



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Déardaoin, 5 Feabhra 2015*

*Thursday, 5 February 2015*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **Business of Seanad**

**An Cathaoirleach:** I have notice from Senator Kathryn Reilly that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister for Health to discuss the provision of primary school dental services, with particular reference to the waiting times and availability of dentists visiting primary schools in counties Cavan and Monaghan.

I have also received notice from Senator Mary Ann O'Brien of the following matter:

The need for the Minister for Transport, Tourism and Sport to consider whether it is necessary to introduce a compulsory driving retraining programme for those drivers who lose a limb as a result of an accident or a medical complication.

I have also received notice from Senator Katherine Zappone of the following matter:

The need for the Minister for Social Protection to outline her view on whether the three-day rule to calculate availability for work under the rules for jobseekers' allowance is too restrictive and to indicate if there are any plans to review this rule, including a timeframe for this review.

I have also received notice from Senator Diarmuid Wilson of the following matter:

The need for the Minister for Justice and Equality to outline the position with regard to the provision of a new Garda headquarters in Bailieborough, County Cavan.

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for Justice and Equality to clarify the current position on the introduction of legislation which will allow the courts to grant periodic payments to those who have suffered injury as a result of medical negligence.

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

The need for the Minister for Health to provide an update on the position of his Department and the HSE on the provision of the Soliris drug.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Reilly, Mary Ann O'Brien, Zappone and Wilson and they will be taken now. Senators Colm Burke and Byrne may give notice on another day of the matters they wish to raise.

## **Commencement Matters**

### **Dental Services Provision**

**An Cathaoirleach:** I welcome the Minister of State, Deputy Ann Phelan, to the House.

**Senator Kathryn Reilly:** I welcome the Minister of State to the House. A plethora of issues and challenges for young people's health, such as the obesity crisis, are emerging these days. Dental health is just as much an essential issue when it comes to ensuring the future well-being of our citizens. As we all know, dental complications can lead to serious illness and disease. If the Government is serious about children and their health, it must ensure that dangers are minimised, not just for patient health but also for the savings this could bring to the cost of dental services provision in the longer term if problems are detected and dealt with at an earlier stage.

The State provides free dental services to persons under 16 years of age. Parents should be able to expect their children's teeth to be examined in second, fourth and sixth class. However, with delays in dentist visits, many children may not be seen until they are 11 or 12 years of age. By that stage, the priority will be orthodontic work. Seeing a dentist for the first time at 12 years of age or so could be too late to stop major problems with decay and gum disease. It is tantamount to closing the door after the horse has bolted. Reductions in staff and funding have led to cutbacks in the service in recent years. In my county, Cavan, this has been an issue of grave concern to many families. The local council has raised the issue with the HSE on several occasions. Collectively, counties Cavan and Monaghan are three to five years behind other counties in terms of dentists visiting primary schools. This is unacceptable.

Even though there are supposed to be screening programmes and services for persons under 16 years of age, the reality is that this is not happening. The plight of children and young adults with dental disease is being exacerbated by this failure of the HSE to meet its obligations to children to provide primary school dental services. The failure to provide timely screening and treatment of simple problems or early onset of dental disease causes severe deterioration which then requires more complex remedial treatments. The State services often cannot provide these and many families simply cannot afford them, particularly given current economic circumstances. This is the reality.

From previous ministerial responses to this issue when raised by other Deputies and Senators, I understand that a three-year project is under way to develop a new national oral health policy. It has been acknowledged that despite the introduction of the 1994 dental health action

plan, inequalities remain in the population's oral health. The vulnerability of some groups linked to low income or disabilities is of particular concern. The severe delays in dentists visiting primary schools are having a very detrimental effect on children's oral health in their formative years. Why are there such delays and problems with dentists visiting primary schools and what is being done to address this?

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Ann Phelan) (Deputy Ann Phelan):** I thank the Senator for raising this important issue. I am taking this matter on behalf of my colleague, the Minister for Health, Deputy Leo Varadkar. Dental services for children up to 16 years of age and persons of all ages with special needs are provided by the public dental service of the HSE. These services are provided through its dental clinics throughout the country. All HSE dental clinics ensure emergency care for children up to 16 years of age, treatment for special needs patients and screening of children aged 11 to 13 years. This includes referral for orthodontic services where necessary. Other services, including screening of children aged six to eight years, are provided where possible.

Following the successful recruitment of a general dental surgeon in October 2014 and a dental nurse in November 2014, the HSE public dental service is now able to operate across all locations in Cavan and Monaghan. There were particular difficulties in Virginia, County Cavan, and in Monaghan, but these have recently been addressed. The dental clinic at Castleblayney was decommissioned several years ago as part of network area reforms. This coincided with a reduction in dental surgeons employed across the Cavan and Monaghan area between the end of 2006 and 2010, including the loss of a dental surgeon at Castleblayney. Retirements, including the early retirement of the dental surgeon in Ballybay in 2011, added to the pressures on the service. Despite these severe difficulties, a level of dental service was maintained and provided at Ballybay and Carrickmacross into 2014. A new dental team was recruited and routine dental services resumed at Carrickmacross in October 2014. With a dental nurse member of the new dental team assuming duties in November 2014, routine services at Ballybay are once again being provided. The service, which is based in the dental clinic in the health centre in Ballybay, caters for the Ballybay and Castleblayney areas, for a number of national schools and also provides emergency care to eligible adolescents aged up to 16 years of age attending secondary schools in Ballybay and Castleblayney. To date the service has been following up on recall-review appointments and providing emergency care. Service frequency is two to three days a week, Monday to Wednesday, inclusive.

The service has arrears to deal with concerning children aged 11 to 13 who were in sixth class in the school year 2013-2014. Accordingly, screening is being completed in Carrickmacross, County Monaghan, and arrangements are being made to commence screening of such children in Virginia, County Cavan. It should be noted that the HSE public dental service in the Cavan-Monaghan area is not merely a school dental service as the service remit includes dental paediatric specialist care in Cavan General Hospital and Monaghan hospital, for children with special needs who are medically compromised. It also includes a dental general anaesthetic service at Cavan General Hospital for routine paediatric extraction cases, paediatric services and adult special care, oral health promotion service and care for adults with special needs.

I wish to assure the Senator that the HSE is committed to continuing to address the service challenges in providing these important primary care services in Cavan and Monaghan.

**Senator Kathryn Reilly:** The Minister of State is replying on behalf of her colleague, the Minister for Health, Deputy Varadkar. I ask that she brings to the attention of the Minister my

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queries about the arrears for children aged 11 to 13 years in Virginia County Cavan and the time line for the commencement of screening.

**Deputy Ann Phelan:** I assure the Senator that I will convey her concerns to the Minister. I take her point that perhaps a stitch in time saves nine. The earlier the intervention the greater the outcome.

### **Driver Safety**

**Senator Mary Ann O'Brien:** I welcome the Minister of State to the House. I ask the Minister for Transport, Tourism and Sport, to consider whether a compulsory driving retraining programme should be introduced for those drivers who are unfortunate enough to have lost a limb as a result of an accident or medical complications. This may seem a strange matter to raise but I refer to the wonderful work of the Department of Transport, Tourism and Sport in its efforts to reform and strengthen the pathway to learning and achieving full driving licences for able-bodied citizens. I acknowledge that I am speaking about a very small cohort of the population but they use the road along with all the other drivers.

I know of two constituents, one of whom has completely lost a limb and the other who cannot use his right leg. They both drive specially adapted cars. Can the Minister of State imagine if he had to drive an adapted car with his left leg for the rest of his life and he had permission to drive even though he might never have had to use his left leg to drive? It is a very different experience for the brain to have to use the left leg as opposed to the right leg or to use hand controls in the case of a person with no legs. The driving licence gives such a person full permission to drive. I think the Minister of State will agree that this is madness and that it is completely unsafe both for those who have, unfortunately, lost a limb and for the other drivers they may encounter.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring):** I am taking this matter on behalf of my colleague, the Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe. I thank Senator O'Brien for raising this issue. There is universal agreement that safety should be the highest priority in all areas of transport. When it comes to safety on our roads, we have to consider a range of factors which may contribute to - or endanger - the safety of road users. One of the most important factors is the capacity of the driver behind the wheel.

Driver licensing exists to ensure there is a standard of driving which is required of people driving on our roads. Skills and experience are vital. As part of the overall concern which we must have for driver qualifications, we have to recognise that medical factors can and do have an impact on the ability to drive. The legislative framework for medical fitness to drive is set at EU level. Under this framework, drivers are required in certain circumstance to notify the national driver licensing service of particular medical conditions which might impact on their driving. In cases where people who are already licensed to drive, suffer an injury or develop an illness which may impact on their driving, they are required to notify the NDLS, and also their insurance provider. There is also a responsibility on medical professionals to advise patients if an illness or injury will have an impact on their driving. Dangerous driving is a serious offence and it is important that drivers with medical conditions which might impact on their driving are aware of this.

Last year, the Road Safety Authority published a detailed set of guidelines on health and fitness to drive entitled, Medical Fitness to Drive Guidelines. This document is on the RSA's website and it is highly recommended. This document sets out in detail the responsibilities of drivers, health care professionals and the NDLS in relation to health factors and driving. This includes the correct approach in cases of injury.

Current practice requires the health care professional to inform the patient of an impact to his or her driving as a result of a medical or physical condition. Where appropriate - as it would be in the case of a loss of limbs - an assessment will be made as to whether the individual would be fit to drive with certain vehicle modifications, and what modifications would be appropriate. A GP may look for specialist opinion including that of an occupational therapist to be assured that any disability resulting from the loss of a limb or the loss of function can be mitigated so that the person can continue to drive.

In cases where a vehicle modification is required, the NDLS must be notified. There are several codes which can be marked on a licence to indicate the modifications which are required and the appropriate code will be added to the person's licence. The Minister is satisfied that the current system is working well and that there is no need for the mandatory retesting suggested by the Senator. However, he is willing to retain an open mind and if evidence were to suggest that policy needed to change, he would of course consider it.

**Senator Mary Ann O'Brien:** I thank the Minister of State and I thank the officials in the Department for taking the trouble to put together a very good reply. I have read the RSA's detailed set of guidelines. However, I ask the Minister of State to convey my concerns to the Minister. Even though I agree with the response, the reality is that a person could this morning drive a modified car. I suggest that instead of retesting these drivers they could be required to take ten lessons. The Irish Wheelchair Association has specialist trainers. I would be a lot happier if such training was mandatory. The rules are somewhat soft because a person could drive straight away. I question the safety aspect.

**Deputy Michael Ring:** I will convey the concerns of the Senator to the Minister. I have met many people in my own constituency over the years who have found themselves in this tragic situation. The scheme for the modification of vehicles is helpful. It is important to help bring these people back into the workplace and into society and to help them to continue with their lives. In my personal opinion, I agree with the Senator that safety is the number one priority. We must also consider the individual whose lifestyle has changed as a result of a tragic accident and who has lost a limb. That person may be able to continue working but may need to be able to drive to work. We need a balance of all interests. I agree that there should be a training programme because it should not be possible for a person who has lost a limb to get behind the wheel without some retraining. The Minister has stated that if further legislation is necessary he will consider that option.

### **Social Welfare Code**

**Senator Katherine Zappone:** If I had a disappointment that the Tánaiste or the Minister of State at the Department of Social Protection was not here to take this motion, it has dissipated because I have never had the opportunity to have an exchange with the Minister of State, Deputy Ann Phelan.

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I am asking the Minister to outline her view on whether the three-day rule to calculate availability for work under the rules for jobseeker's allowance is too restrictive and blunt an instrument for its purpose, and whether there are any plans to review this rule and the timeframe for same. As the Minister of State, no doubt, is aware, under the current rules a person who works for three full days a week is entitled to payment for two days of jobseeker's allowance whereas a person who works for one or two hours a day for five days a week is not entitled to any jobseeker's payment. Is it not reasonable and fair that a person who works eight hours a week should be considered to have worked the equivalent of a full day and is entitled to four days of jobseeker's payment?

A mother who is a leader in my community in Tallaght west contacted me on this issue. I know her personally, she is an extraordinary leader and volunteered at board level with An Cosán, the organisation in west Tallaght with which I am associated. She has been working part-time for 12 years, for nine hours a week. She was allowed to supplement her one-parent family payment with her earnings from her part-time work, but since her child is now over 18 years, she no longer qualifies for the one-parent family payment. She needed to register for the jobseeker's allowance and was initially disqualified, as many other women are, because she was working five days a week although she only worked nine hours. Her nine hours of part-time work were spread over five days. As a consequence she has had to give up her part-time work to receive jobseeker's payment. Even for one woman, that is a tragedy, not to mention the significant number of women this is impacting on now and will impact on in the future. Is this rule beneficial? Will it help to get her into full-time employment or halt her progress towards full-time employment? I am afraid that in Ireland the three-day rule regarding part-time work simply does not correspond to the reality of people's - women's - opportunities to participate in the labour market and the characteristics of part-time work. This is largely a women's issue, though I understand it impacts on men as well.

The labour market is changing and especially women's access to employment has become more fragmented with lower pay, fewer hours and less job security, a key point made by Professor Jill Rubery at the recent ESRI Geary lecture. Many women who were previously in receipt of the one-parent family payment do not qualify now as their children are over 14 years of age and do not qualify for the payment of the jobseeker's transitional payment. There are major barriers to re-entering full-time employment after a significant period spent outside of it. There should be supports available for these women to re-access the labour market rather than restrictions to accept work. I imagine that the Tánaiste, in particular, is very keen on these issues.

I believe that part-time work provides a positive attachment to the labour market and hence should not be discouraged among long-term jobseekers who are genuinely seeking full-time employment. This is impacting on thousands of women and some men throughout the country. I would appreciate the Minister's consideration for the issue and an update if any review has taken place.

**Deputy Ann Phelan:** I am taking this matter on behalf of the Tánaiste and Minister for Social Protection. The jobseeker's benefit and jobseeker's allowance schemes provide income support for people who have lost work and are unable to find alternative full-time employment. The 2015 Estimates for the Department of Social Protection provide for expenditure this year on the jobseekers' schemes of €3.01 billion. It is a fundamental qualifying condition of both schemes that a person must be fully unemployed for four in any period of seven consecutive days, so a person working more than three days a week will not qualify. It is recognised that a changing labour market has resulted in a move away from the more traditional work patterns,

resulting in an increase in the number of persons employed for less than a full week. This is an important policy issue for the Department of Social Protection but any changes to the current criteria could have significant cost implications for the jobseeker's schemes.

In 2011, the advisory group on tax and social welfare was established to harness expert opinion and experience to address a number of specific issues around the interaction of the tax and social protection systems. The group was also tasked with examining how the social welfare system can best achieve its goals of supporting persons through periods of involuntary unemployment, while incentivising work and disincentivising welfare dependency. Subsequently the Tánaiste asked the group to broaden its remit to include issues relating to atypical working patterns. In the course of its work the group looked at the current system which, in allowing people to work on three days a week and still get welfare support, is a very significant support to the functioning of the labour market and those who work part-time.

In this area it is often argued that the schemes should move to a system where hours, half-day, income levels, or a combination thereof, are used for measuring the level of employment engaged in by scheme recipients. It is suggested that such alternative approaches have the potential to offer greater support to the small numbers of workers whom the current system cannot accommodate.

On the other hand it may be argued that if such changes increased the flexibility of the system and allowed greater levels of access to income support, counterbalancing measures would have to be introduced to protect the integrity and fiscal sustainability of the jobseeker's schemes. Such measures could have the effect of removing support from a much larger cohort of workers. For example, if the current system of allowing three days of work in any seven days were replaced by an hours-based system, then the threshold for access to the schemes could not be 24 hours as this could significantly increase claim numbers and cost. However, any move to an hours-based system with a threshold of less than 24 hours could disenfranchise claimants currently working for three days.

Another issue of note would be the effect of any change on labour market practice. The jobseeker's schemes play a very important role in supporting persons to gain a foothold in the labour market and we must ensure that any development of the system continues to support people to sustainable, full-time jobs rather than facilitating any erosion of job quality.

**An Cathaoirleach:** Does the Senator have a question?

**Senator Katherine Zappone:** What a disappointment. I hear what the Minister of State has said on behalf of the Tánaiste. There are no plans to alter the schemes. I think I put my case well. Others have also put the case well. The issue is that it will cost to make a change. Yes, it probably will cost, but on the other hand, it is currently costing the State, particularly for women who are moving from the one-parent family payment to the jobseeker's allowance in light of other changes the Tánaiste has made.

It is important to incentivise work and there is no question about that. We do not have enough time to argue the logic of the case put forward by the Minister of State, who argued that to calculate the time at work in hours rather than days will disincentivise people to work. It really means that it might cost more because more people will access it. That is the bottom line.

