



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Déardaoin, 19 Feabhra 2015*

*Thursday, 19 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 received 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 Jobs, Enterprise and Innovation to discuss the recently launched Action Plan for Jobs - Regional, with a specific focus on the Border region and how investment and jobs can be created there.

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

The need for the Minister for Jobs, Enterprise and Innovation to outline how many IDA Ireland and Enterprise Ireland jobs have been created and lost in Waterford since 2008, the number of IDA Ireland client site visits to Waterford between 2008 and 2014 and the plans he has to support job creation and retention in Waterford.

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

The need for the Minister for Education and Skills to recognise that it makes good educational, financial and domestic sense to provide resource support hours for children with Down's syndrome with a mild learning difficulty and the need to change policy to reflect this.

I have also received notice from Senator Averil Power of the following matter:

The need for the Minister for Education and Skills to provide extra funding for the student assistance fund in the light of the fact that many colleges have exhausted their entire allocations for the 2014-15 college year.

I have also received notice from Senator James Heffernan of the following matter:

The need for the Minister for Transport, Tourism and Sport to discuss the provision of special rail services to accommodate commuters from areas where there is an existing, al-

though unused, train station and platform to be utilised on special occasions.

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

The need for the Minister for Health to outline the number of people on the waiting list for orthodontic treatment in the public health service in counties Galway and Mayo, to detail the length of time people are waiting, by year, for the past five years and the age range in deciles and to clarify what plan the HSE has in place to address the backlog.

I regard the matters raised by Senators Kathryn Reilly, David Cullinane, Fidelma Healy Eames, Averil Power and Trevor Ó Clochartaigh as suitable for discussion. I have selected the matters raised by Senators Kathryn Reilly, David Cullinane, Fidelma Healy Eames and Averil Power and they will be taken now. Senator Trevor Ó Clochartaigh may give notice on another day of the matter he wishes to raise. I regret that I have had to rule out of order the matter raised by Senator James Heffernan as the Minister has no official responsibility in the matter.

Would the Senators mind if we changed the sequence and took Senator David Cullinane's matter before Senator Kathryn Reilly's? Is that agreed? Agreed.

## **Commencement Matters**

### **Jobs Data**

**An Cathaoirleach:** I welcome the Minister of State, Deputy Gerald Nash.

**Senator David Cullinane:** I thank the Cathaoirleach, Senator Kathryn Reilly and the Minister of State for their co-operation. I tabled this matter to discuss with the Minister of State the jobs situation in Waterford and the south east. Specifically, I wanted the breakdown of the jobs created and lost in IDA Ireland and Enterprise Ireland companies in Waterford.

Some progress has been made in recent years and a spotlight has been shone, not just on Waterford, but also on the south east by the Minister for Jobs, Enterprise and Innovation. It is welcome that we have had some positive announcements, employment figures have increased and unemployment figures have decreased. We have gone from being the region with the highest level of unemployment to the region with the second highest. Obviously, there has been some improvement and good work has been done, but a great deal more needs to be done.

I wish to bring the Minister of State's attention to a report that I published for the joint committee in September 2013 entitled, South East Economic Development Strategy, or the SEED strategy. It called for the implementation of a long-term economic development strategy that would support a new model for the region based on sustainability, meeting the needs of enterprise and an alignment of national, regional and county objectives to ensure all of the actors were working to a single strategy that considered the strengths of the region and the opportunities for job creation and retention.

The strategy also called for the establishment of a regional IDA Ireland office and director. I commend the fact that we now have a regional director. It is a step in the right direction, but it must be underpinned by a regional strategy focused on resources and playing to strengths.

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The strategy called for the south east to have the same IDA Ireland investment aid as the BMW region as part of a change in the regional aid guidelines. It is welcome that this has been done.

A crucial element in the strategy is the need for a university. While this is not directly the Minister of State's brief, it has a major impact on the ability of the south east to sustain itself economically, to take advantage of any upturn and the excellent research and development capacity in the region, and to build on same, thereby creating new jobs. The strategy also called for investment in the roll-out of fibre network broadband in the region, but that has not happened, and investment in the airport, of which there has been some but not enough.

I have been constructive in making proposals instead of just saying that we have a problem. I want to be a part of the solution, as we should be as public representatives. I appreciate the fact that a spotlight has been shone on the region, that the Government is focused on improving the situation and that a collaborative approach has been taken by Oireachtas Members from Waterford to the creation and retention of as many jobs as possible. Good work has been done, but it is now a matter of building on that work and getting information on the hard figures from the Minister of State. What has been done by the enterprise agencies?

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Gerald Nash):** I thank the Senator for raising this matter. The most recent annual employment survey showed that, at the end of 2014 in Waterford, there were a total of 10,157 people in full and part-time employment in client companies of Enterprise Ireland and IDA Ireland. Enterprise Ireland clients employ 5,060 people, while IDA Ireland clients employ 5,097. Corresponding figures for 2008 were 5,655 for Enterprise Ireland client companies and 6,790 for IDA Ireland client companies.

Waterford was particularly hit at the beginning of the downturn in the economy with the closure of Waterford Crystal. Following the closure of the Talk Talk call centre in 2011, by which time this Government had taken office, the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, initiated the south-east action plan and established the south-east forum to drive the implementation of that plan, in late 2011. Officials from the Department of Jobs, Enterprise and Innovation engage with the key State players on the forum to monitor developments on the detailed actions set out in the plan, and the Minister has held a considerable number of meetings with the forum.

Significant progress on job creation has been made in Waterford, as the Senator acknowledged, including the establishment of the new call centre operation, Eishtec, supported by Enterprise Ireland, which now employs more staff than previously worked for Talk Talk in the city. There have been several other job creation initiatives for the region as a result of the work of Enterprise Ireland and IDA Ireland. During 2014 Sanofi, currently employing 500, announced plans to invest €44 million in Genzyme's biotechnology campus in Waterford. Last autumn, the Taoiseach and the Minister officiated at the launch of an exciting new €100 million project by West Pharmaceutical Services in Waterford city, the latest in a succession of new job creation projects in the region. The number of IDA Ireland site visits to Waterford doubled from 31 in the period from 2008 to 2010 to 62 in the period 2011 to 2014. In addition, other enterprise support initiatives have been developed to support new start-ups, graduate placements and research projects.

In order to improve the offering in the region to win new business, IDA Ireland has, under the Action Plan for Jobs 2014, funded the construction of an advanced manufacturing facility in

Waterford. IDA Ireland's commitment to Waterford continues, with further expansion expected in the Waterford area in terms of advanced manufacturing units and other facilities in the next period of time. The facility announced last year, which is under construction, is 2,348 sq. m in area and is located in the IDA Technology Park at Butlerstown. It is now nearing completion.

