:** Whoever will be Minister for Health come tomorrow, can he or she be brought to the House as a matter of urgency to debate the extension of the free cervical cancer screening programme to college students on their entrance to third level? As it stands, free screening is only available to the over-25s. There seems to be a quasi and lackadaisical approach to this matter. I dealt with a young lady recently who is under 25 and who, unfortunately, was diagnosed with cervical cancer. She had to go to great lengths to get a screening because she was refused one at several junctures. In Britain, free cervical cancer screening is available to students when they enter college. As every Member knows, prevention is better than cure and can also be cheaper than treatment. I hope the Minister will look on this in a favourable light.

For some time I have been looking for the Coroners Bill to be brought before the House. The last time I queried its status, it was No. 7 on the Order Paper but now is at No. 13. Will the Leader give some indication as to when we can expect this Bill?

**Senator Denis O'Donovan:** I want to be magnanimous and wish Deputy Joan Burton the very best in her new position. I was enthused by her remarks that she would look more into her heart than be ruled by her head. If that were the case, she might return to the real, true, red rose of Labour policies, so much of which were reneged on over the past three and a half years. If she really does look into her heart, I suggest that without further ado, she call a general election



and go to the country.

**Senator Martin Conway:** Is the Senator ready for an election?

**Senator Denis O'Donovan:** If her head rules, she will want to spend the next two years as Tánaiste. If her heart is true - she has a decent heart - then she would bite the bullet and face the music of a general election instead of procrastinating and talking out of both sides of her mouth.

I want to raise the scrapping by the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, and the Government of the advocacy services for deaf people. It is a mean-fisted act. This cut will affect a minority group, approximately 11,000 people, but it means a lot to them. Earlier this morning when I arrived at Leinster House at 9.15 a.m., a deaf person presented me with a leaflet setting out the circumstances and difficulties that will ensue because of this decision.

I will go further by proposing an amendment to the Order of Business, that the Minister in question, before he jets off to Brussels and forgets about this and the other House, comes to this House today to explain the reasoning behind this cut and commit to reinstate this paltry amount of money which meant so much to deaf people. It is important this matter is dealt with today.

**Senator Darragh O'Brien:** Hear, hear.

**Senator Denis O'Donovan:** There is no point in a new Minister dealing with this after the summer recess and claiming it was a decision from the past. This is a serious issue and we all know someone in our community who has a serious hearing problem. Will the Minister, Deputy Phil Hogan, have a small bit of compassion before he leaves? He is a big man and should show a bit of compassion in this case. Perhaps he did not realise the serious implications of what reneging on funding for advocacy groups for deaf people would mean. I trust the Leader will consider accepting my amendment which would allow the Minister to reverse that cruel decision.

**Senator Susan O'Keeffe:** I too join with Senator Barrett and the Cathaoirleach in welcoming the British ambassador to Ireland, Dominick Silcott, to the Visitors Gallery today. I had the pleasure of being in his company at the Hay in Kells festival over the weekend. It was a good and varied festival at which I took part in the Google debate, a valuable discussion on freedom of information and protection for whistleblowers. It also touched on the new issues raised by the right to forget ruling from the European Court of Justice that now puts an onus on Google to make decisions as to whether information ought to be kept or forgotten. We would do well to have a debate on this matter in this House as it will impinge on everyone's life, one way or the other.

I agree with Senator Hayden on having a debate on the many pre-budget submissions we are receiving and will continue to receive. It is important we do this before the recess, if at all possible. I know we are very busy but the budget process may run away from us at a pace with which we will not be able to keep up if we leave it to when we come back after the summer.

I extend my congratulations to Deputy Joan Burton on becoming leader of the Labour Party. It is a unique situation to all political parties that the chair of the party is a woman, Loraine Mulligan, the leader is a woman, Deputy Burton, and the general secretary is a woman, Ita McAuliffe. This is the first time in political history that all three key positions in a political party have been held by women. I am proud of that fact and that it is the Labour Party that is

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leading the way in this regard. I am sure Deputy Burton will bring her heart and head to all the matters which face us. I welcome the fact she has pledged to stay in government. As Senator O'Donovan knows, there is much work to be done, particularly on debt forgiveness. I feel she will play a leading role in helping bring a resolution to that issue.

**Senator Feargal Quinn:** Often, when I am buying a newspaper, I say to the vendor, "Give me one with only good news in it". It is interesting that newspapers over the past few days have much good economic news in them. We should be careful to ensure we continue with the vigour and energy of recent times to create good news on the creation of extra jobs, the return of investor confidence and improved sales. I am concerned, however, that, like on occasions in the past, we go too far and take our eye off the ball. We must make sure the new Cabinet insists on maintaining the vigour and energy it needs to keep this going.

In the election manifestos and the programme for Government, the Cabinet made several promises it has not kept. For instance, I was delighted a promise had been made to reduce the number of quangos. However, while it has reduced them by 45, it has created 33 new ones. There is a legislative solution to upward-only rent which I have urged is passed through the Dáil. I hope the new Cabinet will ensure it is passed soon because it will create confidence.

The Government must make sure it continues with all its efforts to ensure businesses get the opportunity to survive and thrive.

*1 o'clock*

Too often we place too many bureaucracy red tape controls on businesses. Small businesses need a lot of help, but they are not looking for any help other than removing the barriers. The new Cabinet should make this a priority and aim at it. If it does we will manage to keep the ship afloat for the next number of years.

**Senator Paul Coghlan:** I am delighted with today's good news story. I join all colleagues in congratulating our good friend and colleague, Senator Daragh O'Brien, on his birthday. I also congratulate Deputy Joan Burton on becoming leader of the Labour Party. I also welcome H.E. Mr. Dominick Chilcott, the British ambassador, to the Chamber.

Thanks to Senator Feargal Quinn, and I am pleased to follow on this, we have the Construction Contracts Act. A commitment was given in the programme for Government to aid small building contractors who were denied payment from bigger companies. The Act introduces a new regime to aid subcontractors in the construction sector, many of whom have experienced difficulties for many years. It introduces interim payments of moneys due to subcontractors and new statutory rights for subcontractors in the industry. It also establishes a new adjudication system to arbitrate on disputes in the area. This morning I had a query from a poll-topping colleague in Kerry who is very concerned about the matter. I will discuss this with Senator Quinn afterwards. Perhaps the Act now requires an order on all or part of it and the sooner it happens the better. There are huge shortfalls in this area. There is something very wrong where it occurs when subcontractors deal with organs of the State. I look forward to pursuing the matter further. We should pursue it in government and ensure it is dealt with speedily.

**Senator Marie-Louise O'Donnell:** I would be delighted if the Seanad congratulates me when I am next 40.

**Senator Terry Leyden:** Again.



**Senator Marie-Louise O'Donnell:** It will be a reversal of fortunes; I have been 37 for so long, but there you go.

I call on the Leader to invite the new Minister for Education and Skills to the House to answer the Larkin Unemployed Centre, which is involved in community education in north inner-city Dublin. When one hears the word “community” in Ireland one thinks of devastation, as community projects, leaders, organisations and workers are being devastated by the Government.. Quality and Qualifications Ireland, QQI, which has yet to prove itself, is asking community educational organisations to pay €5,000 for the process and privilege of its programmes. This is outrageous. It is contained in the new Bill. No community organisation involved in FETAC levels 5 to 10 should be asked to pay this as they do the State an enormous service. On his or her first outing, the new Minister for Education and Skills should come to the House to discuss this. I have yet to see the work of QQI, which has wonderful pages on what it will do and its aims and objectives, actually delivering. This is a very serious issue for all community projects and community education throughout the country. The organisations cannot afford to pay €5,000 to validate and organise what they already do. It is all right for big universities and technical colleges but it is not all right for community education where real education begins. More money should be pumped into it and organisations should not be asked to pay for the purpose of planning or validation.

**Senator Denis Landy:** Yesterday the long-awaited Indecon report on the review of certain matters relating to Bord na gCon was published. It makes startling reading when one considers the fall-off of revenue in the greyhound industry of 56% since 2006. The organisation is in debt to the amount of €21 million and sales and gate receipts are drastically down. The pension fund is underfunded by almost €7 million. The report calls on the Minister to bring forward legislation to deal with a number of issues within the ambit of the board, such as the inspection of premises, and significant regulatory proficiencies which need to be addressed on the conduct of off-course tests. Additional sanctions are also required, according to the report, for doping and animal welfare breaches.

This detailed report covers 70 pages. I call on the Leader to request the Minister of State at the Department of Agriculture, Food and the Marine with responsibility for the area, Deputy Hayes, to come to the House and debate the issue before we break for the summer recess. In fairness to the Minister of State, he has accepted the report and has afforded Bord na gCon three months to respond to it. It is important to have a public debate on the matter in the House before we break for the summer because the three months will be up and we will not have had an opportunity to have an input.

**Senator David Cullinane:** On several occasions we have called for the Leader of the House to arrange for the First Minister and Deputy First Minister of the Assembly in the North to address the Seanad. I want to put on the record my appreciation, as the Leader has tried to facilitate us in this matter and has written to the First Minister and Deputy First Minister on the issue. Since then, it is fair to say, we have had an escalating crisis in the North. Last year we had the publication of the Haass proposals, which followed extensive and exhaustive talks between all of the parties. Unfortunately the Unionist parties refused to sign up to the recommendations. Efforts were made in recent weeks to have fresh talks aimed at dealing with issues relating to the past and contemporary issues which need to be implemented by the Assembly. Again the Unionist parties walked out of these talks. In recent times we have had a threat from all of the Unionist parties to withdraw from the Assembly and bring down the institutions which were democratically elected by the people and endorsed by people North and South in the ref-

erendum on the Good Friday Agreement.

It is important that we do not take our eye off the ball with regard to what is happening in the Assembly. It would be a crisis if the institutions were brought down. A pro-Agreement axis needs to be put in place, with both Governments front and centre, to defend the peace process, the Good Friday Agreement, the St. Andrews Agreement and the institutions which, as I stated, were put in place through the Agreements and endorsed by the electorate. The two Governments are co-guarantors of the Agreements but they have taken their eye off the ball in recent times, in particular the British Government. Only last week we had the first official meeting between the Sinn Féin leadership, the Deputy First Minister of the Assembly and the British Prime Minister, David Cameron. There needs to be much greater focus and we need to understand the very real threat which exists.

We are moving into the marching season and all it could bring. We all want to see calm on the streets, which is not what we had last year from some in the loyalist community. There is a very real threat which needs to be addressed. I called on the Leader of the Seanad to attempt again to arrange a special sitting of the Seanad with the First Minister and Deputy First Minister of the Assembly, but if this cannot happen we need a debate on the peace process and the agreements. I hope the new Minister for Foreign Affairs and Trade will come to the House to discuss these important issues.

**Senator Catherine Noone:** I am sure everybody is aware of the recent controversy about the Garth Brooks concerts. What has happened is rare because an artist like Garth Brooks would rarely attempt to do five shows at a venue such as Croke Park. However, there is an urgent need to amend the outdoor licensing process to ensure that events for which more than 10,000 tickets are sold to people obtain a licence prior to tickets going on sale. We do not want to discourage artists like Garth Brooks from coming to Ireland but it takes a rare case to highlight the inadequacies in a system. Obtaining a licence for concerts such as these is a complicated system, and the council has major concerns to do with safety. I speak from a legal point of view as I have defended many cases on behalf of music organisations. People do suffer significant injury, and it is only when that happens it is realised that the process gone through to ensure safety is so important. The case has highlighted some problem with the system, despite the good intentions of the people trying to carry out the process. Councils, residents, promoters and all stakeholders would need to engage in a transparent process prior to tickets going on sale. The main difficulty is that 400,000 tickets were sold for an event without a licence. That has always been the way it occurs but it is difficult to believe it has been allowed continue like that for so long when the statutory instrument that applies to it is from 2001. I will discuss with my colleagues in Fine Gael the possibility of tabling an amendment to that legislation to the effect that these events could be promoted but that the tickets would not go on sale until a licence has been obtained. The chamber of commerce, the restaurants association and the hotels associations are calling for the concerts to go ahead, and a majority of the councillors on Dublin City Council voted in favour of the concerts going ahead. It will be unfortunate for the economy in Dublin and a lost opportunity for all associated with these events, particularly the people in the area who run businesses, if the concerts do not go ahead.

**Senator Terry Leyden:** I second Senator Denis O'Donovan's amendment to the Order of Business. I want to place on record my welcome to the ambassador, Dominick Chilcott, and his cousin. He is fulfilling a wonderful ambassador role in Ireland on behalf of the United Kingdom. He is always available to Members of the Oireachtas. He is doing an excellent job and I wish him continued success. I am delighted that he took the time to visit the Seanad today. It

is a welcome recognition of our position.

I congratulate Deputy Joan Burton on becoming the second woman to lead a substantial party in Ireland. It is a step in the right direction. Senator Aileen Hayden mentioned comments about ageism but the comments I heard were from Deputy Dominic Hannigan and the Minister of State, Deputy Alex White. Deputy Burton is a very experienced Minister and I believe she will do an excellent job as leader of the Labour Party. From a national point of view it is important to have somebody of her calibre as Tánaiste, and I wish her success.

I refer to an aspect of social media. The Minister for Communications, Energy and Natural Resources should examine cases where people post untruths on social media and members of the public do not have any recourse in terms of having their names vindicated. It has become viral now, and it is a problem that Senators, TDs and councillors are coming across more frequently. There appears to be no regard for the truth or for respectability in the responses made to individuals. It is a form of bullying, and I believe-----

**Senator Marie-Louise O'Donnell:** It is pornography and violence.

**Senator Terry Leyden:** Yes. It is outrageous, and it is about time some government said it will not allow that. If people put something on social media, they should have to prove what they are saying is correct or it should be removed. Ordinary citizens and professionals such as teachers and so on are finding this is becoming a fact of life. It is an issue Members of the Seanad should examine.

I ask the Leader of the House to outline when it is proposed to take the Intoxicating Liquor (Amendment) Bill 2014, to which the Leader, Senator Imelda Henry and Senator Colm Burke are signatories. I do not believe the Bill is a priority, and I have a certain vested interest in this regard. The question of low-cost selling, reduced excise duty and all the other issues affecting small businesses, as Senator Quinn said, are more important. The sale of alcohol on Good Friday is not a major issue.

**An Cathaoirleach:** The Senator can make those points in the debate on the Bill.

**Senator Terry Leyden:** Will the Leader indicate if the Bill will be taken in Government time? Is it a Government Bill or a Bill proposed by individual Senators?

**An Cathaoirleach:** The Senator is over time.

**Senator Terry Leyden:** The comments made by Bishop Eamonn Walsh in a letter to *The Irish Times* are interesting. He has the courage of his convictions, and it seems to me that many senior clergy are reluctant to get involved in any controversial issue.

**An Cathaoirleach:** The Senator is over time. I call Senator Conway.

**Senator Terry Leyden:** The Leader may not be of the view that this is a major issue-----  
(Interruptions).

**Senator Terry Leyden:** Linking Friday trading with all the other problems in the trade is not the most important issue.

**An Cathaoirleach:** The Senator can make those points during the debate.

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**Senator Martin Conway:** The Garth Brooks fiasco has been well aired in the media but the reality is that permission has been given for three concerts and it is reasonable to expect Garth Brooks to perform the three concerts. People will be disappointed if he does not perform all five concerts. I believe permission should have been given for all five because many businesses in Dublin are struggling and such business would be welcome. The Government should intervene where possible to try to prevail on Mr. Brooks to perform the three concerts for which permission has been given. There might be a role for the Irish Ambassador in the United States to make an approach to support Peter Aiken, who I understand has travelled-----

**An Cathaoirleach:** We cannot have a debate on the issue.

**Senator Martin Conway:** Hang on. I understand Mr. Aiken has travelled to the United States to use his influence to try to persuade Mr. Brooks to perform the three concerts.

**An Cathaoirleach:** Is the Senator calling for a debate on this issue?

**Senator Martin Conway:** I ask the Leader to determine the approaches the Government could make to Garth Brooks and his management people in the United States to encourage him to perform the three concerts for which permission has been given.

**Senator Darragh O'Brien:** The Senator should ring him.

**Senator Martin Conway:** A structure might then be put in place to allow him fulfil his other two engagements at a later date.

**Senator Marie-Louise O'Donnell:** On a point of order, is it part of the Seanad's remit to promote music promoters?

**An Cathaoirleach:** Senator Conway is requesting information from the Leader. I call Senator Walsh.

**Senator Marie-Louise O'Donnell:** Is it our place to promote musical promoters? Is that part of our *raison d'être* ?

**Senator Darragh O'Brien:** We are trying to figure out what the Senator's *raison d'être* is first.

**Senator Jim Walsh:** I concur fully with what Senator Noone said with regard to the licensing arrangements. It is an anomaly that tickets can be sold many months in advance of an event and that the determination of the licensing is done within weeks of the event taking place. That has led to a significant problem in this instance. Given what has happened in this instance I suggest that the licensing regime be examined so that it would be completed much earlier in the process and prior to the selling of tickets.

It struck me as odd but reflective of our undemocratic system of local government that one highly paid official makes these decisions and the elected members who went before the public a few months ago are sidelined regarding it. It begs the question of strengthening our democracy across the system, and in particular at local government level. The Minister came into this House many months ago and spoke about the new arrangements that would apply and the strengthening of local democracy but in its first test we see that it does not jump the fence, so to speak. Nothing has happened to improve the democratisation of politics.

There is a need for an appeals system to be in place within a structure such as this one where decisions are made. I urge the Leader to encourage Ministers to accept the legislation Fianna Fáil has brought forward in the Lower House, which would provide an appeals system in such instances that would allow these matters be dealt with. For those concerned that two concerts might not take place, perhaps the Leader would consider inviting Mr. Brooks to come to this House. We could have an evening's entertainment with him on one of the evenings that he cannot sing at Croke Park.

**Senator Colm Burke:** I welcome the election of Joan Burton as leader of the Labour Party. The past three years has been a very difficult time to manage the budget. We pay out more than €400 million a week in social welfare week or €57 million per day. That is a huge budget which has been well managed for the past three years, and an area that the Minister tackled very well was fraud.

Yesterday a report was published on providing a clear career path for junior doctors. My first problem was accessing it so I had to contact the Department. I ask the Leader to ensure that when a report is published and given to the media, it is given to Members of the Oireachtas at the same time. I am extremely disappointed it is not available to me, particularly as I have sought changes in this area for the past three years.

It is important to realise that 4,900 non-consultant hospitals doctors work in Irish hospitals and more than 54% of them are not Irish graduates. For the past 15 and 20 years we have kicked the can down the road in terms of the way we employ them, the way we treat them and the way we pay them. It is time we implemented recommendations made in reports and not shelve them. I ask that the report be made available to us and that we have a debate in this House at some stage in the future, not only about the recommendations but to ensure a timeframe is put in place for the implementation of the recommendations in order that we do not have to deal with the same issue in two years time. We urgently need it and we urgently need the changes to be implemented.

**Senator Averil Power:** I propose an amendment to the Order of Business. I call for the Minister for Transport, Tourism and Sport to come before the House today to discuss the Garth Brooks concerts and the economic impact a cancellation will have on Dublin city. Yesterday, I chaired a press conference in Buswells Hotel comprising the head of Dublin Chamber of Commerce, the Restaurants Association of Ireland, the Irish Hotels Federation and the Licensed Vintners Association, all of whom are greatly concerned about the economic damage this debacle is doing to our city. If the concerts do not go ahead, 400,000 fans will miss out but Dublin city will lose €50 million of business that is badly needed by small businesses across the city like hotels, restaurants, bars, shops, retailers and taxi drivers. I refer to small business people right across the city who employ thousands of people and are badly reliant on concert revenue.

The cancellation of concerts will all do huge damage to Ireland's reputation as a tourist destination. Tourism is Ireland's number one domestic industry and is far more significant to the economy than agriculture, manufacturing or any other industry. The debacle over concerts has done great damage to the sector because 70,000 of the 400,000 tickets were sold to people overseas who booked flights, paid for accommodation and do not know over two weeks beforehand whether they are coming to Ireland. For an event of this scale to be in such doubt is a serious mess. Today is the last day to find a solution and, therefore, it is incumbent on the Government to act on this matter.



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Last night Dublin City Council voted. The councillors are the direct representatives of people and were democratically elected and voted for the five concerts to go ahead. However, the Dublin City manager has refused to change his mind and has said he will not change his original decision. It is incumbent on the Government to get involved given the economic consequences of the event. The Minister should come in here to discuss the matter and the Government should accept the legislation that my colleague, Deputy Timmy Dooley, is putting forward in the other House. We can then look at longer-term issues that have been raised such as changing the licensing system to ensure we never end up in a similar situation again.

**Senator Mary Moran:** I add my voice of congratulations to Joan Burton and Alan Kelly on being elected leader and deputy leader, respectively, of the Labour Party last Friday evening. I find it fitting that the first woman leader of the Labour Party was elected on the same day that a women for election breakfast meeting took place at Iveagh House that was hosted by Deputy Eamon Gilmore and was one of his last functions as Tánaiste. I wish Deputy Gilmore well and I wish the new leader and deputy leader well. They are both able and capable politicians.

I wish to mention the recently published figures that reveal a substantial increase in the number of children and young people on the child and adolescent mental health services waiting list. I raised the issue of children, specifically children with an intellectual disability, accessing mental health services during Private Members' time last week. As of 31 March more than 3,000 children and young people await mental health referrals. We also have an unacceptable number of young people being admitted into adult psychiatric units as highlighted in the recent report by the inspectorate of mental health services.

We need an urgent debate on mental health services for children and young people. As I have said on numerous occasions, in my own area we do not have a child psychiatrist for children with intellectual disability. There are also huge problems assessing CAMHS even to accept them onto the list, which only takes people with a mild intellectual disability. Also, the service stops at 16 years regardless, even though it has been said that it continues until children are 17 years. We not only have an issue with waiting lists and admissions to adult units but also a serious issue with consistent treatment. I imagine that the consistency that exists will suffer as a result of the pressure being placed on the service due to the significant increase in the number of children on the CAMHS waiting list and awaiting referrals. When one compares the current figures with the same period last year, it shows an 11% increase in the number of children on waiting lists.

**An Cathaoirleach:** Is the Senator looking for a debate?

**Senator Mary Moran:** I am looking for a debate on the delivery of mental health services for children and young people, particularly for children in the 16 to 18 year age group.

I wish to mention the closure last week of the National Deaf Advocacy Service. Recently I watched the video forwarded by the Irish Deaf Society which highlights the significant impact the deaf world has had on those who use the service. I understand that the Irish Deaf Society is appealing the decision through Pobal.

**Senator Darragh O'Brien:** We had a vote on that this morning. It was on that particular issue.

**Senator Mary Moran:** I know that. I have written to the Minister on the issue.



**Senator Darragh O'Brien:** Just support it.

**Senator Mary Ann O'Brien:** I request that the Minister for Health or his replacement comes in here to debate the proposed St. James's children's hospital. I will refresh the memory of Senators. St. James's did not meet the criteria of six hectares set out in the Dolphin report because the site is only 2.4 hectares. I repeat that the children's hospital needed six hectares but the Coombe hospital has 14 acres and the Blanchardstown hospital has 16 acres available.

The next issue is car park facilities. I will outline statistics gathered from around the world that have been compiled for me and which let me know exactly how many car park spaces are needed per bed. Once we have the adult and children's hospital located at St. James's, we will need a total of 5,230 car park spaces. The maximum that Dublin City Council will allow is 2,000 but current planning and design allows for 1,500. The Jack and Jill Foundation wrote to all the Senators this morning to state that we have been deluged by letters and inquiries from parents asking why choose St. James's. I ask Members to imagine the following scenario. A sick child who is tube fed and needs a wheelchair to get about is having an epileptic fit but one's husband is in work so one puts the child in the back of the car. Is any Senator going to tell me they would get on the Luas in that situation? If one goes to St. James's where there is a bottleneck of traffic anyway, how on earth is one going to park? We need 5,280 car park spaces, and in a perfect world there will never be more than 2,000, but currently it appears there will only be 1,500. I apologise for ranting. Some 92% of sick children arrive at hospital by car.

This is an issue that will eventually bring down the Government. Those who are sitting on the Government benches think I am mad but let us go back to the Mater. How much money was wasted on the Mater? We are at the design team stage in St. James's. If I had more time I could outline the issue step by step, and if any Members wish to speak to me individually I will be available. St. James's will not make it to the end of planning. It will not get planning permission. Do Members want to sit here and preside over the next expensive failure of the next children's hospital? We need to sit down and debate this issue. The servants at the back of the HSE have somehow blackguarded the Minister that this is the place, whether it was the adult hospitals and their associated powerful universities who have pushed this through. I assure the House that the parents of the sick children do not want the hospital in St. James's and I wonder if the paediatricians have had any say either.

**Senator Michael Mullins:** I join colleagues in congratulating the Minister for Social Protection, Deputy Joan Burton, on her elevation to the leadership of the Labour Party, and wish her well. She is a fine politician. We saw her operate in this House on many occasions.

I would advise Senator Darragh O'Brien not to be particularly concerned about the review of the travel pass scheme which is being undertaken. The scheme in place is not fit for purpose. There is massive abuse and misuse of the free travel pass. There is a need to put in place a scheme that is tamper proof. All the technology to do that is available. It is appropriate that the Minister would conduct a review of the free travel scheme.

While I will not support the amendment to the Order of Business proposed by Senator Denis O'Donovan, I call on the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, to restore funding to the advocacy service for the Irish Deaf Society. A number of constituents from east Galway have been in touch with me about this issue. I intend to lobby the Minister strongly as it is unfair to a vulnerable group who need professional and strong representation on occasions.

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I was very pleased to hear the contribution from Senator Feargal Quinn earlier. I hope the positivity he was spreading around will rub off some of my colleagues. I ask the Leader for a debate as soon as possible on Ireland's investment performance in the first half of the year in conjunction with the Action Plan for Jobs. Ministers take a good deal of stick in this House when things go wrong. However, it is appropriate that we recognise the contribution made by the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, in respect of the Action Plan for Jobs and the very significant new investments we have witnessed in the first half of the year. Some 100 investments have been secured in the first six months compared to 70 in previous years. Of those, 40% are new investments. Therefore, new companies are investing in Ireland because confidence has been restored since the improvement in our finances. Ireland is the place for job creation and new investment. Some 8,000 new jobs have been located here by IDA Ireland-backed companies in the first half of the year and some very significant operations are locating here. It would be appropriate early in the next term to review the Action Plan for Jobs with a view to accelerating the job creation process for the remainder of the year.

**Senator Ned O'Sullivan:** I found the arguments made by Senator Mary Ann O'Brien on the suitability of St. James's quite compelling and I am keen to support her call for the Minister to come in to examine the issue before it goes any further. Clearly, she knows what she is talking about through her involvement with the Jack & Jill Foundation. The issue should be looked at.

Senator Denis Landy mentioned the Bord na gCon report which I read with dismay. It is tremendously disappointing and parts of it are shocking. The dog racing industry is very important in the area from which I come, both for track and coursing dogs. While the industry is well run and regulated there, clearly that is not the position all over the country. I hope the incoming Minister for Agriculture, Food and the Marine will respond to the report in a proper manner. The finances are disaster, not to mention the regulatory aspects.

As others have done, I wish the Minister for Social Protection, Deputy Joan Burton, well in her appointment as Tánaiste and leader of the Labour Party. She is a long-standing politician who has been around for some time and knows what it is about. In opposition, she was well able to tackle other leaders including my former leader, Brian Cowen, and indeed she made life uncomfortable for her own party leader. This is her chance to take a lead and to step forward.

I second Senator Averil Power's amendment to the Order of Business.

Part of the local government programme was to set up local community development companies, LCDCs. Currently these are being formed around the country. There will be a huge protest here tomorrow from the Leader groups who, to some extent, have been replaced by the LCDCs. In that debate we supported the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, because we felt it was sensible approach. However, there is much confusion and misinformation currently concerning the role of LCDCs, their funding level and budgetary powers. I ask the Leader to invite the Minister, Deputy Phil Hogan, to make a statement clarifying how he sees the volunteer sector working with local government into the future.