I am disappointed. Having said that, is it correct that the advisory group on tax and social welfare is considering the issue and might come up with some better arguments as to why it

should be calculated on the basis of hours rather than days? Perhaps it could come up with suggestions or even a special scheme to incentivise and activate women who have moved from the one-parent family payment to the jobseeker's allowance, so that in the case of this particular woman, there might be something for her and those in similar circumstances. At present there is nothing for them.

**Deputy Ann Phelan:** I certainly understand the Senator's frustration. Before I was a Member of the Dáil, we would have always argued about the inflexibility of the social welfare system. The social welfare system seems to deliver for the maximum number on its books. To be helpful to Senator Zappone, I encourage her to continue in her effort to have the staff in social welfare look at the small cohort of people who find themselves in these circumstances.

They might monitor them over their interaction with the social welfare system. In that way they could see if minor changes could be made to help such people. We may not necessarily need to make major changes to manage the small group referred to by the Senator. I would encourage the Senator to follow her conviction in this matter. She will perhaps find herself with a deal of support, so I encourage her to continue.

**Senator Katherine Zappone:** I thank the Minister of State, from woman to woman.

### **Garda Stations**

**Senator Diarmuid Wilson:** I welcome the Minister of State to the House.

A recent report on the Bailieborough Garda station building, in County Cavan, found that it was not fit for purpose and was in a dilapidated state. The current station, which is located in Barrack Street, is a former RIC barracks and is totally inadequate. Portakabins are being used to provide extra space and there is insufficient parking for Garda vehicles, members' private cars or the general public.

That Garda station, which is a district headquarters, should have modern, state-of-the-art facilities to accommodate gardaí and others working there, as well as members of the public who have reason to call to the station to transact their business.

My colleague in the Lower House, Deputy Brendan Smith, has raised this issue on a number of occasions with the Minister for Justice and Equality, Deputy Frances Fitzgerald. In her most recent reply she stated that the Garda Síochána authorities, who are responsible for the Garda district headquarters at this particular location, will continue to pursue this matter in the context of An Garda Síochána's identified accommodation priorities and in light of available resources within the Vote for the Office of Public Works.

I am aware that the Commissioners of Public Works, on behalf of An Garda Síochána, have recently requested submissions from property owners or developers wishing to provide a usable site in the order of 0.5 hectare, or buildings on comparably sized plots, for the provision of a new Garda station facility in Bailieborough. I appreciate that it will take time to get submissions. I understand that the end of the month is the deadline for them, but even after that they will have to be checked and planning permission must be sought. However, I am anxious to find out if provision has been made in this year's budget for a new Garda headquarters in Bailieborough. It should be progressed as swiftly as possible.

Deputy Brendan Smith has raised this matter in the Dáil on a number of occasions, and we have had meetings with local residents concerning it. Councillors Fergal Curtin, Clifford Kelly and Shane P. O'Reilly have contacted us continuously about this matter. We are most anxious to see that this much-needed facility is progressed for staff who have to work there, as well as for the general public. The new facility should be provided as a matter of urgency.

**Deputy Ann Phelan:** The Minister for Justice and Equality, Deputy Frances Fitzgerald, wishes to thank the Senator for raising the matter and regrets that she is unable to be present for this discussion.

The programme of replacement and refurbishment of Garda accommodation is based on requirements which are established by An Garda Síochána. This programme is advanced in close co-operation with the Office of Public Works, which has responsibility for the provision and maintenance of Garda accommodation. Provision for expenditure on capital projects, including the provision of Garda accommodation, is provided for in the Vote of the Office of Public Works.

In that context, the Minister has been informed by the Office of Public Works that the acquisition of a site for development of a new district headquarters in Bailieborough has been identified by An Garda Síochána as a priority for 2015.

The Minister has also been informed that a review of State-owned sites in the area was conducted to identify any suitable sites for the development of a new Garda station in Bailieborough. No suitable State-owned site was identified. The Office of Public Works has further advised the Minister that a notice has recently been published in local and national media seeking offers of suitable sites.

The Minister has been advised by the Garda authorities that the provision of a new Garda district headquarters in Bailieborough will continue to be pursued in the context of An Garda Síochána's identified accommodation priorities, the successful acquisition of a suitable site and in light of available resources within the Vote of the Office of Public Works.

With regard to the existing station at Bailieborough, the Garda authorities have advised that while a long-term solution to the accommodation needs at Bailieborough is being progressed, Garda management is actively engaged with the Office of Public Works with a view to improving, in the more immediate term, the working conditions at Bailieborough Garda station.

In that context, any proposals for refurbishment works at the existing station will be progressed in the context of An Garda Síochána's identified accommodation priorities and the availability of funding within the Vote of the Office of Public Works.

**Senator Diarmuid Wilson:** I thank the Minister of State for her reply. She stated that while this process is being pursued, the OPW is working with An Garda Síochána to try to improve working conditions for members there. I would also include the general public who have to use those facilities. This is one of only two district headquarters that still remain within County Cavan. The other district headquarters, in Cavan Town, is coming under pressure due to the closure of the Ballyconnell station. As a result, the district jurisdiction for that area has now been moved to Cavan Town, so it is difficult to find accommodation for personnel who have moved.

I welcome the fact that while this process is being pursued, conditions will be improved.

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However, we do not want that used as an excuse for putting the matter on the long finger. The facility is badly needed and long overdue. The Minister of State should emphasise to the Minister the necessity for providing this new accommodation as quickly as possible.

**Deputy Ann Phelan:** I thank the Senator again for raising this important matter. As I indicated earlier, the programme of replacement and refurbishment of Garda accommodation is based on agreed priorities which are established by An Garda Síochána. The necessary work is progressed in co-operation with the Office of Public Works. That office has responsibility for the provision and maintenance of Garda accommodation. Provision for expenditure on the provision of Garda accommodation is provided for in the Vote of the Office of Public Works.

The Office of Public Works has informed the Minister that the acquisition of a site for development of a new district headquarters in Bailieborough has been identified by An Garda Síochána as a priority for 2015.

The provision of a new Garda district headquarters in Bailieborough will continue to be pursued in the context of An Garda Síochána's identified accommodation priorities, the successful acquisition of a suitable site, and in light of available resources within the Vote of the Office of Public Works.

I assure the Senator that I will pursue his concerns with the Minister.

*Sitting suspended at 11.09 a.m. and resumed at noon.*

### **Order of Business**

**Senator Maurice Cummins:** The Order of Business is No. 1, Regulation of Lobbying Bill 2014 - Committee Stage, to be taken at 1.15 p.m.

**Senator Paschal Mooney:** Fianna Fáil agrees with the Order of Business as outlined by the Leader. This week marks a momentous occasion in the lives of the people of both Dún Laoghaire and the island of Ireland because of the decision by Stena Line to shut down its ferry link with Holyhead. This will bring to an end a 204-year history - going back to 1811 - of ferry services in which it was the main ferry port for embarkation to and arrival from the United Kingdom. Like many of my generation and those before and since then, I had occasion to use the boat to England that went from Dún Laoghaire to Holyhead and then the train to Crewe, at which one changed for the train to London. It is a very sad day and I am sure the Leader and Members will agree that we should mark the passing because of the significance of the occasion.

**Senator David Norris:** Hear, hear.

**Senator Paschal Mooney:** From listening to representatives of the chamber of commerce in Dún Laoghaire, I understand that because cruise line business into Dún Laoghaire has been growing, this has helped considerably to minimise the impact of any potential job losses. I was also interested to discover that originally Dunleary was the name of the area and it was only on the arrival of King George IV in 1820 that the good citizens of Dunleary decided to rename the town as Kingstown. The Irish Free State then of course reverted to the original Dún Laoghaire. I worked in RTE for a long time and when I was there first, it had a pronunciation unit. To this day, RTE people are the people who refer to that area as "Dún Laoghaire", whereas most people

refer to it as “Dunleary”. There is a similar situation in Portlaoise, where most people who live there call it “Portlaois” but, according to RTE, it is “Portlaoise”.

In addition, I wish to praise the Minister, Deputy Reilly, for holding firm against what seems to be an onslaught from Europe - I am sure the Leader will comment on this - in respect of standardised tobacco packaging. The Seanad passed that legislation last year and I understand it is due to come before the Dáil later this month. I am glad to note the Minister is holding firm, despite what appears to be unprecedented opposition from at least ten European Union member states. It goes to show what Senator Crown, a leading advocate of that legislation, said at the time it was introduced here to the effect that the tobacco industry is the enemy and is very well resourced. It is obvious that the tobacco industry’s lobbying skills have managed to have a great impact in a number of member states. However, the fact that the United Kingdom and France are moving towards adopting similar legislation will strengthen our resolve.

Finally, I wish to bring up again an issue I raised earlier this week to which the Leader had responded positively, that is, the possibility of the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, coming before the House. As Members are aware, over the past 48 hours, he has been referring to the strong relationship between the United Kingdom and Ireland and about the fears people in this country have about the possibility, on foot of the holding of a referendum after the elections in the United Kingdom, of the United Kingdom exiting from the European Union. I am particularly pleased that the Minister is visiting Scotland today because I believe we have somehow undervalued the historic relationship between Scotland and Ireland. As the North of Ireland is in one sense a shared jurisdiction in terms of a shared interest in which Scotland has a strong historical role, that visit is particularly significant and I welcome it. My original request was about the ongoing crisis in Ukraine, which has been escalated even further by the US Defence Secretary-in-waiting saying he is “inclined” towards supporting Ukraine with arms. I consider that to be an escalation that is not helping in any way towards a peaceful resolution in that troubled area. However, when the Leader is communicating with the Minister, Deputy Charles Flanagan, in this regard, it would be an opportunity for the Minister both to give an outline of the Irish position on the Russian sanctions and about the impending referendum on the European Union. It would be an opportunity for the Minister to restate Ireland’s position in this House - which I believe would be supported overwhelmingly by the Irish people - namely, that we would support continuing membership of the European Union by the United Kingdom if for nothing other than purely selfish reasons.

**Senator Ivana Bacik:** I join Senator Paschal Mooney in marking the Stena Line decision to close its Dún Laoghaire-Holyhead ferry link. I think all of us have memories of taking that boat from Dún Laoghaire to Holyhead. Certainly the growth of the cruise market in Dún Laoghaire has been very positive but it is none the less worth marking the end of an era in terms of that particular route.

I ask the Leader for a debate on EU developments in light of what appears to be an increased escalation of tension between Athens and the European Central Bank following the ECB decision announced last night after the meeting between Mario Draghi and the Greek Finance Minister on Greek bonds. This is a situation that is developing day by day and I would like if we could have a debate on what it means for the European Union and Ireland. As Senator Paschal Mooney has said, there are other developments in terms of the British referendum which would have a potential seismic change within the European Union. In the coming weeks it would be good to have the Minister with responsibility for European affairs come to the House to debate these and other issues around the development of the European Union.

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I thank all the colleagues who attended the briefing I hosted yesterday with the Irish Penal Reform Trust on spent convictions. We heard some very eloquent testimonies from individuals whose criminal record has been a real difficulty, no matter how long in the past or how minor, because we still do not have spent convictions legislation in place in Ireland. The Bill passed through the Seanad. It was commenced in the Dáil and completed Committee Stage there but is awaiting Report Stage due to Government amendments being drafted to ensure it is compliant with the European Convention on Human Rights, following a decision in a UK Supreme Court case. I will certainly renew calls on the Minister for Justice and Equality to ensure the Bill completes its passage through the Dáil without delay because there are many people in Ireland who are affected by this and who, due perhaps to very old and very minor convictions, are hampered in employment, education and travel prospects. This is a matter of real concern and I thank colleagues who attended the briefing.

I commend the Gay and Lesbian Equality Network, GLEN, and the Minister for Education and Skills, Deputy Jan O'Sullivan, who yesterday launched a new anti-bullying resource for primary schools. Given the events of recent weeks at Coláiste Eoin, which Senator David Norris and I raised, it is great to see a national resource being rolled out for primary schools to tackle homophobic bullying and bullying generally. It is an issue we have been speaking about this week in the House in the context of the Gender Recognition Bill. I am sure we will return to it when speaking on the Bill next week, but I just want to mark the launch of that document.

I wish to note that tomorrow is international day of zero tolerance against female genital mutilation, FGM. I spoke on this issue earlier this week in the House and noted that in Egypt we have seen the first ever conviction. For many women and girls worldwide this remains a serious abuse of human rights issues. I note the great work that organisations such as AkiDWA and the Irish Family Planning Association are carrying out in Ireland to tackle FGM.

**Senator David Norris:** I am appalled by the action of the ECB in issuing moves and statements that are directly intended to intimidate the Greek Government. The people of Greece have spoken and they should be listened to. It is utterly disgraceful that countries like Ireland and Portugal are not standing in solidarity with Greece but are actually doing our best to sabotage them because they know that if the Greeks get a deal, Ireland and Portugal and other countries like us would have been proved to have been wrong in their approach to the ECB. We should be very careful of these institutions that are not democratically accountable. It is appalling that Germany is ruling the roost in Europe and dictating to everybody what should happen. We have forgotten about the people of Europe. I said many times in the House that the mistake made by the European Union was to set out primarily to protect the interests of financial institutions when they should have been protecting the interests of the people of Europe. The people have spoken in Greece, they will speak in Spain and I believe they will speak also in this country.

With regard to the mail boat from Dún Laoghaire, I feel in a sense that Senator Paschal Mooney has stolen my clothes as I intended to raise this issue. I was very struck and very disappointed to hear this news. I have known this ferry for well over 60 years. I know that it moved from Howth to Dún Laoghaire because of questions of the draught for the boats in the 1830s and now it is moving back into the city of Dublin. The transport service is by boat but there were strong literary reverberations there. In the opening of *Ulysses*, Stephen Dedalus looks out over the parapet of the tower at Sandycove and watches the mail steam packet rounding the harbour, and at the end of Brendan Behan's triumphant novel, *Borstal Boy*, when he comes back to Ireland, the first thing he sees on the mail boat are the seven fingers of the chimneys of the old Pigeon House sticking up over the horizon. I remember the old boats, long before Stena,

when it was the *Princess Maud*, that relic of the 1920s, the *Cambria* and the *Hibernia*. My late uncle used that regularly and always had the same cabin 1A reserved for him. I remember after Beeching's cuts in England my uncle wrote ahead to the crew to ask for his usual porters and the station master wrote back and said: "Dear Colonel Fitz-Patrick, I am afraid that due to Dr. Beeching's cuts there is only one porter at crew." My uncle wrote back and said: "Due to the deprivations of my household and the fact that I no longer travel in the style to which I used to be accustomed, one porter will be quite sufficient. I will expect him at the door of my carriage."

I wish to comment briefly on the question of Portlaoise and Maryborough and Dún Laoghaire and Kingstown. Dún Laoghaire is Dún Laoghaire. That was its original name and it was perfectly appropriate that it would go back to it after the British left here. But Maryborough was built as a defensive force by bloody Mary, the Catholic queen, wife of Phillip II, and that was its original name. I always think of it as Maryborough. It is in my ancestral county of Laois.

**Senator Hildegarde Naughton:** I welcome this morning's announcement from the European Commission's winter economic forecast which predicts Ireland remaining as the fastest growing economy in Europe, with an announcement of a GDP growth of 3.5% which will exceed expectations this year. This is very positive news for Ireland and shows the recovery which is continuing here. I welcome also this morning's announcement of more than 150 jobs, with 50 new jobs being created in Galway by the leading health care company Lifes2good. It has invested €5 million which will go towards the creation of 50 new jobs in the Galway region alone. This is proof that the Action Plan for Jobs is working given that these figures are commended in the European Union and nationally.

**Senator Kathryn Reilly:** In an article in today's edition of *The Irish Times*, the Minister of State, Deputy Dara Murphy, who has responsibility for data protection, was asked - I think it was before the recess - about the revelations by leaked documents from whistleblower Edward Snowden that the British spy agency, GCHQ, routinely spied on Irish communications passing over the major subsea telecommunications cables that link Ireland and Britain. This in itself was highlighted by a number of groups such as Digital Rights Ireland as mass surveillance given that essentially every transmission by the Internet in Ireland has been monitored. When asked about this the Minister of State said the Government had not made any comment and was not going to make any comment.

That is an outrage. This is a serious issue. We do not want this issue swept under the carpet with no Government comment. I raised this issue before the recess and it was raised as a matter on the Adjournment with the Minister for Justice and Equality who stressed the role of the Department of Foreign Affairs and Trade in bilateral relations. A letter from the Secretary General of that Department to the Joint Committee on Foreign Affairs stated that it was generally understood that friendly relationships between the states, including between Ireland and Britain, include acceptance of the principle that the privacy of communications must be respected. Essentially what these revelations show is that the principle of privacy of communications was violated. Therefore, it is important that we get some further comment on this issue. I do not think that what is attributed to the Minister of State in *The Irish Times* is adequate. I support calls for the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, to come before the House to discuss this issue in terms of the bilateral relationship between Ireland and Britain, to outline what discussions are taking place and whether the Government will make further comment on the fact that this mass surveillance is taking place.