**Senator David Cullinane:** I thank the Minister of State for his response. It might be helpful if he asked the enterprise agencies to forward a year-on-year breakdown from 2008 of jobs created and lost. It would be more useful for assessing what progress has been made in recent years. The last time these figures were released was in 2013; it would be interesting, therefore, to see what advances were made last year. While I accept that jobs are being created, jobs are also being lost. It is the net increase that is important and that interests people. There is progress, which I support, but we must do a great deal more. Perhaps the Minister might look at the recommendations of the South East Economic Development Strategy, SEEDS, report that have not been implemented and prioritise those as actions that must be delivered as quickly as possible.

**Deputy Gerald Nash:** In the past two years the number at work in the region has risen by approximately 19,000 and the unemployment rate has fallen from 19.4% to 13.7%. That is a substantial achievement. All of the agencies and public representatives in the area, including the Senator and my colleague, Deputy Ciara Conway, work very hard in this regard. Obviously, Waterford and the south-east region required specific focus from the Government, and that is the reason the Minister, Deputy Richard Bruton, developed the south-east action plan. The important element of that plan is that there is an amount of local ownership and local buy-in, and IDA Ireland, Enterprise Ireland, the local authorities, Waterford Institute of Technology and the local enterprise office are strongly engaged in it.

The report of the Oireachtas committee is very interesting. As the Senator acknowledged, there are elements of it that are not under the direct control of my Department. However, we have an interest in it and the forum has been asked to look at the report in detail. The Minister is on top of that. It is also important to point out that what the Government is seeking to do, particularly the Ministers with responsibility for jobs, is to align the interests of all of the agencies and all Departments and create what might be considered a mini action plan for jobs for each region. Inspiration for that, in many ways, could have been drawn from the south east forum and how it operates.

The Senator has acknowledged the need for the alignment of local, regional and national objectives, and we are doing that quite well in Waterford, an area that was particularly badly hit by the recession. The Senator also acknowledged the good work that is being done. The economic recovery is under way but there is a great deal of work to do in the next period of time and I am aware that the Senator is on board for doing that work, along with colleagues such as Deputy Ciara Conway. We have a focus on Waterford. There are particular issues to be tackled and I am confident we will do it.

### **Action Plan for Jobs**

**Senator Kathryn Reilly:** I welcome the Minister of State. This matter is in a similar vein, although it relates specifically to the regional Action Plan for Jobs for the Border area.

The Scottish poet Robert Burns said the best laid plans of mice and men often went astray.

The Action Plan for Jobs appears to be not necessarily a plan so much as a type of framework to provide a template which will then be given to local bodies in the midlands to implement as a pilot scheme. In the regional Action Plan for Jobs, there are many references to the local enterprise offices, LEOs, which will implement the scheme, but they are significantly underfunded and not much focus has been put on how to resource them adequately. Figures that have been released - there was a "Prime Time" feature recently on investment - show that enterprise agencies are failing to support many parts of the country. Worryingly, the number of potential investor visits was reduced in 2014 from an already scarce base. A grossly uneven regional delivery of enterprise and jobs is magnifying the severe jobs crisis, and counties such as Cavan and Monaghan are suffering as a result.

Since 2008 there have been ten IDA Ireland-sponsored visits to Cavan but only two to Monaghan. In addition, there have been 306 gross job losses in Cavan and 267 gross job losses in Monaghan. To compensate for that there have been only 193 gross job gains in Cavan and 108 gross job gains in Monaghan. There has been no investigation into why certain areas are losing more jobs than others, which should have been an important part of the regional plan. I would have liked to see such an investigation. Many counties are suffering disproportionately from the downturn, with unemployment and emigration rates that are far above the average. There is much discontent about the inaction of enterprise agencies in bringing potential investors to these areas. That has exacerbated regional disparities in employment. It is important that the enterprise agencies are directed to try to ameliorate some of these disparities and to get investment into those communities that are hardest hit by unemployment.

In the Department's press release accompanying the framework for the development of regional enterprise strategies it mentioned that €100 million in Enterprise Ireland funding is to be made available over five years through a series of competitive calls. The first tranche will be made available from 2015 and funding under these programmes will be allocated on a competitive basis, with most funds awarded to regional projects offering the best prospects for job creation. IDA Ireland will also roll out a five year €150 million capital investment programme to help attract more multinational jobs into each region.

My concern is that the regions with competitive advantages such as proximity to Dublin, other large urban areas or cities and regions that already have infrastructure in place will have better prospects for job creation in any case. What would the Enterprise Ireland funding do for the regions that have not had the best prospects to date? They might be disadvantaged through no fault of their own. Are they at risk of being left behind again? That is important with regard to the series of competitive calls and what is contained in the press release regarding the funding being allocated on a competitive basis. What criteria will be used? There is already a scarcity of IDA Ireland site visits to many areas, so what will both the IDA Ireland and Enterprise Ireland funding do for those areas if they have not been seen as attractive by the agencies for foreign investment to date?

The Taoiseach said at the launch that this was a plan to ensure no part of Ireland was left behind in the jobs recovery. However, if the recovery is being based on some form of competition for funding, how will we help those areas that might lose out but that might need it most?

**Deputy Gerald Nash:** I thank the Senator for giving me the opportunity to discuss the recently launched Action Plan for Jobs on a regional basis. Last week we launched the framework of that strategy. After I leave the Seanad, I will meet the implementation group for the strategy. I will play a leading role in rolling out the Border plan. It very much affects my con-

stituency of Louth and east Meath and I look forward to working together with Senator Reilly and others towards the mutual objective of sustainable job creation on a balanced basis right across the country.

The aim of the Action Plan for Jobs is to support enterprise growth and job creation in every region. Since the start of the Action Plan for Jobs process in 2012, employment nationally has increased by approximately 80,000. However, the economic recovery has progressed at a different pace across the regions. Unemployment across different regions remains above the national average, and this is the case for the Border region in general. This is why the Government is placing an increased emphasis on supporting economic recovery and jobs growth in the regions.

Vibrant and competitive regions are important, not only from an economic perspective but also from a societal point of view. Growing the economic base of regions supports social cohesion and provides opportunities, in particular, for young people to continue to live and work in their local communities. The 2015 Action Plan for Jobs includes a commitment to develop and publish a suite of regional enterprise strategies based on the strengths of each region, in consultation with key stakeholders. We will be having a series of meetings with stakeholders in the Border area in the next few weeks.