**Senator Terry Brennan:** Homelessness has been mentioned here on several occasions but not this week. A debate was called for, which I support. There are many homeless people. I am deeply concerned at the increasing number of young people who are homeless and living on our streets not alone in the capital city, but in many provincial towns, and also young families

living in dilapidated caravans at the bottom of fields or the bottom of their own home gardens who have nowhere to go. An urgent debate is required to establish the extent of the problem and the number of homeless persons, particularly as many local authority houses in various counties throughout the country lie idle. Some of these are in need of repair but that is not an excuse. I call on the Minister of State with responsibility for housing, Deputy Jan O'Sullivan, to come to the House for a debate on the issue.

An issue that is of concern to me and many middle income earners is the universal social charge. The universal social charge is imposed on persons earning €59,999.00 gross per annum. The amount of additional tax paid by a person earning €60,010 gross per annum is of the order of €1,350. I call on the Minister to remove that tax. The charge was 4% for those earning between €16,000 and €60,000, and it is now 7% for those earning €1 more than €60,000. I call for an urgent debate on the issue before the next budget and ask the Minister to take that into consideration. It is income tax.

**Senator Rónán Mullen:** I sympathise with people who would like to see all the Garth Brooks concerts going ahead. I was surprised, nonetheless, listening to Senator Averil Power and others that there has not been a note of censure for those who made this arrangement and led people to understand that these concerts would take place, in apparent disregard for the requirements of the law or the need to have the licensing steps taken in advance. One wonders why people are ruling out the possibility of the Aviva stadium. I understand Mr. Peter Aiken has gone to the US to persuade Mr. Brooks to change course. If tomorrow never comes, so to speak, as regards the five events, it seems that holding two of those concerts elsewhere would be a reasonable solution.

Last night, I attended the inaugural meeting in Ballinasloe of the National Post Office Users' Association, which is coming together to make the case from the users' point of view. There is no vested interest other than of those who see the value of post offices to rural areas and who want to see their vital rural services protected. Great credit is due to former councillor, Mr. Michael John Kilgannon, Ms Angela Magennis and others who were involved in convening this meeting. It would be timely for us to hear from the Government as to its level of commitment to the maintenance of the rural post office network. It seems we are at a troubling time in Ireland where, because of the recession, decisions, whether about the provision of maternity services, mental health services or post offices, seem to be left in the hands of bean counters and bureaucrats, who may have an eye to the economic bottom line but who do not seem to understand the need, in particular, in rural areas, to have a decent level of services provided.

The Irish Postmasters' Union has commissioned two reports produced by Grant Thornton that bear out the argument that 557 post offices will close if the Department of Social Protection contract is eventually lost to An Post. In March, the Minister, Deputy Rabbitte, stated this was balderdash. I am aware the contract has been secured for a couple of years. However, we need to remember that it is unfair to expect people, in particular, older persons, to have to travel many miles to access services. We need only see how in countries, such as France, they are good at finding derogations from the effect of EU regulations, for example, a certain amount of songs played on French radio must be French songs, and yet we do not seem to be able to make the argument-----

**An Cathaoirleach:** Senator Mullen is way over time.

**Senator Rónán Mullen:** -----that we need the post office network in Ireland to be avail-

able to those in rural areas. Whatever it takes, we must not fall for mere commercial arguments about such matters as competition if there are important issues of local cultural value to be protected.

**Senator Marie-Louise O'Donnell:** On a point of order, to let Senator Mullen know, the Government has significant plans for this in relation to the social welfare and pensions Bill.

**An Cathaoirleach:** That is not a point of order. Does Senator Healy Eames have a question for the Leader?

**Senator Fidelma Healy Eames:** I have two brief questions for the Leader.

**An Cathaoirleach:** One, because we are away over time.

**Senator Fidelma Healy Eames:** I am sure this matter has been raised many times across the House today. I encourage the Government to find every way possible to sort this mess out about the Garth Brooks concert. I was stunned yesterday morning to hear that 70,000 people are flying in from abroad.

**An Cathaoirleach:** Is Senator Healy Eames supporting the amendment to the Order of Business?

**Senator Fidelma Healy Eames:** In particular, could we ask the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, on whose remit this has an enormous impact, to intervene? It is a total mess. The licensing situation must be reviewed, and the residents around Croke Park must be thought about.

**An Cathaoirleach:** Senator Healy Eames can make those points during the debate.

**Senator Fidelma Healy Eames:** If I could get 30 seconds, local, national and international reputations are at stake here and we have to find a way to make exceptional grounds at this point to make this happen.

Finally, I ask the Government, particularly the Minister for Health, why it is not considering the offer of €750 million that is on the table from a philanthropic source for a new national children's hospital? It should answer that question. Why is that not being considered on a green field site when there is testimony from so many families with sick children that St. James' is not suitable on the basis that they cannot manage those children in traffic?

**Senator Maurice Cummins:** The Leader of the Opposition raised the question of the free travel scheme. We have had Fianna Fáil stoking up shamelessly and fear-mongering on this scheme.

**Senator Darragh O'Brien:** I would not call it that.

**Senator Maurice Cummins:** The purpose of the ongoing review is to examine and report on the current operation and future development of the free travel scheme. The group's terms of reference are wide-ranging and involve the examination of several issues, ranging from the control of fraud, which the Senator mentioned, and abuse of administration. There are currently 780,000 persons in receipt of free travel. The Government has no intention of interfering with this. The Tánaiste and Minister for Social Protection, Deputy Burton, will examine the report of the working group as soon as it is available. However, on the specific issue of recipients, the

Minister has made it abundantly clear that she does not envisage any changes to the benefits of recipients under this scheme. The Minister cannot be any clearer on the issue. It is about time Fianna Fáil listened to the undertaking the Minister has given in this regard.

**Senator Darragh O'Brien:** We were listening to Age Action and those who are using it.

**Senator Maurice Cummins:** Senator Hayden and others raised the election of the Minister, Deputy Burton, as leader of the Labour Party, and as Tánaiste. I am sure we all wish her well in her position as leader of the Labour Party.

Senator Barrett raised the invitation to the President to attend next year's 12 July celebrations in Donegal. I am sure the President will give consideration to that matter. Senator Barrett also spoke about young people. It is essential that we have representatives from all sides of the community doing as much as they can to mend fences and work together in the interest of peace and harmony in the country.

Senator Sheahan raised extending free cervical screening to students entering third level colleges, and I note the points he made in that regard. On the Coroners Bill 2007, a matter which Senator Sheahan raised previously, I understand it is the intention to remove the current Bill from the Order Paper and that a new Bill will be proposed during the autumn session.

Senators O'Donovan, Moran and others raised advocacy services for those who are deaf. Perhaps that could be dealt with by way of an Adjournment matter, where one will get all the facts and have a Minister here to address the issue. Senator O'Donovan's heart really is ruling his head by calling for a general election.

**Senator Darragh O'Brien:** We are ready. We are trying to put Labour out of its misery.

**Senator Terry Leyden:** We are not really ready but nor are they.

**Senator Maurice Cummins:** Senator O'Keeffe raised Google and the right to have one's information removed, which is an EU ruling. It is a matter which should be addressed and, I am sure, will be addressed.

Senator Quinn raised all the good news on the economy and jobs and the need to keep our eyes on the ball. I can assure him that such is the intention of Government. The Government has removed quite a lot of red tape in relation to small business and will continue to do so for the remainder of its term. Senator Paul Coghlan raised the Construction Contracts Act 2013 and the need for further regulation, and that measures should be expedited in that regard.

Senator O'Donnell raised Quality and Qualifications Ireland's proposed fee of €5,000 to community development organisations in education. I would suggest that this matter also should be addressed by way of an Adjournment matter to get all of the facts in that regard but I would agree with her that those who are providing these services should not be charged a fee similar to that for universities.

Senators Landy and O'Sullivan raised the Indecon report on the greyhound sector, highlighting many difficulties. There certainly are difficulties in relation to a number of issues, including finance and regulation. I will call on the Minister of State at the Department of Agriculture, Food and the Marine, Deputy Tom Hayes, to have a debate on that matter as soon as possible.

Senator Cullinane raised the invitation to the First Minister and Deputy First Minister to



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address the Seanad. I have invited them in the past and I will renew our invitation to both of them in the near future. I agree with the Senator that the Haass proposals need to be addressed by all sides sitting down and addressing many areas of difficulty, in particular, parades and flags which were addressed by Mr. Haass. I can assure Senator Cullinane that the Taoiseach and the British Prime Minister are in constant contact and there is no question of forgetting the Good Friday Agreement and all the proposals contained therein.

Senators Noone, Walsh and many others raised the problems with the Garth Brooks concert. I would agree with the sentiments expressed that in future no tickets should go on sale before a licence is issued. That is an important point and if necessary, legislation must be amended to address this matter. I note the points made by several Senators on the boost given to the economy by hosting concerts such as those proposed by Garth Brooks and it is important for the tourism industry. However, there is a question of planning and licensing and I note that planning is a reserved function of the manager rather than the council. I believe the proposal to have an appeal system to the Minister is politicising him again. It actually is looking for somebody to go to friends in high places to deal with the issue, with which I certainly would not agree.

Senator Colm Burke spoke on the €57 million per day being spent on social welfare and praised the Tánaiste on her efforts to tackle fraud in recent years. He also raised the report regarding career paths for doctors, the need to publish and make available that report to Members of the Houses of the Oireachtas, as well as the need to address urgently the matters contained therein. I agree with the Senator in that regard. Senator Moran raised the issue of 3,000 children awaiting referrals for mental health services. This undoubtedly is a major issue and the Minister has assured Members in this Chamber several times that money is ring-fenced for the purpose Senator Moran mentioned. Perhaps I can get the Minister back into the House to address this matter.

Senator Mary Ann O'Brien referred to the proposed national children's hospital at the site at St. James's Hospital. The Senator raised this matter in the House approximately two weeks ago on the Order of Business. The question of the location of the children's hospital has been debated for quite a long time over many years. The decision has been made and the most important thing is to have in place a proper national children's hospital as soon as possible. If the Senator seeks further information and debate on the matter, she might also consider an Adjournment motion, which I suggested two weeks ago.

Senator Mullins referred to the restoration of funding for the advocacy group for the deaf. This matter was also raised by Senator O'Donovan and again, I suggest that the Senator should table an Adjournment motion on this issue. Senator Mullins also raised the Action Plan for Jobs and complimented the Minister, Deputy Bruton, on his efforts in this regard, whereby more than 65,000 additional jobs have been created over the past 12 months. Senator O'Sullivan referred to the role of the voluntary sector in working with local authorities on economic development in particular. Even during the debate in this House, the Minister has outlined the position with regard to the voluntary sector and working, and he has issued several statements on this issue. Senator Brennan raised the need to tackle homelessness, as well as the number of boarded-up local authority houses. I assure the Senator that the Government has provided significant funding to local authorities to address this matter and to get those houses back into habitable conditions to let to people on the local authority lists. I also note his point on the universal social charge and the anomalies in the system, which I am sure he will bring to the attention of the Minister for Finance.



Senator Mullen spoke on protecting the post office network. The Government is fully agreeable to protecting the post office network in any way it possibly can. Moreover, I note the social welfare contract for more than €60 million was granted recently to the post office network. I believe there is a problem in respect of electronic transfers payments, which appear to be going to banks rather than post offices. I suggest that were they to go to post offices, the Department would have greater control rather than the money going to banks and people simply being paid one week after the other. However, were the payments to go to the post office, they could be stopped by the postmaster in the post office were a social welfare officer to check and discover that some fraud may be taking place. I am aware the postmasters are anxious to do this but I assure the Senator that the Government is fully committed to maintaining the post office network. I provided figures some months ago on the last three years of the previous Government, during which more than 200 post offices were closed down nationwide. Only 17 have closed during the three years in which the present Administration has been in office. Consequently, I believe people should get their act together and have the facts and have their ducks in a row-----

**Senator Paschal Mooney:** It had nothing to do with the Government.

**Senator Maurice Cummins:** ----- in respect of these matters before raising them in this Chamber.

**Senator Paschal Mooney:** It was the economic downturn that closed those post offices. The Leader is peddling rubbish.

**Senator Maurice Cummins:** I am not blaming Senator Mullen in that regard. When the facts are there and the facts are put forward-----

**Senator Paschal Mooney:** That is not a fact at all.

**Senator Maurice Cummins:** ----- they are very difficult to deal with. I know and understand that.

**Senator Paschal Mooney:** That is a fact without context. It is only propaganda.

**An Cathaoirleach:** Can we have order in the House and no crossfire?

**Senator Maurice Cummins:** I believe that completes my response.

**Senator Terry Leyden:** On a point of order-----

**Senator Maurice Cummins:** Moreover, I do not intend to accept either amendment to the Order of Business.

**An Cathaoirleach:** Senator Leyden, on a point of order.

**Senator Terry Leyden:** The Leader has not responded to my question regarding a Bill.

**An Cathaoirleach:** That is not a point of order.

**Senator Terry Leyden:** A Chathaoirligh, I asked when the Intoxicating Liquor (Amendment) Bill 2014 will be taken in this House.

**An Cathaoirleach:** Senator Leyden, resume your seat. It is not a point of order.

**Senator Terry Leyden:** Obviously, the Government is running away from it.

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**Senator Maurice Cummins:** May I apologise? I usually do not miss Senator Leyden because it is very difficult to miss what he is saying. However, I assure him that the Bill in question will be taken in the autumn session. It is a Private Members' Bill.

**Senator Terry Leyden:** So it does not have Government approval.

**An Cathaoirleach:** Senator O'Donovan has moved an amendment to the Order of Business: "That a half-hour debate on the termination of the funding for the Irish Deaf Society be taken today". Is the amendment being pressed?

**Senator Darragh O'Brien:** Yes.

Amendment put:

The Seanad divided: Tá, 21; Níl, 25.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
Heffernan, James.	Coghlan, Eamonn.
Leyden, Terry.	Coghlan, Paul.
Mac Conghail, Fiach.	Comiskey, Michael.
Mooney, Paschal.	Conway, Martin.
Mullen, Rónán.	Cummins, Maurice.
Ó Murchú, Labhrás.	D'Arcy, Jim.
O'Brien, Darragh.	D'Arcy, Michael.
O'Brien, Mary Ann.	Gilroy, John.
O'Donnell, Marie-Louise.	Hayden, Aideen.
O'Donovan, Denis.	Henry, Imelda.
O'Sullivan, Ned.	Keane, Cáit.
Power, Averil.	Kelly, John.
Quinn, Feargal.	Landy, Denis.
Reilly, Kathryn.	Moloney, Marie.
van Turnhout, Jillian.	Moran, Mary.
Walsh, Jim.	Mulcahy, Tony.
White, Mary M.	Mullins, Michael.
Zappone, Katherine.	Naughton, Hildegard.
	Noone, Catherine.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators Paschal Mooney and Ned O'Sullivan; Níl, Senators Paul Coghlan and Aideen Hayden.

.Amendment declared lost.

**An Cathaoirleach:** Some Senator inadvertently pressed Senator Wilson's button, so the result of the amended vote is Tá, 21, Níl, 25. The question is thereby defeated.

Senator Power has moved amendment No. 2 to the Order of Business, "That a debate with the Minister for Transport, Tourism and Sport on the economic impact of the reduction of the number of Garth Brooks concerts scheduled for Croke Park be taken today". Is the amendment being pressed?

**Senator Averil Power:** It is.

Amendment put:

The Seanad divided: Tá, 16; Níl, 32.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Cullinane, David.	Burke, Colm.
Daly, Mark.	Coghlan, Eamonn.
Healy Eames, Fidelma.	Coghlan, Paul.
Leyden, Terry.	Comiskey, Michael.
Mooney, Paschal.	Conway, Martin.
O'Brien, Darragh.	Cummins, Maurice.
O'Donovan, Denis.	D'Arcy, Jim.
O'Sullivan, Ned.	D'Arcy, Michael.
Ó Murchú, Labhrás.	Gilroy, John.
Power, Averil.	Hayden, Aideen.
Quinn, Feargal.	Heffernan, James.
Reilly, Kathryn.	Henry, Imelda.
Walsh, Jim.	Keane, Cáit.
White, Mary M.	Kelly, John.
	Landy, Denis.
	Mac Conghail, Fiach.
	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullen, Rónán.
	Mullins, Michael.
	Naughton, Hildegard.
	Noone, Catherine.
	O'Brien, Mary Ann.
	O'Donnell, Marie-Louise.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.

8 July 2014

	Zappone, Katherine.
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Tellers: Tá, Senators Paschal Mooney and Ned O’Sullivan; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

**An Cathaoirleach:** Is the Order of Business agreed to?

**Senator Darragh O’Brien:** No.

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

The Seanad divided: Tá, 32; Níl, 16.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Byrne, Thomas.
Burke, Colm.	Cullinane, David.
Coghlan, Eamonn.	Daly, Mark.
Coghlan, Paul.	Healy Eames, Fidelma.
Comiskey, Michael.	Leyden, Terry.
Conway, Martin.	Mooney, Paschal.
Cummins, Maurice.	O’Brien, Darragh.
D’Arcy, Jim.	O’Donovan, Denis.
D’Arcy, Michael.	O’Sullivan, Ned.
Gilroy, John.	Ó Murchú, Labhrás.
Hayden, Aideen.	Power, Averil.
Heffernan, James.	Quinn, Feargal.
Henry, Imelda.	Reilly, Kathryn.
Keane, Cáit.	Walsh, Jim.
Kelly, John.	White, Mary M.
Landy, Denis.	
Mac Conghail, Fiach.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullen, Rónán.	
Mullins, Michael.	
Naughton, Hildegard.	
Noone, Catherine.	
O’Brien, Mary Ann.	
O’Donnell, Marie-Louise.	

O’Keeffe, Susan.	
O’Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Paschal Mooney and Ned O’Sullivan.

Question declared carried.

### **Housing (Miscellaneous Provisions) Bill 2014: Committee Stage**

Sections 1 and 2 agreed to.

#### **SECTION 3**

**An Leas-Chathaoirleach:** Amendments Nos. 1 and 2 form a composite proposal and may be discussed together by agreement.

**Senator Kathryn Reilly:** I move amendment No. 1:

In page 6, between lines 2 and 3, to insert the following:

“ “authorised advocate” means an elected public representative, social worker, medical or legal professional or a representative of a tenants or housing rights body recognised by the local authority;”.

These amendments seek to put in place a system whereby local authority tenants will be able to ask a recognised advocate to attend engagements with themselves and the local authority. It will mean the council cannot refuse to allow the advocate to attend and should, in so far as reasonable, engage with the advocate. If an advocate is not present, the council should have no responsibility to provide one, as it should be at the sole discretion of the tenant. This is important given that many tenants find these engagements stressful, feeling ill-equipped and ill-informed about the details of their rights. As public representatives, we all have seen cases where people need advocates across a range of public services. Numeracy and literacy problems for local authority tenants are also an issue with which these advocates could deal.

I hope the Minister of State will consider these amendments.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O’Sullivan):** I believe a blanket provision to permit local authority tenants to have an authorised delegate in all their dealings with the local authority would hinder and delay the normal process of landlord and tenant communications that tenants are generally well able to handle themselves. Housing authorities engage with third parties speaking on behalf of tenants who clearly need assistance in this regard. Extending the practice across the board would formalise tenants’ dealings with housing authorities unduly and depersonalise communications between them to the detriment of the landlord-tenant relationship.

I agree housing authorities need to have good communication with their tenants. In that context, it is much better that, in those cases where local authority tenants clearly need support in their dealings with their landlord, the housing authority intensifies its efforts to communicate effectively with those tenants and persons who are speaking on their behalf. I will consider whether it might be necessary to issue guidance to housing authorities in this regard but I cannot accept the amendments proposed. I am concerned that if it is included in the legislation as the norm everybody will feel they must have somebody with them. Most people in the House know tenants frequently have an opportunity to speak to housing officials, and generally this is well-facilitated by local authorities. The amendment would unnecessarily formalise it and some tenants may feel they would have to have somebody with them. This would probably make it less easy to arrange meetings for tenants who wish to speak to a housing authority.

**Senator Kathryn Reilly:** The Minister of State said she would consider issuing guidance. I will not press the amendments and will consider resubmitting them on Report Stage. It would be very helpful if the Minister of State gave the House firmer guarantees on any guidance she would issue to local authorities.

**Deputy Jan O'Sullivan:** I am willing to do so if people feel it is necessary. I will certainly look at it. I know from my experience, and discussions we have had in the Dáil, that public representatives frequently accompany somebody to a housing department, as do people from voluntary housing associations and other people whom a tenant trusts. If there are suggestions this might not be facilitated I am willing to issue guidance to local authorities. I give the Senator an undertaking that I will examine doing so and I welcome the fact that on this basis she will withdraw the amendments.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Sections 4 to 6, inclusive, agreed to.

Amendment No. 2 not moved.

## SECTION 7

**Senator Kathryn Reilly:** I move amendment No. 3:

In page 8, between lines 14 and 15, to insert the following:

“(iii) the tenancy supports that are available to the tenant from the local authority and other agencies,”.

A tenancy warning issued should provide information to a tenant and household on support available which could be utilised to avoid a continuing problem. It is very much in keeping with the reason for a tenancy warning, which is to encourage corrective behaviour by the household and avoid further problems.

**Deputy Jan O'Sullivan:** The tenancy warning is a formal legislative measure with a particular purpose. In this regard a statement of the supports available to tenants is not appropriate in the statutory warning. I will add to the existing procedures of housing authorities to deal with instances of anti-social behaviour in their housing stock. The purpose of a tenancy warning is to inform a tenant that a condition of his or her tenancy agreement prohibiting anti-social



behaviour has been breached; to require the tenant to take steps to prevent a continuation or recurrence of such behaviour; and to warn the tenant of the consequences if the breach of the tenancy agreement is repeated. I encourage housing authorities in their capacity as social landlords to provide all appropriate assistance to a tenant dealing with a household member engaged in anti-social behaviour before the situation gets to the stage of requiring a tenancy warning to be issued. This can be done through the many contacts other than the tenancy warning the authority will have with the tenant in the process of trying to bring an end to anti-social behaviour emanating from a particular household. The formal warning is a particular statutory legislative measure, but there is regular ongoing contact where there is anti-social behaviour during which the tenant is made aware of the various supports which are available.

Amendment, by leave, withdrawn.

Section 7 agreed to.

Section 8 agreed to.

NEW SECTION

**Senator Kathryn Reilly:** I move amendment No. 4:

In page 11, between lines 4 and 5, to insert the following:

“9. The Minister may by regulations prepare a code of conduct on the management of rent arrears by housing authorities.”.

Some local authorities are very good at dealing with rent arrears and work well with tenants to resolve issues fairly and avoid undue hardship and stress. Unfortunately other authorities are not so good at dealing with these problems. One way to solve this and ensure a more uniform and positive approach in these issues is for the Minister of State to provide a statewide framework for how a local authority should approach the resolution of rent arrears. This would be particularly important in the context of the plan to deduct arrears from tenants' social welfare payments without any need for engagement with the tenants.

**Deputy Jan O'Sullivan:** Housing authorities already manage their rent systems in accordance with existing good practice, the development of which involved the Department and the County and City Managers Association. These guidelines deal comprehensively with the various aspects of rent management through rent assessment, collection and accounting and have a particular emphasis on rent arrears prevention and recovery. The guidelines seek to strike a balance between being overly general and overly prescriptive, with some of the action checklists provided being relevant to larger authorities only and others being more relevant to rural authorities which have a more dispersed stock of dwellings. These guidelines have worked well over the years and I do not see any necessity to place them on a statutory basis.

Recent and proposed legislation significantly improves the framework within which housing authorities deal with rent arrears. Section 38 of the Housing (Miscellaneous Provisions) Act 2009 provides for rescheduling arrangements between housing authorities and households for the repayment of rent arrears at a rate which households can afford and, in practice, for revised rescheduling arrangements where households cannot keep up repayments due to circumstances beyond their control. In addition, the proposals in the Bill for direct deduction of rent from social welfare payments, which we will come to later, will significantly reduce the incidence

and amount of rent arrears for housing authorities, enabling them to focus resources on helping the much reduced number of households which, for whatever reason, fail in future to keep up with their rent payments. We have a code which operates well. In the new system there will be direct deduction which should largely address most of the problems of rent arrears which exist.

**Senator Kathryn Reilly:** I will withdraw the amendment and perhaps resubmit it on Report Stage. I wish to examine the legislation referenced by the Minister of State during the course of her response and examine the code.

Amendment, by leave, withdrawn.

## SECTION 9

**Senator Kathryn Reilly:** I move amendment No. 5:

In page 11, to delete lines 19 to 22 and substitute the following:

“(c) indicate that, if the breach continues during, or is repeated within, 12 months of the tenancy warning coming into effect, then the authority may either—

(i) apply under *section 12* to recover possession of the dwelling, or

(ii) where appropriate, apply to the District Court (under section 3 of the Act of 1997) for an excluding order against the household member who caused that breach, and”.

This amendment includes issuing an exclusion order as a possibility for a consideration after a tenancy warning has failed to encourage resolution of a problem. It would give an opportunity to support a household to remove certain elements which might be the root of anti-social issues and avoid an eviction, which should be an absolute last resort.

**Senator Marie Moloney:** People in receipt of the housing assistance payment, HAP, will not have to have Garda clearance whereas applicants for social housing and the rental accommodation system, RAS, do. Does the Minister of State have proposals to introduce Garda vetting to the HAP? Some of those housed by local authorities will have to have Garda vetting but others will not.

**Deputy Jan O’Sullivan:** The provision proposed by Senator Reilly is similar to the provisions in section 7(3)(c) which states a tenancy warning relating to anti-social behaviour must indicate that if the breach is repeated within 12 months the authority may apply for either a possession order in respect of the dwelling or an excluding order against the person engaged in such behaviour. The reference to an excluding order makes sense in the context of section 7, as such an order can be sought in the case anti-social behaviour. However, a tenancy warning under section 9 relates to a breach of a tenancy agreement other than anti-social behaviour. Therefore, it is not appropriate to refer to the excluding order option in the section. It is a question of which section is relevant.

I can see what the Senator is trying to achieve with the proposed amendment but I cannot accept it because section 9 relates to a tenancy warning for a breach of a tenancy agreement other than anti-social behaviour or rent arrears. There is no logic in referring in such a warning to the option of an excluding order, which relates exclusively to anti-social behaviour. I hope this makes sense. This is why I will not accept the amendment.

With regard to the HAP and Garda clearance, the HAP is taking over from rent supplement, whereby people sourced their own accommodation. One of the difficulties with seeking Garda clearance in that regard is that it would delay the process, but it is something I will examine because once the tenant is under the local authority, so to speak, the local authority has obligations. The provisions of the private residential tenancies legislation are in place in terms of people who are renting privately, which provides some safeguards, but the Senator makes a fair point and it is something we will examine.

Amendment, by leave, withdrawn.

Section 9 agreed to.

Sections 10 to 18, inclusive, agreed to.

## SECTION 19

**An Leas-Chathaoirleach:** Amendments Nos. 6 to 8, inclusive, are related and may be discussed together. Is that agreed? Agreed.

**Senator Kathryn Reilly:** I move amendment No. 6:

In page 28, between lines 16 and 17, to insert the following:

“(c) at the time of making its application for an excluding order, or as soon as possible thereafter, a housing authority shall notify the Child and Family Agency of the nature of the application concerned.”,”.

As they are grouped I will discuss the three amendments. Acceptance of amendment No. 6 means that if an exclusion order is issued, the Child and Family Agency should be notified. This is to ensure any appropriate services needed by the agency can be afforded to the household but also that the Child and Family Agency is aware of the ongoing problem.

Acceptance of amendment No. 7 would mean that the court deciding on an application for eviction must consider whether the local authority followed the proper procedure in terms of trying to deal with and resolve the continuing problems that led it to apply for repossession. This is in keeping with the updating of repossession law in this Bill, which recognises the judgment of the Supreme Court that previous laws did not properly uphold the right of tenants to a fair hearing. Amendment No. 8 is in keeping with the other two amendments.