**Senator John Whelan:** Two weeks ago, the Cathaoirleach was kind enough to permit a

Commencement debate in this House on access to expensive drugs and medicines for people who urgently require them. I also acknowledge the role of my colleague, Senator Thomas Byrne, in that debate. I thank the Taoiseach for yesterday's intervention, as he phoned Ms Mary Gorman in Ballinakill and confirmed to her that the Soliris drugs she requires for her rare blood disorder will be provided by the HSE. I am delighted we have had some role in achieving that outcome in a relatively short space of time - in the course of a fortnight - as the issue has rolled on and impeded the good health and quality of life of Ms Gorman and others for more than two years. I acknowledge the interest and intervention of the Minister for Health, Deputy Varadkar, in the matter, as he took our representations very seriously.

There is a broader policy issue and we cannot have cases where people's personal health and medical requirements must be politicised and require representation or lobbying - in essence, being turned into a political football - before we can achieve a positive outcome. I note Senator Colm Burke's role in the matter, as he pointed out that the cost of medicines for the HSE has skyrocketed over the past decade from €500 million to in excess of €2 billion. I welcome the soundings emanating from the Minister for Health that if the drug companies and large pharmaceutical corporations do not cop on and pull in their horns before achieving realistic and fair pricing for their medicines, he is willing to introduce legislation to force them to do so. It is the only way we can solve the problem and we cannot do that on an individual basis. It is a policy issue.

I request that we invite the Minister for Health to the Seanad for a full discourse on the issue. It should not relate to a single individual but the entire problem of the cost of drugs to the Irish taxpayer and the people who require them.

**Senator Marie-Louise O'Donnell:** I stand to relay a bit of very good news. We have a lottery regulator, Mr. Liam Sloyan. Although he exists, I cannot find him because he has not yet taken up his position. He exists in the ether. I am delighted he exists because he has much to answer for and to look after with the lottery, which was taken out of Irish hands and sold in order to build the children's hospital.

**Senator David Norris:** We have not seen that yet either.

**Senator Marie-Louise O'Donnell:** We have not seen one brick of that. Mr. Sloyan comes from an actuarial background. I am delighted at his appointment, which came on 17 November.

**An Cathaoirleach:** Is there a question for the Leader?

**Senator Marie-Louise O'Donnell:** Yes. He was very kindly going to answer the question yesterday and I now have the answer. The Irish lottery has seen much debacle and I just wanted to let Senators know that although the regulator exists, he has not yet taken office. It is being dealt with by the Department of Public Expenditure and Reform.

There is a second issue which is not such good news. Will the Leader invite the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, before the Seanad to tell me about the people's forum on Irish Water? We had a wonderful people's forum called the Constitutional Convention, so we have a template, and we need a people's forum very quickly before we start billing people for their water. I would like to see that initiated and put in place in order that people can monitor Irish Water in all the ways it needs to be overseen, especially with regard to the idea that it should never be privatised.

**Senator Diarmuid Wilson:** It is called a three-card trick.

**Senator Colm Burke:** I will follow up Senator Whelan's comments and there was a welcome development yesterday on the matter. The Senator is correct in that the cost went from €560 million or €570 million in 2000 to more than €2 billion by 2010. The good news comes from more recent figures. In the past year or perhaps 2013 - I am awaiting clarification on that - the cost has decreased from €2 billion per annum to €1.8 billion. Every other country in the European Union has also reduced its budget, despite having far lower costs for drugs. We have seen a 10% reduction but it is not enough, so we have much work to do. I agree with Senator Whelan that we need a debate on how to tackle this issue in future.

I wish to raise another matter, which is the major shortage of nurses in nursing homes. I got a note this morning from Nursing Homes Ireland indicating that there is now a requirement for overseas nurses to be used again because we cannot fill posts. In fairness, the HSE is recruiting again, which is a very welcome development that is long overdue. The problem is there are 325 people from overseas waiting to go on adaptation courses to get appropriate training for working in the Irish system. My understanding is there are not sufficient places and these nurses cannot be accommodated, despite the major shortage of trained nurses in nursing homes in both the private and public sector. I raised the issue in 2012. There are nurses specially trained for the maternity, psychiatry and intellectual disability areas but we are not specifically training nurses for elderly care. We need to change the focus and develop a course which accommodates this. I ask for a debate with the Minister on the matter. The elderly population of the country is growing at a phenomenal rate, with 20,000 people per annum reaching 65. It is an urgent matter to be dealt with.

**Senator Aileen Hayden:** I also raise the issue of the loss of the ferry service from Dún Laoghaire. I thank Senators Norris and Mooney for raising it. It is "Dunleary" to the people living there and I have lived there since I was 12. I used to listen to the sound of the foghorn from the boat as I went to sleep at night. It is a very sad day for people living in the area. I point out the work done by some of the local people in Glasthule to recognise the plight of the forgotten Irish, the people who left on the mail boat, as it was known, some of whom never returned. Last year we had a very poignant reunion in Dún Laoghaire of people who came back from London, some from the likes of Cricklewood, who had never returned to Ireland. It was a moving and evocative meeting of people whose first sight of Dún Laoghaire after all those years was Pigeon House and the Spire. Dún Laoghaire is a wonderful and very beautiful place.

When Stena took over the service in Dún Laoghaire 20 years ago there was great hope it would put in resources. Initially we had the Seacat and the main ferry service but, over time, this reverted to the main ferry service, which became seasonal. Now, we have nothing at all. That is because the service was completely neglected.

**Senator David Norris:** Hear, hear.

**Senator Aileen Hayden:** The facilities and infrastructure were not put in to preserve the service. We now have a very good and modern building, which came from the resources of the people in Dún Laoghaire, but we have no ferry service. Not to put too fine a tooth in it but the ferry service in Dún Laoghaire was neglected not just by Stena but by successive Governments which did not put in the roads structure to allow cars to use the service.

Senators have mentioned the potential sale of Aer Lingus. Stena has rationalised the loss of

the service in Dún Laoghaire on the basis that it has another service just ten miles up the road. It is not too much of a stretch to say that if the national air carrier was sold, it would suddenly seem more convenient to locate everything in Dublin, for example, than to have regional centres. It would not take too long to think about rationalising everything to London thereafter. There is a need for a task force to examine the removal of the ferry service from Dún Laoghaire and see what can be done. The answer does not lie with a cruise service and it is not just about the idea that Dún Laoghaire can become some sort of grandiose-----

**Senator David Norris:** Marina.

**Senator Aideen Hayden:** -----marina for the rich. The bottom line is that the ferry service was bringing in much-needed resources to the Dún Laoghaire Harbour Company and it was critical to the infrastructure of Dún Laoghaire which has suffered a lot of poverty and neglect. The establishment of the task force is critical. I ask the Leader to bring the matter to the attention of the Minister, Deputy Paschal Donohoe.

**Senator Diarmuid Wilson:** I agree with Senator O'Donnell about the appointment of the lottery regulator which I welcome. The sooner he takes up his position, the better. Unfortunately, yesterday, 3,500 outlets - many of which depend on the income from selling lottery tickets - lost their service when it collapsed. These difficulties have been happening for quite some time, since the lottery changed hands a number of months ago. It has not been running smoothly at all. It is time that we had a discussion in this House on the operations of the national lottery. I understand it will cost the franchise-holder over €150 million to upgrade the IT facilities. I worry as to who will be paying for this upgrade. Will it be the charities that depend on allocations from the national lottery? We were told the reason for the establishment of the national lottery was to fund charities. We need to examine the situation and hold to account those who have the franchise for the next 20 years. The Irish people are buying the lottery tickets and they deserve to see where that money is being spent and that charities will not suffer as a result of the need to upgrade the IT system which should have been built into the proposal before the franchise took over the lottery.

I welcome the fact that Dr. Pauric Travers is the mediator appointed jointly by the Department of Education and Skills and the teachers' unions to make recommendations on the impasse on the proposed changes to the junior certificate. He has made recommendations to the Department and to the teachers' unions. The teachers' unions are meeting tomorrow to consider these recommendations. I hope this situation can be resolved and that the young people of this country and the teachers are not subjected to a number of days of strikes.

**Senator Terry Brennan:** Like my Seanad colleagues, I wish to bring a bit of good news to the Chamber this morning. There is no doubt that the town of Dundalk has the skills base and the infrastructure to support major industry. This is evident from the announcement this very morning by the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, that SalesSense International is to create 100 new jobs in Dundalk.

SalesSense is Ireland's leading sales solution provider. Today, it opened a brand new state-of-the-art customer engagement centre in Dundalk. This will be the first fully cloud-based centre in Europe. It will create 100 new jobs for Dundalk, the surrounding area and the north-east region. SalesSense is an indigenous Irish company which has gone from strength to strength. This announcement is a great boost for Dundalk and the region. It adds to our reputation as a centre for technology and industry-----

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

**Senator Terry Brennan:** No, I am the bearer of good news. As the recovery begins to take hold, the north east is attracting investment from many major companies. Many regions of the country are showing some increase in the number of jobs, although some Senators may disagree. The north east is definitely punching above its weight and for very good reasons, in my opinion.

I wish to be associated with the regrets expressed by colleagues at the ending of the Stena ferry service from Dún Laoghaire. My family and I have used it on several occasions. It is a big loss for Dún Laoghaire and for the tourism infrastructure of this country and it will have ramifications for the tourism industry in general.

**Senator Trevor Ó Clochartaigh:** Aontaím leis an méid atá luaite ag Seanadóirí maidir le cursaí Stena i nDún Laoghaire. It is a very disappointing turnaround that Stena is discontinuing the services from Dún Laoghaire. I think of the Irish people who have been forced to emigrate and work in the UK, in particular, and possibly in mainland Europe, who use the service regularly. It is unfortunate they will no longer have that option. The emigration figures mask the backslapping in Government circles about the increase in jobs because, on closer examination, more people would be unemployed in the west if it were not for emigration. It is a pressure cooker scenario in that emigration has let the Government off the hook.

I call for a debate on an industry that has huge potential, the greyhound industry. We debated this matter previously and we heard about difficulties in Bord na gCon which were to be addressed and rectified. We were told about an overhaul that was to happen in the organisation. It would be useful to have the Minister of State, Deputy Tom Hayes, come to the House to discuss how the work is proceeding, whether the targets set down have been reached, whether the debt restructuring has been adhered to and if the future is rosy for that industry on which so many people depend. A large number of charitable organisations and other fund-raising groups use the greyhound tracks as venues for events. The Irish Greyhound Owners and Breeders Federation is a significant grouping in rural Ireland. The future of Bord na gCon and the greyhound industry in general would be a good debate which may also be timely.

**Senator John Kelly:** I support the comments of Senator Ivana Bacik that we put pressure on the Minister for Justice and Equality to progress the Spent Convictions Bill 2012. This Bill seems to have come to a standstill while the Government is considering amendments; three years have passed. I cite the example of a person who was 17 years old 18 years ago and was involved in a brawl at a disco. He is now 35 years of age and because he has a conviction for what I would consider to be a simple offence, he cannot get house insurance. That is just one simple example of the current situation. Until such time as the Bill is progressed, people like him and many others will be victims. I call on the Leader to put pressure on the Minister to progress this legislation. I know she wants to do so but I do not know whether it is a case that civil servants are holding up the show. There are victims as a result of inaction.

**Senator Paul Bradford:** I support the comments of Senator Ó Clochartaigh with regard to the greyhound industry, an industry in which our Leader has an interest. We have briefly discussed the industry on a number of occasions but it might be helpful if we asked the Minister of State, Deputy Tom Hayes, to come to the House to give an update on the developments on the proposals and plans, and, indeed, on the problems which apparently exist in some sections of the industry.

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I refer to a motion which is No. 58 on the Order Paper in the Leader's name, that Seanad Éireann shall consider the report of the Committee on European Affairs on the matter of the voting rights of Irish citizens abroad. This was proposed last November. It would be very useful to have such a debate in advance of the various ministerial visits throughout the world over the St. Patrick's Day period. Every Minister and politician who will be travelling abroad, be it to New York, Sydney or elsewhere, to do very valid work will come into contact with young Irish people, in particular, and perhaps second-generation Irish who are interested in the concept of having a vote in Irish elections. The Minister of State, Deputy Deenihan, has made relatively strong commitments in this regard. I am not sure whether the thinking is fully in accordance with Government policy but I believe it would be useful to debate it.

I have mixed views on the matter. An old maxim implies there should be no taxation without representation. One must delimit how broad the franchise should be. The Leader is now considering for debate a report by the Joint Committee on European Affairs. It would be useful to have this in advance of the annual St. Patrick's Day period when there will be so much interaction between the Irish at home and abroad. Perhaps the Leader will try to facilitate it with the Minister of State, Deputy Deenihan, or the Minister, Deputy Flanagan. There might be a slight difference of opinion and emphasis between the two.

**Senator Tony Mulcahy:** With regard to the early childhood scheme, and particularly the free school year, I am aware that representatives of the Association of Childhood Professionals will be protesting here next week. Senator Keane will be addressing them, as far as I am aware. The pay under the early childhood scheme is €62.50 for 15 hours contact work with children for 38 weeks, or 183 days, per year in the school calendar. That works out at €4.17 per hour. Those concerned do not get paid for the raft of compliance documentation they now have to fill out to adhere to some of the regulations associated with these schemes and services. Each member of staff must have a qualification at FETAC level 5. The majority of people running the schemes must have a degree or diploma.

Our councils have a role to play in this regard. There are many crèches and child care facilities operating in — dare I say it — the black economy that do not have the correct planning permission. The Minister, Deputy Reilly, should probably come to the House to explain how he is dealing with this issue, or how he intends to make progress on it.

The operators of a certain scheme who wrote to me stated the service currently has two children diagnosed with special needs. One needs one-to-one care at all times and was allocated only six hours per week. The scheme pays for one of its own staff for the other three days, covering the extra nine hours per week. The second little boy was allocated only three hours after Christmas and he was diagnosed as having special needs early last year. He gets one session per week from Enable Ireland. As a parent, I believe a significant problem is surfacing in this area and the Government needs to address it. I ask that the Minister, Deputy Reilly, come to the House to give us a presentation on it.

Senator Trevor Ó Clochartaigh raised the issue of emigration. Will the 20,000 public servants being let go in Northern Ireland be emigrating?

**Senator Trevor Ó Clochartaigh:** It is not 20,000.

**Senator Tony Mulcahy:** Sinn Féin plays one style of politics down here but does not tell us the rest of the story. The 20,000 people being let go in Northern Ireland-----

**Senator Trevor Ó Clochartaigh:** It is a voluntary programme.

**Senator Tony Mulcahy:** -----60,000 here.

**An Cathaoirleach:** Senator Mulcahy without interruption.

**Senator Tony Mulcahy:** This country is one big country.

**Senator Trevor Ó Clochartaigh:** The Senator should talk to his party leader about that one.

**Senator Rónán Mullen:** We should have a debate on debt, mortgages and home repossession. This is an ongoing issue that is raised in these Houses. Of particular concern is the manner in which the courts are dealing with personal debt and family home mortgages. The Personal Insolvency Act 2012 sought to address these issues by reforming bankruptcy law. I have criticised that Act in the past as ineffective. Concerns expressed by me and others in this House have been borne out by the low take-up of the debt packages of the Insolvency Service of Ireland.

Leaving aside that flawed legislation for the time being, I wish to focus today on those debtors who, for whatever reason, do not or cannot avail of a personal insolvency package under the provisions of the Act. For these people, the deluge has started, with banks pursuing mortgage defaulters with vigour. In Galway Circuit Court before Christmas, more than 70 cases were brought before the county registrar. For debtors who invariably cannot afford legal representation, being dragged into court is a deeply stressful experience to add to the stress they are already under. The court approaches debt and mortgage applications in the typical adversarial manner, with barristers in legal garb and with the county registrar and Master of the High Court seated on a dais sitting in judgment. The affidavits are opened and personal details are read out. Judgment orders, orders for possession and well-charging orders are moved. While the county registrar and the master have the power to adjourn matters for two months regarding applications to the Insolvency Service of Ireland, many cases are not amenable to debt arrangements under the Act.

There is or can be a more humane way of dealing with personal debt in our courts. The mechanism of less adversarial hearings that is found in the family law Act of 1996 should be used in personal debt cases. That Act provides for case-management-style hearings to be conducted around a conference table, not in open court and not in formal court dress. The county registrar presides over the hearing. Using similar provisions to deal with personal debtors would reduce their stress and allow the possibility of exploring settlement without having to air personal financial details in open court.