Last week, the Government announced details of the Action Plan for Jobs - Regional initiative which will seek to maximise the strengths and assets of each region to support enterprise growth and job creation. The objective is that six regional action plans, including one for the Border region, will be launched by July, with two remaining strategies in development at that stage. The purpose of the plans is to strengthen and develop regional collaboration by encouraging local authorities, regional bodies, higher education institutions, the private sector and communities to come forward with innovative ideas to boost job creation in their areas. The Department of Jobs, Enterprise and Innovation is currently in the process of finalising the regional action plan for the midlands. The plan has been developed in close consultation with local stakeholders in the area and this process will be replicated for all plans, including the regional action plan for the Border region. In that context, local entrepreneurs and business people will have an opportunity to provide inputs to the regional action plan for the Border region. The plan will include measures that can be taken to help the Border region to realise its economic potential. These will include a series of actions for delivery by the enterprise development agencies, Enterprise Ireland and IDA Ireland, and the local enterprise offices, together with the local authorities, other public sector bodies and the private sector to support enterprise growth and job creation in the region. We expect to identify measures in a number of sectors that are common to all regions, such as tourism, the food sector and skills, but we will also be working closely with the regions to identify measures specific to those particular regions aimed at boosting job creation. That is how that process will work.

I am pleased to note that year on year, from 2014 to 2015, there was a 12.77% decrease in the live register in Cavan and a 13.86% decrease in Monaghan. There is considerable work being done by the agencies in that part of the country. We all welcomed the announcement by Combilift in Monaghan only a couple of weeks ago of 200 new jobs in a spectacular indigenous Irish company that is well known throughout the world.

The way to address the regional disparities to which the Senator refers is by carrying out a robust analysis, working with local stakeholders and identifying strengths in the area. I have said it before, and I will say it again, there is little point in having the Twenty-six Counties com-

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peting for the same type of foreign direct investment. We want to identify the strengths in the area and target investment, and target the focus of the State agencies on that basis.

The Senator asked what Enterprise Ireland would do with regard to the competitive funds. In the next few weeks Enterprise Ireland will announce the framework for those funds. It is designed to identify what particular areas are good at and where local interests can align to work with Enterprise Ireland to develop facilities and ideas for job creation in those areas. The first of the calls will focus on community-driven enterprise initiatives and there will be a role for community interests, local chambers of commerce and local businesses in that regard. The second call will focus on new ideas emerging from the local enterprise offices. A third broader competitive regional call will support significant projects or initiatives to improve enterprise capability in the regions.

I am confident that the Border area, including the Cavan-Monaghan area, which the Senator represents, will be well placed to attract considerable funding from Enterprise Ireland. Much of this, in terms of competitive calls, will turn on the ability of the local community to come together, to pool its resources with local authorities, third level and further education institutes and other bodies to identify the priorities for that area in order that it can work with Enterprise Ireland on a collaborative basis to attract as much funding as possible to develop as many sustainable jobs as it is possible to do in that area.

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

**An Cathaoirleach:** I welcome the Minister for Education and Skills, Deputy Jan O'Sullivan.

**Senator Fidelma Healy Eames:** I am delighted it is the Minister who is here. She is the person I need.

My motion concerns the need for the Minister for Education and Skills to recognise that it makes good, sound educational, financial and domestic or family sense to provide resource support hours for children with Down's syndrome who also have a mild learning difficulty classification and I hope my argument today will prove to her it is time that we changed this policy *tout de suite*.

From my experience in this area of listening to families as an educator, I make the case that these children's rights are seriously infringed. We are talking about only 200 children in the primary sector who have a mild learning difficulty classification and also have Down's syndrome as a recognised syndrome and disability. It is estimated that there are approximately 25 to 30 such children per year. I am familiar with quite a number of cases in Galway. The Minister probably read Brendan O'Connor's article on his daughter in the *Sunday Independent* on Sunday last.

It has been estimated that this measure would cost the Exchequer approximately €1 million to resource, which, in the whole scheme of things - considering the amount of time involved, the possibility of preventing these children from regressing from mild to moderate learning disability, the investment in their futures and the alleviation of worry for their families - is a very good investment.

I was really struck - I apologise for being personal - that the Taoiseach hired a liaison person



for €50,000 to improve his personal profile in Mayo, for power, I suppose. My thought was that 20 times that amount would give power to these children to participate more fully in society. We need to look at it again.

Let me give the Minister a specific example. Children with mild learning difficulties come in with an IQ of 55 to 70. Such a child would traditionally have been called a slow learner, with lower intellectual capacity and processing. A child I know with a mild learning disability who also has Down's syndrome has a significant speech disorder and cannot string sentences together and has low muscle tone which makes sitting and attending to tasks difficult, especially those requiring fine motor skills such as writing. She has sight problems. This is typical of Down's syndrome children - more than 50% have sight problems. Glasses, of themselves, do not correct it. They must have a little board right beside them to accommodate their eyesight. Hearing is intermittent for some - in other words, their hearing comes and goes. This child about whom I am talking also suffers from sleep apnoea and is very tired because  
*11 o'clock* her oxygen levels are dropping at night. I worked as a primary school teacher for a while in the United States and we were testing inclusion at the time. I was a mainstream teacher but children were being brought into my class to try out inclusion. This was 20 years ago. Some of those children had Down's syndrome and I noticed their tiredness. I noticed that sometimes they needed to be lifted. I noticed that it was difficult for them to keep up. It is an abomination to say that these children are the same as any other child with a mild learning difficulty.

Let me give the Minister another example. This little girl I have just described began to feel stress emotionally at school because she was not learning. Then she was in Crumlin hospital for some of the problems I have described. While she was there, she saw another child with Down's syndrome walk by, and she said, "Oh look; she is like me."

This is a five year old child. The stress became so great when she was not keeping up with her peers that she got alopecia and her hair began to fall out. The parents then begged for a second diagnosis - a psychological assessment - because she began to have behavioural and emotional problems, despite having only a mild learning disability with Down's syndrome. When she got the resource hours, guess what? She is transformed. She is now happy, despite only getting three hours extra a week.

There are a myriad of issues with children with mild learning difficulty and Down's syndrome. The child with mild learning difficulty has an awareness. What I have described to the Minister about the child who feels she cannot keep up is the mild child, not the moderate child. The mild category, plus the range of issues that come with Down's syndrome, makes for a very special case. The ombudsman has ruled that the lack of resources in this area is having a negative impact on the experience of such children. However, the NCSE is now coming out and stating that, with the new proposed model, a psychological assessment is not needed at all and that the child's needs will be met. They are not being met. I ask the Minister to change the policy from September 2015.