**Deputy Jan O’Sullivan:** These amendments would require the Child and Family Agency to be notified of every excluding order application in respect of a person less than 18 years old and multi-agency involvement as a prerequisite for the making of such an order. The granting of every excluding order involves striking a balance between the rights of the respondent and the rights of the local community. The adjudication as to the balance to be struck in an individual case is most appropriately determined by the court, and the court should not be influenced in striking that balance by a statutory provision giving the rights of one party priority over the rights of the other party.

I want to explain exactly what an excluding order for a minor can and cannot do. In the first place, under an amendment to the Housing (Miscellaneous Provisions) Act 1997 included in the Bill, an excluding order cannot exclude a minor from the family home, which is critically important. What it can do is exclude a minor from being in another house or a place, such as a

green area or a set of local shops, where anti-social behaviour is known to take place.

It is reasonable for housing authorities, as responsible statutory social landlords, to have a power to exclude minors who have engaged in anti-social behaviour from places in the locality where the opportunity and temptation to repeat such behaviour is greatest. It is not necessary for housing authorities to have to consult a range of agencies to exercise what is essentially an estate management tool, which does not have the effect of removing the minor concerned from either his or her home or locality. I recognise that the minor's involvement in anti-social behaviour may be symptomatic of deeper problems that are beyond the role or capacity of housing authorities to deal with. That is why I intend to consult the Minister for Children and Youth Affairs about policy alignment of the excluding order provisions with the policies set out in the Children Act 2001 and communications protocols with relevant agencies in the operation of these provisions by housing authorities. We have had some discussion already, and I accept that the Senator's intention is that the problems the young person is experiencing will cross areas other than the particular issue being dealt with in the excluding order. However, I stress that they are not being excluded from their community or their home. This is about the many communities experiencing problems with young people gathering in certain places. That is the intention of it. It does not go any wider than that.

**Senator Kathryn Reilly:** In terms of the consultation with the Minister for Children and Youth Affairs, does the Minister of State have a timeline for lining up the provisions?

**Deputy Jan O'Sullivan:** I have had a general discussion with the previous Minister for Children and Youth Affairs and the current Minister on issues to do with young people and housing, for example, young people leaving care when they turn 18 and the specific issues that arise. We have discussed a wide range of issues, but regarding this one, as the Minister is relatively new in the job, the discussions are at a preliminary stage. However, I will convey to him the concerns the Senator has expressed.

**An Leas-Chathaoirleach:** Is amendment No. 6 being pressed?

**Senator Kathryn Reilly:** Based on what the Minister of State said, I will not press the amendment.

Amendment, by leave, withdrawn.

Amendments Nos. 7 and 8 not moved.

Section 19 agreed to.

SECTION 20

**Senator Kathryn Reilly:** I move amendment No. 9:

In page 35, between lines 7 and 8, to insert the following:

“(3) For the purposes of this section, regulations made under section 3 must—

(a) only include new revisions directly associated with the revised procedure for repossessing of local authority dwellings, and

(b) not provide less favourable terms than the current agreement with the tenant in any other areas.”.”.

This amendment proposes that every time a new relevant Bill is published, tenancy agreements have to be updated. This amendment allows only for what is revised in terms of repossession to be included in the reviews of the tenancy agreements. The tenancy will then not be left with less favourable terms.

**Deputy Jan O’Sullivan:** This amendment relates to a new section 29A proposed to be inserted into the Housing (Miscellaneous Provisions) Act 2009 that empowers the Minister to prescribe amendments to the terms of existing local authority tenancy agreements that are consequential to new or existing legislative provisions. It would not be appropriate to limit the application of this new section to procedures for repossessing dwellings only as proposed by the amendment as there are a range of terms of existing agreements that will need to be updated over time to reflect existing and future legislative changes. Without the proposed section included in the Bill, existing tenancy agreements needing updating to reflect legislative provisions would have to be terminated individually and the tenants offered new tenancy agreements containing updated terms and conditions. This is a very cumbersome way of updating tenancy agreements and could cause unfounded worry for tenants. The section 29A approach is much preferable, involving the Minister prescribing the changes to be made to existing agreements arising from specific enactments and housing authorities inserting the changes into the tenancy agreements and notifying the tenants accordingly.

The second part of the amendment seeks to confine the operation of the new section 29A to changes that are more favourable for tenants than their existing terms. I cannot accept this restriction on the application of the new section because it would rule out using the procedure for estate management changes to existing agreements that might be less favourable for individual tenants but much more beneficial for the residents of an estate as a whole. An example of this would be changes to tenancy agreements for apartments where new conditions relating to household behaviour could improve the quality of life of everyone living in the apartment complex concerned. My concern is that every individual one would have to be changed rather than doing it this way, which may be more efficient.

Amendment, by leave, withdrawn.

Section 20 agreed to.

NEW SECTION

**Senator Kathryn Reilly:** I move amendment No. 10:

In page 35, between lines 7 and 8, to insert the following:

**“Reallocation of repossessed dwellings**

**21.** The local authority on successful repossession of a dwelling will as far as is practicable ensure that:

(a) any refurbishment works required will be tendered for within 1 month of repossession date,

(b) in the case where only minor refurbishment work is required the dwelling must be reallocated within 3 months of repossession date,

(c) where substantial refurbishment is required the dwelling will be reallocated for

habitation not more than 1 month from the completion of refurbishment works.”.

A large number of voids have been building up and, until recently, there were approximately 1,800 long-term voids. We need to be sure that when units are repossessed, they are tendered within one month of repossession. The amendment also proposes that in cases where only minor refurbishment work is required, the dwelling must be reallocated within three months of the repossession date. Where substantial refurbishment is required, the dwelling must be reallocated for habitation not more than one month from the completion of refurbishment works. It is important we have targets. The natural progression that occurred over the years when people either died, left tenancies or the tenancies were repossessed was that they went by the wayside due to lack of funding. That is the reason we have been left with a build-up of voids. In some areas they have been left sitting for three to six months, and we would all agree that is not acceptable in the current crisis.

**Senator Paschal Mooney:** I want to ask the Minister of State a question on this amendment and on the section. Does she have any statistics that would back up the suggestion that houses in local authority areas are lying idle and have not been refurbished? Any houses that become available in my part of the country are immediately refurbished and allocated simply because there is pressure on the local authority to provide such housing. The problem might arise in some instances where there is an insufficient number of dwellings for specific family configurations, for example, two bedroom apartments or something of that nature, which may be delayed for some reason or other. Does the Minister of State have statistics showing that this is an issue?

**Senator Marie Moloney:** I want to put on record that the Minister of State announced a second tranche of funding for housing voids today. That means 1,000 houses will be refurbished and let which is in addition to earlier funding for 900 houses. I pay tribute to her for putting the funding in place and hope that she will continue to do so.

**An Leas-Chathaoirleach:** Subject to those accolades the Minister of State can respond.

**Deputy Jan O’Sullivan:** I will respond to the general issue first. Senator Reilly is right to be concerned that local authority houses are allocated as quickly as possible after they become vacant.

With regard to Senator Mooney’s request, I will get the figures for him. There is a significant number and there are big variations among local authorities. Some local authorities leave houses idle for more than a year and do not allocate them but others do the work more rapidly while some authorities have a lot more empty vacant houses than others. As Senator Moloney has said, I have allocated funding from the stimulus package. The first stimulus package allocated €15 million for this purpose under which over 900 empty vacant and boarded up houses will be refurbished. The second €15 million will refurbish over 1,000 houses and the final figure depends on how much work needs to be done. There are some valid reasons that local authority houses are empty, such as a fire or because significant work needs to be done and the local authority has found it difficult to find the funding. Some authorities are very good and work very fast while others leave houses vacant for very long periods for no good reason that I can see.

About a month ago I had a meeting with the directors of services responsible for housing in all of the local authorities. I made it clear to them that I want good practice to be mirrored



in all of the local authorities so that they stop leaving houses vacant for long periods. I wish to also mention an issue that happens, particularly in the Dublin area, which was raised with me. I refer to cases where a perfectly good kitchen has been thrown out and replaced by a totally new one. All of those areas are being examined and best practice is what we are trying to achieve. I have told the authorities that if encouragement and giving money for voids does not work then the stick will be the next approach. There is evidence of improvement and I will publish statistics again soon. I will forward the number of vacant houses in the local authorities to the Senator.

**Senator Paschal Mooney:** I thank the Minister of State. I wish to tease out the matter briefly.

**Deputy Jan O'Sullivan:** I must respond to the comments made by Senator Reilly, specifically on her amendment.

**Senator Paschal Mooney:** I wish to comment further on the point the Minister of State responded to. Why is there a discrepancy and variation between local authorities? I assumed it was due to resources. Clearly that is not the case and instead it is due to competence and administration. Why is there a wide variation in the way local authorities treat such housing? Is the Minister of State, in her capacity as housing minister, not able to wield a big stick over local authorities? She should insist that they adhere to a uniform set of principles and guidelines rather than allow a *laissez-faire* attitude because there is a housing crisis. I am sure she is the last person who wants to have the type of dwelling she referred to boarded up and shut down in local authority areas, particularly where there is not a resource issue but an administrative reason. It is clear she needs to urgently address the issue.

I read the figures that were published recently on the NAMA properties available in some local authorities nationally which had not been taken up by local authorities. Is there a reason for that situation? The issue is allied to what we are talking about here because it relates to dwellings that are available or have been made available - in this instance by NAMA - yet have not been allocated. Is there a reason that has not taken place?

**Deputy Jan O'Sullivan:** There has been progress with the NAMA properties. Local authorities have said that some of the NAMA properties were unsuitable but we have asked them to look at them again because times have changed and there is a different type of person who needs housing. In the past that person might have thought certain properties were unsuitable but he or she may think otherwise now. We have asked the local authorities to look at those properties again to see if any of them might be suitable. For example, families are becoming homeless now, which was not so prevalent in the past.

A discrepancy in the way local authorities treat vacant units is precisely why I met the directors of services for housing. I made it very clear to them that leaving empty properties for longer periods will not be tolerated in the future, that they will have to report back to me and that we intend to ensure we get an improvement in the way these things are done. Local authorities have a certain delegated responsibility. Most Senators want a local authority to be responsible for the maintenance of its housing stock. In terms of driving efficiency and making sure best practice prevails, I am determined, as Minister of State with responsibility in this area, to ensure that happens. I have already started the process and intend to keep it monitored to make sure it does happen.

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I shall respond specifically to Senator Reilly's amendment. Responsibility for ongoing and cyclical maintenance programmes for all local authority stock is a matter for each housing authority in the context of availability of their own resources. Housing authorities have had delegated sanction to use their internal capital receipts for housing purposes since 1 January 2007, subject to certain terms and conditions. I am not minded to change that arrangement at this time.

Notwithstanding the general principle of delegated function that I am keen to preserve, it is unclear from the amendment proposed whether the Senator is referring to private houses repossessed by a local authority as the lender, or houses repossessed by the local authority that were originally sold under tenant purchase or incremental purchase arrangements. In whichever case this was aimed at, the amendment proposed by the Senator is very prescriptive in terms of defining timelines for housing authorities in respect of certain actions, some of which may be impossible for the housing authority to comply with. The extent of refurbishment works required for a property should be the measure that determines the timeline as to when the property might be available for reallocation to a new tenant. This is somewhat reflected in the Senator's text but it does not take account of the availability, or lack thereof, of resources to finance the refurbishment works. In some cases where these works are extensive funding may be required from my Department which may not fit in with the timelines set out in the proposed amendment.

I also cannot accept the arbitrary procurement requirements that this would impose on housing authorities. Almost all housing authorities have frameworks in place, under the new centralised local authority office for procurement, for small retrofitting jobs. This would negate the need for the usual tendering arrangements that this provision would now impose on housing authorities, with the possible outcome of delaying the making of minor refurbishment works.

Finally, I would find it difficult to provide in legislation for a situation where a repossessed house would be treated differently to any other housing in the possession of the housing authority. We have referred generally to voids. This amendment specifically refers to the repossession of a dwelling but we have had a wider discussion on empty houses generally. In view of this I cannot accept the amendments for the reasons I have outlined.

**Senator Paschal Mooney:** Before Senator Reilly responds to the Minister of State, and in light of the discussion we have had on this matter and the fact that some local authorities do not discharge their responsibilities along the lines desired by the Department, I wish to comment further. I have been informed that Cork County Council has left some houses vacant for between two and three years, which is totally unacceptable. I appreciate that the Minister of State will not accept the amendment. However, I ask her to consider introducing something on Report Stage that would place an obligation and responsibility on local authorities. This would help to obviate the housing Minister calling in the various factions and saying if they do not do such and such, action will be taken. If the Minister of State does not spell out what would be done if the authorities do not discharge vacant houses, I suggest that she starts from a baseline by calling on them to act on these dwellings within a certain specified time.

Notwithstanding what the Minister of State has explained about the nature of refurbishments, can a timeline and model be imposed on local authorities that will not allow them to wiggle out of their responsibilities? I only pose these questions in order to be helpful. A huge number of people are on housing lists but a significant number of dwellings seem to have been left vacant for long periods. The root cause is not just resources but the administration and competence of the housing sections in various local authorities.

*3 o'clock*

Can we be assured that the Minister of State will be more proactive in this regard? I am not reflecting on the excellent work being done by the Minister of State but it appears there is a gap that needs to be addressed urgently.

**Senator Kathryn Reilly:** I will press the amendment for the reasons the Minister of State outlined. The previous speaker mentioned some of what I was going to say. The Minister of State mentioned the carrot versus stick approach. It is important that we have a little more of a stick approach. As mentioned earlier, a model is imposed on local authorities with which I concur. I would encourage a more proactive approach in that regard in order that it is not left to the discretion of local authorities to decide when the refurbishment works are carried out.

**Deputy Jan O'Sullivan:** I would say I have been more proactive than any Minister before me on empty houses. This practice has been going on for years. For the first time, we have decided to tackle the issue and to allocate specific amounts of money for those requiring major works. Significant work has to be done on some of those houses, some of which have been lying there for years and are a blot on the landscape of very good housing estates. For example, there is an empty house in the middle of a block and people have to live with it. That is why we specifically provided this funding, despite the constraints of the capital budgets for these void houses. We are tracking them. We know which houses will be refurbished in each local authority. We will have before and after information. We know the money will be spent on refurbishing those houses and that they will have to be allocated within a particular period, once they have been refurbished. That is dealing with the past, so to speak.

For the future, there will be specific guidelines on how quickly they will have to be turned over. If that is put into legislation, the problem is that one is including the house that Senator Kathryn Reilly might leave tomorrow in perfectly good condition, which can be allocated immediately to another tenant, with the house in which somebody else had a fire that simply cannot be allocated in that length of period. Therefore, it cannot be put into legislation and we cannot have a one-size-fit-all in terms of how quickly each house will be turned over. The Senator is correct that we must have a good practice that turns them over as quickly as possible and provides homes for families who are on the waiting list. I am in the process of doing that. We are some way along the line. We are monitoring the situation and considering the possibility of some kind of regulations that will oblige the local authorities to move them quickly.

Some of the local authorities have got legal advice in respect of certain things that have to be in a house before it can be assigned to a new tenant. We are looking to the County and City Managers Association for best practice so that local authorities, who feel that everything must be perfect before a next tenant moves in, may be given an assurance that they may not necessarily have to do that. We are applying the legal advice that we have across the board. I assure Senator Paschal Mooney we have done a great deal. I am determined to get to the bottom of this because many people in desperate situations are waiting for houses and we simply cannot stand by and houses vacant. I feel strongly about this issue and would welcome ideas and support from Senators on how to bring good practice into all local authorities with a view to ensuring that funding is provided for those vacant houses which have boarded-up for many years in some authorities' areas.

**Senator Paschal Mooney:** I am assured by the Minister of State's comments. I had no wish, as I mentioned, to cast any reflections whatsoever on the excellent work the Minister of

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State is doing in the housing section. I applaud, as Senator Marie Moloney has done, the Minister of State for the financial incentives has offered to local authorities considering the restraints on her budget. I am sure she would love to give much more. It seemed to me that it was not just a resource issue but that something else was going on. From her own experience, which is much greater than mine will ever be, in dealing with the city and county managers there appears to be something going in some local authorities that the Minister of State finds unacceptable and which any of us would find unacceptable. In terms of responding to her suggestion about proposals, certainly it would be helpful to hear what the County and City Managers Association is saying in the various areas where the Minister of State is aware, taking the Cork example, of two to three years in some instances. I would ask why they have left them closed for two or three years. What is the problem? Can we fix the problem? If that was to be done across the country - perhaps it is being done already - a meeting of minds between the Department and those recalcitrant local authorities might result in some of those dwelling coming on stream much quicker than up to now. I compliment the Minister of State on everything she is doing in that regard.

Amendment, by leave, withdrawn.

Sections 21 and 22 agreed to.

#### NEW SECTION

**An Leas-Chathaoirleach:** Amendments Nos. 11 and 13 are related and may be discussed together, by agreement.

**Senator Kathryn Reilly:** I move amendment No. 11:

In page 37, between lines 16 and 17, to insert the following:

#### **“Replenishing and refurbishment of housing stock**

**23.** All proceeds from the sale of local authority housing stock must be ring fenced by the local authority concerned for use in the replacement of said units or, in the case where demand is not present, for the maintenance of existing local authority housing stock.”.

This Bill reintroduces the incremental tenant purchase scheme which over time will mean an increase in the number of local authority tenants buying their own homes which will result in a decrease in the social housing stock. My amendment, if accepted, would mean that any money raised from the sale of local authority housing stock would be used to improve existing stock or, where a need exists, replenish stock and provide new housing. It is a short amendment but is direct and ties in with the provision of social housing and what the Government wants to do.

**Deputy Jan O’Sullivan:** These amendments duplicate an existing enactment in the Housing (Miscellaneous Provisions) Act 2009. Section 13 of the 2009 Act provides that capital moneys accruing to a housing authority from a number of sources, including the sale of a dwelling under the old tenant purchase scheme provided by the 1966 Act, or the two incremental purchase schemes provided for in the 2009 Act, will be ring-fenced in a separate account and, subject to the Minister’s prior approval, used for the provision of housing or for the refurbishment or maintenance of existing houses, or related purposes. Such provisions refer to a local authority’s internal capital receipts. Furthermore, section 34(a) of this Bill amends section 13 of the 2009 Act to provide that moneys accruing from the sale of a dwelling under Part 3 of the

Bill will also be subject to the provisions of section 13.

Since 2007, local authorities have had delegated sanction to use their internal capital receipts for housing purposes, subject to certain terms and conditions. Under these procedures authorities are required to submit an annual programme of works to be funded by their internal capital receipts, primarily for the planned maintenance and improvement of their existing housing stock, for approval by my Department. It has also been agreed that local authorities can use their ICR funds to augment and oversee the implication of the voluntary code and to advise on the development of statutory regulation.

Regulation is an important element in providing the conditions necessary for the growth and development of the sector. Financing that growth is equally important and the question of how best to utilise the existing asset base, including the option of selling existing stock to tenants, is a factor to be considered under this particular process.

In the context of work under way regarding the regulation of the voluntary sector and that the principle of what is proposed in respect of the use of capital moneys accruing to local authorities from sales is already provided for in primary legislation, that is, the Housing (Miscellaneous Provisions) Act 2009, I suggest the two amendments are unnecessary because they are duplicating provisions already in place.

**An Leas-Chathaoirleach:** Is amendment No. 11 being pressed?

**Senator Kathryn Reilly:** Based on what the Minister of State has said, I will not press it but reserve the right to resubmit it on Report Stage.

Amendment, by leave, withdrawn.

Sections 23 and 24 agreed to.

## SECTION 25

**Senator Kathryn Reilly:** I move amendment No. 12:

In page 40, between lines 2 and 3, to insert the following:

“(5) Where a tenant has carried out material improvement works to their dwelling or extended it at their own expense, the value of these improvements will be deducted from the sale price to the tenant.”.

What this amendment seeks to achieve is clear. Many tenants who worked hard to improve their homes while renting found they had made the purchase price of their homes more expensive when they sought to buy them. That is unfair. A tenant’s work on their home should be recognised and it should not mean they have to pay twice when seeking to buy it as their right. Tenants who are waiting to buy their house look at it for dampness and other repairs but are afraid that if they improve it, the price will be increased when the house is valued.

This would encourage tenants to invest in maintenance of their homes. When they want to purchase their homes later on, they should not be punished for having maintained them and kept them in good working order.

**Deputy Jan O’Sullivan:** Section 25 provides for the sale to a tenant by a housing authority of a house under Part 3, which includes the determination of the purchase price of that house.



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That sale is subject to certain terms and conditions, including conditions relating to occupation of the house as the normal place of residence of the purchaser or a household member, proposed changes to the status of the house in the future that require the prior consent of the housing authority and prohibitions relating to anti-social behaviour.

In conjunction with this, section 30 provides that I as the relevant Minister can make regulations to determine the method for calculating the purchase price of a house under the scheme. The methodology that I set in these regulations can differentiate between classes of houses and can take account of the age of the house and the estimated cost to the housing authority of providing a replacement house on the same site that would accommodate the same type household for which the house being purchased was designed.

In that context, there is ample legislative scope to determine the most appropriate method for housing authorities to calculate the purchase price for the purpose of this scheme. While I have not yet taken firm decisions as to the exact terms of the scheme that will be set down in regulations, I envisage that the purchase price of the house under this scheme will be based on its market value and its existing state of repair and conditions, but subject to a minimum price that takes account of the cost to the housing authority of replacing the house being sold.

It would be under the regulations that all of the various detail with regard to the sale price of the house would be determined. Previous tenant purchase schemes would facilitate the issue Senator Reilly raised. It would be under the regulations that all of those various elements of the price will be included.

Amendment put and declared lost.

Section 25 agreed to.

Sections 26 to 34, inclusive, agreed to.

NEW SECTION

**An Leas-Chathaoirleach:** Amendment No. 13 in the name of Senator Wilson, a new section, was already discussed with amendment No. 11.

**Senator Paschal Mooney:** I move amendment No. 13:

In page 48, between lines 27 and 28, to insert the following:

**“Amendment of section 44 of the Act of 2009**

**35.** Section 44 of the Act of 2009 is amended by the insertion of the following subsections after subsection (1):

“(1A) Subsection (1)(a) does not apply in circumstances where a local authority and an approved body agrees that to dispose of a dwelling to a tenant that was constructed prior to the enactment of this Act would be in the best interests of—

(a) the tenant, and/or

(b) the local community in which the particular dwelling is situated.



(1B) The proceeds of sale of any disposal under subsection (1A) shall be ring-fenced for the purposes of—

(a) provision of additional housing by approved bodies in the local authority area in which the particular dwelling is situated, and

(b) to upgrade existing housing stock in the local authority area in which the particular dwelling is situated.”.”.

I seek clarification. If memory serves me correctly, the Minister of State responded to amendment No. 11 and did not address the first half of amendment No. 13. I wonder whether she might be able to do so. The first part states:

(1A) Subsection (1)(a) does not apply in circumstances where a local authority and an approved body agrees that to dispose of a dwelling to a tenant that was constructed prior to the enactment of this Act would be in the best interests of—

(a) the tenant, and/or

(b) the local community in which the particular dwelling is situated.

**Deputy Jan O’Sullivan:** Is it in regard to the last two amendments?

**An Leas-Chathaoirleach:** Amendments Nos. 11 and 13 are related.

**Senator Paschal Mooney:** Only one half of amendment No. 13 relates to amendment No. 11.

**An Leas-Chathaoirleach:** Senator Mooney is saying there has been overlapping.

**Senator Paschal Mooney:** There is an overlap. The Minister of State would have only addressed the issue of the ring-fencing of the money from the sale of local authority houses.

**Deputy Jan O’Sullivan:** Which amendment is it?

**Senator Paschal Mooney:** Amendment No. 13.

**An Leas-Chathaoirleach:** It is related to amendment No. 11 and the Minister of State probably has the same reply.

**Deputy Jan O’Sullivan:** I replied to the two of them together at that time.

**An Leas-Chathaoirleach:** I understand that.

**Senator Paschal Mooney:** The first half of the amendment does not relate to ring-fencing investment. It is about agreeing to dispose of a dwelling to a tenant.

**Deputy Jan O’Sullivan:** I am sorry. This is to do with where a local authority agrees to the disposal. I think I did reply to that.

**Senator Paschal Mooney:** Yes. The amendment states:

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“(1A) Subsection (1)(a) does not apply in circumstances where a local authority and an approved body agrees that to dispose of a dwelling to a tenant that was constructed prior to the enactment of this Act would be in the best interests of—

(a) the tenant, and/or

(b) the local community in which the particular dwelling is situated.

It is somewhat confusing in that the other half of the amendment relates to amendment No. 11, to insert a new section 23. I wonder whether the Minister of State has any response on that.

**Deputy Jan O’Sullivan:** The first part of amendment No. 13 proposes to insert a new subsection (1A) into section 44 of the Act of 2009 in what would appear to be an attempt to extend the incremental purchase arrangements for newly-built local authority and approved body houses of Part 3 of the 2009 Act to existing local authority and approved housing bodies. The proposed amendment is unnecessary insofar as it applies to a housing authority as it is already encompassed by the provisions in Part 3 of the Bill underpinning a purchase scheme for existing dwellings along incremental purchase lines.

In respect of extending purchase provisions to encompass existing approved housing bodies, AHBs, stock, under the terms of the various funding schemes under which AHBs make accommodation available, AHBs are the *de facto* owners of the properties and are required to make them available for social renting for the duration of the mortgage or, as the case may be, the availability agreement. My Department cannot unilaterally make provision for their sale to tenants. Any such decision would have to involve the AHB and have regard to the mortgage on the property.

In July 2013, I introduced a voluntary regulation code for this sector as a precursor to a statutory regulatory framework to support the voluntary sector’s long-term growth. In February 2014, I appointed an interim regulatory committee to oversee the implementation of the voluntary code and to advise on the development of statutory regulation. Regulation is an important element in providing the conditions necessary for the growth and development of the sector. Financing that growth is equally important and the question of how best to utilise the existing asset base, including the option of selling existing stock to tenants, is a factor to be considered under this process. The context of this is the work underway in regard to the regulation of the voluntary sector and that the principle of what is proposed in respect of the use of capital monies accruing to local authorities from sales is already provided for in primary legislation, that is, the Housing Act 2009. It is on this basis that I ask for the amendment to be withdrawn.

Senator Mooney’s question relates specifically to the approved housing bodies. The fact that they are the *de facto* owners of the properties means that they would have to agree to any sale of the property.

**Senator Paschal Mooney:** Is the Minister of State saying that the other element of the amendment, the ring-fencing of investments, is already covered by the 2009 Act?

**Deputy Jan O’Sullivan:** Yes.

**Senator Paschal Mooney:** I thank the Minister of State.

Amendment, by leave, withdrawn.

Sections 35 and 36 agreed to.

#### SECTION 37

**An Leas-Chathaoirleach:** Amendment No. 14 in the name of Senator Wilson is out of order. It is a direct negative of section 37. Amendment No. 15 in the name of Senator Reilly is also out of order. It is also a direct negative of section 37.

Amendments Nos. 14 and 15 not moved.

Section 37 agreed to.

Section 38 agreed to.

#### NEW SECTION

**An Leas-Chathaoirleach:** Amendment No. 16 in the name of Senators Zappone and Mac Conghail is out of order as it is in conflict with the principle of the Bill as read a Second Time.

Amendment No. 16 not moved.

#### SECTION 39

**An Leas-Chathaoirleach:** Amendment No. 17 is in the name of Senator Reilly. Amendments Nos. 17, 20, 22 to 25, inclusive, and 27 to 30, inclusive, form a composite proposal and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Kathryn Reilly:** I move amendment No. 17:

In page 49, to delete lines 32 and 33 and substitute the following:

“(a) the housing authority concerned shall source dwellings in respect of which they will seek to place people under the housing assistance scheme.”.