I am asking for a debate on this and would like to hear what the Government thinks about it. The proposal would not interfere with creditors' right of access to the courts or prevent them from claiming property that has secured a debt; it is aimed at debtors who are, in the main, unrepresented by lawyers and whose family home may be at risk. They deserve better than a 19th century Dickensian courtroom experience. There are humane ways of resolving personal debt without the humiliation of court hearings in public. I would welcome the Government's response to this and an early debate.

**Senator Jim D'Arcy:** I ask the Leader once again to invite the Minister of State at the Department of Finance, Deputy Simon Harris, to the House to discuss diesel laundering and

sludge, the waste product. I welcome the fact that Uisce Éireann has said there is no risk at present to the water in Dundalk but, that said, the little streams and tributaries supplying the water are polluted. This is damaging to animals in the fields in addition to humans. We need further reports. I welcome the fact that the leader of Sinn Féin, Deputy Gerry Adams, has called diesel launderers criminals who need to be brought before the courts. That is a welcome development after three years of talking about this until the cows came home. It is better late than never. Furthermore, I welcome the fact that-----

**Senator Trevor Ó Clochartaigh:** The Senator will be filling in the membership form so.

**An Cathaoirleach:** Senator D’Arcy without interruption.

**Senator Jim D’Arcy:** Deputy Adams praised the “diligence” of Irish Water in investigating this and bringing forward the report, in addition to its commitment to improve the water further. Perhaps he will be joining us; one would never know.

**An Cathaoirleach:** Is the Senator seeking a debate on that matter?

**Senator David Norris:** A Fine Gael–Sinn Féin coalition; what a prospect.

**Senator Jim D’Arcy:** I am not talking about a coalition but about coming in.

**An Cathaoirleach:** On what is the Senator seeking a debate?

**Senator Jim D’Arcy:** It is important that we have the debate because everybody seems to be talking now about the VAT rebate. We need a significant discussion on that and to hear the Minister’s views on it. When Deputy Adams talks about this, he is well aware that since it is a Treasury matter, his masters in the North, Her Majesty’s Government, are responsible for it. Therefore, we need to get talking to them as well.

**Senator Catherine Noone:** I wish to raise a health issue I raised in 2011 and on numerous occasions since. This is a good week for the Department of Health. I welcome the announcement that the Government has approved the heads of a Bill for calorie posting on menus. This does not seem like the most urgent or pressing issue in the world but, at the same time, the initiative could assist somewhat in combating the ever-increasing obesity crisis. Despite lobbying against the legislation by some food industry groups, it will bring about transparency and allow people to make positive healthy choices in their lives. The new law will require restaurants, takeaways and food service outlets to post calorie information alongside the price for all items offered on menus at the point where the food is ordered, be it at tables or counters.

The Government has listened to arguments from the food industry concerning costs. The FSAI has developed an online calorie counting model known as MenuCal, which will reduce the cost of providing such counters. Cost is an issue and I urge leniency in the legislation for restaurants that have daily menus or complicated menus. It is not simply the case that if calories are posted on menus, there will suddenly be a total reduction in obesity levels but it is a further step that might help. While the Government cannot, and should not, interfere directly in people’s choices, such transparency and disclosure will allow people to make better food choices as part of the action against obesity. Public consultation demonstrates that 95% of consumers want this and I look forward to the legislation. It is scheduled to be enacted in 2016, which would be a good move.

**Senator Michael Mullins:** The Minister for the Environment, Community and Local Gov-

ernment made a significant announcement yesterday. He said he had secured agreement from the Minister for Public Expenditure and Reform to recruit 200 new local authority staff to kick-start the social housing plan. These technical staff are required throughout the country to put together the ambitious plan to supply 35,000 social housing units at a cost of €3.8 billion over the next six years. We have a massive problem with housing waiting lists, which are lengthening. A total of 90,000 people are on the lists nationwide, with many of them in Galway city and county. I would like the additional architects, engineers, surveyors and planners to be recruited immediately and to put this ambitious plan together quickly. The Minister has given an instruction to the local authorities to act with haste to put the plan in place but it would be important to invite him to the House in the near future to give us an outline of the timescale for the implementation of the first phase of the social housing strategy. This crisis is serious. My colleague, Senator Hayden, raises on a regular basis the problem of the numbers on the housing waiting lists and the shortage of rental accommodation. It is critical that the construction of housing units commences at the earliest opportunity. Perhaps the Minister will inform us about the plan for the first phase.

**Senator Maurice Cummins:** Senators Mooney, Norris, Hayden and others raised the issue of Stena Line concentrating on expanding on its existing ferry service in Dublin Port having decided to terminate its services from Dun Laoghaire, which is a big disappointment to everyone involved. Following the withdrawal of duty free shopping, passenger and car volumes declined dramatically in 2014. Fewer than 150,000 ferry passengers travelled through Dún Laoghaire harbour and this represented a decline of more than 90%. Combined with increased fuel and operating costs, it made the route unsustainable but, as has been mentioned, services will be expanded in Dublin Port. It is sad for everybody involved. I like Senator Norris's literary references to the mail boat in Dún Laoghaire. The development of the cruise line trade has helped the Dún Laoghaire Harbour Company with its finances. The Minister for Transport, Tourism and Sport is aware of the disappointment in Dún Laoghaire and he has received correspondence from the harbour company on the matter. He intends to meet the board in the coming weeks to discuss the implications of this decision and to engage with it on plans for the future. I hope Dún Laoghaire Port will have a bright future.

Senator Mooney complimented the Minister for Children and Youth Affairs on the standardisation of tobacco packaging. The tobacco lobby is strong and we have seen what has happened in many European countries. The Senator also requested the attendance of the Minister for Foreign Affairs to update the House on his portfolio.

**Senator Paschal Mooney:** European affairs in particular but either will do.

**Senator Maurice Cummins:** I will arrange a debate with the Minister or his Minister of State, Deputy Dara Murphy.

Senator Bacik asked for a debate with the Minister of State with responsibility for European affairs as well and I will try to arrange a debate.

Senators Kelly and Bacik raised the Criminal Justice (Spent Convictions) Bill 2012. It has been held up on Report Stage in the other House. I understand amendments are being drafted to bring the Bill to a conclusion but I will inquire from the Minister for Justice and Equality when it is likely Report Stage will be completed in the Dáil. I am sure the amendments will then be referred back to this House.

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Senator Naughton referred to the success of the Action Plan for Jobs and the creation of 50 additional jobs in Galway. On the same theme, Senator Brennan mentioned the success of SalesSense International Limited, which will provide 100 new jobs in Dundalk. These positive announcements are good and I hope they will be made on a daily basis this year.

Senator Reilly raised the issue of surveillance of communications between countries. She tabled an Adjournment debate on that last year. Perhaps she could seek an update through a Commencement debate on what is happening in that regard.

Senator Whelan commented on the availability of the Soliris drug to patients. It costs €450,000 annually per patient but it is essential. Senator Burke along with the Senator Whelan raised the issue of the cost of drugs and asked for the Minister for Health to come to the House to discuss what mechanisms he intends to put in place to reduce prices. I will invite him to do so.

Senator O'Donnell raised the issue of the lottery regulator and she pointed out that, on 9 October last, the Minister for Public Expenditure and Reform announced that Mr. Liam Sloyan had accepted the appointment as the first regulator of the national lottery, a position provided for in the National Lottery Act 2013 following an open recruitment process administered by the Public Appointments Service. Mr. Sloyan took up his appointment on 17 November. The functions of the regulator, a matter also raised by Senator Wilson, include ensuring the national lottery is run with due propriety, the interests of the participants in the lottery are protected, the long-term sustainability of the lottery is safeguarded; and revenues allocated to good causes should be as high as possible. I wish him well with his task.

With regard to the people's forum in respect of Irish Water, I gave a comprehensive reply on that matter yesterday. Section 7 of the Water Services Act 2014 provides that it is a function of the Commission for Energy Regulation to establish the forum. Departmental officials met CER officials to progress the establishment of the forum and the Department is preparing regulations to set out details of the forum. The Minister for the Environment, Community and Local Government will provide the draft regulations to the JOC for comment before finalising the composition the membership of that forum.

The Minister will be providing the draft regulations to the joint committee for comment before finalising the composition of the forum's membership. I hope I have answered the question.

Senator Burke discussed the need to develop courses specifically for care of the elderly. I noted his points on training for nurses overseas.

Senator Wilson raised points about the lotto as well as Dr. Travers and his recommendations on the junior certificate. In the past week or so, there have been long negotiations between the unions and the Department. I hope that this matter will be resolved in early course.

Senator Ó Clochartaigh referred to the future of the greyhound industry. The Minister of State, Deputy Tom Hayes, attended the House last year on that matter, but if we need to hold a further debate on it, by all means we will try to arrange for one. Regarding the issue of emigration, which was also mentioned yesterday, it is good to see that companies are going to Australia to recruit Irish people to come back to Ireland. This should be encouraged so that other companies would do likewise. Unemployment has decreased to 10.5%, which is the lowest it has been in a long time. I hope that it will fall to 9% in the next few years. Obviously, 10.5% is

still too high. Under the Action Plan for Jobs, the Government is doing everything possible to create new jobs for our people in the country and to attract those who emigrated in recent years.

Senator Bradford raised the issue of voting rights for people abroad. The Seanad reform group is also considering it. We will try to arrange for a debate with the Minister.

Senator Mulcahy asked about child care facilities, a matter that Senator Keane raised last week. He mentioned staff pay and educational requirements. I will ask the Minister for Children and Youth Affairs, Deputy Reilly, to update the House on the issue.

Senator Mullen called for a debate on debt and mortgages. We will try to arrange such a debate in early course.

Senator Jim D'Arcy discussed diesel laundering and the contamination of waterways. He referred to the cows coming home, but they might not do so if they drink water that has been contaminated by criminals, many of whom are former or current so-called republicans. The importation of cigarettes and so on is causing major damage to the economy, given the loss of revenue. These matters must be addressed and I will ask the Minister of State, Deputy Harris, to update the House on mechanisms to combat diesel laundering. Contamination from sludge is causing local authorities deep concern and additional costs. Due to an *omertà*, people are intimidated and will not give evidence against those responsible. It must be combated.

Senator Noone raised the issue of obesity, calorie counts on menus and better food choices. She mentioned legislation that will be introduced next year. We will have an opportunity to debate it comprehensively then.

Senator Mullins referred to the recruitment of 200 local authority staff to expedite the house building programme. The Minister will attend the House next week to debate a Labour Party Private Members' motion on social housing and private rented accommodation. He will update us on those matters.

Order of Business agreed to.

*Sitting suspended at 1.05 p.m. and resumed at 1.15 p.m.*

### **Regulation of Lobbying Bill 2014: Committee Stage**

**Acting Chairman (Senator Diarmuid Wilson):** I welcome the Minister, Deputy Howlin, to the House.

#### SECTION 1

Question proposed: "That section 1 stand part of the Bill."

**Senator Thomas Byrne:** I want to raise a general issue that has arisen in the context of lobbying in the last week. The Minister has spoken at length and correctly about the establishment of procedures and structures when assets like the national lottery and Bord Gáis Éireann are sold. We welcome that and feel it is very necessary. When I was looking at this week's newspaper reports about the possible sale of shares in Aer Lingus, I read phrases like "charm offensive" and learned that contacts are taking place at all levels of government. I know the Minister has set up a group in the Department of Transport, Tourism and Sport and that is fair enough.

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**Acting Chairman (Senator Diarmuid Wilson):** That is not relevant to this section of the Bill.

**Senator Thomas Byrne:** It is on lobbying.

**Senator Tom Sheahan:** The Senator should not believe everything he reads in the newspapers.

**Senator Thomas Byrne:** I am querying it. I am asking the question.

**Acting Chairman (Senator Diarmuid Wilson):** It is not the appropriate section, Senator.

**Senator Tom Sheahan:** The Senator should be querying it with the journalist who wrote it.

**Acting Chairman (Senator Diarmuid Wilson):** This section relates to the Title of the Bill.

**Senator Thomas Byrne:** The Title of the Bill is the “Regulation of Lobbying Bill”.

**Acting Chairman (Senator Diarmuid Wilson):** It is, yes.

**Senator Thomas Byrne:** I would like to know what regulation of lobbying is ongoing in relation to Aer Lingus. Is it similar to what was put in place when other major State assets were being sold?

**Acting Chairman (Senator Diarmuid Wilson):** The Senator’s question is technically not relevant to the Title, but if the Minister wishes to respond to it I will facilitate that.

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I have put in place a protocol in relation to companies that are in my purview. The company mentioned by Senator Byrne is not one of those companies. For a variety of reasons, it is one of the few companies in which I do not have a shareholding. I have a shareholding in the Dublin Airport Authority. The shareholding in the case mentioned by the Senator is vested in the Ministers for Finance and Transport, Tourism and Sport. I understand that protocols are being applied by those Departments.

Question put and agreed to.

Sections 2 to 4, inclusive, agreed to.

## SECTION 5

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 1 to 14, inclusive, are related and may be discussed together by agreement.

**Senator Thomas Byrne:** I move amendment No. 1:

In page 6, between lines 29 and 30, to insert the following:

“(a) makes, manages or directs the making of any relevant communications to any member of Government in relation to appointments to State Boards,”.

I will speak very briefly on this. These amendments try to bring as many entities as possible within the purview of the Act. The Minister has gone some way, but we feel there are gaps.

These gaps are self-explanatory in each amendment, starting off with appointments to State boards. We have also named a large number of public companies and important regulatory bodies. I wish to know the Minister's view of these amendments before I consider my position.

**Deputy Brendan Howlin:** As the Senator is aware, I brought in a completely new arrangement for appointments to State boards. The Government approved this at the end of last year. Serendipitously, this morning I launched the new process in the Public Appointments Service and the *stateboards.ie* website was formally launched. Virtually everyone involved was gathered at the launch. There were a couple of hundred people at it. These were people not only from the State agencies but people from recruitment agencies and organisations such as the Public Appointments Service and the top level appointments committee.

There was a discussion and I was very clear that we want to have transparency on lobbying. However, I also want to encourage people to lobby for a position on State boards. As I said when we discussed it in the other House, this amendment misses the point. We want the National Women's Council, the Disability Federation of Ireland, community groups and so forth to lobby to have people on State boards and for them to say that they have excellent people within their communities. This is an area in which we want openness and transparency so long as it goes through the proper process. This will be through one portal, *stateboards.ie*. The criteria for appointment will be set out and all applications will be individually vetted and shortlisted for a Minister to make a final decision. It misses the point of the new arrangement to say that this is something which should be done almost in secret and that people should secretly and not in a proactive, open way seek appointment to State boards. This will be done in a completely open way. The National Women's Council and other groups which are under-represented on State boards will be able to lobby formally for their views to be represented. This is part of the broadening scope I wish to see achieved.

**Senator Denis Landy:** I am seeking clarity from the Minister on what he just said. On the previous occasion, the Minister made the point very strongly as well. As one is wont to do, I had some conversations with people about it afterwards. It is still not clear in my own head and perhaps this House is the place to clear it up. The Minister stated that the system that is being put in place will be to send CVs in to the State boards. Will the Minister clarify if that is where it stops? Is there now a clear line of demarcation? To use the Minister's example, once the National Women's Council sends in the CVs of one or two people whom it wishes to get on a board to represent a particular viewpoint from a lobbying perspective, if those from the council meet a Minister in their constituency at an event relevant to the business in hand, will they now no longer be allowed to say that they have submitted the names of X and Y? Further, will the Minister, in a case such as this, no longer be able to respond? Has there to be complete silence on it? Where does the buck stop? I am not clear on this and neither are others. It is important that we clarify this issue.

**Deputy Brendan Howlin:** I will deal with the basics first. In the design structure of this legislation, people who are characterised as lobbyists, which is set out in the Bill in the definition of a lobbyist, are required to register when engaged in lobbying. This is the general architecture of the Bill. On State board appointments, there is a new State boards appointments system in place since the end of last year. All appointments to State boards must go through this process. Candidates must apply through the portal, *stateboards.ie*, for the specific vacancies which will be set out on the website. The qualifications required for the particular jobs or positions to be advertised will be set out. Applications will be made and those applications will be individually professionally vetted by the Public Appointments Service, as it does for all ap-

pointments in the public service generally. It will then present a suitable list to the Minister of people it deems to be qualified for the Minister to make the final selection. This is the process. Should, for example, the National Women's Council, a disability group or any other group wish to say there are not enough women on any board, they are entitled and should be entitled to do this. This is the *raison d'être*. They meet a Minister and they say to him or her that there is a national obligation to reach the stated target of 40% and this has not happened. They can tell the Minister to get on with it and ensure there are enough applicants. They also can, within the community, seek out applicants. For example, if they want to promote women, they can encourage them to apply through the *stateboards.ie* portal. I hope this is clear.