**Minister for Education and Skills (Deputy Jan O'Sullivan):** I thank the Senator for raising this matter. I met earlier this morning with a group of parents from Down Syndrome Ireland on this issue. It is something I am conscious of and I know the Senator has described some of the issues well.

Under the existing system, all pupils with Down's syndrome, including those in the mild

range, are entitled to receive additional teaching support through the GAM, or general allocation model, or from an allocation of additional resource teaching hours allocated by the, National Council for Special Education, NCSE. It should be noted that whether resource teaching hours are allocated to schools under the GAM or through an allocation made by the NCSE based on an individual assessment of low-incidence special needs, it is a matter for schools to utilise and manage those resources to best provide for the teaching needs of qualifying children.

Each school will use its professional judgment to decide how the provision of additional resource teaching time and hours is made to qualifying pupils in the school to ensure that all their individual needs are met. Schools have discretion as to how they allocate their general hours to pupils. Whereas schools will have regard to the number of pupils who require additional teaching support, they are not constrained as to the number of hours they may allocate to a pupil who may have Down's syndrome and a mild learning disability. Schools may also increase the amount of additional teaching time they provide to pupils by using a combination of individualised teaching time with pair and group work.

The NCSE was asked to provide policy advice on the issue of whether Down's syndrome should be reclassified as a low-incidence disability in all instances, regardless of assessed cognitive ability. In its policy advice, the NCSE stated it could not establish an evidence base to support a recommendation that a child with Down's syndrome should be allocated supports over and above other children with mild learning disabilities or children with other syndromes that also have associated co-occurring conditions. However, the NCSE also recommended that, under the new resource allocation model, children should be allocated additional resources in line with their level of need, rather than by disability category, which is the new model proposed.

The Senator is aware that I intend to retain the current model for the coming school year in order to ensure that sufficient time is allowed for further consultation but also in regard to the issues around complex needs, on which we do not yet have full information. I am aware that some parents and organisations representing children with Down's syndrome continue to have concerns that the existing system does not give them certainty as to the number of resource teaching hours that may be allocated to their child under the general allocation model, as these hours are distributed locally by schools. As I said, I met a group in Leinster House this morning. I intend to meet more parents in the coming week and will certainly be listening to colleagues in the Oireachtas also. I will consider the issues they have raised and keep the Senator informed of my developing views on this matter.

**Senator Fidelma Healy Eames:** The little hope I have is that it is the Minister who is in the chair. I mean that sincerely. I think she is very reasonable and practical, and she is listening. However, for the NCSE to state there is not enough evidence to reclassify children who have a mild learning difficulty and Down's syndrome as needing extra resource hours leaves an unbelievable amount to be desired. The NCSE needs to start observing and doing case studies. This does not make sense. Schools are not clamouring to take these children. Why? It is because they know they have extra needs. The NCSE needs to go in to see why schools are not clamouring for them. I know that there is the general allocation model, but that is just learning support, which is not adequate. These kids have needs over and above that.

I ask the Minister to continue the consultation and to ask the NCSE to go into schools in an observational role. Let us sort this out before the summer. Two years ago we thought we were getting somewhere, but we did not get anywhere with the last Minister. I have more hope on

the basis that it is Deputy Jan O'Sullivan who is Minister. I believe these children's rights are being infringed and that Down Syndrome Ireland should consider bringing a case on this issue. I would be delighted if the Minister had any comment to make.

**Deputy Jan O'Sullivan:** I will be meeting more parents next week. In fairness to the NCSE, it worked on and devised a new model, which is under consideration. Unfortunately, we do not have enough consultation and information, specifically around the complex needs area to implement it next September.

**Senator Fidelma Healy Eames:** Just make an exception for these children.

**Deputy Jan O'Sullivan:** That does not mean that it will not be implemented. A lot of work has gone into it and I know Down Syndrome Ireland is positively disposed towards what is proposed in the new model. As I said, I am looking at the issue and will keep the Senator informed.

**Senator Fidelma Healy Eames:** I thank the Minister. They are worth making an exception for.

### **Student Assistance Fund**

**Senator Averil Power:** I welcome the Minister. I have tabled this debate to highlight the need for the Department to provide extra funding for the student assistance fund in the light of the fact many colleges have already exhausted their entire allocation for the 2014-15 academic year. As the Minister is aware, the purpose of the student assistance fund is to give the colleges discretionary funding to help students facing severe financial hardship. It assists students who miss out on a maintenance grant, perhaps because their parents are barely over the threshold, but are struggling financially and cannot afford their college fees, or, for example, those students who are under 23 years and are assessed on their parents' income but have very good reasons why they cannot live at home, such as being estranged from their parents due to a violent situation at home. This fund gives the colleges discretion to assist such students. It also helps those who face unexpected hardship during the year that puts their academic progress at risk. For many students, as I know from my time as a student union officer in Trinity College Dublin, the assistance they get from this fund is the only thing that saves them from having to drop out of college. However, while it is a vital scheme, funding has been cut significantly in recent years. It was €8 million in 2013 and €6.6 million in the current academic year of 2014-15, which is totally insufficient, particularly given that students are now under more financial pressure than in the past. To take the issue of rent, which is a significant cost for those who are studying away from home, rents have risen by over 10% nationally and by 17% in Dublin in the past 12 months alone, so more and more students are struggling financially.

The Union of Students in Ireland commissioned a survey which found that many colleges had already exhausted their entire allocation from the student assistance fund by the end of December - therefore, just a few months into the college year, the entire allocation was gone. This was the case in NUI Maynooth, Trinity College Dublin, UCC, Athlone IT, IT Tallaght, IT Tralee, Letterkenny IT and the Mater Dei Institute. There were another seven third level institutions that had already used 80% or more of their allocation by the end of December.

Essentially, what this means is that students with serious financial difficulties will be denied the support they need. As I said, some will end up dropping out of college and missing out on

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a third level education, in many cases because they do not have just a few hundred euro to pay their rent or meet other costs. The overall long-term cost, not only to the individual but also to the State, of someone missing out on a third level education is obviously many multiples of that. It is such false economy and it is incredibly unfair that people are missing out on an education as a result of a lack of what is a relatively small amount of money. I have raised this matter in order to ask the Minister if she will provide, as was the case in previous years, both a top-up for the student assistance fund for the 2014-15 academic year and a greater overall allocation for the fund for the 2015-16 academic year.