These amendments that have been grouped together merely seek to place the onus of finding housing for the HAP on the local authority. This would mean that these tenancies will run more smoothly for both tenants and landlords and it would also mean the local authority would have more of an ability to properly negotiate terms and rents, and a better idea of the local stock that is available.

**Deputy Jan O’Sullivan:** The Senator is seeking to ensure that the local authority would source the houses for the HAP, and the consequential amendments are all related to that. That would be difficult for the local authorities to do insofar as at present those who are on rent supplement source their own accommodation. It would result in potential HAP recipients not being able to avail or take advantage of opportunities in the private rented sector to secure accommodation.

The HAP represents a shift to a more dynamic system whereby flexibility and choice are important considerations. One of the objectives in designing the housing assistance payment, HAP, scheme has been the requirement to be as efficient in respect of providing a HAP payment to a recipient as is the rent supplement scheme at present. The administrative burden that would be placed on housing authorities by requiring them to source all accommodation under the scheme would make the scheme unmanageable and unworkable. In providing for both ef-

ficiency and relevance, it is important to note the housing authority is responsible for ensuring that accommodation sourced by HAP recipients under the scheme meets the relevant accommodation standards and that the landlords of these properties are tax-compliant. It also is important to remember that under the HAP scheme, the housing authority will make a rental payment to the landlord on behalf of a HAP recipient. The housing authority is not entering into a rental contract with the landlord for the ongoing availability of the property. In that context, section 40 of the Bill underlines that even though the housing authority is making a rent payment to the landlord on behalf of a HAP recipient, this does not mean there is any contractual liability on the housing authority to continue paying rent to the landlord if the HAP recipient leaves the property or if that recipient becomes ineligible for a HAP payment.

Since the inception of the rent supplement scheme, tenants have been sourcing their own accommodation, in respect of which they receive a rent supplement payment and this will be replicated under the HAP scheme. The latter will form one of a suite of social housing supports, some of which the housing authority will provide directly, thereby providing an integrated and progressive selection of social housing support mechanisms with which housing need can be met. While the housing needs of a person or household in receipt of HAP will be met through the provision of HAP, such a person or household will have the option to apply for a transfer to a more traditional form of social housing support or to avail of certain incremental purchase options if the person or household so chooses. Within the general operation of the scheme, there is nothing to stop a housing authority from providing advice on where appropriate properties might be available. However, the onus is on the household to secure such a property. Furthermore, if a household has qualified for social housing support but cannot source appropriate accommodation in the private rented sector under HAP, then the relevant housing authority, within current supply constraints, retains a general level of responsibility in respect of providing an appropriate form of housing support for the particular household concerned.

It is really continuing the practice in the rent supplement system whereby the person finds his or her own accommodation. However, there are situations in which the housing authority will help if it is aware, for example, of housing that is available. As for the sections of housing authorities that deal in particular with people who are trying to find accommodation but are finding it difficult, certainly from my experience if they are aware of housing that is available, they will advise and help people. However, were they to have the obligation to source the housing, I genuinely believe they simply would not be able to do it and it would put a huge additional burden on housing authorities. The practice, as it exists at present, is that people find their own accommodation. Under the HAP scheme, this is by and large will continue to be the practice.

**Senator Kathryn Reilly:** While I will not press the amendment at this stage and will withdraw it, I reserve the right to resubmit it on Report Stage. I wish to have more consultation on the amendments.

**An Leas-Chathaoirleach:** As all those amendments are being discussed together, by agreement, I understand that is fine.

**Senator Marie Moloney:** I would be greatly concerned by the inclusion of this amendment to have local authorities sourcing the houses. I have come across a case in which a tenant in a private house was in receipt of rent supplement and the landlord agreed to enter the leasing scheme in respect of the house. However, the local authority told the tenant that even though she was living in it, she might not be the person who would get the house because she was not next on the housing list or her priorities were not as high as those of someone else. Were the

local authorities sourcing the houses, I would be anxious that it would take too long to get to the applicant and people would be left homeless unless the authorities could act far quicker. Consequently, I believe tenants should continue to be allowed to source the houses.

Amendment, by leave, withdrawn.

**An Leas-Chathaoirleach:** Amendments Nos. 18, 39, 40 and 43 are related and may be discussed together. Is that agreed? Agreed.

**Senator Katherine Zappone:** I move amendment No. 18:

In page 50, between lines 11 and 12, to insert the following:

“(4) The Minister shall, following consultation with the Joint Oireachtas Committee responsible for housing, by regulations make provision for a housing authority to amend an allocation scheme to individual households, which would enable housing assistance recipients to access other forms of social housing support through a transfer list policy that will reflect the specific priority that the household had on the main waiting list within the authority area in which they are resident, and for related matters.”.

Senator Mac Conghail and I tabled this amendment on the foot of concerns Senator Mac Conghail raised in particular during his Second Stage speech with regard to section 37 and a lot of the kerfuffle surrounding it, which of course raised the issue of clarity as to whether people who were moved to the HAP scheme still would be able to access social housing should they so need. We have read carefully the back-and-forth regarding many of the Minister of State’s comments in this regard, both in the Dáil and her response in her Second Stage speech. To clarify, the Minister of State has stated people will be moved from the housing list to a transfer list and still will have the potential to access social housing, should they require it.

That comment is by way of preface but having said all that and being at this point in moving towards the passage of the Bill, I still have received many statements of concerns from people with whom I have worked in Tallaght. At this stage, it appears as though there still is confusion with regard to whether people still will be retained on some list - in this case it obviously is the transfer list the Minister has indicated - and in being so retained, whether people somehow still will have a similar place within that list as they had on the original housing list. These concerns were submitted to me in respect of a document from that community, from which I wish to read one or two things that indicate what I am saying here. The Minister of State first should be aware that people perceive many benefits to what is happening here and it is not all negative or criticism. According to the document given to me, the benefits include that full benefit will be paid by the local authority directly to the landlords and not by welfare. People perceive this to be a benefit, as is the fact that the tenant will pay the differential rent directly to the local authority and will be able to work full-time while in receipt of housing assistance. That is all wonderful and great. However, the negative aspects reported are that the tenant will be removed from the housing list, will be denied secure long-term housing and will be left at the mercy of the private rental market. Moreover, it also is noted that tenants will lose their place on the housing list, which could provide them with a home for life together with a possibility to buy property if one’s circumstances change and that some tenants have been on an housing list for years and that this will be wiped clean once the Bill comes into play.

I have heard the Minister of State saying this is not the case, that she is guaranteeing it will not be the case and that she will make regulations subsequent to the passage of this Bill to as-



sure people they still will have a similar place on a transfer list. The amendment Senator Mac Conghail and I tabled and I now have moved is simply to suggest the Minister of State would place within the Bill her commitment to make those regulations that would enable the housing assistance recipients to access other forms of social housing support through a transfer list that will reflect the specific priority the household had on the main waiting list. In this amendment, we took some of the language the Minister of State used in her speeches where she stated she would do that and wished to do that. Our amendment proposes that this be inserted into the Bill as it stands, as well as adding that aspect to act with consultation with the appropriate Oireachtas committee.

**Senator Fiach Mac Conghail:** I welcome the Minister of State to the House. I support the amendment of my colleague, Senator Zappone. I seek clarification as this is one of those issues in debate where one must separate the Minister of State's bona fides as a politician and her bona fides as a legislator. She might not be in this position, as she might be elevated or certainly have her workload increased, over the next 48 hours. Consequently, I must divorce the Minister of State's bona fides as a politician from the legislation before Members. On Second Stage, I sought clarification regarding section 37 and the Minister of State went some way, albeit not far enough in my opinion, towards trying to appease Members' concerns. She suggested that under the 2009 Act, she can direct a housing authority to amend an allocation scheme in the manner specified. In my Second Stage speech, I asked the Minister of State to examine why this could not be included in the current Bill. During this Committee Stage debate, the Minister of State should try to clarify for Members her process in this regard. There is genuine concern, although some of it is mischievously exacerbated in the media. There is, however, a concern about which we want to speak plainly to the Minister. At present, section 37 clearly - I am about to be paradoxical - leaves an ambiguous sense in stating:

Subject to regulations made for the purposes of subsection (4)(f) of section 20 of the Act of 2009, the provision of housing assistance under this Part shall be deemed to be an appropriate form of social housing support for a household that is determined by a housing authority under the said section 20 to be qualified for such support.

One could argue this provision is not as well written as it could be and that it needs clarification. That the Minister would make a direction subsequent to the enactment of this Bill suggests there is a bureaucratically or technocratically cumbersome process when it should be stated clearly that there will not be unequal treatment of future tenants through the transfer system. I ask the Minister of State to tease out those anxieties and to be as clear and unbureaucratic as possible in her response.

**Senator Kathryn Reilly:** Before I address amendments Nos. 39 and 40, I want to reiterate the concerns expressed by other speakers in regard to this section and the assumption that people's housing needs will be met through HAP. People will be removed from local authority waiting lists regardless of whether they may wish to enter into a short-term arrangement as a step towards being accommodated on a more permanent basis in local authority housing. There are fears that what is proposed might distort the figures and may not allow people to understand the real issues at hand. Currently, a large number of landlords are withdrawing from schemes like RAS, which means that families who thought they may have able to make their lives in the same location could be on the verge of becoming homeless and councils will be obliged to find alternative accommodation for them.

Amendment No. 39 provides that tenants housed under an assistance scheme run by the



State through local authorities shall receive priority for housing should they lose their homes because of unaffordable rents. This is a fair recognition of responsibility authorities bear to people which they may have failed to house securely. It also gives an impetus to the authorities to ensure there is as much security as possible in the private tenancies they oversee.

In regard to amendment No. 40, the Minister of State indicated that HAP tenants who are removed from housing waiting lists and lose their status of having a housing need will be allowed to put their names on a transfer list. However, people could languish on transfer lists for years. Some local authorities do not even maintain transfer lists, while the transfer lists maintained by other authorities contain conditions that would cause problems for HAP tenants who simply want social housing. The amendment would require the Minister to introduce guidelines for housing authorities on the operation of a transfer system to ensure the system operates as smoothly as possible and that the tenants are not put out in any way.

**Deputy Jan O'Sullivan:** I appreciate that Senators expressed genuine concerns. Similar concerns were expressed in the Dáil regarding people on HAP not losing their position on local authority waiting lists. I want to be as clear as I can with regard to that issue. Senator Reilly's first amendment deals with particular situations, such as where somebody is evicted due to unaffordable rents, and her second amendment is related to the amendment proposed by Senators Mac Conghail and Zappone. The Fianna Fáil amendment deals specifically with people on the rental accommodation scheme and the issue of responsible tenants. The substantive issue is to ensure people do not lose their place on the waiting list and that they are given the same priority as they were originally given.

The powers available to me in respect of allocations and transfers, and for social housing support generally, are contained in the Housing (Miscellaneous Provisions) Act 2009. This Bill establishes the housing assistance payment but it is not the legislation in which allocations are determined. This is why I intend to use the powers under the 2009 Act rather than make specific provision in the Bill. With regard to HAP being a social housing support, section 19 of the 2009 Act sets out the supports considered to be social housing supports, as well as giving housing authorities the power to provide, facilitate or manage the provision of that support. Section 49 of this Bill provides for an amendment to section 19 of the Act to include HAP as a social housing support. Whereas previously rent supplement was under the Department of Social Protection, it is now under the remit of local authorities and it comes within the social housing area. Due to the provision in section 37 of the Bill, which deems HAP to be an appropriate form of social housing support for households determined to be qualified under section 20 of the 2009 Act, HAP households are covered by the provisions of section 22 of the Act in so far as they apply to those already in receipt of social housing support. By making HAP a social housing support under the law, it can come under a housing authority's allocation and transfer policy.

As I have noted previously, section 22 of the 2009 Act provides that a housing authority can determine the order of priority in which it makes allocations to individual households in accordance with its allocation scheme. This includes reserving dwellings available for allocation in its area in respect of households transferring from other forms of social housing support, of which HAP will now be one. In that regard, in 2011, I issued social housing allocation regulations, which commenced on 1 May 2011, setting out the conditions that housing authorities must take into account when making their allocation schemes. All housing authorities were required to make an allocation scheme under these regulations on or before 13 June 2011. The regulations require authorities to set out the manner in which they will allocate dwellings to households on the waiting list and households that have been approved for transfers. They have

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to put in place a transfer policy as well as a waiting list policy. During the debate on the Bill in the Dáil, some speakers indicated that their respective local authorities did not maintain transfer lists but they are required to put in place a transfer policy. I can direct them with regard to their transfer policies.

I am committed to putting in place the statutory framework under section 22 of the 2009 Act to provide for a robust transfer policy in every local authority, which would afford HAP recipients and other social housing tenants equal opportunity to access other forms of social housing support, including incremental purchase schemes. This list, while a transfer list, will reflect the specific priority and previous position occupied by the household in question on the main waiting list in the authority area in which it is resident. Households will, therefore, be placed on a transfer list with no less favourable terms than if they had remained on the main housing waiting list. They will keep their time accrued.

It is my preference to achieve this through comprehensive regulation but if the regulations are not ready in time for the statutory pilot phase for HAP, which is due to begin shortly, I will use my powers under section 22 to issue a direction to local authorities involved in the pilot to ensure HAP recipients are afforded the same access to other forms of social housing support via their existing transfer lists, if that is their choice. In other words, my preference is regulation but, if necessary, I will be able to use powers for the preliminary phase involving six local authorities. The Limerick authority has already started to operate HAP and six more are due to come on stream before the end of this year. I can use my powers to issue a direction to them, and I am giving a commitment that I will do so. We will have to draft the regulations after the legislation has passed through both Houses of the Oireachtas and has been signed by the President. We are already working on the drafting but we cannot publish those regulations until the legislation is complete - in other words, until HAP actually exists as a form of social housing. I want to give the House an absolute assurance that that is what I intend to do. There will be no disadvantage to anybody who has an existing build-up of years or other elements that have given them priority on the housing waiting list. That will be done by way of secondary legislation when we draft the regulations. In the meantime, I will use directions to ensure people in the next wave of six local authorities are not in any way disadvantaged. I hope that gives the clarification the Senators require.

**Senator Katherine Zappone:** I thank the Minister of State very much. It is absolutely clear what her intention is in terms of the policy objective, that is, that in transferring from one list to another they will not be at a disadvantage. Everybody should have a transfer policy and if there is not a list, I presume the policy will mean that perhaps they do need a list if they move on to HAP. Perhaps the Minister of State could answer that point concerning authorities where there are not transfer lists. It is clear what the Minister of State's objective is and I accept that is a good thing.

Our amendment sought to insert a commitment in the Bill whereby the Minister of State would undertake those regulations. In her response, however, I did not hear exactly why she would reject that or why she would not put such a commitment in the legislation. Perhaps she could clarify that because I did not understand it.

**An Leas-Chathaoirleach:** Does Senator Mac Conghail wish to speak on the same point?

**Senator Fiach Mac Conghail:** Yes, I wish to extend that point. The Minister of State has been clear but she must bear with us because we are not experts. It is important that we should

talk this through with her a bit more. My understanding is that the Minister of State is making a commitment to issue a direction, particularly on the pilot ones. She has said that Limerick is already in the starting blocks. That city has a transfer policy and list so there is a direction there.

I want to unpick the stages. The reason the Minister of State would direct local authorities concerns the time lapse between the enactment of this Bill and the secondary legislation. What would be the normal gap between the enactment of this Bill and issuing the regulation? At what point in that gap would the Minister of State consider pre-empting that delay and issuing a direction? I want to examine the timing sequence of that also.

**Deputy Jan O'Sullivan:** I will answer Senator Zappone's question about the transfer list first. It was indicated to me in the Dáil that County Kildare does not have a transfer list. It is the only such local authority I know of but there may be others. If one applies for a transfer in Kildare, one is on the housing list in some way. It seems to me to make more sense that there would be separate transfer and housing lists. That seems to be how most local authorities operate.

With regard to the clarification sought, the reason it is not in the primary legislation is that the direction is in secondary legislation. In that sense it is part of the statute, although it is not in the primary legislation. It is a regulation that relates to the primary statute and I will draft it as soon as I can.

In terms of the timing, we expect that those six local authorities will move quickly. We expect that they may well move before we have the regulations fully drafted, so that is why I will issue the direction if necessary. If the regulations are in place, then we will not need to do so. I want to ensure people who have been on a waiting list for five years do not suddenly end up falling through a crack because no statutory mechanism or direction can be used. That is why we are putting that intermediary step in place. It may not be necessary to use it. I wanted to give a reassurance that we will use it, however, if the regulations are not finally drafted and agreed by the time the next phase starts after Limerick. That is its intention.

Secondary legislation will be there by way of regulation, so it is legislation in that sense, albeit secondary. In the same way that any future Ministers could introduce a new housing Bill and change everything, they could also amend the regulations but no more easily. They would still have to do so formally but I would not envisage any Minister wishing to do that. It makes sense not to disadvantage people who have built up time on a housing waiting list. I am confident that no future Minister would want to disadvantage those people in any way. I do not see why a Minister would do so.

During these lengthy debates I have been clear about the intention that will pertain. I am giving the House an assurance that, as far as I am concerned, we will draft those regulations to ensure people will not lose any of the priority they have had.

**An Leas-Chathaoirleach:** Does Senator Zappone wish to comment further?

**Senator Katherine Zappone:** I thank the Minister of State. What she has said is certainly clear to me. Senator Mac Conghail always speaks well for himself, but it is clear to me what the Minister of State has said. I expect that it should also be clear to local authorities and those who will ultimately be the recipients of this. It is also clear that the Minister of State has taken an additional step in responding to us. If there is any lack of clarity concerning the pilot phase, the Minister of State will also issue a direction on that.

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In one sense, people are already protected by the 2009 Act and the 2011 regulations. The Minister of State is now making a commitment that the regulations are being drafted. It should be perfectly clear to local authorities that, even if there is a movement from one list to another, people will not be disadvantaged. That is the intention of those regulations.

**An Leas-Chathaoirleach:** Given the manner in which the business was ordered, we have to complete the debate.

**Senator Fiach Mac Conghail:** Can I say a few words?

**An Leas-Chathaoirleach:** I am under instructions that another Minister is waiting.

**Senator Fiach Mac Conghail:** It is Committee Stage.

**An Leas-Chathaoirleach:** Another Bill is due before the House. The Bill before us is due to resume later today. The Senator will be in possession when the debate resumes.

**Senator Fiach Mac Conghail:** For the sake of efficiency, I want to wrap up quickly.

**An Leas-Chathaoirleach:** Briefly.

**Senator Fiach Mac Conghail:** On this occasion, I would accept that Senator Zappone can speak on my behalf. We will not press the amendment but we reserve the right to return to it on Report Stage. As I said in my preface to this discussion, if the current Minister of State is still in that position on Report Stage, we will not press it. However, we would like to hear the same commitment from the succeeding Minister, although we hope that will not be the case.

**An Leas-Chathaoirleach:** In view of what the Minister of State said and what my two esteemed colleagues have said, may I take it that amendment No. 18 is being withdrawn?

**Senator Katherine Zappone:** Yes.

**An Leas-Chathaoirleach:** They can re-enter it on Report Stage. Is that agreed?

**Senator Fiach Mac Conghail:** Agreed.

Amendment, by leave, withdrawn.

Progress reported; Committee to sit again.

### **Business of Seanad**

**An Leas-Chathaoirleach:** I thank the Minister of State for attending the House. The Bill is coming back again after No. 3 is completed.

**Senator Ned O'Sullivan:** On a point of order, has that change been notified to us?

**An Leas-Chathaoirleach:** It was agreed by the House on the Order of Business.

**Senator Ned O'Sullivan:** I must have missed that. I am sorry.

**An Leas-Chathaoirleach:** The Health Service Executive (Financial Matters) Bill is to be taken at 6 p.m. and immediately after that has been dealt with, the House will resume debate

on Committee and Remaining Stages of the Housing (Miscellaneous Provisions) Bill. That has to be completed tonight so I imagine it will be at around 7 p.m. or 7.30 p.m. I am sorry that I cannot be more definitive but that was agreed on the Order of Business. I thank the Minister of State and looking forward to seeing her later.

**Senator Marie Moloney:** Could it possibly be earlier?

**An Leas-Chathaoirleach:** That is unlikely. Another matter, the Competition and Consumer Protection Bill, is also coming before the House. It may be before 7.30 p.m. but we will have to watch the two other items that must be concluded. It may be before 7 p.m. or 7.30 p.m. but I cannot be definitive.

**Senator Marie Moloney:** We will watch the monitor.

### **Competition and Consumer Protection Bill 2014: Second Stage**

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

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** The Bill, which I bring before the Seanad, is a major piece of reforming legislation which has three primary objectives. The first is to create the competition and consumer protection commission through the merger of the National Consumer Agency and the Competition Authority, thereby forming a powerful body with real teeth acting to protect and vindicate consumers’ rights. This constitutes an important part of the programme of reform we are implementing across my Department. To assist the new body combat the issue of serious white-collar crime, new criminal investigation functions are being added to the significant powers that already exist which will, ultimately, improve competitiveness and protect consumers.

The second purpose of the Bill is to introduce strong regulations and enforcement powers to ensure fairness between the various parties in the grocery goods sector. Inequality between these players can potentially exist, leading to potential abuse in a manner that is not in the interests of jobs, consumers or sustainable safe food. Relationships will continue to be based on commerce while prices will continue to be set by hard negotiations because this is in the interests of consumers.

The third purpose of the Bill is the important issue of media mergers and acquisitions. The Bill foresees retention of the basic model of current laws, based on the principle of avoiding intervention by Government in media ownership except in specific circumstances following procedures determined by law. This is in keeping with the recommendations of the advisory group established to examine this area. Diversity of content and diversity of ownership across the media remains an important part of a healthy democratic society. However, it is important to modernise these laws to reflect international best practice and in line with the latest technological developments and that is why we are implementing in full the recommendations of that advisory group, with some enhancements and making important changes to update laws in this area.

I will now deal with each of these three elements in turn, the first being the establishment of the competition and consumer protection commission. As the House is aware, reform of the public service is one of the key commitments in the programme for Government and rationali-



sation of the State agencies is a major part of that commitment. As part of this rationalisation, the Competition Authority and the National Consumer Agency are being merged into a new body, the competition and consumer protection commission, which will result in a new body with stronger powers to deal with competition and consumer issues.

The basic aim of consumer and competition policy is to facilitate competitive markets with better services and lower prices for the consumer. The merger will benefit consumers, bringing together the current expertise and knowledge of both existing bodies into an effective integrated organisation. It will lead to efficiencies and synergies in carrying out the functions of the new body due to the existence of a stronger and more co-ordinated body dealing with consumer and competition issues. As consumer welfare is at the heart of both competition and consumer policy, the merging of the two bodies will ensure improved co-ordination of these two policy areas.

The Bill sets out, primarily in sections 8 to 46, inclusive, in Part 2, the structure, powers and functions of the new merged body. Many of these sections cover traditional provisions on the establishment of a new body and the dissolution of the existing bodies. In terms of structure and corporate governance, the new merged body will comprise a chairperson and between two and six members, who will act in a collegiate manner. This structure is modelled on that of the Competition Authority and, consequently, there will be no traditional board. The initial members of the new merged body will be the current members of the Competition Authority and the CEO of the National Consumer Agency. Appointments thereafter can only be made by me, as Minister, following an open recruitment process undertaken by the Public Appointments Service. As is the case with the two existing bodies, the new competition and consumer protection commission will be independent in the carrying out of a range of functions such as enforcement, investigations and merger determinations. The new competition and consumer protection commission will be accountable to the Oireachtas and to me, as Minister for Jobs, Enterprise and Innovation, in line with usual accountability and governance procedures and practices. My Department has worked, and is continuing to work, with both bodies to ensure a smooth transition from the two separate entities to a single dual functioning body responsible for competition and consumer protection since the amalgamation was announced.

Crimes under competition law are often viewed as victimless crime. However, let me be clear - we are all the victims of such crimes. Where the operation of the free market is restricted by collusion or other nefarious practices, the result is that consumers pay more than they should have to pay, whether it is to heat their home or buy a car. The State and all of us as taxpayers are the victims if companies engage in bid-rigging in respect of public procurement contracts for the building of roads, for the fitting-out of hospitals and schools or for any of the services purchased by the State. All this adversely impacts on national competitiveness and, ultimately, job creation.

For this reason, one of the purposes of this Bill is to strengthen the enforcement of competition law in Ireland by adding to the powers that will be available to the new commission. Breach of competition law is a serious white-collar crime and, as with all other forms of crime, those who commit crimes must be punished accordingly. A suite of additional enforcement powers has already been provided to the Competition Authority in 2012 under the Competition (Amendment) Act 2012 and additional staff were also sanctioned to be allocated to it in order to strengthen competition law enforcement. This Bill, in Part 7, gives additional powers to the new commission by extending the provisions of the Criminal Justice Act 2011 to serious competition law offences. In addition, some elements of the Criminal Justice Act 2007 have been incorporated into the powers of the new commission.



Part 7 of the Bill also proposes the extension of the provisions of the Communications (Retention of Data) Act 2011 to serious competition law offences. However, the implications of the recent European Court of Justice ruling on the relevant EU directive on data retention and Ireland's Communications (Retention of Data) Act 2011 in general are currently being examined.

Other substantive changes to the Competition Act 2002, in sections 47 to 73, inclusive, in Part 3, mainly revolve around the procedures to be operated by the new competition and consumer protection commission on merger notifications. Many of these emanated from a public consultation process held in 2007-2008.

On the setting of new thresholds for merger notifications, the setting of appropriate thresholds is crucial for ensuring that mergers that raise substantial lessening of competition concerns are captured by the compulsory notification system. At the same time, it is necessary to be mindful that these thresholds must strike a balance between the need for the competition and consumer protection commission to review transactions having a nexus to the State while not placing unnecessary burdens on business with respect to lodging notifications. The overall aim of these changes is not to seek an increase or a decrease in the number of notifications received by the new competition and consumer protection commission but to ensure that the notifications received have a real nexus to the State.

*4 o'clock*

In tandem with the changes I have outlined, changes are being included to redefine the number of working days within which the new competition and consumer protection commission has to make a decision on notifications. Dependent on the operations of the new thresholds, a review of these new deadlines will be undertaken to ascertain if they are appropriate in the context of the new regime.

On the Consumer Protection Act 2007, a small series of five amendments is being proposed in sections 75 to 82, inclusive, of Part 5, on the basis of experience of this Act since 2007. It is also intended to bring forward a further consumer rights Bill in 2015, which will update sales law and build on the experience of the Consumer Protection Act 2007.

I will now address another important element of the Bill, namely, the provisions in Part 6 that regulate for certain practices in the grocery goods sector. This element has engendered a significant amount of debate and discussion inside and outside the Oireachtas. The grocery goods sector and all its constituent parts are important for the national economy, especially in terms of employment. The Government is strongly of the view that it is important to ensure a balance in the relationship between the various players in the grocery goods sector and that Ireland continues to have robust agrifood and retail sectors. Regulation of certain practices in the grocery goods sector is intended to achieve such a balance, taking into account the interests of all stakeholders in the grocery goods sector, including the interests of the consumer, and the need to ensure there is no impediment to the passing on of lower prices to consumers. This balance is an important issue.

As Senators are aware, the Oireachtas has examined this issue on a number of occasions. The Joint Committee on Agriculture, Food and the Marine, under the chairmanship of Deputy Andrew Doyle, published a detailed report in late 2013 on the grocery goods sector and highlighted a range of areas it believed were affecting the grocery goods sector. I also recall that the Minister of State, Deputy Sean Sherlock, had a worthwhile debate on the report in the Seanad in

November 2013. The Joint Committee on Jobs, Enterprise and Innovation, under the chairmanship of Deputy Willie Penrose, also produced a detailed report on the retail sector in early 2011.