**Acting Chairman (Senator Diarmuid Wilson):** Is Senator Byrne pressing amendment No. 1?

**Senator Thomas Byrne:** The Minister spoke in general terms on the State boards, but I would like him to respond in terms of the State bodies which we have proposed to include in our amendment.

**Deputy Brendan Howlin:** I apologise for not going through all of amendments. The scope of amendments Nos. 2 to 14 is wide in seeking to bring all communications within these bodies within the scope of what constitutes lobbying activities in the definition. This is a much broader approach than applies to other public bodies within the scope of the Bill. I understand why the Senator is speaking on this, which is to ensure the framework of the Bill is as comprehensive as possible. This is what I want to achieve.

I assure the Senator that it is possible, under section 6(1)(f) and (g), to prescribe public servants or other public officeholders or a description of persons as designated officeholders for the purposes of this Bill. Persons within the categories of bodies listed in the amendments can be designated as the "lobbied" under either section 1(f) or (g). On North-South implementation bodies established under the British-Irish Agreement, these bodies carry out their functions on an all-island basis and are responsible to the Ministers in both jurisdictions. Consultation of a different nature would be required to embrace them and this can be done.

We have a category of people who have been brought within the scope of this legislation immediately. This is the beginning. There will be other categories. There is a general catch-all category under which I intend, over time, to bring other people within the scope of this legislation. We will be speaking about another amendment in a minute. However, for example, I intend within the first six months for principal officers to be brought within the scope of this legislation. There may be other positions which are lesser in terms of rank but more influential, for example, Minister's private secretaries. People in these positions may have more access to influence in lobbying terms but who may not have a particularly high rank in the Civil Service. We will debate these issues over time. We will get the structures in place first and then we will broaden it as we see fit thereafter.

**Senator Thomas Byrne:** I accept what the Minister is saying.

Amendment, by leave, withdrawn.

Amendments Nos. 2 and 3 not moved.

**Senator Thomas Byrne:** I move amendment No. 4:

In page 6, between lines 29 and 30, to insert the following:

“(a) lobbies Irish Water and such person shall be required to be a registered person pursuant to *section 8*,”.

Amendment put and declared lost.

Amendment No. 5 not moved.

**Senator Thomas Byrne:** I move amendment No. 6:

In page 6, between lines 29 and 30, to insert the following:

“(a) lobbies EirGrid Plc and such person shall be required to be a registered person pursuant to *section 8*,”.

Amendment put and declared lost.

**Senator Thomas Byrne:** I move amendment No. 7:

In page 6, between lines 29 and 30, to insert the following:

“(a) lobbies the Commission for Energy Regulation and such person shall be required to be a registered person pursuant to *section 8*,”.

Amendment put and declared lost.

Amendments Nos. 8 to 12, inclusive, not moved.

**Senator Thomas Byrne:** I move amendment No. 13:

In page 6, between lines 29 and 30, to insert the following:

“(a) lobbies the Health Service Executive and such person shall be required to be a registered person pursuant to *section 8*,”.

Amendment put and declared lost.

Amendment No. 14 not moved.

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 15 and 16 are related and may be discussed together.

**Senator Kathryn Reilly:** I move amendment No. 15:

In page 7, to delete lines 1 and 2 and substitute the following:

“(a) the person has one or more full-time employees and the relevant communications are made primarily to represent the interests of the employer,”.

I will be brief because this was also discussed in the other House. The proposed exclusion of lobbying by groups with ten or fewer employees, while intended to reduce administrative pressures on small businesses, could be seen to create a loophole for those firms or partnerships who would prefer to hide their lobbying activities rather than comply. If the registration process is available online with clear instructions and is not otherwise onerous, it should not pose an

insurmountable problem for those smaller organisations.

**Senator Thomas Byrne:** I concur with Senator Reilly and amendment No. 16 from Fianna Fáil seeks to make the same or a similar point.

**Deputy Brendan Howlin:** One of the concerns expressed very strongly by Deputies in the other House and by almost all of the stakeholders we dealt with, was that there should be clarity around who is in and who is out, that is, who is covered by this legislation. That is what I sought to do and that is why we fixed on an organisation with ten employees or more, lest there be any confusion about it. I wanted to avoid a situation where people would not understand whether they were covered or not. For example, we did not want to capture the normal interaction in business that a political representative would make because every Deputy and Senator is covered by this legislation. We had to decide, for example, whether somebody going into a politician's clinic and making a communication would be a registerable issue. We need to have some level of scale to make it an acceptable capturing of lobbyists.

Amendment No. 16 looks at the issue from the point of view of turnover rather than simply the number of employees. The point was made in the other House that a relatively small company with four or five employees might have a big turnover. I was concerned that this threshold would place a burden on lobbyists to submit audited accounts to the Standards in Public Office Commission, SIPOC. Furthermore, turnover is not a fixed entity so a company could become registerable because of a slight increase in turnover over the course of a year, for example. Again, it all adds to the complexity and uncertainty about who is captured and who is not. It also makes it more difficult for the SIPOC to make determinations on companies as it would have to go through the company accounts to see what the turnover was and mistakes are highly likely in those circumstances.

In order to have certainty in this new legislation, which is ground breaking, I wanted to stick to the more clearly understood terms as set out in the Bill. I have said that I envisage this being reviewed after 12 months or so. We will see how it works out and if there is a need for an amendment at that stage, I would certainly approach it with an open mind, as I am sure would whoever is sitting in this seat at that point in time.

Amendment put and declared lost.

**Senator Thomas Byrne:** I move amendment No. 16:

In page 7, between lines 24 and 25, to insert the following:

“(b) communications by or on behalf of an employer, other than a registered person, with not more than 10 employees and less than €10 million of an annual turnover, relating to the affairs of the employer about any matter other than the development or zoning of land under the Planning and Development Acts 2000 to 2014;”.

Amendment put and declared lost.

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 17 and 18 are related and may be discussed together.

**Senator Rónán Mullen:** I move amendment No. 17:

In page 7, line 27, after “organisation” to insert “including international non-govern-

mental organisation”.

I wish to withdraw this amendment now and table it again on Report Stage because there is an error in it as published. I had intended that communications by international non-governmental organisations would be excluded from the category of excepted communications. Perhaps the Minister had a response prepared to the amendment as published and I apologise if I have wasted his time in that regard. Clearly, my view is that while it is appropriate that excepted communications would include communications by or on behalf of the European Union, the United Nations or any other international organisation, I do not believe that should also apply to international non-governmental organisations. That was the focus of my amendment and I apologise for the typographical error that crept in there.

**Deputy Brendan Howlin:** The amendment is not needed because they are not included.

**Senator Rónán Mullen:** I ask the Minister to explain why international non-governmental organisations would not be included within the exceptions. That would be of great help to me because I was contemplating bringing forward an amendment on the matter on Report Stage.

**Deputy Brendan Howlin:** The exceptions are international organisations, as defined in section 7 by reference to section 186B of the Social Welfare Consolidation Act of 2005. I am sorry to send the Senator to that particular Act, which seems like an odd place to look for a definition of international organisation. In that definition, which is captured in this legislation, the exempted organisations would be the United Nations, the institutions and agencies of the European Communities, the Council of Europe and the Organisation for Economic Co-operation and Development.

**Senator Rónán Mullen:** I thank the Minister. That is very helpful.

Amendment, by leave, withdrawn.

Amendment No. 18 not moved.

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 19 and 20 are related and may be discussed together.

**Senator Rónán Mullen:** I move amendment No. 19:

In page 8, between lines 24 and 25, to insert the following:

“(p) any communication, howsoever made, by a person specified in *subsection 2(b)* and *2(c)* where the purpose of that communication is to disclose relevant wrongdoings.”.

I must start by saying that I agree completely in principle with the purpose of this Bill. Politics depends on trust and public trust in our political institutions is essential but as we all know, it has come under a lot of pressure in recent times. There is something profoundly alarming about political cartels exercising undue influence over Government decision making and any situation that involves private gain going before national interests is very alarming.

This Bill has been a long time in the making and is generally welcome. I would like to commend the Minister on his expertise and his good work in this area. However, there are some areas where I feel the Government has not given due weight to exempting certain vital communications from the general definition of lobbying. It is on that basis that I am seeking to

amend section 5 of the Bill which deals with excepted communications. The amendment I am proposing is reasonable and would allow the Bill to reflect that certain types of communication of concern should be protected from disclosure for the reasons I will set out.

I am seeking to amend section 5, subsection (5) by inserting a new subsection (5)(p) which would read, “any communication, howsoever made, by a person specified in *subsection 2(b)* and *2(c)* where the purpose of that communication is to disclose relevant wrongdoings”. Furthermore, my amendment invites a consequential amendment to section 5(9), which sets out the definition of terms in section 5. This amendment is to include a definition of “relevant wrongdoings” and is a necessary addition if my amendment to section 5 proposing the insertion of subsection (5)(p) is accepted.

The amendment to section 5(9) would define “relevant wrongdoings” exclusively as follows: the commission of an offence; a miscarriage of justice; non-compliance with a legal obligation; health and safety threats; misuse of public moneys; mismanagement by a public official; damage to the environment; abuses of constitutionally protected rights; or concealment or destruction of information relating to any of the foregoing. In terms of the rationale for this, section 5 deals with accepted communications - in other words, communications that would not be deemed to be disclosable lobbying communications or activities. It is prudent to have such a list, in particular, where matters of diplomacy or State security would be otherwise exposed to inclusion as lobbying activity and therefore potentially subject to disclosure.

My amendment seeks to protect organisations and individuals representing those organisations who come forward with information concerning wrongdoing from inclusion under the heading of lobbying. As the section stands, I have a serious concern regarding the protection of sources of information, particularly where an organisation may approach an Oireachtas Member with confidential information about actual or alleged wrongdoing. I have excluded the persons envisaged in section 5(2)(a), as the Protected Disclosures Act 2014 - the whistleblower legislation - makes provision in a fuller manner for protection for employees making disclosures regarding relevant wrongdoing. The statutory protection against victimisation in that Act is very welcome.

The purpose of this amendment is to exclude certain communications made by persons from organisations that would normally be considered to be engaged in lobbying - for example, unions, representative organisations or non-governmental organisations, NGOs. As matters stand, persons from these organisations, on behalf of their organisation, may approach Oireachtas Members with information regarding wrongdoing in the public interest without the suggestion of lobbying. I fear that if this amendment does not carve out a specific exception for such information, organisations such as those listed may be reluctant to come forward with information as, in doing so, they may be identifiable under the relevant provisions of this Bill.

There is a subtle but importance difference between the understanding of lobbying - that is, to change official discourse or decision-making on a given issue - and disclosure of wrongdoing, which has the aim of serving the public interest by exposing actual or alleged harmful behaviour. If an organisation or person acting on behalf of that organisation felt the need to protect a source, whether they be an individual or a group of individuals, and that organisation or person reasonably believed that the only guarantee of anonymity was to deny that they had met an Oireachtas Member, if questioned by the Standards in Public Office Commission, SIPO, or any other organisation, then their denial would be in breach of the provisions of this Bill. However, with my amendment, the communication of wrongdoing would be protected from

the description of lobbying and protected from the attendant requirement of disclosure that this Bill entails.

Furthermore, I believe that persons or organisations must have a right to approach legislators in a free society with information about wrongdoing - this is in the public interest - and to be able to do so without having to reveal themselves and thereby potentially reveal their sources of information. In certain cases, the knowledge that a particular organisation approached a particular person amounts to a destruction of anonymity where something in the public interest is being revealed. This right to protection from disclosure can be defended by an analogy with similar rights enjoyed by journalists, which are protected in law.

While I agree that the Government and the Executive should be held to a standard of full disclosure, the same standard applied to Oireachtas Members in the course of their duties will damage the confidentiality that is necessary to expose wrongdoing and highlight potential abuse of public funds. I look forward to the Minister's response.

**Deputy Brendan Howlin:** I genuinely and warmly thank the Senator for both the amendment and his contribution. It made me think again about the Bill. It is certainly is not and never was my intention that matters which are basically an essential part of whistleblowing would be or could be relevant matters to be registered under this Bill. That is my understanding of the situation in the Bill. Having reread closely section 5(9), which defines what relevant matters are and what is a disclosable communication, I would point out that the relevant matters under section 5(9) are matters relating to the initiation, development or modification of any public policy or of any public programme; the preparation or amendment of an enactment; or the award of any grant, loan, financial support, contract or any other agreement, or of any licence or authorisation involving public funds, apart from any other matter relating only to the implementation of any such policy programme, enactment or reward or of a technical nature. My advice is still that this achieves what I intended, and what Senator Mullen intends as well, but, for the avoidance of any doubt, I have written again to the Attorney General to be clear that this is achieved. If there is any doubt in the matter, I propose to bring any amending proposal to this House on Report Stage next week. As of now I am satisfied that all the genuine, good and proper concerns raised by the Senator are fully met, but, for the avoidance of doubt, I have asked that this be confirmed formally by the Attorney General to me, and if there is any doubt, or even a shadow of a doubt, I will bring forward an amendment to the Bill next week.

**Senator Rónán Mullen:** I thank the Minister very much for his open and thoughtful response to my amendment. An issue arose during my time in the Oireachtas which might illustrate the concern I have and which may be of assistance to the Minister and his officials. I think it is probably on point, but I would welcome the opportunity to tease it out with the Minister further, although not necessarily in this immediate forum. The Minister will come back with his response and we will look at what might happen on Report Stage.

Speaking from memory, a number of years ago the former Minister for Defence, Deputy Shatter, brought forward legislation in regard to defence which had to do with the appointment, and the criteria for appointment, of military judges. I came to have information - other Members, including Senator O'Donovan, were also familiar with the issues involved - that in effect, the legislation was designed to undo a problem that had occurred whereby the person that the Defence Forces leadership proposed to appoint to a particular position could be said, it seemed, not to be technically qualified for the position. As a result, legislation was brought forward which widened the criteria and, in effect, would have retrospectively enabled the ap-

pointment process to open up again and to facilitate, under the new headings and under the new legal requirements, the appointment of the particular person. It did not come to pass that this particular person was appointed to the job in question. That probably had to do - excuse my language - with the stink we created about this issue in this House.

There were two issues. The first was that the then Minister, Deputy Shatter, did not disclose to us - nor were Members of the Oireachtas briefed to this effect - the back-story of that legislation to widen the criteria for appointment of military judges. The other issue was that a proposed appointment had gone wrong and an issue had been raised internally within the Army about whether that person could be appointed to that post. My point is this: if I had not been briefed by certain persons that this was the back-story, I would not have been able to do my job as a Member of the Oireachtas and ask hard questions, not only about the content of the legislation but about why it was before us in the first place.

I was subsequently contacted by the military police, as was their right and duty, to assist them with their investigation of a possible leak from the Defence Forces and so on in breach of the law, and obviously, with due regard to my prior duty as a Member of the Oireachtas, I declined to make any statement. I still have not made, and I will not be making, any statement about where I got the information. If that information, for example, had come from a representative body, it seems that this kind of disclosure by a representative body would attract attention. We should remember that this was a disclosure made to enable me and other Members of the Seanad to challenge legislation, policy and the initiation, development or modification of what was public policy or a public programme, namely, the bringing forward of legislation around making certain State and State-funded appointments.

It was exactly that kind of situation I had in mind when bringing forward this amendment, namely, that people concerned about certain legislation being enacted, which they believed was in furtherance of some agenda which was not being fully disclosed, would not be in a position to approach me if they had to register as lobbyists because they were approaching me in order to get me to oppose certain legislation. I would be happy to say more to the Minister privately about the circumstances but the memory of that instance caused me to look with particular concern at the Bill as it currently stands. It is difficult to talk about it in retrospect given the need to protect those who disclosed information to me. In the light of that personal experience I am concerned about the Bill in its current form. I look forward to possible engagement with the Minister in that regard.

**Deputy Brendan Howlin:** The Senator is somewhat luckier than me. When I received information of that nature I had to fight the case both in the High Court and the Supreme Court to protect the person who disclosed the information to me, as I thought was right and proper in relation to my duties as a Member of the Oireachtas, and the right of any citizen to contact any of us. It was for that very reason that when I came to my current position I was able to advance a suite of proposals that overlap and interact that will achieve the current objectives of Senator Mullen that I had at one time. The Protected Disclosures Act is now part of the legal architecture of the country and will protect individual whistleblowers who disclose information from any procedural wrongdoing or maladministration of the type Senator Mullen instanced without putting themselves under hazard. In addition, the strengthening of freedom of information legislation will allow the probing of any documentation on these matters and to have full disclosure of the procedures that are going on.