**Deputy Jan O’Sullivan:** I thank the Senator for raising this important matter which I have been discussing with the president of the USI in recent weeks. The objective of the student assistance fund which was established in 1994 is to assist, in a sensitive and compassionate manner, students who might otherwise, for financial reasons, suffer severe hardship or be unable to continue with their third level studies. The fund is an important source of support for students who experience hardship while in college. It is a component of the third level access measure, which is managed on behalf of my Department by the Higher Education Authority, HEA. That measure comprises two sub-priorities, namely, the student assistance fund and the fund for students with disabilities. The management of the third level access measure rests with the HEA and the allocation of funding for the sub-priorities in a particular year is a matter for the authority. The overall allocation to the HEA in respect of the third level access measure was in excess of €15 million for the 2013-14 and 2014-15 academic years.

The student access fund is allocated annually to universities, institutes of technology, colleges of education and a number of other higher education institutions. Information on the fund is available through access officers in third level institutions. This year the HEA plans to commission an independent review of policy, guidelines and practice in respect of the student assistance fund. We know that practice varies widely between the institutions and, therefore, the review is very welcome. The overall education budget has been fully committed for this year. However, I will continue to liaise with the USI and the HEA to explore how students in need can best be supported.

**Senator Averil Power:** I am very disappointed that the overall budget for this year has been fully committed. I accept that the Minister budgeted on the basis of a smaller amount of money for this year, but there is a desperate need for her to find funding from somewhere. She should go back to the Department of Finance and seek further funds. If a student drops out of college and signs on for social welfare, the Government is obliged to find money in order to cater for his or her needs. If the difference between someone remaining in college or dropping out is a few hundred euro, no one can help them because the money from the only fund by means of which assistance can be provided has already been spent. As stated, this is false economy.

I accept that the Minister has been given limited resources with which to work but she must approach the Minister for Finance and fight for more money in respect of this fund. Students only returned to or began their college courses in September or October. If all the funding was gone by the end of December, that is a signal that students are experiencing increasing financial distress. It is wrong that someone who is in a position of serious financial hardship might be told in March that nothing can be done for him or her because all of the funding was spent by the end of December.

The Minister indicated that the overall pot of funding for the 2013-14 and 2014-15 academic years was the same. As she correctly pointed out, however, that money is shared between

the fund for students with disabilities and the student assistance fund. The reason funding for the latter has been reduced is because there has been greater demand in respect of the former. Higher education institutions have a statutory obligation to provide support for students with disabilities. This means that funding for such students must come first, which is only right.

**An Cathaoirleach:** A question, please.

**Senator Averil Power:** Of course, we should provide students with disabilities the support they need. However, this should not be done at the expense of those who are experiencing serious financial hardship of a kind that could, as the Minister acknowledged, lead to their dropping out of college. There is a need to ring-fence moneys for the student assistance fund and to ensure said fund is not obliged to compete with that for students with disabilities. Such competition is incredibly unfair. I accept that the Minister is working within the limited resources available to her. In that context, I plead with her to seek further funding from the Minister for Finance.

**Deputy Jan O'Sullivan:** The way in which this has been set up means that the moneys for both funds emanate from the same source. As stated, I am engaging with both the USI and the HEA on this matter. The amount of money in the pot for this year is fixed. I am willing to explore with both organisations ways in which we might make progress on this matter, particularly in the context of the next academic year. I appreciate that the level of demand relating to the fund always exceeds the amount of money available in any year. I will continue to explore the position with the two organisations concerned.

*12 o'clock*

*Sitting suspended at 11.15 a.m. and resumed at noon.*

### **Order of Business**

**Senator Maurice Cummins:** The Order of Business is No. 1, Regulation of Lobbying Bill 2014 - Report and Final Stages, to be taken at 1.15 p.m. and adjourned not later than 2.30 p.m., if not previously concluded; and No. 2, Workplace Relations Bill 2014 - Committee Stage, to be taken at 2.30 p.m. and adjourned not later than 4.30 p.m., if not previously concluded.

**Senator Thomas Byrne:** With regard to the Workplace Relations Bill, we oppose section 72, at which I ask the Labour Party, in particular, to look. Members of trade unions and workers throughout the land are very upset about section 72 of said Bill. It potentially imposes a fee on using the labour relations mechanisms in the State. It is very unfair and is not what I thought those in the Labour Party were about. They would want to get a little more influence over Fine Gael and more backbone if they want to go before the people properly next year and not simply be lambs to the slaughter.

I raise the issue of crime. I pay tribute to the officers of the PSNI who yesterday captured the viciously dangerous man in Belfast who escaped from custody in Dublin a couple of days ago. I propose an amendment to the Order of Business that the Minister for Justice and Equality come into this House to discuss this extremely urgent matter that is causing huge anxiety and stress throughout the land. The Senators opposite can be nonchalant about this matter but it is very serious. A very dangerous situation was allowed to arise in recent days. The Taoiseach has already decided the outcome of a review by denying that resource issues had anything to do with the lack of a secure Garda escort with this individual, yet the Minister for Justice and

Equality has launched a review. The Minister for Justice and Equality, Deputy Frances Fitzgerald, would want to come into this House or the Dáil to explain what is going on. I am proposing she comes into this House to tell the people that they are or are not safe, that the Government is or is not committed to tackling crime and to tell us what is going on in this case.

There are too many mixed messages coming from Government leading to fear and anxiety among the community and it is not good enough for the Members opposite to sit there relaxed and happy with legislation coming out of the Department of Justice and Equality and celebrating what they say is the most reforming Minister ever. Where did we hear that before? We heard it about the former Minister, Deputy Alan Shatter. The ordinary duties of a Minister for Justice and Equality in terms of crime, punishment and protecting the citizen are being forgotten and it is about time we had a debate in the House to bring that back to the forefront of the Department of Justice and Equality.

**An Cathaoirleach:** Will the Senator, please, clarify the amendment?

**Senator Thomas Byrne:** I propose an amendment that the Minister for Justice and Equality come to the House to clarify the situation regarding crime, justice and policing in the light of the events in recent days.

I raise the issue of the Slane bypass in County Meath. The Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe, who I acknowledge met me before Christmas about the Slane bypass - the Leader arranged this and I was thankful to him at the time because I was able to put a case to him about the bypass - was due to meet members of the Slane bypass action group today. For whatever reason, that meeting was postponed. He is going about his duties as he normally does. He was on radio this morning. I would like to know why that meeting was postponed and if the Government can give a positive signal about the Slane bypass because it has not given any signal about it, with the exception of the Minister for Health, Deputy Leo Varadkar, when he was Minister for Transport, Tourism and Sport, who announced at one point that funding would not be provided for it. We need a positive signal about the Slane bypass from the Government. The matter was in planning. It was refused by An Bord Pleanála. There was a ministerial intervention before the Government took office that was not positive, but since the work has been done, following the An Bord Pleanála refusal, there has not been a signal from Government, the decision-makers, the National Roads Authority or the Minister for Transport, Tourism and Sport about it, and we need such a signal.