As Senators will be aware, in 2010 and 2011, unsuccessful attempts were made, under the guidance of Mr. John Travers, to secure a voluntary code of practice. At European Union level, a voluntary initiative on principles of good practices in the food supply chain was launched in September 2013 and adopted by certain European associations. However, not all elements of the supply chain signed up to this initiative, mirroring the divergent views on the value of a voluntary system that emerged in Ireland from the Travers report process.

In a parallel exercise, the European Commission published its Green Paper on unfair trading practices in the business to business food and non-food supply chain in Europe in early 2013 and commenced a public consultation on the paper to gather the views of market participants on the occurrence of these practices, their possible effects and the most effective remedies, if required. The Commission has considered the results to decide whether it will initiate any proposals in this area and it is understood a communication will soon issue from the Commission on the topic.

None of this precludes any member state from taking measures it believes may be required and such complementarity between European Union and national work has been recognised by the Commission. While we will take an interest in the implementation of the voluntary initiative and the impact of its development, it will not halt implementation of the commitment in the programme for Government to regulate in this area. To give effect to this commitment, the Government will introduce statutory regulation of certain practices. These will take the form of a series of regulations, with associated sanctions, rather than a code of conduct. This is a more powerful tool than a code.

The new competition and consumer protection commission will be the independent body assigned responsibility for overseeing and enforcing these regulations. The new body will be given the powers to enforce the regulations and will build on the considerable enforcement and investigative powers that the two current bodies have built up in recent years, rather than start afresh with a new body. Contravention of the regulations will be an offence, as will failure to comply with any contravention notice issued by the new competition and consumer protection commission. This body will also have the power to publicly list all undertakings that have contravened either the regulations or failed to comply with the contravention notices. This will inform consumers on which undertakings are not abiding by the regulations. The new commission will also be able to act on its own initiative or on the basis of information supplied to it. It must be pointed out, however, that in enforcing any regulations the basic tenets of fair procedure and natural and constitutional justice must be upheld. If no suspect practices are being carried out, there will be no issue for any contracting party to such relationships.

The introduction of any regulations does not and cannot guarantee anything in relation to the prices received by any given link in the supply chain. Negotiations on price will remain an issue between the contracting parties, as is the case in any commercial relationship. What the new regulations will be intended to achieve is to regulate certain practices rather than set prices. These provisions are enabling provisions and Part 6, which covers sections 83 to 85, inclusive, and section 86, sets out a long list of issues and activities which may be covered by such regulations when promulgated through a statutory instrument. I intend that this implementing statutory instrument be brought into force as soon as practicable after the Bill has been enacted. I will consult widely on the drafting of these regulations, including with stakeholders

in the grocery goods sector and the Minister for Agriculture, Food and the Marine. I have also made a commitment to bring the draft regulations to the Oireachtas in advance as part of this consultative process.

Preparatory work on the regulations is taking place parallel to the Oireachtas consideration of the Bill. The statutory instrument will be accompanied by a detailed regulatory impact analysis. The use of a statutory instrument allows for a more rapid response to changing conditions in future, rather than amendments to primary legislation.

The measures being proposed are only intended to address the issue of fair trading between various parties in the grocery goods chain. Existing competition law will remain in force to counter price fixing, abuse of dominant positions, etc. The Bill does not and cannot be allowed to circumvent the existing corpus of competition law.

I will discuss media mergers, which are dealt with in section 74 of Part 4. Under the current system, if the Competition Authority determines that a media merger fails the competition test, the matter is closed and the issue is not referred to the Minister for Jobs, Enterprise and Innovation for a determination in the public interest. If the authority determines that the merger can be put into effect, the Minister may direct the authority to carry out a full investigation based on the notification and analysis from the Competition Authority of its decision and the details of the merger, as presented. As part of this process, the authority is required to give an opinion as to how the application of the relevant public interest criteria, for example, the strength and competitiveness of media businesses indigenous to the State and the extent to which ownership or control of media businesses and control of particular types of media business in the State are spread among individuals and other undertakings, should affect the exercise of the Minister's powers. If the Minister does not make a decision counter to the original Competition Authority determination, no further action is required. However, if the Minister makes a decision counter to the original Competition Authority determinations, this decision must be confirmed through the making of an order, which must be laid before the Houses of the Oireachtas.

Part 4 will fully implement the recommendations from the advisory group on media mergers, which published a report, known as the Sreenan report, during the lifetime of the previous Government. These recommendations are aimed at modernising the system for regulating media mergers to reflect international best practice and in line with the latest technological developments. However, the broad three-step process currently in place for media mergers will continue to operate. First, a determination will be made by the competition and consumer protection commission that a merger has taken place. Second, a decision will be taken by the competition and consumer protection commission on whether the merger should be permitted to proceed on competition grounds. Third, in the event that the competition and consumer protection commission allows the merger to proceed on competition grounds, a decision will be taken by the relevant Minister on whether the merger should be permitted to proceed on the grounds of the public interest aspect. There is no provision for, nor did the Sreenan report recommend, an ongoing regulatory function in respect of media ownership.

The power only falls to be exercised in the event that a media merger takes place as defined and that merger is permitted to proceed on competition grounds. The key concept relating to the definition of a merger remains the concept of "effective control" and no changes are recommended or provided for in this respect.

Section 74 of this Bill includes a comprehensive suite of proposals to implement in full the

recommendations of the Sreenan report with two enhancements. The first sees a change in the relevant Minister for such public interest considerations from the Minister for Jobs, Enterprise and Innovation to the Minister for Communications, Energy and Natural Resources, with a major role for the Broadcasting Authority of Ireland in drawing up a report for the Minister prior to the latter making a decision in the matter from a public interest aspect. The Sreenan report noted that both Ministers could be the relevant Minister for the purposes of this test but it came down on the side of the Minister for Jobs, Enterprise and Innovation as the Competition Authority, an agency reporting to that Minister, would be responsible for the competition test of the proposed merger. However, given progress in the areas of media, broadcasting and the digital sector, it is more appropriate that the responsibility be transferred to the Minister for Communications, Energy and Natural Resources.

The second change relates to designating the relevant joint Oireachtas committee as a notifiable body when the Minister for Communications, Energy and Natural Resources is considering any proposed media mergers from the public interest aspect. The Government believes the opinion of the relevant joint Oireachtas committee is a very important element of the consultative process that should be sought. The Sreenan report did not foresee a specific role for the Oireachtas but the Government believes this should be included by way of a notifiable body in the consultation process. This will complement the views of a specific advisory panel that may be established to assist in the examination of any given media merger.

The proposed Bill sees the new amalgamated competition and consumer protection commission's role strictly limited to examining the media merger from a competition angle only. The public interest test and final decision rests with the Minister for Communications, Energy and Natural Resources. The new amalgamated commission will have no role in this aspect, unlike the current position, where the Competition Authority has to give an opinion in the matter. This clear division of responsibility is one of the cornerstones of the Sreenan report's recommendations. It also includes a wider set of definitions and a longer list of relevant criteria to be taken into account, and it sets out a formal consultation process that should be followed in making a determination in the public interest.

This effective mechanism for overseeing competition and consumer empowerment in the market, which is one of the main aims of the Competition and Consumer Protection Bill 2014, is the best way to ensure there are no barriers to entry and that jobs growth and innovation are promoted. This will promote competition and consumer standards, long-term competitiveness and jobs growth. I look forward to debating with Senators now and on Committee and Report Stages, which will follow.

**Senator Mary M. White:** I welcome the Minister. This Bill merges the Competition Authority and the National Consumer Agency and new criminal investigation functions are being added to the significant powers which already exist to combat serious white collar crime and ultimately combat higher prices and protect consumers. The Competition Authority and the National Consumer Agency have welcomed the publication of the Bill, which will merge them to form the competition and consumer protection commission, with a dual mandate to enforce both consumer protection and competition laws. Regulations and new investigation and enforcement powers are included to ensure fairness between suppliers and retailers in the grocery goods sector. According to the Department press release, relationships will continue to be based on commerce and prices will continue to be set by hard negotiations. This is in the interest of consumers.

It is important to remind people in the Chamber that the Irish retail sector currently employs 275,000 people, which is the same as the numbers employed in IT, agriculture, forestry and fishing and the financial insurance sector combined. Retail generates €5 billion in taxes every year, including €1 billion in employment taxes, and the sector paid over €8 billion in wages in 2010. Most people in Ireland do not realise the important point that 90% of Irish retail businesses are Irish-owned rather than multinationals, with 77% family-owned.

With regard to media mergers, the Bill fails to address the central question of when a level of media ownership becomes too large. However, the three-step test for a media merger will remain the same. The new competition and consumer protection commission will still determine if a merger has taken place and if it should be allowed to go ahead on competition grounds. The proposed law incorporates the majority of the recommendations of the advisory group on media mergers and the Sreenan report, so the new law will therefore contain a statutory definition of media plurality, referring both to ownership and content.

The most anti-competitive entity in Ireland is the State itself. Recent inflation figures indicate that although overall price levels are subdued, in areas where the State decides or significantly influences prices, they are rising. Businesses are reducing costs to consumers and becoming more efficient but the State seems immune to such pressures. This Bill fails to impose any obligation on the Government to respond to Competition Authority studies on aspects of its own behaviour. This is in contrast to the UK Government, which is required to respond to its competition agency's findings in a timely manner. Following the departure of the troika, the Government seems to have abandoned any attempt to reform the legal, medical and professional services sector. Businesses will continue to suffer from having to pay among the highest costs for these in the OECD, which is akin to a crime.

We know from a recent report of the National Competitiveness Council that Ireland lacks competitiveness in many areas. This arises from a failure of competition and regulation, and the report issued by the council indicated that costs in many areas are too high. Ireland is near the top of the European league for electricity costs, as I have stated on numerous occasions in the Seanad, and waste disposal, treatment and water costs to businesses are also far too high. The interest rate cost for businesses getting credit is also much higher than the euro average. Postal, transport and computer services costs are also on the rise again. The price of a normal stamp is going to approximately 70 cent.

The evidence from the competitiveness council report is clear and the improvement in competitiveness in recent years is being undone through a range of cost increases and pressures. The report states bluntly that Ireland remains a high-cost location for a range of key business inputs. The rate of inflation in the year to the end of March was 0.2% but under this figure is a growing disparity between price strengths in the sectors dominated by the State and those where private enterprise compete directly for consumer demand. The highest inflation over 2013 was recorded in State-priced or State-owned sectors such as education, where prices rose more than nine times faster than across the entire country.

Most of the country's private sector is improving competitiveness but the areas where the Government influences prices are going in the wrong direction. This is directly reducing the living standards and purchasing power of households. Approximately one third of the inflation index is demonstrating large price increases in elements like health insurance, motor tax, cigarettes and tobacco, third level education, electricity, bus and rail travel, postal services, licensed premises alcohol and off-licence alcohol. All of these are influenced very significantly



by Government taxes and charges. Private rents are also rising, particularly in Dublin, and this reflects the dysfunctional housing market and may also be influenced by landlords passing on the property tax to tenants. By contrast, approximately two thirds of the index is demonstrating price decreases, most significantly in mortgage interest due to European Central Bank rate cuts and energy costs.

Fianna Fáil believes the evidence of higher loan costs to businesses should be addressed urgently. So far the focus has been on credit availability, which remains problematic, but the National Competitiveness Council report indicates that credit cost is also an issue. Our banking sector cannot be allowed to rebuild its profits on above-average loan costs to business. Where is the Central Bank with this issue? Above all, this demonstrates the need for more competition in banking and finance supply. Members of the regulated professions should be obliged to meet strict price transparency requirements, and one approach would have professionals such as solicitors, barristers, dentists and medical doctors be required to post prices for services, including hourly rates on the relevant regulator's website. All professions should be required to provide clients with meaningful cost estimates in order to protect customers.

There is an urgent need for an independent regulator of the legal profession. It is important to note that independent regulation does not necessarily preclude a dimension of internal regulation. While legislation is before the Dáil to slash legal costs, it is taking a long time to bring it through the House.

Energy costs remain an issue but it looks like the proposed White Paper will focus mainly on environmental issues rather than business competitiveness. Environmental concerns certainly are important, but the issue of costs must also be the focus of Government action.

Reference has been made to how taxpayers bailed out several of our banks. I take this opportunity to point out that the treatment of Tony O'Reilly by Allied Irish Banks has been absolutely abominable. Mr. O'Reilly created and developed businesses that employed thousands of people in this country. He was a huge inspiration to me when I was younger and trying to set up a business. He treated everybody the same and was a gentleman in all his dealings. Members will recall that he and his brother in law invested €400 million in Waterford Crystal. It was remiss of the then Government, of which my party was a member, to refuse the support that company needed. I always wanted to start my own business and I remember noting Mr. O'Reilly's observation that a business person cannot take a staccato approach. Instead, one must be like an athlete training for the Olympic Games, relentless and persevering. He was an inspiration to people in this country at a time when we had very few heroes. His treatment by AIB is absolutely disgusting and disgraceful - likewise the behaviour of the media in putting him on the rack. I do not know what this conspiracy is all about.

**Senator Paul Coghlan:** I welcome the Minister to the House and thank him for his comprehensive overview of these proposals. The Bill aims to merge the Competition Authority and the National Consumer Agency into a new pro-consumer body. This reform is long overdue and part of the Government's programme to merge regulatory agencies and secure necessary efficiencies. The Bill seeks to update competition law in a number of different respects including, in particular, in the areas of media mergers and the grocery sector.

A strong and diverse media landscape is a key part of the necessary infrastructure for a functioning democracy. I welcome the guidance and clarity provided in this area by the legislation and hope the provisions being introduced will aid in maintaining a diverse and healthy print and



electronic media landscape into the future.

I also welcome the measures being introduced to address competition matters in the grocery sector. This is an area that needs to be monitored closely to ensure the relationships between retailers and suppliers maintain the competitive dynamic necessary to allow consumers value and choice. We have a competitive landscape for retail in Ireland, in part due to the sensible and reasonable measures taken by the Government on retail planning. We have, through our planning system, ensured there is balanced retail provision. No one shop or chain dominates and we have both large and small stores competing to ensure consumers and communities are well served.

We often criticise ourselves for failings in key areas. On retail planning, however, we have largely got matters right. We have not facilitated the big-box retailers that suck up trade from surrounding towns and centres. Instead, we have facilitated, in most cases, a sustainable approach to retail development which focuses on suitable locations close to where people live. The Minister will need to monitor the adherence to the code for the retail trade. Retailers and suppliers are inventive and will look for ways to wriggle out of new compliance requirements. The Minister must ensure the law keeps pace with the regulatory intervention.

I supported the objectives underpinning the groceries order. The way in which alcohol has been sold below cost shows that some of the concerns expressed by those opposed to its repeal were well placed. It is an unintended consequence of that action that alcohol sales have become such a major aspect of price competition between retailers. This issue needs to be tackled urgently and I hope the Minister for Health will bring forward proposals in this regard.

I welcome this Bill and hope it achieves the objectives that underpin its introduction. It is a major piece of reforming legislation with three main aims, which the Minister dealt with more than adequately. This is one area of the law where constant vigilance is required to ensure legal prescriptions keep pace with commercial practices that have the potential to distort trade or have a damaging impact for consumers.

**Senator Feargal Quinn:** I welcome the Minister to the House and the opportunity to discuss this Bill. The provision it contains for the rationalisation of two quangos which seem to be doing more or less the same job is particularly welcome. However, I have serious reservations that the Bill leaves the door open for the Minister to impose a huge number of potential legal regulations on the grocery sector, something that is unnecessary and overboard. In fact, one of the Government's objectives should be to facilitate small businesses. I acknowledge that the Minister is at one with me on this issue. The reality, however, is that the more regulations we impose on small enterprises, the more difficult we make it for them.

Will the Minister indicate how many people are employed by the National Consumer Agency? The Competition Authority's annual report tells us that it has 49 staff members, but there seems to be no corresponding information available in respect of the National Consumer Agency. The merger of the two bodies will, we are told, result in savings of some €170,000 per year. It is a worthwhile initiative given that the two bodies are, as I said, essentially doing the same thing.

If this Government is serious about helping retailers, one of the issues it must tackle is that of upward-only rent reviews. The Minister knows this is an issue I am very passionate about and I have talked about it at length. The Bill I introduced has been passed by this House and

will go to the Dáil. I ask that the Whip not be applied to Government Deputies so that the Bill can proceed and, in due course and assuming it is signed by the President, have its constitutionality tested by the Supreme Court.

I am concerned about the impact of potential regulations affecting the grocery sector. We are trying to establish fairer relationships among all parties to the trade, but I do not hear enough about the interests of consumers. We are all aware of the concerns of retailers, suppliers and farmers, but there has much less discussion about consumers. The reality, however, is that every additional regulation applied to the retail sector has an impact on consumers. The Minister tells us he is seeking to achieve reform by introducing a series of regulations with associated sanctions rather than a code of conduct. There will be new obligations in terms of record-keeping and the mandatory inclusion of certain terms in written contracts. However, the provision in section 63B of the Consumer Protection Act 2007, as inserted by section 83 of the Bill, essentially gives the Minister - maybe not this Minister but certainly a future Minister - power to introduce a multitude of requirements in the sector at some later date. It is a very vague provision and, as such, gives cause for concern.

I have stated on previous occasions my opposition to the introduction of a statutory code of conduct for the grocery sector. It is not the intelligent way to go. Those pushing for more regulations have made clear their vested interests, including independent traders and companies with branded products which wish to prevent an expansion of private labelling. However, as I have said, the provisions set out in this legislation leave it wide open for a future Minister to impose more regulations on the grocery sector. The subsection states that future regulations may specify the circumstances in which a relevant grocery goods undertaking that is a retailer or wholesaler may, or may not, seek payment from a supplier to retain shelf space or to secure better positioning on shelves, or an increase in the allocation of shelf space, for the grocery goods of the supplier. That is not good.

The grocery sector does not have elastic shelves. If there are three products on the shelf and someone demands that one puts a fourth one on, one has to negotiate to get the best deal. That is in the interests of the consumer. The Bill continues provides that regulations may “prohibit a relevant grocery goods undertaking from directly or indirectly compelling a grocery goods undertaking to make any payment or grant any allowance” in terms of promotion or advertising. That does not make sense. The marketplace is what determines the satisfaction of the customers. It seems like overkill, as the Competition Act 2002 prohibits or prevents the “compelling or coercing [of] payment or allowances for advertising or display of goods”. Why do we need even more regulations? Why will the grocery business now potentially be obliged to train staff just to comply with the regulations? This Government should aim to reduce regulations. I have spoken to the Minister before about the situation in Britain where if a new regulation is introduced, two old ones have to be removed. That was a brilliant move. There has been criticism of it but it seems absurd to me that we continue to introduce new regulations without doing that.

In my experience the grocery sector is hugely competitive, and grows more and more so every year. Consumers have been much more price conscious in recent years. There is no need for any worry in that area. The Minister is well aware that the Competition Authority has stated that the retail sector is highly competitive. I know from my own experience that it is so competitive one cannot stand still for a minute. One has to make sure that customers come to one's shop rather than go to the shop down the road. To achieve that one has to coax them in, be it with price, service or quality, or a mixture of those. Those outside retail forget how much it has developed. It is extremely competitive.

For example, retailers armed with accurate price information, right up to date on their smart phones have the ability to renegotiate with suppliers for better prices and pass savings on to the consumer. They can even see in real time how certain marketing campaigns, including those of their competitors, have an effect on their sales. There is so much going on in that area that it is possible to achieve a great deal more than we are setting out to achieve.

We should consider alternatives to the regulations as set out in the Bill. We should consider voluntary regulation of the grocery sector instead of more legal requirements. There are some very good examples from elsewhere in Europe. France has a self-regulatory initiative called *Commission d'examen des pratiques commerciales* and in Belgium there is a voluntary code which has been very successful. It promotes dialogue between all links in the supply chain, from farmers to consumers. Why are we not considering some of the successful examples set by our EU neighbours? Many of them have found that a voluntary code linked to existing national legislation is the best solution. We are overlooking that here. We need something that would lead to a culture change, to improve the business culture. A voluntary code would be very useful in order to achieve this, a statutory code of conduct would not have the same effect.

We need a carrot not a stick. Instead of legal instruments are there other ways to encourage a more transparent and fair supply chain? Last year, Findus, the frozen food brand was tainted by the horsemeat scandal. It was reported that some of its products were found to contain between 60% and 100% of horsemeat. This was supposedly caused by a third party supplier. In the wake of this, and to try to address shortcomings in the supply chain, it signed up to supplier ethical data exchange, Sedex, which is a not-for-profit organisation which allows suppliers share trading data with retailers and brands online. It conducts health and safety audits throughout the supply chain and aims to create much more trust in the retail industry. This is an interesting example of what could be done. Has the Minister heard of it?

We are well aware of the National Consumer Agency's advertising, which more or less boils down to getting the consumer to shop around. I do not know that it makes sense for our taxpayers' money to be used to send that message to citizens. It is not necessary. People know what they have to do. I am not blaming them for trying to do it. The same applies to other quangos, once they have the money they appear to use it on that basis.

This Government plans to reduce the number of quangos by 45 at the same time as it has created 33 new ones. The objective was there but it seems to take a long time to achieve these things. We support the general tenor of what the Minister is trying to achieve in this Bill but I have some difficulty with the gaps in it. It will be very tempting for some future Minister to introduce even more regulations and make businesses, particularly small ones, much less competitive.

**Senator Aileen Hayden:** I welcome the Minister to the House. I also welcome the Bill which, as the Minister pointed out, has three aspects, the merger of the National Consumer Agency and the Competition Authority; the regulation of the grocery goods sector and the media mergers and acquisitions section, which retains the basic model of the current legislation but is designed to ensure diversity of content and ownership of the media, which is important to a healthy democracy. There has been some criticism of various aspects of this legislation, for example, that we should not always pursue the merger of entities purely for the sake of it. Some aspects of that merger have been criticised on the basis that the Competition Authority and the National Consumer Agency are successful bodies in their own right and merging them does not necessarily bring about any improvement. Paul Gorecki from the Economic and So-

cial Research Institute, ESRI, said that it would take time to bed down a new structure and for it to perform in an efficient and effective manner. The proposed savings of €170,000, which are small, were brought into question in respect of shared services, given that the Competition Authority already has some shared services.

Some other jurisdictions, such as Denmark, Finland and the UK, have merged competition with consumer protection. Sweden, Belgium and Austria, however, have not gone down this route. A regulatory impact analysis, RIA, was carried out for this Bill. It has been given support as a measure to enforce both competition and consumer law. The RIA determined that it would result in a more co-ordinated approach to the consumer and competition policy areas and enhance consumer welfare. That is what we all seek to achieve from any decisions we take. This Government committed to improving the regulatory framework and the Minister committed to vindicating and protecting consumer rights.

In respect of the grocery goods sector, there has not been uniform or widespread agreement on the new measures in the Bill. It is important to recognise that the new measures in the Bill before the House have not been the subject of uniform or widespread agreement. Certain bodies, like Retail Ireland, have been supportive of it on the basis that it should lead to fairer practices in the food supply chain. The food and drinks industry has also supported the publication of the Bill. On the other hand, it has been criticised by certain financial commentators as a sell-out to the food industry and a step backwards in time into old-style protectionism. It is important that we keep any legislative measures under review. I have a particular interest in not allowing this country to go down some of the roads it went down in the past. Some aspects of this matter, such as the below-cost selling of fruit and vegetable products, have been highlighted and have come into the public domain.

It is important for this country, as a small open economy with a vital and vibrant food sector, to ensure Irish companies can get their products onto the shelves in a fair manner. If they cannot get a certain extent of trade, they cannot move into the export market. That is why the domestic market is so critical in a country of approximately 4.5 million consumers. We must always keep it to the forefront of our minds that it is not just about the initial producer of the good, or the ultimate consumer of the good - it is about the ultimate welfare of consumers, in the broader run, and the variety of goods and services available to them. We do not want a retail sector with a large number of multiples that list their products in countries other than Ireland. We do not want it to be the case that a good Irish product cannot get on the shelves. That is why I think we need to be cognisant of variety in our grocery sector as well.

I would like to speak about the media aspects of this legislation. The Bill goes some way towards assisting to ensure diversity of media in this country, but concern has been expressed about the possibility that it does not go far enough. It is pointed out in the Bills digest produced by the Oireachtas Library that the extent of the shareholding in media services in this country has been on a deteriorating trajectory. In other words, it has become more and more centralised in particular individuals and media groups. I emphasise again that Ireland is a small country with a small economy, in terms of our domestic market. It is important to bear in mind that the media in this country exerts a significant say in the political life of this country. We must be conscious that we have seen a great deal of centralisation of media in this country in recent times, particularly since the 1990s.

I presume it is never good for a Minister to lose part of his or her portfolio, but I think it is good that responsibility for the media is being given to the Department of Communications,

Energy and Natural Resources. We have to think outside the box in terms of what constitutes communications now. Increasingly, traditional media is under severe pressure. More and more influence is being brought to bear by the Internet and social media. When we look at media issues like media ownership and control of media, it is important to be cognisant that large areas of social media and the Internet are controlled by the traditional media that have moved into this area. We have to be aware that the traditional media are exerting an influence on social media and on Internet communications.

This is a positive Bill. Despite the criticisms I have mentioned, I believe it will move us in the right direction in terms of competition and consumer protection. The Title of the Bill - the Competition and Consumer Protection Bill 2014 - is very apt. We need to be conscious that all and any legislation we deal with must be kept open to review in light of the developments we face on a daily basis.

**Senator Sean D. Barrett:** I welcome the Minister. It is a fair while since we first discussed competition policies when we would get together in economic gatherings, etc.

**Acting Chairman (Senator Terry Leyden):** The Senator has five minutes. I am sure he will be able to fit as much into five minutes as many speakers could fit into eight minutes.

**Senator Sean D. Barrett:** I thank the Chair for that compliment. I presume I am doing it in competition with other speakers. Competition depends on new entrants and start-ups and on ease of entry and exit. We depend on the incumbents not to collude. In general, I think of the incumbents as the potentially evil people in the “victimless crime” that was referred to by the Minister at the outset. I note Dr. Vincent Power’s view that the power of the Minister for Jobs, Enterprise and Innovation to take court cases in relation to possible breaches of competition law has never been used. Perhaps that is a power we should continue to look at and perhaps invoke from time to time.

We need new entrants. Some of the Minister’s colleagues at the Cabinet table do not believe in new entrants, or in competition, in at least two spheres. I refer firstly to the draconian laws against competition in the taxi industry which were introduced by the new deputy leader of the Labour Party. The legislation in question had to be amended seriously here. The decision to discriminate against new entrants on behalf of the incumbents was made at the behest of the taxi lobby, which occupies the regulator’s buildings. We have serious cases of regulatory capture in Ireland. It is one of the features of the economy. The other area I would like to mention in this context is health insurance. We have seen yet another example of this today. The Minister appoints the board of the Health Insurance Authority and the board of the VHI. The market is regulated in the interests of the incumbent and not in the interests of the consumer. We need to have checks and balances against that.

I was interested to read section 19 of the Bill, which makes provision for co-operation between the new commission and certain prescribed bodies. It is important that the Central Bank is included in the list because we did not have proper regulation of banks in the past and we are now building a cartel or duopoly of two banks. The inclusion in the list of the Commission for Aviation Regulation reminds me that the former Minister, Noel Dempsey, intervened massively to push up the cost of airport charges against the wishes of the regulator. The Commission for Energy Regulation, which sanctioned a 55% increase in the public service obligation levy on every energy user in the country without any evaluation - I think the closing date was last Friday - is also included in the list, as are the Office of the Financial Services Ombudsman, the



Food Safety Authority and the Health Insurance Authority. The list also includes the National Transport Authority, which has put just 10% of bus routes up for competition. Given that we have been doing this since 1931, it will take another 90 years to open the bus market to competition. Many of the suspects are listed here. We need a strong competition policy against them. The way the Irish “private sector” works involves getting regulatory control over Government Departments and agencies. As Senator Quinn has pointed out, they never act in the interests of the consumer.