This Bill will not, for the very reason we talked about in the course of debate on a previous

amendment, capture individuals who want to come to individual Members of the Oireachtas with their concerns or other information in terms of what is considered normal advocacy because citizens are entitled to have an opinion on legislation. The suite of measures I brought forward, particularly in the past two years, have vastly improved the landscape in relation to transparency, proper procedures and the protection of any individual who wishes to bring into the public sphere any malpractice, malfeasance or wrongdoing that needs to be addressed.

Amendment, by leave, withdrawn.

Amendment No. 20 not moved.

**Senator Trevor Ó Clochartaigh:** I move amendment No. 21:

In page 9, to delete lines 13 and 14.

Fáiltím roimh an Aire. Táim ag tógail é seo ar son mo chomghleacaí, an Seanadóir Reilly. In section 5(9), we seek to delete the words “apart from any matter relating only to the implementation of any such policy, programme, enactment or award or of a technical nature”. Our view is that implementation is a crucial stage of public policy and can make all the difference to its success, failure or overall character and impact. The implementation stage is very frequently the subject of lobbying and we do not necessarily accept its exclusion from transparency and the reporting requirements. This clause introduces another potential loophole in the law and, as such, it is not the proper way to proceed. That is the reason we propose the amendment.

**Deputy Brendan Howlin:** Again, this was a matter we discussed in the other House. When framing the legislation, a number of options were considered in terms of how other countries define lobbying in legislation. The initial landmark legislation in Canada defined lobbying as attempting to influence public policy. That was the way other countries were going to go. However, that was found to be a very confining definition because in point of fact, in law, to prove that one was attempting to influence became an obstacle. Canada subsequently amended its federal law to change the definition from “attempting to influence” to “any oral or written communication made to a designated official”. The definition used in the Bill is therefore the broad definition rather than the narrow one. We need to be more explicit in terms of exemptions to ensure that with such a broad definition, we do not capture all communications that would make the entire procedure inoperable, that all communications between officials and anyone else involved would be subject to the legislation. It would be bizarre if every time a Senator, for example, met someone in the pub it would be considered lobbying. That is the reason we set out in section 5(9), which I read to the House, what are deemed to be “relevant matters”. It is what we intend lobbying to be, which is matters relating to “the initiation, development or modification of any public policy”, “the preparation or amendment of an enactment” or a piece of law, or “the award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds”.

**Senator Thomas Byrne:** Even in a pub?

**Deputy Brendan Howlin:** Yes, even in a pub. I did not mean to say that there are some places that would be exempt. It is just the type of activities that would be exempt. If one did not have the narrowing of the definition to areas that we understand to be lobbying, and we had everything defined as lobbying, there would be no end to it in terms of what everybody would have to register. One would not see the wood for the trees. We need to find out what real lobbying and influence is and to do that we need to have a clear definition of what lobbying will

be. That is what is achieved. Looking at international best practice, I think that is achieved in the Bill.

Last week on Second Stage I said that we have probably taken more feedback on the legislation from stakeholders than on any other legislation because, in a way, although it is probably seen by many as not as important as the Freedom of Information Act or even the other related legislation, in a way it goes to the heart of what politics is about, namely, the interaction of public organisations with policy-makers. We wish to facilitate a proper democratic interaction. We wish to do that in a transparent way but we do not want to make it hidebound such that it would be impossible to do public business. For those reasons, I do not propose to accept the amendment.

**Senator David Norris:** I seek some information on the matter. First, I am surprised at this part of the Bill because I would have thought that these matters should be more appropriately dealt with in the definition section at the beginning of the Bill, but I see that there is not such a section.

The second point is that the two lines referred to in the amendment, if I am correct, mean that it exempts the implementation of policy from the operation of the Act. I would have thought the implementation of policy is just as important as the policy itself. In fact, that is where the real nub of the situation lies. Perhaps I am interpreting the Bill incorrectly.

**Deputy Brendan Howlin:** No, Senator Norris is not. Implementation of policy is exempt. The whole idea is that the actual formulation, development and decision-making of what is to happen is what is covered, but once it is covered, the roll-out of the policy is not covered by the legislation nor was it ever intended to be. Neither is it covered in any other legislation of this nature of which I am aware. The other exemption relates to matters of a technical nature. The Senator is correct that these areas are exempt.

**Senator David Norris:** In that case I fully support the amendment because it seems to me that this is the where the crucial matter lies. Policy is one thing but sometimes a Bill is not signed by the President or it is delayed on Report Stage in the Dáil having been  
*2 o'clock* through the Seanad. What is crucial is when a measure is working on the ground. One can imagine the tobacco companies, for example, coming in about the implementation of a policy and, having failed to scupper it at the stage of policy development, they might then attempt to scupper it at the phase of implementation.

Consequently, I think it is quite important that implementation be included. While I gather this will not be a position that will be favoured by the Government, it definitely is what I think.

Amendment put and declared lost.

Section 5 agreed to.

## SECTION 6

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 22 to 27, inclusive, are related and may be discussed together, by agreement. Is that agreed? Agreed.

**Senator Thomas Byrne:** I move amendment No. 22:

In page 9, between lines 22 and 23, to insert the following:

“(f) Secretaries General and Assistant Secretaries General;”.

These amendments are self-explanatory and are designed to immediately bring the class of officers specified in the amendments within the ambit of this legislation. The Minister has stated his intention to bring in these people gradually and that he will adopt a gradualist approach. However, he has not convinced me there is a logistical reason or a cost issue to prevent them from being brought in at once. There does not appear to be a major issue preventing this from being done at once.

The Minister made the point that sometimes, the top-level officials do not have all the power or say-so on nitty-gritty matters. I make the point that chief executive officers of local authorities and many directors of services have more power in day-to-day matters than does the Minister himself or than do Secretaries General or assistant secretaries in terms of what they can implement. The chief executive of a local authority effectively has absolute power within that local authority and such officers certainly should be brought within the ambit of the legislation. I am unsure whether the Minister has outlined his position in respect of them but they should be brought in immediately as they are at the same level as Secretaries General and assistant secretaries. As for principal officers and private secretaries being brought in, although I have lobbied a private secretary about a school or similar matters, I find it hard to imagine-----

**Deputy Brendan Howlin:** The Senator is not a lobbyist.

**Senator Thomas Byrne:** No, I am not but I find it hard to imagine lobbying of private secretaries being carried out within the terms of this Bill. I suppose it is possible but in practice, I cannot really envisage it. However, I consider senior local authority staff and people at assistant principal officer level and above to be crucial and it is very important that this be implemented as soon as possible.

I wish to raise a general point that I omitted to mention at the end of the debate on the last section. Perhaps this will come up later but I refer to the lobbied having a responsibility to tell people they should register. While I acknowledge we are not obliged to tell people, is there guidance or guidelines available? If someone makes an approach and is lobbying me, it might be useful in some cases to be obliged to remind the lobbyist that he or she should be registered because he or she might not then come back, which might suit all concerned. I do not know what help or guidance the Minister can offer in those circumstances.

**Senator David Norris:** I favour this amendment because it appears to address the question of what is called the permanent government, that is, those people who are there all the time and are central to the formation of policy, particularly Secretaries General, assistant secretaries, principal officers and so on. I notice that under section 6(1)(f), the Bill describes public servants of a prescribed nature but the Bill does not actually provides details. It simply states “public servants of a prescribed description” but not what that prescription is, who it covers and so on. I presume it is left for the Minister to make this by regulation. However, it would be valuable to have it in the Bill.

**Senator Trevor Ó Clochartaigh:** Sinn Féin is of a similar opinion in that it is known that all three of the categories in our amendment regularly are on the receiving end of lobbying. The ones mentioned in amendment No. 27 are senior public servants between the ranks of Secretary General and principal officer, regulators and management boards of public bodies. I was part of a fisheries delegation to Brussels recently and many people in the fisheries industry,

for example, are of the opinion that there are certain key players in the fisheries industry who lobby senior departmental officials on a regular basis and that the policies of certain Departments almost mirror the needs of the bigger players and those who appear to be closer to the people who have influence. The types of people I am talking about here are people of influence in policy-making. While Ministers have the final say, if one looks over a number of years and different Ministers in a Department, one often discerns that the trend in a Department tends to continue, even when the Ministers come and go. Senior public servants certainly have a key role in the development of policy. I appreciate the Minister has empowered himself to include these categories as designated public officials but Sinn Féin cannot discern any reason not to include them at the outset for the thousands of doubt in this scenario. This is why Sinn Féin has tabled amendment No. 27.

**Deputy Brendan Howlin:** I thank the Senators for their contributions and amendments and I understand their concerns. The idea is that the Government will set out a number of designated public officials that will be captured from the outset. These include Ministers of the Government and Ministers of State, Members of Dáil Éireann and Seanad Éireann, Members of the European Parliament for constituencies in the State, members of local authorities, special advisers appointed under section 11 of the Public Service Management Act and then, in the point on which Senator Norris and others have focused, public servants of a prescribed description. That deliberately is a catch-all phrase because no matter what list I put down today, people would have suggested there was another category I should have included.

For example, if one takes the grade of assistant secretary, there is an entire range of analogous grades of assistant secretary across the public service, some of which are of a technical nature, such as chief medical officers and a variety of other assistant secretary level grades. However, they do not lend themselves to being listed in one exhaustive item of primary legislation. That is the sort of thing that normally is done by secondary legislation, that is, by statutory instrument, and that is what I wish to do.

In my opening statement, I already have indicated to Members that from the outset, I intend that Secretaries General, assistant secretaries and equivalent grades be captured, as well as analogous grades in the local authorities, including chief executive officers of local authorities. Within 12 months, I intend to bring in principal officers and then we will have a debate to decide on what other suitable categories should be brought in. This is designed not to try to be exhaustive from the beginning but to be enabling of a gradual broadening, while capturing from the beginning the key set of policy-formers both, as Senator Norris described, in the transient Government and the permanent government, in so far as possible. However, other grades may occur to us that would not occur to us as being particularly high-profile but which may be quite influential and which should be subject to designation under the legislation.

I did not answer Senator Byrne's question on the communications message, which is very important. This morning, I launched the *StateBoards.ie* website at which, I do not think he will mind me mentioning it, I had a private discussion with the Ombudsman on the operation of this legislation. A huge amount of work already is under way with my officials and the Standards in Public Office Commission, SIPOC, in the preparation of this measure because part of the job of the SIPOC will be the communication of this legislation to people. Many changes have been and are being brought about in respect of freedom of information, lobbying and so on that must be communicated to people now and Senator Byrne makes valid points. We will have a communication strategy and SIPOC will be given responsibility to ensure that people are aware of the new responsibilities once this measure becomes law of the land.

**Senator David Norris:** Again, while I can understand the Minister's position, I make the point that he himself has listed off people who he thinks clearly should be on it such as Secretaries General, assistant secretaries and so on. As they already are targets, I am unsure why they should not be included in the Bill. How will one know who is caught by this measure if it simply is left in the general phraseology currently in the Bill? Moreover, if the Minister can do this by ministerial regulation, there is nothing to stop him from doing it in the Bill itself. I am familiar with the argument that frequently is made in terms of describing categories to the effect that there is a problem about being exhaustive and catching everybody. However, that could be remedied by another provision stating "such other officers as the Minister shall prescribe from time to time". However, I see no reason that Secretaries General and assistant secretaries, who have been mentioned by the Minister as clear targets, should not be listed in the legislation. It is not an overwhelming point, because apparently these people are going to be dealt with at some stage - some of them now and some of them in a year's time. If the Minister can list them off - he has listed them off to the House already - I do not see why they cannot be listed in the Bill. Otherwise, one could say "prescribed political representatives" rather than Ministers, Members of the Dáil and Seanad, Members of the European Parliament, local authorities and so on. There is quite a strong argument for this amendment.

**Acting Chairman (Senator Diarmuid Wilson):** Is amendment No. 22 being pressed?

**Senator Thomas Byrne:** I withdraw my amendments on the basis that I will reintroduce them on Report Stage. If I pressed them now I would not be able to raise them on Report Stage.

Amendment, by leave, withdrawn.

Amendments Nos. 23 to 26, inclusive, not moved.

**Senator Trevor Ó Clochartaigh:** I move amendment No. 27:

In page 9, between lines 22 and 23, to insert the following:

"(f) Senior public servants between the ranks of Secretaries General and Principal Officer;

(g) Regulators;

(h) Management Boards of public bodies."

Amendment put and declared lost.

Section 6 agreed to.

#### NEW SECTION

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 28 and 29 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Thomas Byrne:** I move amendment No. 28:

In page 9, after line 35, to insert the following:

"7. (1) Where a designated public official is lobbied outside of the State, (in a manner to which *section 5* would apply had the lobbying activities occurred within the State)

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such public official shall be obliged to register the fact that he or she had been so lobbied and the public official shall provide the necessary information to the Standards in Public Office Commission for inclusion in the register.

(2) Provision for maintaining this category of information shall be kept in such form as the Commission consider appropriate.”.

The amendment could be called the Davos amendment, because it covers that type of activity. We mentioned “public official”. The Taoiseach goes to Davos but it is quite commonplace that people are brought abroad. We know that when incinerators were being brought into the country there were all sorts of trips all over the world to examine incineration. I am sure that companies lobbied various people. I have no particular project in mind, but this sector is one example I am aware of. It is important that this type of lobbying is recorded in some way. Public officials do not spend all of their working lives abroad. If they do go abroad, it is only a small part of their job. If they are lobbied while abroad, within the meaning of this Act, it is not unreasonable to turn the tables as such and turn over the responsibility.

As I have mentioned before, some sovereign states lobby as well. Perhaps I will re-jig my amendment to include a sovereign state. There are sovereign states that lobby Members of the Oireachtas on a regular basis, as I am sure the Minister is well aware. It is not particular to him, but we are all aware of such lobbying. Some of that lobbying should be registerable. We need to know for what purpose Members are being lobbied and what is going on. If this legislation and my amendment are put in place we will have the complete transparency required.

Dealing with international organisations or countries or being abroad is an extremely small part of any public official’s role. Therefore, my amendment is not unreasonable or burdensome.

**Senator David Norris:** I also support this amendment because, for example, of the operation of multinational corporations, which have their tentacles everywhere. If they are prevented from lobbying in this country they may very well seek the opportunity of some kind of political meeting abroad to tackle public officials. This is a very reasonable amendment and I support it.

I think I am right in saying that sexual offences against minors in foreign countries are now captured in Irish legislation. I am not sure whether that legislation has gone through, but I think it has. I know it was mooted. Such legislation, including the Bill before us, seems to me to be a good idea.

**Deputy Brendan Howlin:** The intention of the Bill is that lobbying activity be regulated through registration and reporting requirements, the responsibility for which lies on the lobbyist. That is the architecture of the Bill. If I am a lobbyist and I am going to lobby somebody then I must register. This amendment reverses that, which means that if it happens abroad, responsibility falls on the lobbied.

I have said, all the time, that we need to be practical about this matter. It would mean that every time I went to Brussels or elsewhere on Government business, if anybody wanted to come up to me for a chat, I would have to ask them whether they were registered under the Irish legislation on lobbying and whether they fell within its parameters, and I would have to take their details before I talked to them to make sure they were registered. That would be so impractical in view of the normal activity of European Council, where the people who attend meet officials and so on. It would fall to every Member of this House to do so as well. It would not only apply to those attending an informal meeting of the European Council or anything else; if

Members or officials were abroad on holiday and somebody talked to them or engaged them in conversation, they would have to have that type of discussion. I do not think that can realistically be done. I do not see how designated public officials could meet those requirements. One would trap people who inadvertently said “I talked to Senator Norris about that matter when I was abroad.” A person who did not remember an informal conversation with someone at some gathering or other would find him- or herself on the wrong side of the law. The Bill is simple and transparent, and I do not want it to set traps for people in regard to this matter. I just think it is not practical to achieve what Senator Byrne has set out in his amendment.

The Bill does not stand alone. It complements other transparency arrangements that are already in place to ensure that accountability is achieved - the freedom of information legislation, the open Government partnership initiative, the ethics and standards in public office legislation. All of these exist to address any improper activities that might go on without imposing impractical or unworkable requirements on people.

While I fully appreciate what is intended by the amendment, I do not think we should transform what is an eminently workable, practical piece of legislation into something that is not workable and might in fact bring the legislation into disrepute.

**Senator David Norris:** I understand the Minister’s position and that he must deal with practical matters. To take a common-sense view, there is a substantial difference between a casual conversation when one is on holidays and deliberate lobbying.

**Deputy Brendan Howlin:** That may be so, but it is not a legal definition.

**Senator David Norris:** I ask the Minister to consider this amendment further. I am sure Senator Byrne is not precious about the wording and I am sure he would accept something that the Minister had dollyed up. For example, the Minister could add in the phrase “in the course of official business,” which would exempt holidays and all the rest. In fact, registration is not a very serious burden. It is just registering the fact that a person has been lobbied. It does not contain the content of the lobbying. That is a reasonably simple thing to do. Taking into account what the Minister has said, there could be some form of words to show that it was a designated official who was involved. Cut out all this stuff about casual conversations around the swimming pool of a hotel in Santa Ponsa. I have never been, but I gather it is an awful place.