I point out also that the Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe, was due to meet the north Meath roads action group some weeks ago and that meeting was postponed also *sine die*, without a reassigned date. What is going on? Is the Minister too busy to meet these groups? Are these serious issues of health and safety not important? I assure the Cathaoirleach and the Leader that the Slane bypass is a serious matter of health and safety and life and death in my community.

**Senator Ivana Bacik:** I am sure all colleagues will join me, as they did yesterday, in condemning the dreadful attack on the prison officers by the escaped prisoner, Mr. Brockwell, but I am sure also that everyone will wish to join me in commending the PSNI officers and gardaí who were involved in the police operation that resulted in his recapture, as we heard last night. I am disappointed at Senator Thomas Byrne's tone. This is far too serious an issue on which to seek to score political points. It is a very serious matter.

**Senator Thomas Byrne:** We are trying to make sure you do your job.

**Senator Ivana Bacik:** It is something on which this House can unite in support of those on the front line in seeking to ensure dangerous prisoners such as this man do not evade recapture when an escape has happened and to ensure escapes such as this are prevented in the future.

**Senator Thomas Byrne:** The resources are available to prevent it from happening in the first place.

**Senator Ivana Bacik:** A measured debate on this matter with the Minister for Justice and Equality would be appropriate but not a knee-jerk debate today when there are ongoing operations and it is not yet clear what will be the outcome in terms of whether Mr. Brockwell will be returned to Britain to serve the remainder of his sentence. Fianna Fáil tabled an amendment on this issue yesterday also and I felt it was most inappropriate to be playing political football with this issue.

Will the Leader see whether the Employment Equality (Amendment) (No. 2) Bill might resume Committee Stage in this House before Easter? We are awaiting the drafting of Government amendments to this important Bill, which will reform section 37 of the employment equality legislation to ensure teachers, in particular, will not face any discrimination by their employer on grounds of sexual orientation. It is a very important Bill. I was promised that it would be back before the House before Easter. We have been awaiting the resumed Committee Stage for some time now and I ask the Leader to make inquiries as to when it will be before this House.

I welcome the article in *The Irish Times* today by former Supreme Court judge and former Senator Catherine McGuinness on the issue of gender equality in academic employment. She notes that Professor Jane Grimson, former TCD Bryce provost, has been appointed to chair an independent task force at NUI Galway to look into this issue. With other colleagues in this House, I had raised this issue in the light of the successful case taken by Micheline Sheehy Skeffington against NUI Galway. Therefore, I very much welcome the fact that NUI Galway is taking proactive steps to address issues of gender inequality at third level. There are some very worrying figures quoted in the article by Mrs. Justice McGuinness in terms of the pay gap and the low number of women at senior level in academia. While many of us are very much aware of this, it is an issue that needs to be highlighted and in respect of which we need to be proactive. Action needs to be taken in this regard.

I support the comments of the Senators yesterday who spoke in support of the plain packaging legislation in relation to cigarettes. I note there are further reports today regarding JTI Ireland's threatened litigation. I note also that the Australian research often quoted against plain packaging legislation has now been questioned on the basis that it was commissioned and funded by a large cigarette company. The plain packaging legislation introduced by the former Minister for Health, Deputy James Reilly, needs to be supported. We need to speak out on this issue where possible.

**Senator Feargal Quinn:** According to a report published yesterday by the Small Firms Association, absenteeism is costing this country approximately €1 billion per annum. The report also states that when other costs such as replacing staff and a lack of productivity are taken into account, absenteeism is a huge cost to us. Yesterday, steps to address the sick note culture in Britain were announced. It is an initiative worthy of consideration by us. If what the SFA has

in mind is this proposal then let us ensure we do not sit on it. It appears to me that it takes too long to get things done here. I would hate to think that a solution was available to us but we chose to sit on it rather than doing anything about it. I urge the Leader to draw the attention of the relevant Minister to that initiative and, perhaps, to provide time for a debate on it at some point in the future.

Senator Mary White drew attention the other day to a particular issue in relation to the battle against obesity, in respect of which I am not sure she got a great deal of attention from our point of view. We are all supportive of anything that helps to reduce obesity in Ireland and make us a healthier people. The legislation mentioned by the Senator, in relation to which there is much opposition, provides for the inclusion of calorie content information on restaurant menus. The difficulty, apparently, is how this can be done. It was pointed out that in the United States every meal at a top-notch restaurant is different because individual meals are prepared at the request of patrons, while restaurant chains, be they hamburger joints such as Supermac's and McDonalds or some other chain prepare the same meals every day. Therefore, the legislation in America applies only to restaurants that have five branches or more. That seems to make sense. I can see the difficulty in having to produce a separate menu and calorie information for every meal. I urge that we do take steps to combat obesity but that we do so in a logical and sensible way. The American system would, in my view, be the route we should go.

**Senator Cáit Keane:** I support the remarks of Senator Feargal Quinn and also the remarks made by Senator Mary White yesterday or the day before about the obesity issue. I draw the attention of Senators to the claim being made by restaurants that someone will have to sit down and calculate the number of calories in every meal on every menu. The Food Safety Authority of Ireland has an online tool, *menucal.ie*, which will calculate at the touch of a button how many calories are in any meal. I know this because I have done it.

**Senator Diarmuid Wilson:** Ingredients.

**Senator Cáit Keane:** Yes. If one types in exactly what is on the menu, one can get the calorie content at the touch of a button. It is not necessary to reinvent the wheel to get the calorie content of each item. It is possible to get the information on the Food Safety Authority of Ireland *menucal.ie* facility.

I call for a full debate in this House on the drugs issue. At a meeting yesterday of the Joint Committee on Justice, Defence and Equality we heard the experiences of a very intelligent woman, Ms Marie Metcalfe, who has spent 16 years working in a community drugs project. The assistant Garda Commissioner, Mr. John Twomey, was also in attendance. Reference was made during the meeting to a recent headline in the media stating that kids were out selling drugs because gardaí were busy at water protests. Ms Metcalfe said that while she welcomed that two new drugs units were set up in the Dublin before Christmas last, resources are lacking. She also noted that the situation had worsened recently because gardaí had to leave particular areas to police anti-water-charge protests. The assistant Garda Commissioner confirmed that the water protests did require resources and that this resulted in resources being taken from other areas. He also stated that while An Garda Síochána was committed to tackling drugs as part of the national drugs strategy, it was not possible to have gardaí in two places at the same time. People need to consider which is the important issue - a €160 water charge or the damage caused to communities by drugs. I would welcome a full debate on the drugs issue.