I do not believe we have a problem in the grocery sector. I think it is one of the most competitive sectors one will find anywhere. There is a certain irony in a public sector that imposes huge costs on the rest of the economy saying it thinks the grocery business is not competitive. I do not know what it means by that. It is estimated in the UK that since the post-war period, the percentage of the family budget accounted for by the household food bill has decreased from 30% to 9%. I am sure the same thing has happened here as a result of the presence of Aldi, Lidl and farmers’ markets. It is an easy business to enter and people do enter it.

The same thing applies to the media. The media landscape in Tralee was dominated 20 or 30 years ago by *The Kerryman* and by the Examiner group coming in from Cork. Now there are new newspapers in the town, such as *Kerry’s Eye*, and there is Radio Kerry. I think the media sector is highly competitive. There is something strange to me about the bureaucracy bringing in laws against highly competitive sectors of the economy on the basis that they are not competitive, while ignoring all the damage done by the various regulators that have mentioned by me and by the Minister in the legislation. The best example we have had of competition delivering benefits has to be in the deregulation of aviation. It happened by the new entrant negotiating a 40% discount from the suppliers of aircraft. He negotiated deals for lower charges at airports. He eliminated the travel agents altogether because they were looking for 9% and sometimes 17%. A market is dynamic. It annoys people but it delivers benefits to consumers. Bread does not appear because a bunch of philanthropists got together and said, “Let’s make some bread.” It appears because the blowtorch of competition brings it to our shops every day. There is too much emphasis on the media and on groceries in the Bill - as far as I can see they are highly competitive sectors - and too little on the State monopolies, the sheltered sector services, which have held back this economy for many years.

I am disappointed that according to what Senator Hayden cited, there appeared to be either no saving from the amalgamation of the two agencies because one of them was in Cork and had to be brought back or it is €170,000 which is minuscule out of the total consumer expenditure in this country. I note that the other mergers the Minister announced at lunchtime today will deliver productivity increases. Those are in the industrial relations area and I commend the Minister on that. We need to deliver benefits that people can actually measure from these mergers.

**Acting Chairman (Senator Catherine Noone):** I ask the Senator to conclude as he is about a minute over his time.

**Senator Sean D. Barrett:** Senator Quinn mentioned some of the ridiculous advertising campaigns which were a waste of public money. He mentioned the advice to shop around. The other one we all remember was the man on the top deck of a bus with a strong Dublin accent saying he did not know what a tracker mortgage was. He must have been either working in a bank or working for the Financial Regulator; they were the people who did not know what a tracker mortgage was. The consumers knew darn well, and the banks and the Financial Regulator bankrupted that sector. That kind of silly advice from State agencies for how consumers



should behave is a waste of money and I hope it will be controlled in future.

I have run out of time and I thank the Acting Chairman.

**Acting Chairman (Senator Catherine Noone):** The Senator is nearly two minutes over.

**Senator Imelda Henry:** I welcome the Minister and I welcome the Bill. Having a single functioning body responsible for competition and consumer protection is vital. I join Senator Quinn in congratulating the Government on reducing the number of quangos. It is important that we can amalgamate certain organisations that can go under the one umbrella.

The retail business is very important in this country and it is suffering greatly of late. It is very difficult for smaller retail businesses to compete with bigger retailers. While Senator Barrett mentioned that the grocery sector is very competitive and it is important to be price conscious, the situation is almost impossible for small grocery shops. We are well aware of the number of shops that have closed because they simply cannot compete with the bigger names.

It is also very important to have regulation when it comes to awarding contracts to suppliers and that contracts are adhered to. I wish to raise a particular hobbyhorse of mine which relates to the sale of alcohol. A statutory code on the sale of alcohol was not adhered to and we now have a serious problem with alcohol abuse because of the availability and price of alcohol. I know the Government has a plan to deal with this issue. I just wish it would happen a bit sooner. I hope minimum pricing, the segregation of the sale of alcohol in supermarkets and, in particular, a ban on print media advertising of cheap alcohol happens very soon. I hope that in the autumn something will be done to address the serious problem of the sale of cheap alcohol.

I welcome that the CCPC will have the power to publish a list of relevant grocery goods undertakings that have been found guilty of contravening the regulations and in particular that they will be named and shamed. The Bill is about regulating certain practices, which I very much welcome.

**Senator Kathryn Reilly:** I welcome the Minister to the House. This legislation provides for the merger of the National Consumer Agency and the Competition Authority into a single body to be known as the competition and consumer protection commission. These are two important agencies. It also provides for regulation of certain practices in the grocery sector and amends the law regarding media merges by implementing the recommendations of the 2008 special advisory group on media mergers report.

I will keep my comments brief and touch on one or two issues. Many of the things I was going to mention have been mentioned earlier and there is no point in labouring them. Section 17 of the Bill prescribes those organisations which the new body will work with. It does not mention Irish Water. Water charges are one of the biggest consumer issues facing people at this time and although we have repeatedly raised this matter in the Dáil with the Minister, this has not been taken into consideration.

The Government has established a new governance model to manage, fund and deliver water services which will be carried entirely by the consumer. This new governance structure includes Bord Gáis, Uisce Éireann, the Financial Regulator and the Department of the Environment, Community and Local Government. We are concerned that there may be a critical omission here. Who will independently represent the consumer's voice in this water reform process? Can the Minister give consumers confidence that they will have full recourse within

the new structure? Will the provisions and the functions of the Consumer Protection Act 2007 now follow through for citizens in the context of Irish Water? Will their interests and welfare be protected?

When Sinn Féin Deputies raised the need for strong consumer oversight with the Minister for the Environment, Community and Local Government in the context of protecting consumers he stated that the Commission for Energy Regulation as the independent regulator of Irish Water has the powers to direct Irish Water to prepare a code of practice on any matter that the CER considers necessary and appropriate to secure the interests of the customers of Irish Water. The CER has the power to direct Irish Water to comply with a code of practice prepared in accordance with the legislation. The CER may consult with Irish Water, the public or any other person it considers appropriate.

The National Consumer Agency participated in the consultation on the establishment of a water services utility during 2012 and submitted proposals to his Department which were considered in detail. While that is all fine, the Commission for Energy Regulation is a regulator and not a consumer watchdog with real teeth to protect and vindicate consumers' rights.

I wish to speak about resourcing the CCPC. The Minister has said savings of €170,000 per annum will be achieved from the merger of the National Consumer Agency and the Competition Authority. The legislation will give additional powers to the new commission resulting in a range of new powers for the investigation of serious competition offences. While additional staff were allocated to the Competition Authority to back up improved enforcement powers in 2012, it would not be acceptable for the Minister not to further resource this new beefed-up body, be it within the organisation itself or through the criminal justice system. Taking on cartels on paper is not good enough. The system needs to have the manpower to make use of these enhanced powers. Resourcing accompanied with organisational training and development should be part and parcel of a proposal such as this.

I had intended raising the grocery sector and media mergers, but they have been mentioned already and I want to give other Senators and the Minister time to respond.

**Senator Michael Mullins:** I welcome the Minister to the House and I compliment him on introducing this significant legislation. In his tenure to date in the Department he has shown himself to be a reforming Minister. In bringing forward this legislation he is implementing a commitment in the programme for Government to reform State agencies and to merge those suitable for merging. This will no doubt result in a better use of scarce resources and give better value for money to the consumer and the taxpayer. As the Minister mentioned, there will be savings of approximately €170,000 per annum as a result of this merger.

One of the purposes of the Bill is to strengthen the enforcement of competition law by enhancing the powers of the CCPC. There is obviously a very strong link between consumer rights and healthy competition.

*5 o'clock*

The Bill will regulate many sectors and bring fairness, which is what consumers want. We all want consumers to get the best possible deal. The Bill attempts to achieve a balance whereby the livelihood of primary producers is also taken into account. We are all aware of some practices within the multiples that are totally unfair. We saw vegetables sold recently at between 6 cent and 8 cent a kilo. No doubt the producers were forced to sell their product to

the supermarket at unsustainable prices at the risk of losing their contracts.

One issue the new legislation does not address but which I hope the Government will sort out and bring forward measures to address – Senator Henry also referred to it - is the practice of large supermarkets using alcohol as a device to attract customers by selling alcohol below cost or very cheaply. They recoup the losses by increasing the price of basic foodstuffs. We are all very much aware of the serious issues we have in this country with alcohol. We must examine the role of the large multiples in that regard and the lack of controls that are currently in place.

A recent report from the Health Research Board indicated that 150,000 people in this country are dependent drinkers and that 1.3 million are harmful drinkers, according to World Health Organization standards. A total of 75% of all alcohol consumed is part of a binge drinking session with 21% of binge drinkers drinking at least once a week. We all know the availability of cheap alcohol is a significant contributor to the abuse of alcohol, which is devastating young lives and families and costing the health service close to €1.2 billion per annum. The sale of cheap alcohol is also impacting on other businesses. We all know the difficulties experienced by rural pubs and small grocery stores and small supermarkets. A friend recently told me he decided not to renew his wine licence because he could buy it in a multiple in a neighbouring town at a price less than he could buy it from his supplier. There was no logic to the situation from his point of view.

In welcoming the legislation I also welcome the fact that some issues that are not included are being considered by the Government. I refer to the provision of allowing for collective bargaining by professional bodies and groups of self-employed persons. That is a particularly significant development. I also welcome the provision relating to payment for goods within 30 days. The Bill clearly sets out that the regulations may specify the manner and timeframe in which payment for grocery goods supplied to relevant grocery goods undertakings are to be made. To allow for more flexibility, the timeframe for payment should be considered in the context of regulations rather than primary legislation.

I compliment the Minister on bringing forward the legislation. I hope what we will see as a result is greater but fairer competition within all sectors of business in this country and that the consumer will have greater protection as a result of the passing of the legislation. I am pleased to support the Bill.

**Senator Paul Bradford:** I welcome the Minister and thank him for presenting the legislation. We have been awaiting the Bill for some time. Apparently, there was much debate in Cabinet on it between Ministers. We will have a greater opportunity to tease out the matter more fully on Committee Stage. I will not pose the question of whom we shall be teasing out matters with on Committee Stage. The Minister will keep his head down and will not respond to the issue. However, I welcome the fact that he has brought the Bill to the House today.

In the brief time available I strongly welcome the first two components of the Bill. It will be good for competition and consumers and therefore should be good for the country and the economy. It is typical of the studious work the Minister has undertaken in recent years and I congratulate him on that. However, I urge the Minister to reflect on the Part of the legislation dealing with media ownership. It is only on Committee Stage that we will have an opportunity to go into this crucial aspect in more detail. It might surprise some colleagues to note that Ireland has the most concentrated media ownership in the entire OECD. That is a matter that should be of concern to us. One could ask how appropriate that is. We are all aware of the

dominant single player on the national media stage which has 40% ownership of the daily and Sunday newspaper market.

When the older political scholars in this House and in the other House recall the politics of olden times, from a media perspective they will refer to the great political debates between the *Irish Independent* school of politics and the *Irish Press* school of politics between the 1920s and the 1940s where both media outlets presented a rather black and white view of the world. In one sense it was not a dangerous presentation because everyone knew which party the *Irish Independent* then supported and which party the *Irish Press* supported. It was not in any way a form of hidden propaganda. We must be much more careful with new media. We must be concerned about putting sufficiently strong legislation in place to deal with media mergers. We must pose the question of whether it is good for one player to become dominant in a relatively short time, not just for the media and competition reasons but for the citizens of this State.

Everything about public life should be open to debate, analysis and counter-opinions. One person's strong argument should be equally challenged by someone else. That makes for good, healthy debate, good democracy and good government. We are creeping slowly to a media situation where one strong voice will dictate. To varying extents, the Minister and I are victims of a single newspaper headline in 1997, which for better or worse literally decided the result on the day of a general election. The headline in question was "It's Payback Time." That was admittedly 17 years ago but it shows the power of one headline and what it could do. Arising from that we had Mr. Ahern rather than Mr. Bruton and we had the Celtic tiger rather than something more modest. Today's economic crisis resulted from that piece of political theatre. I do not want the same thing to happen again. I do not want to see a headline in two years' time, four years' time or ten years' time that is representative of a singular, dominant media person or group which can dictate and dominate politics and public life.

**Senator Mary M. White:** The media love that.

**Senator Paul Bradford:** That is very welcome but it does not butter my bread. On Committee Stage we must pose the question of whether the legislation is sufficiently strong to ensure we will not arrive at a situation where public life can be led by certain opinion formers? I look forward to having that broader debate with the Minister on Committee Stage because it could be the subject of complex legislation.

**Senator Ivana Bacik:** The Minister is very welcome to the House. Like my colleagues on this side of the House, I very much welcome the Bill. In fact, I believe colleagues on both sides will welcome it. It is a sensible Bill. As the Minister said, it has three main purposes. The first of those is the one on which there has been a focus, that is, merging the National Consumer Agency and the Competition Authority to create the new merged body which will take on the functions of the previous bodies, will be accountable to the Oireachtas and to the Minister for Jobs, Enterprise and Innovation, and which is being created as part of the rationalisation plan for State agencies. The Minister has pointed out that the creation of the new Competition and Consumer Protection Commission, CCPC, which does not quite roll off the tongue yet but I am sure it will eventually, will achieve significant savings. I note also that the Minister today secured Government approval for a further Bill in similar vein, that is, the workplace relations Bill, which will replace the current five workplace relations bodies with two in the same way seeking to deliver savings.

In terms of these mergers, it is not just about the savings. That is probably less important.

It is more about seeking to create a more efficient and effective structure, in this case for the protection of consumer rights and, in the case of the workplace relations bodies, to ensure protection for employees in the workplace in particular. I very much welcome that part of this broader reform agenda.

The second purpose for which this Bill is being introduced is to regulate certain practices in the grocery goods sector. Other Senators, particularly Senator Quinn, have focused on that aspect of the Bill.

The third key purpose is to update and modernise the law on media mergers to take account of international best practice and technological developments and to implement some of the recommendations of the 2008 report of the Advisory Group on Media Mergers. Like my colleague, Senator Hayden, I very much welcome the transfer of the functions the Minister has described from his Ministry to the Minister for Communications, Energy and Natural Resources in that regard, that is, to change the relevant Minister for public interest considerations from the Minister for Jobs, Enterprise and Innovation to the Minister for Communications, Energy and Natural Resources. That seems a much better home for that aspect of the regulation of the media. I agree with other Senators who made points about the need to ensure regulation of media mergers and to protect against overly concentrated ownership of media in the hands of particular individuals.

I want to focus on the new criminal powers which have been provided for in the Bill. I welcome the Minister's commitment to ensuring white collar crime will be taken seriously. He pointed out that crimes under competition law, like many white collar crimes, are often viewed as victimless crime but they are far from victimless. Every citizen becomes a victim where, for example, serious competition offences such as cartels or price fixing impact upon consumers in terms of higher prices. I welcome, therefore, that we will be seeing increased and enhanced enforcement powers as part of the merger of the National Consumer Agency and the Competition Authority.

To be fair, the Competition Authority has in its own work generated a change of culture where competition crime has been taken more seriously and has been seen as a more serious breach of our criminal code. It is some years since an expert group looking at company law offences commented that in the case of company and corporate crime, the footsteps of the enforcer are rarely heard on the beat in Ireland. That report led to the setting up of the Office of the Director of Corporate Enforcement, ODCE, and to the much more serious work on enforcing Companies Act crimes. I very much welcome the same commitment being given on competition crimes.

Some of the new powers included that are hugely significant are the powers of authorised officers set out in section 37 in regard to investigations to include powers of search and seizure, the requiring of information, and the power to apply to the court for an order to require people to produce documents, answer questions and so on. Those are central provisions of the Bill which I welcome. I note the Bill also extends some provisions of the Criminal Justice Act 2011 to competition offences. It is welcome to see the provisions of that legislation being extended in that way.

I note also that new offences are being created to facilitate the work of the new commission. Section 18 includes an offence not to co-operate with the new commission in a variety of ways, a serious offence that will be punishable on indictment by a fine of up to €250,000 or five years



imprisonment. I welcome a commitment in the Bill to tackling white collar crime. Also, the offence of obstructing or impeding of commission staff in section 35 is welcome.

I want to ask about the provision in section 89 which extends the provisions of the Communications (Retention of Data) Act 2011 to serious competition offences. Referring to that aspect of the Bill the Minister said that the implications of the recent European Court of Justice, ECJ, ruling on the relevant EU directive on data retention and our Act in general are being examined. Is it envisaged that amendments will be put to this Bill, because we will run out of time if the aim is to have this Bill dealt with in the Seanad before the end of the session, or will separate legislation be brought forward to amend the Communications (Retention of Data) Act 2011, given that the implications of the ECJ ruling are broader?

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I thank the Senators for their contributions to the debate which dealt with virtually every aspect of the Bill. Senator Hayden asked the fundamental question whether the whole will be greater than the sum of the parts and questioned whether the merger of these two bodies was a good idea. There is diverse practice across the European Union but I am firmly of the belief that it is a good idea. They both deal with market oversight, and the markets are becoming more complicated in many ways, with a move to trading online. There is a sharp distinction between barriers to entry, dominance and collusion versus fair practice, which the National Consumer Agency oversees. Those boundaries are beginning to blur. The pragmatism of the National Consumer Agency needs to be brought into the legalistic approach of the Competition Authority, and the merger of those two bodies gives a different perspective on the market. The same market is being viewed through different prisms with the aim of protecting the consumer, having freedom to establish in the marketplace but also to have fair practices and standards. Bringing those two together delivers gains. We will have the strong enforcement powers, the legal backup and economic analysis that has been traditional in the Competition Authority but also the feet on the ground, good consumer connections of the National Consumer Agency. I believe that merger will be beneficial and will result in more pragmatic responses to challenges that arise. That is the fundamental first section.

There was not much consensus on the grocery trade area. With his background Senator Quinn brings to the debate the suspicions of some retailers as to whether this is all about Government adding regulatory burden. I do not believe so. As I said in my opening statement, this has come from at least two studies of the grocery trade by the Oireachtas committees and a belief that unfair practices are going on where smaller suppliers seeking to deal with very large supermarkets are in a David and Goliath situation and custom and practice has grown up whereby unreasonable demands are put on small suppliers in the context of special promotions or so-called hello money, which as the Senator pointed out has already been banned. Practices have grown up in that sector, whether it be changes in forecasts or abrupt changes in conditions that have given rise to concerns. It is not just in Ireland that those concerns have emerged. They are in the United Kingdom also. Much of the model has derived from the UK approach where they have also seen the need to have fair trading rules in respect of the grocery sector. Across Europe there are different views. The Senator advocates the voluntarist approach attempted, and I do not know with what success, in France. We tried very hard, in the time of my predecessor when Mary Coughlan was Minister, when John Travers was appointed to bring the sides together to seek a voluntary agreement but there was no sign of any such voluntary agreement emerging. The hope that there a meeting of minds of the two sides evaporated some time ago.

Clearly there was a commitment in the programme for Government, reflecting a concern in



the Oireachtas from all parties, on the need to put in place the power to have written conditions that they would not be changed at short notice, that there would be a requirement on large retailers to have compliance officers, that the commission would have the power to issue compliance notices and take action off its own bat or on foot of evidence if it considered unfair practices were occurring. That debate had raged. While Senator Feargal Quinn offered one side of it, other Senators have indicated the difficulties small suppliers face in getting access and the need to have some assurance of fair treatment.

Senator Sean D. Barrett said there are no competitive problems in the grocery sector and that it is easy to enter. It may be easy to set up a shop - corner grocers are easy to set up - but the issue is whether the supply chain is fair and if that corner grocer would get a fair shake in access from large-scale wholesalers or whether they are facing unfair conditions. We have sought to be fair-minded in ensuring that the supply chain between the small retailer and the supplier or between the small supplier and the large retailer are being encompassed here. I look forward to the debate on this issue.

Both Senator and Senator Quinn had a go at the National Consumer Agency promoting the idea that one should shop around. I do not agree with either Senator. I think this is core to their business. I do not know whether Senators read any of its reports and whether they show, for example, the difference between the cost of getting a will written by legal representatives in different parts of the country and, indeed, in the same neighbourhood. There are huge gaps of four and five times the cost, depending on who one goes to. The same applies in terms of their financial comparisons, when comparing insurance products or different products across different providers. The message it gets out, not just to shop around but underpinning that with surveys of comparative prices is a real public service.

Sadly, people in Ireland do not switch. Switching is a very infrequent practice here. We are used to staying with the same accountant, the same bank and so on. We need a better informed consumer. The agency has sought always to draw attention to the very valuable information contained in its surveys which does not get enough coverage in the media. I am not a big fan of just advertising but encouraging people to look at alternatives is part of what we need to do, particularly when many people are under pressure and need to get the best deal. If we can make it easy for them to find the best deal that is an advantage.

Many people, including Senator Mary White, asked when is media ownership too large and said we have not answered that question in the Bill. Speaking as an economist, there is no neat definition of when any market is too concentrated because the first issue is to define what market one is talking about. One could say that the market for restaurants in the North Strand is very concentrated as there is only one of them. Everybody knows that one can go from the North Strand to Fairview where one can find another half dozen. One has to decide what market one is talking about. That element of judgment will always come into play in comparing, particularly in the media case, where we have not only print media, broadcast media, social media and umpteen different sources. A balanced judgment has to be made, having consulted through the broadcasting authority with various interests, that one does not stick rigidly to some view that once one hits 41% one is in the red zone, whereas if one is at 39% one is in the green zone. I do not think that is the way it works. Senators are seeking for something unreasonable to be inserted in the legislation as we would be bound into definitions that would not be sustainable in a changing market.

Senator Paul Bradford raises the bigger issue of growing media ownership. I do not know

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what he is inferring. Clearly, the line has been taken that we seek to regulate media mergers. We do not seek to regulate the organic growth of an individual business but where that business seeks to take over other players and thereby create a bigger market share - that is where we are seeking to regulate such mergers - not just in the narrow competition sense, which we have always done, but in the broad public interest which we have done in the past through my Department. We will do it now in a broader way through the Department of Communications, Energy and Natural Resources. That is the approach we have taken. Where one business grows and becomes stronger than others, that has not triggered any action in Irish law unless it abuses its dominance. When it becomes a dominant player a different set of rules and expectations are automatically imposed on it and the Competition Authority oversees these. If a big player is dominant and proceeds to take action to wipe out some other small player, then the authority will take action.

We have not sought to regulate ownership in itself, in other words, breaking up companies. That would be a much bigger debate and would be tricky territory to get into. I would be interested to debate this issue on Committee Stage. We are implementing faithfully the approach adopted by the advisory group and adding in the general welcome from the Seanad of giving this to the Minister for Communications, Energy and Natural Resources because of the diversity involved. There is no longer a narrow market place of newspaper media. It is a multi-dimensional communications issue where the Minister's Department and those agencies supporting him have a much better knowledge than mine. It is therefore appropriate that it would move to that Department.

Senator Mary White raised other issues as did Senator Sean D. Barrett as to whether there are problems with State services. It is perhaps good public policy that the price of cigarettes and alcohol is growing faster here than in other nations. That reflects public policy decisions. In examining State prices, one has to distinguish public policy decisions such as, for example, the decision to charge the economic price to those who are using hospital services as private patients. That is a policy decision as opposed to an anti-competitive practice. In looking at public prices, one needs to look beneath them and see what is going on. Of course, there are problems in the regulatory area. We have developed a regulatory system that needs, as Senator Barrett said, to be more attentive to competition and how competitive we are compared to other countries and also to consumer interests. That is one of the issues raised in the recent public policy statement from Government on the role of regulators. One of the directions clearly signalled is that a greater focus is required on the overall international competitiveness of the sector rather than looking at it in its narrow domestic context.

Senator Barrett referred to public service obligations as an indicator of protectionism. One can look at these in different ways. Clearly, if we want to promote renewable energy sources, which may not be immediately competitive in the marketplace but in the long term for other public policy reasons we want to see renewables in our grid, one has to create opportunities for doing so. That is from where measures such as the PSOs and the re-fit prices have come. There can be good policy reasons for doing that.

In all of this debate, competition is not the only prism through which we view public policy. Senator White raised that issue, asking why the State should not be required to act on every Competition Authority recommendation. We have a rule that within nine months one must respond but we do not have a rule that one must act on it. For example, in a matter that is dear to many Senators' hearts, there would be a different view between the Competition Authority on sizes of retail outlets. Many want to see diversity and town centres thrive whereas, if one

took a narrow competition view of the issue, one might ask why not have large out-of-town stores that are more competitive and charge lower prices. Sometimes public policy is looking at issues other than purely the competition perspective, and that is correct. As Ministers, we must take a broader view. The Competition Authority or, as it will be, the commission, is an important voice to hear, but it is not the only voice. By bringing the consumer end more clearly into the picture, one will get a better, more rounded view. Of course, every piece of legislation now goes to those authorities where it bears on their remit and they get a chance to influence it at the time it is being formed.

Senators Imelda Henry and Michael Mullins raised the issue of alcohol in the context of price. This has been a matter of debate and it was an issue in the other House where some Deputies wanted to see a reversion to the old groceries order where the invoice price of any trader would become the floor price, for example, if one sets an invoice price on one's invoice, then no retailer could go below that. I am totally opposed to that. That is not the right way to go. Effectively, that is what we used to call, as Senator Barrett will remember, resale price maintenance. It was a significant anti-competitive tool. If one could tell a retailer that one could not sell any cheaper than price X, it was a way of guaranteeing one's price. It was a complete denial of competition and it militated against the consumer. I do not support any reversion to that. In the context of alcohol, there is a specific case which is being viewed not only on narrow competition grounds, but on public health policy grounds, that the availability of cheap alcohol has got out of hand and we need to do something about it. That will come in but not in the context of competition law because it is not about competition but about protecting people from the abuse of alcohol. I recognise there is a much wider range of issues there that will come into play but they do not have a place in this Bill and they will be developed separately.

Senator Reilly said there was no mention of agreements with Irish Water. I understand the provision for those are in the Irish Water legislation, and there can be agreements. Our authorities do take an interest. The intervention by the National Consumer Agency in respect of some of the practices of the refuse collectors in Dublin was timely and important because some of the contracts being used by refuse collectors were unfair to consumers. Having agreements and being in the position to hammer out agreements with agencies to ensure that fair treatment goes into the contract will remain an important issue for the commission in the future.

Late payments, as Senator Michael Mullins stated, is not being provided for. It will be in the regulations rather than provided for in primary legislation because that would not be correct.

The issue of bargaining by professionals has come up on a number of occasions. The Competition Authority, based on European competition law, is clear that if one is an undertaking and one seeks to agree a single price, that is collusion. That is not allowed by an undertaking. It is a different position from a worker who is seeking to negotiate as a worker in an employment who is obviously allowed to negotiate price. An important line is being drawn between the ability of the State to consult with professionals, but it is the Minister, not the professionals, who sets the price. That is an important line that is drawn not only in Irish competition law, but in European competition law. It is one line that is important to uphold and it is being done here.

Senator Barrett asked about the number of staff. On paper, there are 60 staff in the consumer agency but it is certainly not up to that level. Senator Reilly raised the issue of manpower to accompany the new powers. We are putting the manpower in place and additional staff are being recruited to enforce the Bill.

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The Communications (Retention of Data) Act 2011 is the policy of the Minister for Justice and Equality, Deputy Fitzgerald, and amendments to that Act will fall to her. I will not try to come up with something in the next couple of weeks.

I think I have covered most of the issues that were raised. I look forward to Committee Stage when we can get under the bonnet of the Bill and see how we can drive it along.

Question put and agreed to.

**Acting Chairman:** When is it proposed to take Committee Stage?

**Senator Ivana Bacik:** Next Thursday.

Committee Stage ordered for Thursday, 10 July 2014.

*Sitting suspended at 5.37 p.m. and resumed at 6 p.m.*

*6 o'clock*

### **Health Service Executive (Financial Matters) Bill 2013: Committee and Remaining Stages**

Sections 1 to 16, inclusive, agreed to.

Title agreed to.

Bill reported without amendments and received for final consideration.

Question put: "That the Bill do now pass."