**Senator Thomas Byrne:** I thank the Senator.

**Senator David Norris:** It would seem that civil servants are very likely to patronise the place.

**Senator Thomas Byrne:** I ask the Minister to consider the following scenario. A group of councillors go to England to meet representatives of a UK-registered company that owns land here and in the UK, and that company lobbies them about rezoning in Ireland. What is the provision for this in the lobbying legislation?

**Deputy Brendan Howlin:** I take it they would not arrive in England without being contacted in Ireland. If they are invited and lobbied in Ireland to go to England, then that obviously is captured.

**Senator Thomas Byrne:** If the company is registered in the UK, there is no-----

**Deputy Brendan Howlin:** If the councillors are approached, as a council, by somebody

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through lobbying them, or if I get a letter in Wexford-----

**Senator Thomas Byrne:** From a UK company.

**Deputy Brendan Howlin:** -----from a UK company - of course that is lobbying.

**Senator Thomas Byrne:** What happens if the company owns land here but has no other presence here?

**Deputy Brendan Howlin:** That would be lobbying.

**Senator Thomas Byrne:** How do we capture that? How does SIPO follow that up?

**Deputy Brendan Howlin:** There would be a legal obligation on that company to register because it is lobbying me in the Irish jurisdiction and it is captured by Irish legislation.

**Senator David Norris:** As I understood Senator Byrne's original intervention, it was to capture people who went to a conference and were lobbied there by a company that had Irish interests. It would be lobbying on behalf of business operations in Ireland but, geographically, this might happen in England.

**Deputy Brendan Howlin:** I have already answered the point as I do not want to reverse the structure of the Bill. I presume what the Senator is referring to would take place in Northern Ireland, for example. Some Members in the House may live in Northern Ireland so when they go home and speak to neighbours, they could find themselves captured by the legislation. It is not practical to reverse the core of the Bill, which is a requirement *simpliciter* for lobbyists, as defined in this Bill, to register. To reverse this and put a burden on anybody who is a designated recipient of lobbying under this legislation to be the proactive registrant, would change the structure of the Bill. It would be burdensome for Members of these Houses and all public officials if they had to monitor all conversations to ensure a person talking about public policy is registered under this legislation. The onus and burden should be on the lobbyist, and that is my intention.

**Senator Thomas Byrne:** I accept, to some extent, the practical difficulties mentioned by the Minister. This is a real issue. There are groups of politicians who go abroad to meet people from companies coming to Ireland. Sometimes there are issues of land and other times there are other relevant policy issues. On the other side, one might be on holidays and just bump into somebody. Perhaps there is a practical solution that could come from the Department or the Oireachtas. One solution may be to make some requirement when an official delegation goes abroad that a designated official would be tasked with recording any lobbying. That might not be perfect.

**Deputy Brendan Howlin:** It would be impossible.

**Senator Thomas Byrne:** It would not be perfect but it would give responsibility to somebody to record any lobbying. Otherwise, there would be *carte blanche*. There could be hundreds of other suggestions of how to deal with this and somebody could be given the job of recording what, if any, lobbying takes place when one is on official business. We do not envisage this applying in Santa Ponsa or the Isle of Man, although somebody from the Isle of Man lobbying on banking law would not be covered by the definition if the lobbying happened in the Isle of Man. There may be some middle ground covering official business abroad at the very least, even if we do not manage to include holidays, etc.

**Senator David Norris:** I suggested wording like “on official business”. That would cover it without changing the Bill at all. It adds to the provisions rather than changing them. This would not reverse the flow of the Bill. This Government cannot presume to dictate the conditions of work of employees of a state in a foreign country but it can determine the behaviour of Irish officials on official business while abroad. I am not impugning the reputation of any company but Guinness, owned by Diageo, comes to mind. If it wanted to keep its feet clean in Ireland, its representatives could always lobby Irish officials abroad. All this requires is registration of the fact that there has been lobbying, and that is not very detailed and it would not take very long. It is not an onerous requirement and it would have nothing to do with conversations on holiday. This would relate to official business when, for example, a multinational corporation would try to lobby an Irish official in the interests of the company’s operations in Ireland. It is a reasonable proposal that does not alter the thrust of the Bill at all. It would not change the Bill but it would add an element in circumstances where it is impossible to force the company in Britain, America or Europe to register as lobbyists. At least we could capture the fact that Irish officials would have been lobbied while abroad. It would be useful information and I do not see why the Minister should be so obdurately against it. He has the numbers for any vote in the House.

**Deputy Brendan Howlin:** I would not like to leave the challenge of obduracy on the record. I have been very open to any suggestion and I have thought carefully about every amendment. I want this to be practical. I have indicated to the Senator that we cannot see this piece of legislation in isolation. Irish officials abroad are subject to the Standards in Public Office, SIPO, Act. I may have heard the Senator decry that legislation as almost an example of a nanny state’s actions in some instances.

**Senator David Norris:** No, it is useful but it was unable to prevent the Government putting out posters lying about the Seanad before the referendum. One cannot expect it to achieve much.

**Acting Chairman (Senator Diarmuid Wilson):** Allow the Minister to answer.

**Deputy Brendan Howlin:** As with many enactments, it was described as intrusive, overarching and the actions of a nanny state when it affected certain people but proper, thorough and correct when it affected everybody else. The Ethics in Public Office Act and the freedom of information legislation gives insight into any improper activities that might occur. I want to make this as practical as I can for the reasons I outlined. One cannot parse what some believe as unacceptable lobbying and others would see as casual discussions to be excluded. The definition of lobbying is set out and all such conversations are captured. That is the simple way in which the law is set out. One cannot argue that acts which somebody regards as unacceptable must be reported but everything else is excluded. We do not have a definition to be captured by that.

This is groundbreaking legislation and best-in-class by international comparison. That is acknowledged. I ask Senators to allow it be enacted and take its course, and if we need to strengthen it in future, we can do so. If we get what is captured by this Bill on the Statute Book, we will have made an extraordinary advance on where we are now.

**Senator David Norris:** I have another comment as I have been tempted by the Minister’s mention of choosiness in the operations of the Standards in Public Office Act. I am certainly choosy and I spoke on the Order of Business about the requirement to clock in with fobs. The

Minister does not have to do that.

**Deputy Brendan Howlin:** I do not get overnights either.

**Senator David Norris:** Elected Members have to do so. We are continuously told that in this technological age, one can work from home, on the plane, a train or a bus. Nevertheless, we have to be chained to the kennel like puppies. One must account for allowances through vouching. I know the Minister is enthusiastic about this and it was all fine for him when he went about extinguishing the leaders' allowance. That concerns Independent Members in both Houses. They cover a wider range and they have extra work.

**Acting Chairman (Senator Diarmuid Wilson):** We are discussing a lobbying Bill.

**Senator David Norris:** The Minister spoke about things being unacceptable. Nowhere in the amendment is there a question of subject matter being recorded; it is just a case of noting the fact that lobbying has taken place. The amendment will clearly not be accepted so I will leave it at that. We are entitled to know in principle if a public official has been lobbied while abroad. I am not at all confident that this will be captured by the SIPO legislation, as I am not a bit confident in it, not in the slightest.

**Senator Thomas Byrne:** I will withdraw the amendment and return with something slightly different based on what Senator Norris and others have said. If an amendment similar to this is not accepted, the old catchphrase of "what happens in Vegas stays in Vegas" will turn into "what happens in Davos stays in Davos". That should not be the catchphrase for the Bill.

Amendment, by leave, withdrawn.

Amendment No. 29 not moved.

## SECTION 7

**Acting Chairman (Senator Diarmuid Wilson):** As amendments Nos. 30 to 39, inclusive, and amendments Nos. 48 to 50, inclusive, are related, they may be discussed together.

**Senator Thomas Byrne:** I move amendment No. 30:

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

"(l) EirGrid Plc.,".

I will speak briefly about these amendments before withdrawing them in order to raise them again on Report Stage. The amendments would affect companies and individuals including EirGrid, Ervia, An Post, the Railway Procurement Agency, members of An Bord Pleanála, members of the Competition Authority, directors of the Environmental Protection Agency, the Revenue Commissioners, Revenue appeals commissioners and "any position with the word regulator in its title". I am proposing to withdraw all of these amendments so we can have a fuller discussion on Report Stage.

Amendment, by leave, withdrawn.

Amendments Nos. 31 to 39, inclusive, not moved.

Section 7 agreed to.

Section 8 agreed to.

## SECTION 9

**Senator Jillian van Turnhout:** I move amendment No. 40:

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

“(2) Inclusion in the Register established under this Section shall not be construed by any Minister of the Government or any public body as extinguishing or limiting or otherwise affecting in a negative manner the entitlement of any person or body so included to apply for or to be considered for any of the matters referred to in *section 5(9)(c)*.”

I have been in communication with the Minister since Second Stage in relation to this amendment, about which I will speak briefly. I have tabled it to ensure we are all absolutely clear about the intentions of this Bill. I was surprised to read an article in today's *The Irish Times* in which one of my colleagues suggested that this Bill could promote a culture of secrecy. I think the exact opposite. I suggest it was unhelpful, to say the least. A former US Supreme Court Justice, Louis Brandeis, once said that sunlight is the best disinfectant. I think that is what this lobbying Bill is about. I want to ensure businesses, civil society, non-governmental organisations and others have equality of access to our politicians and officials. It is something on which I pride myself, as a Member of the Legislature here in Ireland. I remember being involved in youth work at European level as a young person in my 20s. I looked at the excellent access we have in Ireland to our public officials, our Legislature and our politicians. We want to ensure it is done transparently and openly and not in such a way that anything is done behind the scenes. My understanding is that the intention of this Bill is to ensure we change that culture. Only so much can be done by legislation. As Senators and Deputies, we have a role in supporting the cultural shift that is also needed.

I have tabled this amendment because there is a concern that appearing on the register of lobbyists will have a negative impact in terms of perception. I do not want to speak for the Minister, but I know we are trying to ensure lobbying is not a bad word. I believe we engage in lobbying because we care, we want to see change and we want to advocate for change. If people are engaged, that is something positive. I often think that if people say nothing, perhaps they do not care. We want to ensure people can lobby. I do not want organisations that are on the register of lobbyists to be disqualified in some way from consideration for grants. If this legislation discourages people from getting involved, it will be counterproductive. I would like the Minister to give the House a clear statement on the intention of the Bill in respect of the amendment I have tabled. If we are in agreement, I hope the Minister, who spoke earlier about the communications strategy, can clearly instruct his ministerial colleagues and the public bodies that grants and lobbying are not to be linked. I do not think they should be linked. One should not be prohibited from getting a grant just because one is on a lobbying register. Both activities should be done in full transparency and openness. I am not asking for any secrecy. We should not say that one excludes the other. That is my intention in proposing this amendment.

**Senator David Norris:** While I understand Senator van Turnhout's concerns, it seems to me that nothing in the Bill actually suggests that a person who is registered as a lobbyist would be prevented from getting a grant. I think the concern is understandable, but I do not think it is supported by a close reading of the Bill.

**Senator Jillian van Turnhout:** What about section 5?

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**Senator David Norris:** I have spoken in rather negative terms about lobbying, as others have done, but I appreciate that there is also very good and informative lobbying that assists in the political debate. I do not see any reason somebody who is registered as a lobbyist should not be able to apply for a grant. I understand where Senator van Turnhout is coming from, but I do not think her concerns are reflected in the text of the Bill. I welcome the opportunity to mention on the record that there are some very good and very valuable lobbyists. I am concerned about the multinationals, the big cigarette corporations and the drinks industry. These sorts of people have a disproportionate influence. It is very often under the radar. We want to expose that. Of course those who lobby for sports or recreational facilities for inner-city children should get their grants. I have no problem with their lobbying to get grants. That is what it is all about. That is part of the political process. It is useful that Senator van Turnhout has proposed this amendment to have this matter ventilated. I am quite sure the Minister will say that the penalising of lobbyists in this fashion is not contemplated by the Bill. I presume his words would have effect and could be quoted in any court case that might arise, although I do not anticipate that such a case will arise.

**Deputy Brendan Howlin:** I thank Senator van Turnhout for her amendment and for the correspondence and the discussions we have had on this matter. I want to formally clarify on the record of the House that registering on this website once it has been established will have no impact on a person's application for, entitlement to or consideration of any matter referred to in section 5(9)(c) of the Bill. The Bill is not intended to discourage communication of these issues and will have no impact - negatively, positively, or any other way - on that. I have provided for clarity the formal advice I have received from the Attorney General on the impact of this provision. There are of course already rules in place in relation to certain matters where lobbying is inappropriate and might lead to disqualification. I refer, for example, to jobs advertised on *publicjobs.ie*. That is *sui generis*. People will understand that. I hope what I have said will be fully accepted by Senator van Turnhout.

The Senator has also asked me to write to my ministerial colleagues to draw attention to this issue. I intend to communicate with Ministers and other designated public officials on the details of this legislation and all its practical implications, including this point. I will be happy to address this issue as part of that communication. The review of the Act will also provide an opportunity to assess further, in the light of experience, whether this legislation is applying as we fully intend it to. The intention of the Bill is not to change the type of current behaviour as instanced by Senators Norris and van Turnhout. Proper lobbying is a vital component of our democratic process. It is not my intention to put that in jeopardy. I probably spoke flippantly last week when I said I am in favour of normal lobbying for the public good, as opposed to the vested interest type lobbying which is not for the public good. As I said last week, I want to put the sort of lobbying that used to take place in the Galway tent under the microscope. The normal good work of charitable organisations that are involved in advocacy for homelessness, the disability sector or any other area of activity is absolutely to be protected. I hope those assurances will assuage Senator van Turnhout's concerns and obviate the need to pursue the amendment.

**Senator Jillian van Turnhout:** I welcome the clarity that has been given by the Minister. I know the organisations that contacted me will be equally thankful for what the Minister has put on the record. I will withdraw the amendment on that basis.

Amendment, by leave, withdrawn.

Section 9 agreed to.

Sections 10 and 11 agreed to.

## SECTION 12

**Senator Trevor Ó Clochartaigh:** I move amendment No. 41:

In page 14, between lines 8 and 9, to insert the following:

“(g) in the case of a lobbying activity by a person under *section 5(1)(a)* or *(c)* the overall amount spent on that lobbying action by the client, and in the case of a lobbying activity by a person under *section 5(1)(b)* or *(c)* the costs associated with that lobbying action.”.

This amendment relates to, in the case of a lobbying activity by a person under section 5(1) (a) or (c), the overall amount spent on that lobbying action by the client, and in the case of a lobbying activity by a person under section 5(1)(b) or (c), the costs associated with that lobbying action. It has been correctly pointed out by others that the regulatory framework necessary to create genuine transparency in public decision-making and open government will never be complete unless we know who paid how much to pitch what proposals or positions to whom. This is essential information and yet the Bill contains no requirement to make this kind of information available to the public, and we put forward the amendment so that such would be the case.

**Senator David Norris:** I have been generally in support of the Sinn Féin amendments but I find this one a little pettifogging. It is understandable in cases of a major company, but in the case of a voluntary organisation or an individual, that is an unnecessary volume of red tape. That is merely my opinion. I would find it difficult to support this amendment.

**Deputy Brendan Howlin:** Senator Norris has addressed the issue, probably more succinctly than I could. As I have stated, we have held a significant amount of discussions on this across the public sector, lobbying organisations and NGOs and they do not want to be overburdened in this regard. If every approach they made had to be costed and the cost was aggregated for every voluntary organisation, they would collapse under the weight of it all.

**Senator David Norris:** Hear, hear.

**Deputy Brendan Howlin:** That is not what Senator Ó Clochartaigh intends but that would be the net result. On balance, I have given assurances to those organisations that I would make this as practical as I can. I will not accept the amendment.

**Senator Trevor Ó Clochartaigh:** I beg to differ with my esteemed colleagues. On this one, they have missed the point completely because most NGOs would not be in a position to give large fees to a lobbyist to lobby on their behalf.

What we are looking at here is the scenario of the Galway tent that the Minister outlined previously, where if a lobbyist is paid to go around with bags of cash to lobby people, even if he or she does it within the parameters, we should know how much people are being lobbied, for example, how much the multinationals or big companies are paying the lobbyists to do the type of work that they are doing compared with an NGO which might be lobbying on the other side of an argument. For example, in the case of the tobacco sector, which was used by Senator

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Norris earlier, the tobacco companies could potentially spend hundreds of thousands of euro to hire a lobbyist to do a lot of work on their behalf whereas the NGOs lobbying on the other side of that argument would not have such sums available to them. In the era of transparency, that is exactly why one needs an amendment like this. It is so one can see when that type of activity is happening.