Also, I support the call made by Deputy David Stanton at yesterday's meeting for the ap-



pointment of a Minister of State with responsibility for drugs and the establishment of a mini Criminal Assets Bureau in this area. This is such an important issue and we should have a full debate on it.

**Senator Terry Leyden:** I second Senator Thomas Byrne's request that the Minister for Justice and Equality be asked to come to the House. She tends to get good publicity all the time. However, in terms of the prisoner escape issue, she is responsible for two prison officers having been injured during the transfer of a criminal from Portlaoise Prison to Tallaght Hospital. It is most irresponsible. At the end of the day, the Minister must accept responsibility for this. That is what Fianna Fáil had to do when in government. When in government, Fianna Fáil was held responsible by the Opposition at all times. As far as I can see, the Government just gets away with anything, but its day will come. The day of reckoning - for whom the bell tolls - is on the way.

**Senator Colm Burke:** Does the Senator have much experience of that?

**Senator Terry Leyden:** I commend the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, for his trip to the Gaza region, although it did not receive much coverage. It was very courageous of him to go there. I would like to ask the Leader if he will arrange for the Minister to come to this House for a general discussion on the regional situation in Gaza, Palestine and Israel and for a separate discussion on the situation in Azerbaijan, which does not get much coverage. Between 25 and 26 February 1992 - 23 years ago - 613 men, women and children were killed in an atrocity in Khojaly. A serious conflict is ongoing in the Nagorno-Karabakh area, but it receives very little coverage. A debate on the issue in this House would be worthwhile. Last Monday night, 16 February, I had the honour of launching the premiere of a film, "Endless Corridors", which is narrated by Jeremy Irons, in the Light House cinema in Dublin. It is worth seeing.

I welcome the recommendation of the new ambassador from the Republic of Azerbaijan, Mr. Tahir Taghizadeh, who has been assigned to London and Dublin. While Mr. Taghizadeh presented his credentials last November in London, he has not yet been given the opportunity of presenting them here. When an ambassador is assigned to a country there should not be a delay on the part of the Minister responsible in providing that ambassador with an opportunity to present his or her credentials to President Michael D. Higgins. I rang the Department yesterday. The matter is under way. I would like to see more action by the Government when it comes to trade, foreign affairs and relationships. It is wrong that the ambassador has been left waiting for the past few months to present his credentials to the President. There is trade involved.

**An Cathaoirleach:** The Senator is way over time and must conclude.

**Senator Terry Leyden:** I am constantly showing how ineffective the Government is. It is inefficient and not progressive enough. I am trying to assist it in its work.

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

**Senator Terry Leyden:** I rang the Department of Foreign Affairs and Trade before raising the matter in the House. I hope the Leader will provide an opportunity for the Minister to come to the House to discuss important foreign affairs and trade issues.

**Senator Aideen Hayden:** There is a need for a change in the way in which local area partnerships are being funded. There was a protest yesterday outside the Department of the

Environment, Community and Local Government in which some 300 community workers and their unions, SIPTU and IMPACT, protested about this issue. I have raised it with a couple of political colleagues and noted it has very much gone under the radar. This is because there was no consultation process put in place before the change to the manner of funding was made.

Traditionally, funding for the local area partnerships has gone through the local and community development programme. As this is now being changed, funding will fall under the social inclusion and community activation programme. It is administered in a completely different way. What is actually happening is that local area partnerships must now bid for their funding. For example, two very prominent north-side partnerships are actually bidding against each other. This is ridiculous and is very disrespectful to the work of the community area partnerships. I suspect the objective is to force mergers between the various local area partnerships. This fails to recognise the importance of the fact that they are actually community based. Many of the partnerships are very involved on the front line with adult literacy programmes, homework clubs, community child care, employment activation and many other important initiatives. I ask the Leader, as a matter of urgency, to raise this issue with the Minister.

The result of the bids process was supposed to have been announced yesterday but has now been put off for a week. The bids that are taking place currently are for projects from 1 April to the end of the year. Aside from the fact that announcing funding on 1 April for projects that are already in place is absolute nonsense, it will mean a significant number of community employees will lose their jobs. That is the bottom line. When the result comes out next week, projects in parts of Dublin with dire unemployment, such as the whole north side, will simply collapse because they cannot be funded.

**Senator Sean D. Barrett:** I compliment the Minister of State, Deputy Gerald Nash, on establishing the Low Pay Commission and nominating Dr. Donal De Buitléir as the chairman. The commission's economists are Ms Mary Mosse from Waterford Institute of Technology and Professor Donal O'Neill from Maynooth University. We have a problem with low pay and increasing inequality. The Minister of State has chosen wisely.

I wish the Minister for Finance, Deputy Michael Noonan, a speedy recovery from his eye ailment. As Lord Kitchener said, "Your country needs you." This applies where the Minister is concerned.

I propose that we consider taking very soon non-Government motion No. 14. It is not in my name but in the names of other Senators and concerns Aer Lingus. What we now have is the refusal of the chairman of Aer Lingus to disclose the vote at his board when the takeover was agreed. There is substantial evidence of utter collusion between the two airlines. They were singing from the same sheet when in to see us one week after the other. There is evidence in the UK courts that Aer Lingus and British Airways blamed Ryanair for not allowing them to sell the Heathrow Airport slots. They then told us they never wanted to sell the slots. There is a smell from this deal. I was most disappointed to see members of the Fine Gael Party being chatted up on the front page of *The Irish Times* today and claiming they favour the deal. We have not debated the issue here and have to hear both sides. That is not happening.

**Senator Thomas Byrne:** Back to the 1990s again.

**Senator Sean D. Barrett:** What one gets is a PR-driven takeover whereby we, representing 25.1% of the shareholders, are not even given a prospectus as to why we should agree with this.

We should not consent to any done deals being promoted in the media. The situation is getting more serious by the day and it is time that we had a full debate in this House. There is a motion tabled that I believe should be taken.

**Senator Colm Burke:** I am pleased to announce this morning that the Minister for Health is establishing the national rare diseases office. Both Senator Jillian van Turnhout and I have been raising this issue for some time. The Minister confirmed in a reply to a Commencement matter I raised this morning and in a reply by letter that €100,000 has been provided this year for setting up the office, and €200,000 for 2016. I welcome that. It is long overdue and will be a valuable part of developing a comprehensive programme for dealing with rare diseases. I welcome it very much. Getting the national rare diseases plan published was a positive move on the part of the former Minister, as is acting on the plan now.

Let me respond to Senator Thomas Byrne's comments on the Minister for Justice and Equality. In Cork we are building a new prison. For 14 years, Fianna Fáil was an office with plenty of money and procrastinated over the problem. The party kicked the matter from one constituency to another. We are building the prison. We do not look on to ascertain the general mood and the way the wind is blowing; we actually do the work.