The Seanad divided: Tá, 26; Níl, 7.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Brennan, Terry.	Daly, Mark.
Burke, Colm.	Mooney, Paschal.
Coghlan, Eamonn.	O'Donovan, Denis.
Coghlan, Paul.	O'Sullivan, Ned.
Comiskey, Michael.	Reilly, Kathryn.
Cummins, Maurice.	Walsh, Jim.
D'Arcy, Jim.	
D'Arcy, Michael.	
Gilroy, John.	
Hayden, Aideen.	
Healy Eames, Fidelma.	
Heffernan, James.	
Henry, Imelda.	
Kelly, John.	
Landy, Denis.	

Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Naughton, Hildegard.	
Noone, Catherine.	
O’Keeffe, Susan.	
O’Neill, Pat.	
Sheahan, Tom.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Paschal Mooney and Ned O’Sullivan.

Question declared carried.

### **Housing (Miscellaneous Provisions) Bill: Committee Stage (Resumed)**

**An Cathaoirleach:** I welcome the Minister of State at the Department of the Environment, Community and Local Government, Deputy Jan O’Sullivan, to the House.

#### **SECTION 39**

**An Cathaoirleach:** Amendment No. 19 is out of order.

Amendment No. 19 not moved.

Section 39 agreed to.

Section 40 agreed to.

#### **SECTION 41**

Amendment No. 20 not moved.

**Senator Kathryn Reilly:** I move amendment No. 21:

In page 50, line 27, after “period” to insert “not less than 2 months”.

The amendment sets a maximum period of two months from the commencement of a tenancy within which an inspection of a home must take place.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O’Sullivan):** The purpose of prescribing the appropriate period in regulation, as opposed to primary legislation, is to allow, if needed, for flexibility to change the period set if it becomes impractical.

While I accept the principle of the Senator’s proposal to ensure there is minimum disrup-

tion or confusion for the household concerned, this must be balanced against practicality for the housing authority. The period that will be prescribed under this section will be set in consultation with housing authorities and can be the subject of review once the scheme is operational to ensure the correct balance between the needs of the housing assistance payment, HAP, recipient and consideration of the housing authority's practical requirements has been struck. Prescribing the period, as suggested by the Senator, makes it more difficult to follow through on the outcome of any review for the period set. We intend to review this because it is a major change in the provision of housing. There will be a review and we will have an opportunity to ensure that what is set in the regulation is appropriate.

Amendment, by leave, withdrawn.

Amendments 22 to 25, inclusive, not moved.

Section 41 agreed to.

## SECTION 42

**Senator Kathryn Reilly:** I move amendment No. 26:

In page 52, between lines 18 and 19, to insert the following:

“(c) proof that any other dwellings under the ownership of said landlord which are occupied by a private tenant or other household within Housing Assistance Scheme have their tenancy registered with the Residential Tenancies Board.”

This relates to the Private Residential Tenancies Board and would stipulate that landlords involved with the housing assistance payment scheme would have their other properties registered with the board. The Minister of State has indicated that this is already generally provided for in the Residential Tenancies Act but it is important we ensure the Department will not pay moneys to landlords who may be in violation of this law. How are we ensuring the money paid is not going to landlords which may have other properties that are not registered?

**Deputy Jan O’Sullivan:** Again, I accept the principle of what the Senator is trying to achieve. Nevertheless, it replicates a provision in the Residential Tenancies Act 2004, namely section 134, which requires the landlord of a dwelling to apply to the PRTB to register the tenancy of any dwelling. It is the statutory function of the PRTB under section 144 of that Act to ensure that tenancies in the private rented sector are properly registered. As housing assistance payment, HAP, tenancies will be governed by the Residential Tenancies Act these requirements will also apply to HAP tenancies.

Rather than replicate an existing provision, what I have provided for in section 55 of the Bill is specific provision for the exchange of information between housing authorities and the PRTB as a named “relevant person” under that section for the purpose of enabling both to carry out their statutory functions. In that context, I would expect housing authorities to provide a list of properties in respect of which HAP payments are being made to the PRTB periodically in order for the PRTB to ensure these tenancies are appropriately registered and to allow the PRTB to fulfil its statutory function where the tenancies have not been registered. In the context of the existence of legislative provisions in the Residential Tenancies Act which already give effect to the thrust of the amendment proposed, I suggest that the Senator’s amendment is unnecessary.

**Senator Kathryn Reilly:** Given what the Minister of State has indicated, particularly with



regard to section 55, I will not press the amendment.

Amendment, by leave, withdrawn.

Amendment No. 27 not moved.

Section 42 agreed to.

## SECTION 43

Amendments Nos. 28 to 30, inclusive, not moved.

**Senator Kathryn Reilly:** I move amendment No. 31:

In page 54, between lines 13 and 14, to insert the following:

“(e) The Minister shall review the maximum amount of rent referred to in *paragraph (b)* every three months in each municipal district as defined under Part 3A of the Local Government Act 2001 (as amended), and, where evidence compiled indicates that less than 10 per cent of available rental accommodation units may be accessed by an individual or a family receiving a payment under this Part, shall initiate a review of the effectiveness of the present maximum amount of rent for that area.”.

This Bill seeks to limit the maximum amount available for the HAP, which could be seen as potentially problematic or dangerous, given the problems we currently face with rent supplement due to housing shortages and high rents, which do not seem likely to be resolved soon. Rents must be regularly reviewed throughout the State in order to understand what is available and needed as otherwise we are in danger of seeing people being put out of their homes due to rent hikes. This should in itself inform Government policy in a drive to address the shortage of publicly-owned social housing.

**Deputy Jan O’Sullivan:** I must oppose this amendment. Aside from the disproportionate administrative burden that this would place both on the Department and on housing authorities, it must be accepted that the main focus of any rental limit review process is to ensure that pricing of maximum rental limits does not distort the market, while at the same time providing opportunities for tenants to acquire accommodation. That is a difficult balance at times. Due care needs to be taken that pricing be established at natural supply and demand conditions, as opposed to by reference to the State’s intervention, in order to avoid setting maximum rental limits that could force families, especially those on low incomes, into competing with pricing floors they cannot afford.

The current policy for maximum rental limits within the rent supplement scheme is an 18-month cycle. The timing represents a balance between the rental arrangements of tenants - tenancy agreements are normally for approximately a year - and the need to ensure sufficient reviews to keep apace of the market. A shorter period to review maximum rent limits, such as quarterly, would place a significant degree of ongoing pressure to change rental agreements mid-agreement on tenants and landlords alike. If there is an agreement between tenant and landlord for a year, this amendment may require intervention in such agreements.

Additionally, quicker review times would make the Department more reactive to the market as opposed to helping to hold the market steady during inflationary rental periods. Conversely, it would then be more aggressive in declining markets, where tenants will be forced to consider

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alternative accommodation as landlords continue to seek previous rents agreed. It must be remembered that rents can both increase and decrease. Reviewing maximum rent limits quarterly would not allow the market any time to adjust naturally to the imposition of new limits, therefore distorting the natural market rent level. The effect of a shorter review period would not lead to an overall increase in rental supply available to HAP recipients but would instead create adverse pricing impacts on the rental market, which could do more harm to households seeking accommodation in that sector. The frequency proposed in the amendment would not be practical.

**Senator Kathryn Reilly:** I thank the Minister of State for her response. I will not press the amendment but I reserve the right to resubmit it on Report Stage should I see the need. I will consider the amendment again in light of what the Minister of State indicated in her comments.

Amendment, by leave, withdrawn.

Question proposed: “That section 43 stand part of the Bill.”

**Senator Aideen Hayden:** I have a brief comment regarding Senator Reilly’s amendment on periods of review of rent levels. I take on board the Minister of State’s comments about Senator Reilly’s amendment but the current system, whereby rents are reviewed annually under the Residential Tenancies Act and rent supplement is reviewed over 18 months, is entirely unsatisfactory. The Minister of State neglected to mention that she is currently reviewing the law on rent certainty and I hope, down the line, we will have a better rent system that will reflect better what Senator Reilly aspires to. The reality of the market is that low-income households in particular are finding it very difficult to access and retain accommodation.

**Deputy Jan O’Sullivan:** I accept the point that both Senators Reilly and Hayden make on the difficulty people have in accessing affordable rent in the private sector, and particularly those in receipt of rent supplement. As Senator Hayden mentioned, we are examining what controls can be applied to rent. There is a limited amount of control now and a landlord with an agreement with a tenant cannot increase rent by more than the market rate. It is a very limited form of rent control. As I have stated, we need to figure out what can be done, and the PRTB is doing work in that regard, along with the Housing Agency. We are actively examining the matter.

Question put and agreed to.

Section 44 agreed to.

SECTION 45

**Senator Kathryn Reilly:** I move amendment No. 32:

In page 54, line 30, after “offers” to insert “not less than 3”.

This short amendment would have the limit set for the number of offers a social housing applicant can refuse at no fewer than three.

**Deputy Jan O’Sullivan:** The purpose of prescribing the appropriate period in regulation, as opposed to primary legislation, is to allow if needed for flexibility to change the period set if it becomes impractical. I am of the view that two refusals, the current general rule, is a reasonable number so as not to disadvantage other households on the waiting list from being

offered available accommodation by the housing authority, where a household with higher priority continues to refuse reasonable offers of accommodation. It should be remembered that a reasonable offer from a housing authority must be in the household's area of choice and must meet their housing needs. It is important that people realise this. It is difficult to see how a household could reasonably refuse an offer that meets both of these criteria. I therefore remain of the view that two refusals of reasonable offers of accommodation by a household maintains the appropriate balance required. Notwithstanding this, what the Senator proposes would make any review or amendment of this time period more difficult as it would require an amendment of primary legislation each time. This, as I have said, is impractical. In that context I would ask the Senator to withdraw the amendment.

Amendment, by leave, withdrawn.

Section 45 agreed to.

Sections 46 to 51, inclusive, agreed to.

NEW SECTION

**Senator Kathryn Reilly:** I move amendment No. 33:

In page 62, between lines 30 and 31, to insert the following:

“**52.** (1) The Minister shall, six months after the coming into operation of this Part, cause a review to be conducted which shall assess the effectiveness of the measures contained in this Part under the following categories:

(a) the net effect on the numbers of families waiting for accommodation to be provided to them by a housing authority in each local authority area;

(b) the net number of individuals and families who are on the emergency accommodation waiting lists in their respective areas;

(c) the number of local authority staff required by each housing authority for the optimal administration of the measures under this Part;

(d) the funding required from the Central Fund or the local government fund for the optimal delivery of the measures under this Part.

(2) The Minister shall compile the data and analysis undertaken under *subsection (1)* into a report which shall be laid before both Houses of the Oireachtas and transmitted to the Joint Oireachtas Committee on the Environment, Culture and the Gaeltacht, or its successor committee.”.

This amendment allows the Minister to review the effects of the policy behind this section and to produce a report on the data.

**Deputy Jan O’Sullivan:** I gave an undertaking in the Dáil that I would report back to the Cabinet committee after the end of the first wave of the HAP scheme. I will honour that and will report to the Cabinet sub-committee on the implementation of the HAP scheme.

There are already significant structures in place to ensure the HAP scheme is properly managed with regard to development, implementation and monitoring arrangements. This is all

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part of the plan that already exists. Detailed business processes have been developed within which the roll-out of the scheme must operate. It is intended to review the pilot phase by the end of 2014, at which time I will give consideration to the need, if any, for additional legislative provisions to enhance overall implementation of the scheme. We want to treat the first wave as a learning process so if some elements are not working I will use the legislative mechanisms at my disposal to make the necessary amendments. This may require use of a different piece of legislation.

The pilot phase will also play a key role in setting out the level of additional detail required for ongoing monitoring and reporting of the scheme. The intended review would have regard to all operational aspects of the scheme, including implementation by the local authorities and the overall costs associated with delivery of the scheme. It is expected that periodic reports will be made available to the Government and the relevant Oireachtas committees for consideration.

**Senator Kathryn Reilly:** Based on what the Minister said and the role she foresees for the Houses of the Oireachtas and the committee I will not press this amendment.

Amendment, by leave, withdrawn.

Section 52 agreed to.

SECTION 53

**An Cathaoirleach:** Amendments 34 to 38, inclusive, are related and may be discussed together. Is that agreed? Agreed.

**Senator Kathryn Reilly:** I move amendment No. 34:

In page 63, to delete lines 31 to 34 and substitute the following:

“(2) (a) A housing authority may, if a tenant has refused to pay rent for a specified period of no less than 3 months and has refused to engage with the relevant authority, make a request to the Minister for Social Protection to deduct from net scheme payments the amount of rent payable to the authority by the relevant recipient concerned and to transmit the amount deducted to the authority.”.

These amendments relate to the topical and controversial issue of rent reductions. Amendment No. 34 limits the authority’s ability to seek deductions to cases where tenants have refused to engage and there has been no payment for three months.

Amendment No. 35 states that deductions cannot be made if, under reasonable consideration, they would cause undue hardship. Amendment No. 36 seeks to limit the authority’s ability to seek deductions to cases where tenants have refused to engage on rent arrears over a period of three months. Amendment No. 37 limits the amounts that can be charged as a deduction for rent arrears to no more than 5% of a person’s income and amendment No. 38 states that deductions cannot be made if, under reasonable consideration, they would cause undue hardship.

**Senator Paschal Mooney:** As Senator Reilly said, this is a controversial measure. The Minister of State may sympathise with an aspect of these amendments, namely, the Minister for Social Protection should, as far as practicable, notify the tenant of the authority’s requests ten working days before the commencement of a deduction. Can the Minister of State clarify the process relating to the deduction between the tenant, local authority and Minister once this

is initiated?

**Deputy Jan O'Sullivan:** I will reply to each amendment individually as they are quite detailed. The effect of section 53 is to meet a person's housing need on a continuous basis by providing a mandatory rental deduction facility whereby the person does not fall into arrears, which would also have the effect of reducing financial liability for local authorities for rent arrears. Where a mandatory direct deduction facility was not available this would have serious consequences for a household in allowing arrears to develop in the context of creating a poverty trap for the households concerned and potentially jeopardising the ongoing availability of their accommodation.

In addition, the introduction of systems that will ensure that rental contributions due from tenants who are on social welfare are paid directly to the housing authority is central to the successful implementation of HAP. In recent years the extent of rental arrears from social housing tenants has been rising. At the end of 2011 the extent of the accumulated rent arrears across all housing authorities was €53.25 million. At the end of 2012 this figure had risen to €56.4 million. Notwithstanding local authorities writing off an element of these arrears each year as bad debts, it is clear that the problems associated with arrears are increasing year on year which makes it critical that systems are put in place to avoid even greater levels of rent arrears.

It is important to note that both my Department and the Department of Social Protection have engaged jointly with the Attorney General on this matter. The Office of the Attorney General has agreed with the principle of a mandatory deduction of rents, specifically where the customer's social welfare payment may be reduced below the statutory minimum on the basis that the requirement for accommodation is a basic human need. The same advice also stated that there is no legal requirement to have a limit in place as to the amount to be deducted from a social welfare payment provided the tenant recipient is aware of the deduction and the deduction is calculated in accordance with the local authorities differential rent scheme. The Office of the Attorney General has further advised of no legal impediment to deducting a rental payment at source for the provision of social housing support and or to making the tenant HAP recipient pay the full rent amount on the basis that the tenant is entering a binding contract on the provision of support and therefore has a legal obligation with respect to the payment of rent.

It is very much evident that a clear basis exists for the deduction of local authority rent from social welfare payments by virtue of the fact it meets one of a customer's basic needs, which is contemplated within the current statutory minimum. In terms of arrears, we have also been advised that there is no legal impediment to the deduction of rent arrears from a social welfare payment, provided the local authority is satisfied that the rent arrears deduction, particularly where combined with a Department of Social Protection, DSP, deduction of overpayments, will not reduce a tenant to the point where he or she does not have sufficient means. That is an important point.

The amount of rent arrears to be deducted will be limited in a manner similar to social welfare overpayments, namely, a maximum of 15% of the personal rate will apply. This is designed to be realistic rather than punitive in terms of representing what a householder can reasonably be expected to pay. We are very conscious that we are dealing with people who have very limited income and we do not want to take more than 15% of the personal rate as this is the current practice in the Department of Social Protection.

In terms of reporting, as I indicated in my response to amendment No. 33, it is intended

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that extensive monitoring will be carried out in respect of all operational aspects for the HAP scheme, including the direct deduction facility. It is expected that periodic reports will be made available to the Government and the relevant Oireachtas committees for consideration.

On amendments Nos. 35 and 38, in so far as they provide for the Minister for Social Protection to notify the tenant of the authority's request for a deduction in respect of rent or rent arrears, the Minister for Social Protection will facilitate the request for the deduction of rent and/or rent arrears from a social welfare payment on receipt of the instruction from the housing authority. As this information will have already been provided to the customer by the housing authority, it would not be necessary or administratively efficient for a further notification to issue from the Department of Social Protection. The customer will already know.

In respect of amendment No. 37, as I have advised Deputies in the Dáil, I cannot accept this amendment. The ceiling in the Bill of 15% of the weekly personal rate of a social welfare recipient for deductions in respect of social welfare overpayments and rent arrears is the same as the ceiling for recovery of social welfare overpayments only in the Social Welfare Consolidation Act 2005. The 15% ceiling was set in consultation with the Attorney General's office as a realistic limit, rather than a punitive limit, on the deductions concerned. It is considered to be the appropriate limit on deductions to avoid the social welfare recipient falling into destitution. "Destitution" is a terrible word but this provision seeks to ensure that people do not have too much money taken. In practice, the maximum deduction that could be made for social welfare overpayments and rent arrears under the 15% ceiling varies from €27.90 for a person on supplementary welfare allowance to €34.55 per week for a person in receipt of a contributory State pension. The combined deduction of social welfare overpayments and rent arrears will not exceed a total maximum of 15% of the personal rate of social welfare payment and this will afford the necessary protection to customers. The combined effect of rent arrears and any overpayments will still only be 15%. It is not the case that one can take 15% for one purpose and take more for another, the combined amount is 15%.

I hope that addresses the various issues. I know this is a difficult issue because we are speaking about people on very limited incomes. One of the Deputies in the Dáil told a story about a husband and wife and their family in his constituency. His wife certainly believed that he was paying the rent, but in fact he was not and they got notice of owing a very large amount of money. Under the provisions of the Bill that situation will not arise. While I know it is difficult, it is important to have a system whereby people do not fall into serious rent arrears and therefore put their whole family under stress. In the balance of things, I think it is appropriate that we do this.

**An Cathaoirleach:** Is amendment No. 34 being pressed?

**Senator Kathryn Reilly:** Yes.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

**Senator Kathryn Reilly:** I move amendment No. 35:

In page 64, between lines 21 and 22, to insert the following:

"(e) No single deduction permitted under *subsection (2)* and *(3)* may be made if it



would reasonably cause undue hardship or suffering to the tenant concerned or their dependents.

(f) The Minister for Social Protection will as far as is practicable notify the tenant of the authority's request 10 working days before any commencement of deduction.”.

Amendment put and declared lost.

**Senator Kathryn Reilly:** I move amendment No. 36:

In page 64, to delete lines 22 to 25 and substitute the following:

“(4) (a) A housing authority may if a tenant has refused for a specified period of no less than 3 months to enter into a rescheduling arrangement with the authority, make a request to the Minister for Social Protection to deduct from a relevant recipient's net scheme payments an amount in respect of rent arrears due to the authority by that recipient and to transmit the amount deducted to the authority.”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

**Senator Kathryn Reilly:** I move amendment No. 37:

In page 64, lines 38 and 39, to delete “15 per cent” and substitute “5 per cent”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

**Senator Kathryn Reilly:** I move amendment No. 38:

In page 65, between lines 12 and 13, to insert the following:

“(e) No single deduction permitted under *subsection (4)* and *(5)* may be made if it would reasonably cause undue hardship or suffering to the tenant concerned or their dependents.

(f) The Minister for Social Protection will as far as is practicable notify the tenant of the authority's request 10 working days before any commencement of deduction.”.

Amendment put and declared lost.

Question, “That section 53 stand part of the Bill”, put and declared carried.

Sections 54 to 58, inclusive, agreed to.

NEW SECTIONS

Amendments Nos. 39 and 40 not moved.

**An Cathaoirleach:** Amendments Nos. 41 and 42 are related and may be discussed together by agreement.

**Senator Kathryn Reilly:** I move amendment No. 41:

In page 72, after line 31, to insert the following:

**“Amendment of Domestic Violence Act 1996**

**59.** The Domestic Violence Act 1996 is amended by inserting the following section after section 8:

**“8A.** An applicant shall not, by virtue of the applicant’s legal or beneficial interest in the residence in which the applicant resides or previously resided with the respondent, be prohibited from consideration for social housing by a local authority.””.

These are very specific amendments and deserve great merit. There exists a gap in the legislation, where a victim of domestic violence who is living with the abuser in the family home or another property as a joint owner of the property, is currently prohibited from being considered by the local authority for social housing due to the part ownership in the family home or property in which he or she resides or resided with the perpetrator.

The objective of amendment No. 41 is to ensure that a victim who applies for a barring or protection order shall not, by virtue of his or her part ownership in the residence in which the applicant resides or previously resided with the respondent, be prohibited from consideration for social housing by a local authority. The amendment does not state that a victim must automatically get a social house but it does state that a victim shall not be discriminated against based on his or her part ownership of the property where the domestic violence occurred. In many cases this discrimination also includes children. I know the programme for Government contained a commitment to introduce consolidated reforms of domestic violence legislation to address all aspects of domestic violence and did contain a commitment to protect victims. This amendment is intended to close one major gap in the legislation and provide support for victims of domestic violence.

Amendment No. 42 is based on the recommendation of Women’s Aid that an integrated and co-ordinated response to women out of home because of violence is needed and has been shown to work in other jurisdictions. A report by Women’s Aid from 2006 states that a co-ordinated approach involving local authorities, other statutory agencies and the voluntary sector has been demonstrated as the most successful strategy in the United Kingdom. A framework has already been proposed and much work has been done already, but it is important that the Minister takes the initiative and issues this framework as a directive to local authorities.

**Deputy Jan O’Sullivan:** The intention, which I share, of amendments Nos. 41 and 42 is very positive, but some of the proposals in these amendments are not under my remit. The specific reference in amendment No. 41 to the Domestic Violence Act 1996 comes under the stewardship of my colleague, the Minister for Justice and Equality. While I am happy to discuss what is proposed in this amendment with her, I unfortunately cannot accept an amendment to the legislation without consulting the Minister for Justice and Equality, Deputy Frances Fitzgerald, in advance and giving due consideration to the complex legal matters involved.

The issue of domestic violence and the access of people to housing has been raised with me on a number of occasions and I very much want to address it in so far as we can. It will involve other Ministries.

At present a housing authority may provide short-term emergency housing to persons who are forced to leave their homes because of domestic violence without having to assess their eli-

gibility for social housing support or include them on the authority's housing waiting list. In the longer term victims of domestic violence may qualify for social housing support and be entered on the waiting list where they meet the eligibility and need criteria set down in section 20 of the Housing (Miscellaneous Provisions) Act 2009 and the Social Housing Assessment Regulation 2011. Notwithstanding this, I have in section 46(e) of the Housing Bill provided for the amendment of section 20 of the Housing Act 2009, to provide for situations where a housing authority cannot determine if a household qualifies for social housing support because a household member is separated and has a claim on the family home which has not yet been resolved in some form of legal judgment or agreement. This could also apply in cases of domestic violence. This would be in situations where there is no clear path as to what the future will be for the family.

The amendment to section 20 will provide that, where such a household is otherwise qualified for social housing support, the household will be able to avail of a housing assistance payment, HAP, or accommodation provided under a rental accommodation arrangement until such time as the claim on the family home has been determined. The decision to provide this type of support will be reviewed periodically pending the resolution in respect of the claim on the family home. It will be reviewed from time to time depending on what happens with the family home.

A household in this situation will not be able to apply for a transfer to another form of social housing support during this period but if, ultimately, the household is determined to qualify for social housing support, the total period for which the household availed of HAP will reckon for the purposes of a transfer application, in accordance with the issue we discussed earlier about people availing of housing assistance payment keeping the points they have built up in their application in accordance with the terms of the housing authority's allocation scheme.

In respect of amendment No. 42, while my Department provides some funding towards the operational costs of domestic violence refuges, the primary funder of such facilities is Tusla, the Child and Family Agency. Responsibility for the development and provision of services to support victims of domestic abuse rests with the Minister for Health and is delivered through Tusla. In addition, Cosc, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, which was established in June 2007 as an executive office of the Department of Justice and Equality, works to ensure the delivery of a co-ordinated response to issues of domestic, sexual and gender-based violence across Government. Actions to ensure effectiveness and consistency in housing responses for victims of domestic violence are set out in action 10 of the National Strategy on Domestic, sexual and gender-based violence. My Department is developing the necessary guidance to implement this action.

I accept this issue crosses over a number of Departments and what we want to achieve is more co-ordination between Departments in terms of the outcomes for such families. I have taken the opportunity to do a certain amount in this Bill. I will undertake to talk to the Minister for Justice and Equality, Deputy Fitzgerald and other Ministers as well because both the Minister for Children and Youth Affairs, Deputy Flanagan, and the Minister for Health will be somewhat involved in this areas. I recently attended a meeting on the cross-departmental issue that surround domestic violence. For a long time there has been an issue with regard to short-term access to housing when somebody has to leave their family home due to domestic violence. How does he or she access somewhere to live while figuring out the next step to take? People in that situation must address a variety of complex issues and that is why these measures, to which I referred, have been included. We are working on at least finding a way to address short-term needs and re-evaluating needs generally as families make decisions about their future.

**Senator Aileen Hayden:** Domestic violence is a subject close to my heart and one which I have raised here on a number of occasions. I welcome what the Minister of State has said about the progress she is making in this legislation regarding this difficult issue. Unfortunately, it is true that many women who are subjected to domestic violence are unable to access anything other than emergency accommodation because they have a legal or beneficial interest in a family home. They are very much left outside the system in terms of sourcing any type of semi-permanent accommodation for themselves and their children.

I take on board what the Minister of State said about the measures she is putting forward to deal with this difficult situation but it may not be a matter for this legislation. I am concerned that there may be provisions in the housing code that prohibit anybody who has a legal or beneficial ownership of property from accessing social housing. That legislation is very discriminatory against women in particular, and particularly against women who experience domestic violence. We need to examine the legislation in more detail. I am thinking of the 2009 legislation which provides a disregard, for the sake of argument, for people in certain housing situations. I have long argued that a similar disregard needs to be applied to people who suffer domestic violence, the majority of whom are women. It is not a question for the legislation we are debating now but we must look at it with greater clarity.

I would like a specific cross-departmental review of how women and children experiencing domestic violence access housing. The issue of domestic violence is not just related to social housing but access to the rent supplement and clearly it will be about access to HAP down the line. I would like to see a concerted interdepartmental report prepared on this difficult subject.

**Senator Kathryn Reilly:** I thank the Minister of State for her response. I will not press my amendments. I know there is a lot of cross-departmental work to be done but I do not want this matter to fall between two stools. It is important that we keep it on the agenda and that the Minister of State with responsibility for housing does what she can to ensure that victims of domestic violence are not discriminated against in housing legislation. I accept what she said about the work she has done and her undertaking to consult with the Minister for Justice and Equality and other relevant Ministers. Therefore, I will not press my amendment.

**Senator Paschal Mooney:** In the context of the Minister of State's response and the amendments, how does she think this matter will pan out? Which Department will be involved? Will the Department of Justice and Equality frame legislation to address the issue? Will it be framed within her own mandate? She said that the matter is cross-departmental which complicates it somewhat. Clearly it requires legislation. How will the matter be resolved in legislative terms?

**Deputy Jan O'Sullivan:** There are elements in housing and justice. I would particularly like to raise one area with the Department of Justice and Equality. By and large, it seems that in the current system the victims of violence and sometimes the children - it can be a male as well as a female victim - are the ones who must leave home while the alleged perpetrator, at that stage, stays in the home. I do not know whether something can be done in justice legislation - I am straying outside my area of responsibility here - that would alter the balance in some way. That situation has been raised with me by people who work in the area of domestic violence.