It is not about breaking down the costs of every NGO when they come to speak to a Minister. It is about the lobbyist who is paid, either on a contract or fee, to do this type of lobbying. That is essential if we are to have any real belief in the Bill. It is that era of the brown bags of cash going around the place which we want to move away from.

**Senator David Norris:** I suggest that Senator Ó Clochartaigh withdraw the amendment and re-enter it on Report Stage in a slightly different form with, for example, a cash limit. If it stated any lobbying activity costing more than €5,000, €10,000, €15,000, €100,000 or whatever, of course it would be another matter. Everybody knows that the big tobacco companies, the drinks sector and others use significant sums of money. Let us have it specified over a certain amount.

Where somebody is going to lobby a Minister, merely to discuss an issue, would he or she put in the bus fare? I do not see it as practical. I see it as having a, to use the awful phrase, chilling effect on lobbying. It would be nonsense if, for example, they had to produce receipts for the taxi and a sandwich they had in the bar.

When large sums are spent on lobbying, there may be some point in seeing that. I would agree with that. I would respectfully suggest that Senator Ó Clochartaigh withdraw the amendment and resubmit it with a certain reference to the substantial sums that could be involved, and anything over that should be recorded.

**Deputy Brendan Howlin:** I have nothing to add.

Amendment put and declared lost.

**Senator Diarmuid Wilson:** I move amendment No. 42:

In page 14, between lines 33 and 34, to insert the following:

“(9) This section shall not apply to unpaid volunteers of an organisation that is otherwise a registered person for the purposes of this Act.”.

I will listen to the Minister’s reply.

**Deputy Brendan Howlin:** An amendment was made in the Dáil which addresses the concerns raised by the Senators relating to the exclusion of unpaid volunteers from the requirement to register under the Bill. I do not want to be disingenuous, but I tabled a mirroring amendment to meet the request of the Fianna Fáil Deputy. In the Seanad, dare I say, this was probably inadvertently resubmitted.

**Senator Diarmuid Wilson:** I thank the Minister for his reply.

Amendment, by leave, withdrawn.

Section 12 agreed to.

Section 13 agreed to.

#### SECTION 14

Question proposed: “That section 14 stand part of the Bill.”

**Senator Trevor Ó Clochartaigh:** My party is opposing this section. We can see no valid reason to protect from public scrutiny the lobbying of public officials with respect to public policy, legislative or funding decisions on the basis of adverse effect on the financial interests of the State, business interests generally or particularly, or potential material financial loss to, prejudice to the competitive position of, or contractual negotiations engaged in by the lobbyist or his or her client. If the Minister has a legitimate purpose to this, perhaps he could draw this provision very narrowly. As it stands, one could drive a transport truck through this loophole. Indeed, secrecy of this nature in the form of delayed public scrutiny, and for these same cited reasons, is what helped bring the State to its economic knees. It is not acceptable. This Bill has to be about changing all of that. The purpose of this provision, as it stands, undermines the Bill as a whole and it is strongly opposed on this basis.

**Deputy Brendan Howlin:** Section 14(1) provides for a delayed publication where the registrant believes that the registration or the return relating to the lobbying would have one of the following effects: a serious adverse effect on the financial interests of the State, on the national economy, business interests generally or the business interests of any description of persons. It is reasonable where any action might have a serious impact on the national economy that a delay might be warranted. Most would accept the reasonableness of that position.

There would not be much requirement to utilise this provision. In the exhaustive discussions we held, and looking at best practice internationally, it was felt that this provision is necessary.

**Senator David Norris:** I completely understand the Minister’s position with regard to the national economy and any threat to the financial well-being of the State, but there may be circumstances, for example, where it would be good if a company was financially disadvantaged where its financial business was determined to be against the interests of the people. I assume that the powers to delay publication exist theoretically and need not be enforced on every occasion so that, if a company was adjudged to be inimical to the best interest of the public good, the Minister could go ahead and publish and be damned.

**Deputy Brendan Howlin:** When I say this will be limited in its use, it is there as an ar-eagla-na-heagla provision, but there are clear and strong checks and balances before it can be utilised. I will bring the Senators through those. The thresholds are set out in the Bill. It requires, first, in subsection (1)(a), that it would be a serious adverse affect. In subsection (1)(b), the threshold requires that it would be expected to cause “material financial loss” or “prejudice seriously the competitive position of” a company. The commission is then obliged to consult with relevant Ministers before it can make a decision on matters coming within the section. The commission must, by law, have regard to the public interest before coming to a determination, and whatever prevailing financial loss must be weighed against the public interest. The commission will have the option of making information available in summary form, if a redaction would meet the purpose. After all of this, there is a right of appeal to an independent appeal officer under section 23, and the right to appeal that decision to the High Court. The provision is fairly robust, but I would not take this out as Senator Ó Clochartaigh suggests, because we would not like to have a situation where we would have to do something where, by common

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agreement, it would be against the public interest and would strike a blow at the financial interests of the State.

Question put and declared carried.

Sections 15 to 21, inclusive, agreed to.

## SECTION 22

**An Cathaoirleach:** Amendments Nos. 43 to 45, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Trevor Ó Clochartaigh:** I move amendment No. 43:

In page 22, line 11, to delete “*paragraph (a), (e) or (f) of*”.

We do not agree that Deputies, Senators, MEPs and councillors should be exempt from these restrictions and the requirement to obtain pre-authorisation by way of application to SIPO if they want to take up employment as a lobbyist within two years of leaving public office. They can possess influence and inside knowledge that may not be in the public interest to make available, particularly to private commercial interests which may become their clients.

With regard to amendments Nos. 44 and 45, we can see no valid reason for the Minister’s proposed shorter cooling-off period during which time the law should impose restrictions on post-term employment as a lobbyist, meaning that SIPO would require former public officials to make an application and secure its pre-authorisation before taking up such employment. We concur with the opinion of most commentators, that a two-year period provides a much safer margin to protect the public from influence peddling for hire and is not onerous. This longer period is especially reasonable given that the Bill does not impose an absolute prohibition but rather makes provision for SIPO’s conditional or unconditional consent in appropriate cases, as set out in section 22(5).

**Deputy Brendan Howlin:** The imposition of restriction on post-term employment as a lobbyist on relevant designated public officials must be proportionate and practical because people have constitutional rights. One of the most difficult things is to narrow or circumscribe people’s right to work, which is what this provision does. I have said we will apply this to the following categories: Ministers of the Government; Ministers of State; and special advisers and public servants of a prescribed description which are Secretaries General, assistant secretaries general, the chief executive officers of local authorities and the director of services of local authorities. These categories will expand over time as I have indicated. I do not think they should apply to every Deputy and Senator. People should not be restricted from the employment they take up after membership of either House because they have been an active Member of the House. Perhaps the Senator feels there is a case for it but it is not one I feel is convincing.

With regard to the other two amendments, that there should be a two-year gap rather than the one-year gap I propose, the one-year gap is proportionate. Bluntly, the advice I have is that if one is to state people cannot work for two years one will have to compensate them for it, and I do not want to get into the business of making extended payments to people who leave the public service in compensation for disallowing them to take up roles in certain categories of work. It is about striking a balance to create sufficient clear water. A year is sufficient clear water after someone leaves public service, because what I want to stop is the notion of people

being responsible for one activity in the public service at the end of January and in February walking into the very area which they regulated, which happened in the past. A one-year gap clears the air in an appropriate way and is a very good start if these issues are to be addressed in the future. This is the first time this is being done and it is a robust and sound measure that is proportionate and constitutional, which is an important consideration also.

**Senator David Norris:** I largely agree with the Minister, but I do not see the difference between preventing people from being a lobbyist for one year or two years. Does the Minister suggest one would not have to pay them for one year but would for two? Is that the law?

**Deputy Brendan Howlin:** It is striking a balance of proportionality. People might determine it acceptable to restrict somebody's activities for a year, but one would be in more dangerous territory going beyond that.

**Senator David Norris:** I accept that. It is a question of proportionality. I do not see why ordinary Members of either House should be disbarred. They are just ordinary Members who are not in the same situation as policy makers such as Ministers and Secretaries General. They are in a different category and I have no difficulty with the Minister's position on this.

Amendment put and declared lost.

**Senator Trevor Ó Clochartaigh:** I move amendment No. 44:

In page 22, line 12, to delete "one year" and substitute "two years".

Amendment put and declared lost.

**Senator Trevor Ó Clochartaigh:** I move amendment No. 45:

In page 22, line 17, to delete "one year" and substitute "two years".

Amendment put and declared lost.

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

**Senator Diarmuid Wilson:** By way of clarification, while former Members or officers would be prevented from becoming a lobbyist for the first 12 months after leaving office, would they be prevented from being a board member during this period? Is there any restriction on this?

**Deputy Brendan Howlin:** The restriction is they would have to seek the advice of SIPO to determine the appropriateness of any such position. This is how we have couched it rather than designating what would not be allowed. On a case-by-case basis the independent standards commission will make the determination and give the advice accordingly.

Question put and agreed to.

Sections 23 to 25, inclusive, agreed to.

## NEW SECTION

Government amendment No. 46:

In page 24, between lines 12 and 13, to insert the following:

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### **“Delegation of functions by Commission**

**26.** Such functions of the Commission under this Act as may be specified by the Commission may be performed, under the supervision and subject to the general direction of the Commission, by members of the staff of the Commission duly authorised in that behalf by the Commission.”.

**Deputy Brendan Howlin:** This amendment stands at the request of the Standards in Public Office Commission which contacted my office and asked for it. The Ethics in Public Office Act 1995 provides the commission with authority to delegate its functions to staff of the commission. The commission is strongly of the view that to avoid any possibility of future legal challenges the question of its powers of delegation should be put beyond doubt by including a delegation provision in the Bill, and this is what I am minded to do.

Amendment agreed to.

Section 26 agreed to.

### NEW SECTION

**Senator David Norris:** I move amendment No. 47:

In page 24, after line 26, to insert the following:

**“27.** In any meetings between lobbyists and Ministers/Officials it shall be required that detailed minutes be kept of the content of the discussion of the meetings.”.

As I understand it, as it stands the Bill just registers the fact of lobbying. It would be important that we know the content of such lobbying, particularly in terms of very large companies which have an interest. Rather than just registering the fact that they have lobbied a Minister, it would be important for the public to know the lines of that lobbying and what facts were produced so the issues can be discussed.

At that level it is a question of issues, rather than just the fact that a lobbying meeting was held. Everybody would like to know exactly what went on. I remember Senator Crown mentioning publicly that the Taoiseach and a Minister or two had met a delegation from the tobacco industry. He thought it was very unusual that this was done privately. In those  
*3 o'clock* circumstances it would be important for people to know what was said and the subject matter of the discussion. A register just lists the fact that a meeting took place. I do not think that is enough. We need to know the degrees of pressure brought to bear on Government. Was there any kind of bullying, blackmail or threat, or anything like that? If such things happen, I think the public should know.

**Senator Sean D. Barrett:** I welcome the Minister. I think Senator Norris’s amendment is well worth considering on two grounds. This week, at a meeting of Joint Committee on Transport and Communications, we discussed the same issue that we discussed last week. Any lobbying on the matter had to be done in public. During this week’s meeting, members of the lobby group that had appeared the previous week, who did not agree with a word of what was said by that group, appeared again before the committee and admitted that they disagreed with the points their own group had made. That was a wonderful spectacle - to see the lobbyists falling out among themselves. It is useful for Ministers to know that. A more serious point that I learned from another committee of which I am a member is that no notes were taken at the

meeting of 29 September 2008 at which the €64 billion was lost to the country. It must be an incredible ratio - no notes and €64 billion worth of banknotes. We need the records so that the Government's conduct can be open and inspected, as this Bill intends.

**Deputy Brendan Howlin:** Having listed to Senator Barrett, I am minded to think back to my time as Minister for the Environment in the Custom House, when I embarked on a series of communications with what could be described as lobbyists for the taxi industry. I met representatives from various interest groups over a protracted period, and it happened that the leader of the first delegation that came to visit me left and joined a different lobbying group, which was the last group I met. They had a completely different position by the time the lobbying concluded. I agree that one learns about the presentation of facts over time.

**Senator David Norris:** Good. So the Minister will accept the amendment?

**Deputy Brendan Howlin:** I think we have rehearsed these issues in previous amendments. I do not want to reverse the position. The structure of the Bill is that the lobbyist is required to register. Once we see on the register that somebody has been lobbying, it is a signal that we should use the other legislation we have - for example, by using the Freedom of Information Act to find out what happened, who was in attendance and so on. There are other instruments such as parliamentary questions or the procedures of this House that can be used for further inquiry into a meeting. We can get this sort of information by means other than by requiring the detailed publication of a lobbying note. It is a balance between imposing transparency requirements, which is right and proper, and ensuring that communications with the organs of the State continue. I think we have struck the right balance.

**Senator David Norris:** The Minister talks all the time about reversing the flow. I do not accept that. If so, what about it? The goldfish are not going to drop dead because he reversed the flow. Our cry should be to go with the flow. One of the reasons I tabled this amendment is the dearth of notes. Thanks to the invasive nature of what can be found under the Freedom of Information Act, notes of what happens at government meeting are not kept. It is all done orally. We do not know what is going on. There is a tissue of pretence about freedom of information and all the rest, a lot of which leads to prurient quarrying by media, which is offensive and irritating. The media often misinterpret the facts when they get them, and sometimes they deliberately misinterpret them. This amendment is intended to counter the absence of information on the substance of discussions at meeting. We should know the substance. It is not enough to know that lobbying took place; we need to know what went on. If one believes in freedom of information, one really needs freedom to know what went on. What is the point in knowing that a meeting happened? So what? The substance of what went on is what we need to know. We need a note of that. I very firmly believe this and I ask the Minister to review this amendment. Let me point out that the Minister has not accepted any amendments except his own, although he gave a number of undertakings that he would look at things again. I will not call a vote if I get an undertaking from the Minister that he will look at this again.

I think Irish Water has gone to the Minister's head - he is talking about the flow here and the flow there and the flow back. That is all nonsense. Let us know what inducements were offered to Government. The Galway tent does not have to be in Galway; it can be in Government Buildings too. It can be a reverse flow, with the industry bullying the Government.

**Deputy Brendan Howlin:** I take the point. Senator Norris likes to put things in a colourful way, and that is fine. The amendment does not refer to the array of officials and groups that I

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have named in the Bill as those who are lobbied. The Senator simply confines it to Ministers and officials - again, not defining the officials to be covered by this amendment.

**Senator David Norris:** Those who meet.

**Deputy Brendan Howlin:** In law, one has to define what one is talking about.

**Senator David Norris:** Officials could hardly comment on something at which they were not present.

**Deputy Brendan Howlin:** In what sense? Will it apply to every official, every clerical officer and everyone who is talked about? Senators and Deputies are excluded because it would mean we would have to write and publish an official note on what was said by every residents' group or IFA delegation at our clinics.

**Senator David Norris:** That was not contemplated by this amendment, so the Minister is muddying the waters.

**Deputy Brendan Howlin:** No. I am saying what I think, but Senator Norris would obviously regard that as unacceptable.

**Senator David Norris:** Yes.

**Deputy Brendan Howlin:** But every official-----

**Senator David Norris:** And it is not contemplated by the amendment.

**Deputy Brendan Howlin:** I will stop.

Amendment put:

The Committee divided: Tá, 11; Níl, 21.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Bradford, Paul.	Brennan, Terry.
Byrne, Thomas.	Burke, Colm.
Craughwell, Gerard P.	Conway, Martin.
Heffernan, James.	Cummins, Maurice.
Norris, David.	D'Arcy, Jim.
Ó Clochartaigh, Trevor.	D'Arcy, Michael.
O'Brien, Mary Ann.	Gilroy, John.
Walsh, Jim.	Hayden, Aideen.
Wilson, Diarmuid.	Landy, Denis.
Zappone, Katherine.	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegard.
	Noone, Catherine.

*Seanad Éireann*

	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.

Tellers: Tá, Senators Sean D. Barrett and David Norris; Níl, Senators Aideen Hayden and Michael Mullins.

Amendment declared lost.

Section 27 agreed to.

Amendments Nos. 48 to 50, inclusive, not moved.

Schedule agreed to.

Title agreed to.

Bill reported with amendments.

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

**Senator Maurice Cummins:** Next Tuesday.

Report Stage ordered for Tuesday, 10 February 2015.

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

**Senator Maurice Cummins:** At 2.30 p.m. next Tuesday.

The Seanad adjourned at 3.30 p.m. until 2.30 p.m. on Tuesday, 10 February 2015.