With regard to Senator Mooney's question, the situation is difficult. We cannot provide long-term social housing as a default position if we do not know whether there is a long-term housing need. We can provide short-term housing and review the provision. However, we must have a mechanism to assess whether a long-term need exists. Sometimes these situations

are fluid and, therefore, we do not know if there is a long-term need. That is why we are doing what we are doing here. It will address the immediate need and we will keep it under review.

To answer the Senator's question directly, there is an element of housing legislation and an element of justice legislation involved in this issue.

**Senator Paschal Mooney:** I thank the Minister of State. The fact that a victim of domestic violence must leave their home raises the need to have a sanction. Let us assume that the victim of the violence in the home takes the case to court and the perpetrator is prosecuted successfully. What is the victim's status in terms of agreement with the local authority? The balance should move in favour of the victim. I mean by this that the victim should be allowed to return to the family home and the perpetrator should be moved out. Does an area exist for such provision under the Minister of State's mandate in the Department of the Environment, Community and Local Government? I am referring here to an agreement between the tenant and the local authority which comes directly under the remit of her housing section. Can we debate legislation that would address this issue? I refer to cases where a prosecution has taken place and been successful. Please correct me if I am wrong, but as things stand the tenant can stay *in situ* and the victim is left out in the cold and out of their house.

**Deputy Jan O'Sullivan:** The court would play a role in determining the arrangement and in that sense it is a matter for justice legislation. We will examine elements of housing legislation because I acknowledge that this matter is related. We have got better at cross-departmental actions in a variety of areas but this is one area where some work needs to be done.

Amendment, by leave, withdrawn.

Amendment No. 42 not moved.

**Senator Paschal Mooney:** I move amendment No. 43:

In page 72, after line 31, to insert the following:

**“Provision of housing units**

**59.** In the provision of housing units, a local authority shall give priority to persons that have been responsible tenants in leased accommodation under the Rental Accommodation Scheme.”.

Amendment put:

The Committee divided: Tá, 7; Níl, 26.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Daly, Mark.	Brennan, Terry.
Mooney, Paschal.	Burke, Colm.
Mullen, Rónán.	Coghlan, Eamonn.
O'Donovan, Denis.	Coghlan, Paul.
O'Sullivan, Ned.	Comiskey, Michael.
Walsh, Jim.	Cummins, Maurice.
	D'Arcy, Jim.



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	D'Arcy, Michael.
	Gilroy, John.
	Hayden, Aideen.
	Heffernan, James.
	Henry, Imelda.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Brien, Mary Ann.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Reilly, Kathryn.
	van Turnhout, Jillian.

Tellers: Tá, Senators Paschal Mooney and Ned O'Sullivan; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Title agreed to.

Bill reported without amendment.

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

**Senator Maurice Cummins:** Next Wednesday.

Report Stage ordered for Wednesday, 16 July 2014.

**An Cathaoirleach:** When is it proposed to sit again?

**Senator Maurice Cummins:** At 10.30 a.m. tomorrow.

### **Adjournment Matters**

### **Special Educational Needs Service Provision**

**Acting Chairman (Senator Michael Comiskey):** I welcome the Minister of State, Dep-

uty Jan O'Sullivan, to the House.

**Senator Mary Moran:** I thank the Minister of State for taking this Adjournment debate. I have advocated for a long time that placements should be offered to school leavers who have intellectual disabilities in June of the year in which they leave school, so that their parents will know where they are going. Over umpteen years, I have spoken each September to parents who still do not know where their children will go. This can be detrimental to families because it prevents them from planning ahead. Some parents are worried that they will not be in a position to stay in employment if they do not have a suitable placement for their children. As I have been advocating on this issue since I became a Member of the Seanad, I was delighted to receive notification earlier this year that the HSE had put a target date of 30 June in place. I welcomed the proposal that by the time young people leave school on 30 June each year, they and their families will know exactly where they are going in September. I understood that a centralised system, implemented by the HSE, would be put in place to ensure a more streamlined approach to assigning placements is taken and that additional funding of €7 million had been allocated. I was really looking forward to 30 June coming around this year. I was hoping that any young person I know who is in the care of special services, or who will need special services when he or she leaves school, would be placed by then. Therefore, I was disappointed last week to speak with more parents who do not know where their children will be going even though we are in the second week of July. This is a huge time for these children. When a child leaves a mainstream school, he or she has a fairly good idea where he or she is going, or would like to go, in September. The amount of future planning involving other people that is required when somebody is leaving a mainstream school is not half the amount of planning that is involved in the case of someone with an intellectual disability.

I would like to refer to the case of a young lady who has reached school leaver age and has left school. Her parents, whom I know personally, have toured this country to look for a suitable place for their daughter, who has very significant individualised needs. Nobody knows a child better than his or her mother. This child's mother went around the country to search for a suitable facility and eventually found one not too far from her home. She decided she would like her daughter to be placed in this facility and submitted an application to that effect. She notified me of the outcome last week.

I am getting two different stories or scenarios. I am not sure what is happening. I am asking for this child to be placed in the facility where her mother would like her to be placed. The mother has written to me to say the place she has checked out has the ultimate in specialised care provision. It is where she wants her daughter to go. The young woman in question has a friend, with whom she has grown up since the age of five, who will be going to the same place. It is important for people to be able to send their children to mainstream schools with their friends. This lady would like to think her child will have the company of her friend who lives across the border in the next county. They want to continue to have that arrangement in place. I have contacted both places, but I am not sure what the answer or the exact situation is. It seems to be going around the world for sport. Meanwhile, a young woman and her family are suffering as they wait to see where she will be able to go. I ask the Minister of State to look into this matter. We need to follow through on our promise that all children would know where they were going by 30 June. We are now into the middle of July. If we could get a definite statement on where this young woman will be able to go, I would appreciate it.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** I thank Senator Moran for raising this issue. I know of

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her strong commitment in this area. I am responding to her on behalf of the Minister of State, Deputy Kathleen Lynch. I am pleased to outline the position on placements for school leavers who need continuing supports from the health sector. While the Government does not comment on individual cases, I wish to assure the Senator that our policy is to enable young people with disabilities to live independent lives to the greatest extent possible and to receive the supports they need to achieve this. Many young people with disabilities will progress to mainstream education, training or employment, but some will need continuing support from the HSE. Day services for adults with disabilities provide a network of support for over 25,000 people who have a wide spectrum of support needs due to intellectual, physical and sensory disabilities, autism and mental health problems. Every year, the HSE, through its occupational guidance service, works with schools, service providers, service users and families to identify the needs of young people with disabilities who are due to complete their second-level education and will require varying levels of continuing support. This year, at the request of the Minister for Health, an additional €7 million in funding and 35 posts were allocated by the HSE to meet the needs of school leavers with disabilities. Over 900 school leavers applied. Even with the extra funding, the provision of this level of new service has been challenging for all concerned. To meet the challenge, the Health Service Executive, HSE, has implemented a new centralised application process and national operational approach to school leaver placements.

An important aspect of the new approach has been the establishment of a national oversight group representing disability sector umbrella organisations, service users and senior HSE staff. With stakeholder support, the HSE has worked to identify the service providers with capacity to respond to assessed need and agree the allocation of additional resources where required. This process has been completed. The HSE has assured the Minister that, in all but a very small number of cases, school leavers and their families have now been notified of the placement which will be available to them in September. This is a significant achievement by all concerned and a great improvement on the position in recent years.

In the remaining cases, the HSE, service providers and families are still in discussions regarding the most suitable placement for the school leaver. Strenuous efforts are being made to reach a satisfactory resolution for each young person concerned as soon as possible. In respect of the young woman referred to by the Senator, the HSE has assured the Minister for Health that a suitable placement will be provided for her in September and that it is working with the local service provider to assess how her needs may be best accommodated. Discussions are ongoing and a meeting will be held with the young woman's family in the coming days. I assume the information with regard to the specific place the young woman in question and her family would like has been given to the relevant authorities.

**Senator Mary Moran:** I know there has been an improvement in this process. However, it does not matter how good the improvement is if one's child is affected by not securing the placement, particularly when other children with similar needs from the same area have come through the same small school and have got a placement. I am not sure why there is a problem with the placement in this case. If this matter is not settled soon, I will be knocking on the door of the Minister of State, Deputy Kathleen Lynch. I would be grateful if the Minister of State, Deputy Jan O'Sullivan, would convey my concerns to her.

**Deputy Jan O'Sullivan:** I will convey them to the Minister.

**Senator Cáit Keane:** My matter concerns many children in Gaelscoil Teach na Giúise in Firhouse, Dublin 24, who do not have a permanent school building. The school is accommodated in Tymon Bawn Community Centre which is not suitable. Originally, when the school was accommodated there, it was informed it would be out of there by the end of 2013. The date was then pushed forward to June 2014 but it still has not moved. I have been speaking to staff and parents on this matter. We understand the Department and South Dublin County Council are sourcing sites for the school, as well as for the Firhouse Educate Together school, but it has taken a long time. I accept local community needs have to be taken into account such as the provision of sporting facilities and so forth. I know the Department and the council have had difficulties in this respect and do not want disadvantage one sector of the community.

As the school has only a few rooms in the community centre, this has led to uncertainty for parents about enrolling their children in the school, as it essentially cannot physically expand in its current accommodation. Parents are now asking where their children will attend if the school cannot secure permanent accommodation. It is important that certainty is brought to this matter without delay. Using community halls as classrooms, furthermore, deprives certain elements of the community of the use of the hall for sports and so on. In effect, the Department of the Environment, Community and Local Government is subsidising the Department of Education and Skills by providing community buildings for schools that were never meant as schools. The school in question must share communal facilities such as toilets with the general public which is not satisfactory or ideal. We have seen a fine new school open in Knocklyon. The secondary school, however, is not large enough to deal with the catchment area of the feeder school.

I had a similar Adjournment matter down for the Educate Together school in Firhouse some time ago. I am interested to see if the reply has changed. I was informed private as well as public sites were being sourced. Is there any more information on that?

**Deputy Jan O'Sullivan:** I am taking this Adjournment matter on behalf of the Minister for Education and Skills, Deputy Ruairi Quinn, and thank the Senator for raising this issue.

Both the Minister and the Department are very much aware of the need to provide permanent accommodation for Gaelscoil Teach na Giúise, a school established to serve both a demographic and diversity need in the Firhouse area of Tallaght, County Dublin. I hope the Senator will take comfort from the fact that a building project for the school is on the Department's five-year construction plan, although the school is just completing its first year of operation. A building project for the school will proceed as soon as a suitable site has been procured. In this regard, the site acquisition process for the permanent location for the school is ongoing. Department officials are working very closely with officials from South Dublin County Council in identifying and acquiring a suitable site.

The Minister signed a memorandum of understanding between the Department of Education and Skills and the County and City Managers Association in 2012. This memorandum formalises the local authorities' part in identifying and securing suitable sites for educational use and facilitates increased levels of co-operation between both parties. It is in this context that this work is progressing. As the process is ongoing and due to the commercial sensitivities associated with land acquisitions generally, it is not possible to provide further information at this time.

In the meantime, the school is temporarily located in the Firhouse Community Centre on

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Ballycullen Drive, Firhouse, as opposed to the Tymon Bawn Community Centre mentioned by the Senator. It will remain in this accommodation for the 2014-15 school year. The school will be a single-stream, eight-classroom school when fully developed. The school's current enrolment is six pupils and it has one teacher. When it started up in 2013, the entire top floor of the community centre, comprising a large room, used as a classroom for the six pupils, a boardroom, used as ancillary accommodation and office space for the teacher, a kitchen-staff room and male and female toilets, were made available for school use. The school also uses a large indoor sports hall and an outdoor play area.

The Department refurbished the premises to make it suitable for school use. The school advises it will have total enrolment of 21 pupils for the 2014-15 school year. This will attract a second teacher giving the school a pupil-teacher ratio of 10.5:1. Further enhancements are being made to the top floor and outdoor play space to facilitate the increased enrolment. The boardroom, which is adequate in size for the number of pupils that will occupy it, will be used as the second classroom. Another space, available to the school last year but which it did not use, is being converted into a principal's office and ancillary space.

While the school shared the boardroom and kitchen last year, it will have exclusive use of these facilities for the new school year. The school will continue to have priority access to the sports hall. The Department has worked and continues to work closely with the school's principal and the management of the community centre to ensure the school's accommodation needs are met as best as is possible. Inevitably, some compromises are necessary when a school is using premises that are not purpose-built. Gaelscoil Teach na Giuise can be assured that every effort is being made to provide it with adequate accommodation in its start-up years and to curtail its tenure in temporary accommodation by providing it with purpose-built accommodation as soon as a suitable site has been acquired. I am sorry I cannot give the Senator further information on the site.

**Senator Cáit Keane:** Two thirds of the reply was a stick and paste job from the answer I got when I raised the issue previously. There was nothing new other than the sensitive commercial information. The funding being made available to community halls by the Department of Education and Skills through renting out rooms in them is valuable because sometimes they struggle. On the other hand, there may be playschools or community facilities in the locality which are disenfranchised by having a school in the hall. Long ago we tried to ensure primary schools stayed open after school hours for community use. Now community halls are being taken over by the Department of Education and Skills for school use. We have come full circle. It is not a way for the Department of Education and Skills to plan to state it loves to hear everything is being renovated and facilities will be better next year than they are this year. This must be balanced as one must consider who is losing out. Do other community facilities lose out if the top floor of the community hall is given over to a school? I am not saying this is the case, but the Department should examine it before it takes over every community hall. I am involved in community development and I know the expense South Dublin County Council went to, which was grant aided by the Department, to provide a community hall. Funding from the Department of Education and Skills for schooling is different. I will return to this issue at a later date because it is not finished business.

**Deputy Jan O'Sullivan:** I will convey the Senator's points to the new Minister for Education and Skills-----

**Senator Cáit Keane:** Is the Minister of State announcing it?



**Deputy Jan O'Sullivan:** -----as the current Minister has indicated he will not stay in the job. The Department is very anxious to proceed as soon as possible. I agree with the Senator that it is not suitable to have children in a hall for any length of time.

**Senator Cáit Keane:** On that note, I congratulate the Minister, Deputy Quinn, on the work he has done and I appreciate it. I wish him well.

### **Wind Energy Guidelines**

**Senator Thomas Byrne:** The Minister of State has been tipped to be the next Minister for Education and Skills. She would do a very good job. I wish her the best of luck. I saw it in some of the newspapers over the weekend. Senator Cáit Keane will have a head start on her matter if the rumour turns out to be true.

I wish to raise a very serious issue and I am glad the Minister of State is here because responsibility for it lies within the Department. Often the relevant Minister is not available to deal with an Adjournment matter. I am sure the Minister of State is aware of the issue of wind turbine development because I am sure it takes up much of her time. The Minister rightly announced a review of the guidelines last year and draft planning guidelines and regulations for wind turbines were published. It is fair to say the existing guidelines were completely outdated.

The review in the Department is ongoing and there has been public consultation to which my party and many others contributed. Meanwhile, quite a number of planning applications have been decided by An Bord Pleanála or have been submitted to it. There is much confusion as to whether the old guidelines apply. They might be considered more liberal than what is required for a modern day wind farm development. If applications are pending with An Bord Pleanála, will revised guidelines, which hopefully will come into operation and be acceptable to the public, apply to planning decisions?

The issue has become particularly acute in County Meath where Element Power developed a major wind farm for export but the Minister, Deputy Rabbitte, announced before the local elections that the plan had collapsed. A week after the local elections the company applied for planning permission for a project for domestic electricity supply, which had very similar infrastructure to the original proposal for export. It has begun the preplanning consultation process under the Planning and Development (Strategic Infrastructure) Act for 50 major wind turbines in County Meath. Public consultation has already taken place but it is completely unclear as to what guidelines or rules the company must comply with in the planning application. I am not asking the Minister of State to determine a particular planning application, but she and the Government set the guidelines and rules and the public wants to know what are the rules. Another consultation process is taking place with the Department of Communications, Energy and Natural Resources on the export of wind, which will also have an impact on the development of these farms. In County Meath, we were told a project for export collapsed, but an identical project is now being planned for the domestic market. All of the guidelines are extremely relevant. The Minister of State knows the question I am asking and I look forward to hearing her response.

**Deputy Jan O'Sullivan:** I thank Senator Byrne for raising this issue. Proposals for wind energy developments are subject to the statutory requirements of the Planning and Development Act 2000, as amended, in the same manner as other proposed developments. Planning

applications are generally made to the relevant local planning authority with a right of appeal to An Bord Pleanála. In the case of proposals which meet the statutory threshold criteria for classification as strategic infrastructure developments, such applications are made directly to An Bord Pleanála.

In addition to considering the proper planning and sustainable development of the area and the provisions of the local development plan, planning authorities, including An Bord Pleanála, must also have regard to the Department's wind energy development guidelines, which were published in June 2006, when determining planning applications for wind energy developments. These guidelines provide advice to planning authorities on catering for wind energy through the development plan and development management processes. The guidelines are also intended to ensure a consistency of approach throughout the country in the identification of suitable locations for wind energy development and the treatment of planning applications for such developments.

I commenced a public consultation in December of last year on proposed draft revisions to the existing 2006 wind energy development guidelines, focussing specifically on the issues of noise, setbacks and shadow flicker. These draft revisions propose the setting of a more stringent day and night noise limit of 40 decibels for future wind energy developments; a mandatory minimum setback distance of 500 m between a wind turbine and the nearest dwelling for amenity considerations; and the complete elimination of shadow flicker between wind turbines and neighbouring dwellings.

The Department received submissions from 7,500 organisations and members of the public during the public consultation period and the submissions, which are being considered, will be an important input into the final version of the guidelines, which will be issued to planning authorities. Further work is advancing to develop technical appendices to assist planning authorities with the practical application of the noise measurement aspects of the wind guidelines.

It is intended to finalise the revised wind energy development guidelines later this year and they will then be issued to planning authorities by the Minister for the Environment, Community and Local Government under section 28 of the Planning and Development Act 2000, as amended. Planning authorities, and, where applicable, An Bord Pleanála must have regard to guidelines issued by the Minister in the performance of their functions under the planning Acts. In this regard, planning authorities will be obliged to have regard to the revised guidelines with effect from their date of issue in subsequent decisions made by them on proposed wind energy developments. The latter part of the reply addresses the issue raised by the Senator.

**Senator Thomas Byrne:** The reply raises a number of other questions. When will the guidelines actually be published? There were rumours they would be published this week. The problem is that an application for planning permission under the Planning and Development (Strategic Infrastructure) Act may not take very long. Preplanning consultation is taking place in this case. We are told a formal application for planning will be submitted in the coming weeks. Will the guidelines be published before the application is decided by An Bord Pleanála? Will the Minister of State make clear that these guidelines have effect on every application from the date of their publication? If an application is submitted before they are published, will the guidelines still apply if they are published during the planning process?

I want to make clear we do not think the guidelines go far enough. I do not agree with the draft guidelines and we submitted our own proposals. This issue is crucial. Theoretically, a

planning application could be decided over the summer before the guidelines are published. This would be retrograde and unfair. It would give people an unfair advantage. Many applications are pending with An Bord Pleanála. I counted 15 which are either pending or were decided in recent weeks. Last week, an application was granted in south County Meath and I understand from Senator Whelan that another application was granted in County Laois in recent weeks. We also have this application in train in County Meath. We want certainty and it is becoming very urgent.

**Deputy Jan O’Sullivan:** I understand that people on all sides of the political divide want certainty on this, which is why we are working as fast as we can on the guidelines. We received a huge number of submissions and we must give them due consideration. The guidelines will be issued as soon as possible. I cannot give the Senator an actual date.

**Senator Thomas Byrne:** Will they apply to a planning application that is already started?

**Deputy Jan O’Sullivan:** I will repeat what I have said. It is “with effect from their date of issue in relation to subsequent decisions made by them on proposed wind energy developments”.

**Senator Thomas Byrne:** Okay.

### **Overseas Development Aid Provision**

**Senator Fidelma Healy Eames:** I am delighted that the Minister of State, Deputy Costello, is here because his portfolio is relevant to my question. My question is simple and straightforward. I am asking the Minister of State to strongly consider including Rwanda in Irish Aid’s support programme, in view of that country’s critical stage of development.

This week marks the 20th anniversary of the ending of the genocide in Rwanda, a tragedy which cost approximately 800,000 lives over a 100-day period in 1994. In 2012, I was in Rwanda working on a short-term mission there with VSO, an NGO, supporting its planning and advocacy in early childhood development and education for children with special needs.

I can bear witness to the great progress which Rwanda has made over the past 20 years in terms of general development, but also in providing health, education and other services to the country’s entire population.

Rwanda is a land-locked country about the size of County Tipperary with a population of 11 million. That is a lot of people in an area that size. We worked with many widows and orphans of the genocide. Some of those children lost both parents in the genocide but, with support, they went on to become heads of families themselves. There have been a number of genocides in the world but this one occurred in our lifetime, so we all remember it.

According to the UN, over 96% of children attend primary school in Rwanda and the poverty rate was reduced by an impressive 12% from 2005 to 2010-11. That implies that about 1 million people were pulled out of poverty during that period, with the sharpest declines registered in rural areas. I am pleased to hear that because I know that people experience incredible poverty in rural areas of Rwanda. When the floods come, for example, some children with extreme physical disabilities risk their lives to attend school. Some of them must slide down ravines on all fours. It is incredible what they do to get to school.

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Their school benches are just wooden logs on the ground on which they sit sideways. There is such hope in the Rwandans' eyes, however; it is unbelievable. The Prime Minister, Paul Kagame, has brought a lot of discipline and has created really clean streets in Kigali, the capital. He is pulling those people up.

As we know, there are those who do not support leaders - that is not a new phenomenon in any country - but what I saw in Rwanda was extremely positive and hopeful. The country is at a critical stage of its development. I was involved in writing the UN's Rwanda development assistance plan 2013-18. The plan states that the Government made achieving its planned targets central to its development strategy. Three years ahead of 2015, the country has achieved, or was on track to achieve, all of its targets bar one. These are remarkable achievements by any standards.

Some people might criticise the idea of another country being included in Irish Aid's programme, but Rwanda should be included as part of that pie. I am not necessarily saying that more aid should be added.

There are long-standing links between Ireland and Rwanda. The former President, Mary Robinson, was the first Head of State to visit Rwanda following the 1994 genocide, thus demonstrating solidarity between our citizens and the people of Rwanda during their darkest hour. That has not been forgotten in Kigali.

Ireland has an embassy in Uganda, which also serves Rwanda. However, Irish Aid provides financial support to Uganda but not yet to Rwanda. It is worth noting that Rwanda has very low levels of corruption, so any money given would be well spent there.

We are all at different stages of development and sometimes one can make a big difference with only a small aid donation. My brief time there was probably one of the best experiences in my life. I was glad to make a contribution to an education system that was noticeable, compared to what we might achieve in another country, or even here, for the same time devoted to it.

I look forward to hearing the Minister of State's response.

**Minister of State at the Department of Foreign Affairs and Trade (Deputy Joe Costello):** Go raibh maith agat. I thank the Senator for tabling this Adjournment matter which is most appropriate on the 20th anniversary of the terrible genocide in Rwanda when one fifth of the country's population died. I appreciate the work undertaken there by the Senator and many others in volunteering during the difficult years following those events. Senator Healy Eames has put the case well concerning the importance of providing assistance to Rwanda. I will answer her points as best I can.

Despite the terrible legacy of the genocide, Rwanda has made impressive progress over the last decade. In fewer than ten years, as the Senator mentioned, 1 million people have been lifted out of extreme poverty. Annual economic growth has averaged 8%, which is at the higher end of countries in Africa. Many challenges persist, however, particularly youth unemployment which remains above 40% and is endemic throughout Africa.

Of course, there is the ongoing challenge of bringing justice and reconciliation to a country where it is estimated that, as I have said, one fifth of the population was killed during the genocide. Ireland has been playing its part by providing significant support to Rwanda, through the Government's overseas development programme, Irish Aid. Since 2009, Ireland has provided

over €10.7 million to Rwanda through non-governmental organisations, such as Concern and Trócaire, and Irish missionaries, for programmes focusing on health, agriculture and livelihood development.

Irish Aid supports private sector investment in Rwanda through funding to the Investment Climate Facility for Africa, and the Private Infrastructure Development Group. In addition, the Revenue Commissioners are providing technical assistance to the Rwandan revenue authorities, as they are also doing in Uganda.

As regards the choice of key partner countries, Ireland currently has eight KPCs in Africa, the most recent of which is Sierra Leone. The latter country became a KPC this year. In the context of contracting resources, our approach to working at country level has been to concentrate the majority of our resources for long-term development on that small number of countries. In this way, we believe we can have a bigger impact and see real improvements on the ground for poor people and communities.

A number of criteria are in place in order to determine the choice of KPC, including the levels of poverty and inequality in the country, as well as our history of partnership and the added-value our presence would bring.

Ireland has also been active at a political level concerning Rwanda, supporting the establishment of the International Criminal Court for Rwanda, in Arusha, Tanzania, since the outset. As an EU member state, we have continued to support efforts to counter the destabilising forces in the Great Lakes region, in particular by supporting the implementation of the framework agreement for peace, security and co-operation in the Great Lakes region, signed in Addis Ababa in February 2013. Most recently, on 1 July, the Tánaiste, speaking at an international symposium at NUI Galway on the issue of women's leadership in the Democratic Republic of the Congo and Great Lakes Region reasserted this commitment and announced a contribution of €100,000 to the Women's Platform for Peace and Security in the Great Lakes Region, which is under the leadership of the former President Mary Robinson, the Special Envoy of the UN Secretary General for the Great Lakes Region.

The Irish Government remains committed to working with the government and people of Rwanda, through our partnerships with NGOs and multilateral organisations, to assist them complete their recovery and move forward towards a future of peace, reconciliation and prosperity.

**Senator Fidelma Healy Eames:** I am pleased to hear about the various links the Minister of State has outlined. I was not familiar with all of them. I understand that his answer is "not now".

I did not mention an area where there is a real need. My husband did voluntary work there in the area of agriculture. He found that the people needed help to advance their breeds of cattle. A former ambassador from Africa told me that in the past people from African countries came here to upskill for a while in skills that they needed to take home, which was very successful. Does the Minister of State think there would be an opening for something like that in the area of agriculture?

**Deputy Joe Costello:** While I said in my reply that we do not have a partnership with Rwanda directly, we do have partnerships with various organisations engaged in Rwanda, particularly NGOs such as Concern and Trócaire and we will continue to assist them with funds.



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Likewise, we have a partnership with the Department of Agriculture, Food and the Marine and we are engaged with it in various agricultural projects in several African countries, Uganda, Tanzania, South Africa, and to a degree in Nigeria.

A new programme will start shortly which will involve all Departments. We are seeking to engage with the Departments to see what added value each can bring. The Department of Agriculture, Food and the Marine can bring a lot because so many Africans live in a rural and agricultural environment. The Departments of Health, Education and Skills, Justice and Equality, also have something to add. We can consider something involving cattle and seed in agricultural promotion. A decade ago we might have considered Rwanda because it was in a post-conflict situation. Our new policy, “One World, One Future” focuses on fragile post-conflict states. Rwanda has been doing very well. We have moved into Sierra Leone where there has been recent conflict, and its neighbour Liberia. They have had conflict for the past ten or 12 years. We have moved out of Lesotho which was our longest-standing partner country, at 40 years, and Timor Leste, which had conflict. We are beginning to move to a more cutting edge engagement and seeking to build up sustainable development in these countries. While we would love to be in Rwanda, wonderful progress has been made there over the past few years, despite the terrible genocide that took place.

**Senator Fidelma Healy Eames:** That leaves scars.

**Deputy Joe Costello:** That leaves scars and takes a long time to recover from. I will certainly consider what agricultural input we might make and how we might engage with that.

**Senator Fidelma Healy Eames:** That would be very useful. I thank the Minister of State.

The Seanad adjourned at 7.55 p.m. until 10.30 a.m. on Wednesday, 9 July 2014.