**Senator Thomas Byrne:** We resourced the Irish Prison Service to make sure dangerous men would not be allowed to escape.

**Senator Colm Burke:** It is fine to talk about it; we actually act, not talk. We deliver.

**Senator Thomas Byrne:** A dangerous man escaped-----

*(Interruptions).*

**An Cathaoirleach:** Senator Colm Burke to continue, without interruption.

**Senator Colm Burke:** We are delivering in that area. The Senator should keep that in mind the next time he criticises the Minister for Justice and Equality.

**Senator David Cullinane:** I was at the protest yesterday outside the Department of the Environment, Community and Local Government in support of all the community workers about which Senator Aileen Hayden spoke. She is correct regarding all the issues she raised. There are real concerns over the realignment process, the future of jobs in the sector and the erosion and undermining of the bottom-up approach to community development, not only by the current Government but also by the previous one. All of this came from the Putting People First legislation that the former Minister for the Environment, Community and Local Government, Mr. Phil Hogan, dealt with in this Seanad. The Labour Party supported it. We tabled a series of amendments on all these issues.

**Senator Aileen Hayden:** It was not meant to work like this.

**Senator David Cullinane:** Senator Trevor Ó Clochartaigh and I tabled many amendments on all these issues and all were voted down by the Labour Party, including, I suspect, the Senator. It would be interesting to examine these amendments and what was said in the Seanad at the time to see who has been proved right.

**Senator Trevor Ó Clochartaigh:** Hear, hear.

**Senator David Cullinane:** I suggest to Senator Aideen Hayden that she contact her ministerial colleague, the very Minister who is imposing what she is complaining about.

I commend to the House a document published by Sinn Féin today displacing JobBridge. It would be useful to have a debate on such issues. There are significant concerns over many of the labour activation programmes and measures in the State. There is very real concern that the JobBridge scheme itself is beyond repair. It displaces paid work, depresses job creation, facilitates wage avoidance and normalises work for low or no wages. In fact, it ties in with the, Think-tank for Action on Social Change, TASC, report published on Monday, which shows we have a problem with precarious employment and underemployment. Many employers are taking advantage of JobBridge to take people on to do what should be paid work. That should not be happening. We propose an alternative model. We should have a debate on all these issues. I ask the Leader to arrange a debate on the broad issue of labour activation measures. Let us have a constructive debate on what is working and what is not.

**Senator John Kelly:** I raise the issue of turf cutting on raised bogs, particularly in County Roscommon where three bogs, Callow Bog, the Float Bog and Bellanagare Bog, were designated. Many people might have been happy to take the compensation at the time it was offered but there are many who are not happy to do so. They were promised relocation to other bogs but it now appears, three years later, that the National Parks and Wildlife Service is saying relocation is not an option for them. The former Minister, Deputy Jimmy Deenihan, was in this Chamber in 2013 and made a commitment that if people did not want to take the compensation and if relocation was not an option, he would go back to the European Union and seek de-designation of the bogs. I call on the Minister, Deputy Heather Humphreys, to come to the House to debate this issue and outline what she will do for the turf cutters. What has happened has been grossly unfair to them and there have been heavy-handed tactics to date. The matter needs to be resolved and it will never go away.

**Senator Denis O'Donovan:** I seek a cross-party debate on the future of Cork Airport. My colleague in the Dáil, Deputy Michael McGrath, has outlined that Cork Airport business has contracted rapidly in recent years to a point where its future viability is at risk. The number of passengers is declining annually and crisis point has been reached. I met representatives of Cork Chamber of Commerce, who want an all-party consensus approach to dealing with the issue. We deserve a debate on this, before the Easter recess if possible.

I, too, add my voice to that of Senator Thomas Byrne on the Garda issue and the prisoner escape. This is not a knee-jerk political reaction. I remind the House that yesterday the Taoiseach, perhaps inadvertently but certainly in throwaway jocose remarks, said there was no issue with Garda resources. The prisoner who escaped had been flagged as a flight risk. On four separate occasions the prison officers were denied an armed Garda security arrangement.

Yesterday at a meeting of the Joint Committee on Justice, Defence and Equality, I listened and was astounded by what a lady from the north-east inner city had to say. She said, in a debate on gangland crime, that because of the closure of a Garda station and a lack of resources, the drug problem was spiralling out of control in the city. She had no axe to grind politically. The problem was mainly due to Garda resources. We are coming to a stage in the country where too few gardaí will be available to us. I do not refer to gardaí with all the buttons, but to those who patrol our streets. The situation is at a crisis. A few recruits came from Templemore recently. We need a debate to reassure the public about Garda resources.

If the Taoiseach's remarks yesterday were unfounded, as I think they were, this is a very serious issue. Everybody in the city knows that gangland crime, murder of any description and the prisoner escaping are the result of a lack of resources. It is appropriate for the Opposition to look for a debate on the issue. The Minister should come before the House today. It is a very serious issue. Two prison officers were seriously injured. We cannot allow that to continue. We must address the situation. Our raising this issue is not a political gimmick. It is a serious matter of the most urgent concern which imposes on us an obligation to raise such issues in the House.

**Senator Michael Mullins:** I strongly agree with Senator Cáit Keane in calling for a full debate on drugs, the drug culture and the availability of drugs. Garda resources and policing are very much linked to crime. Gangland crime in Dublin is linked to the drugs culture. In rural parts of the country the majority of crime is linked in some way or other to the drugs culture and industry. It is a major industry and something that needs to be seriously addressed. If the Criminal Assets Bureau is not adequately resourced, resources should be made available to it to tackle the issue. I would like to see the Department of Social Protection take a keener interest in where some of those who appear to have a significant amount of wealth without any clear evidence of gainful employment got their money. It is a mystery to me. I am aware of people who are in a position to buy expensive cars and vans and pay for them in full in cash without having evidence of a job. This needs to be examined. It is my view that a lot of the wealth that is circulating in some communities is inextricably linked to the drugs industry. I support the idea of having a Minister of State with responsibility for tackling the drugs culture. We need a major debate on this issue in the House because it is devastating the lives of many young people and destroying families and the fabric of society throughout the country. I appeal to the Leader to organise an urgent debate on this very serious matter.

**Senator Rónán Mullen:** I have often, along with others in the House, had occasion to criticise the media for various reasons over the years. One thing for which *The Irish Times* deserves great credit has been its longtime sponsorship of its debating competition which has done so much to encourage excellence in debating in third level colleges. In that regard, I hope the Cathaoirleach does not mind if I acknowledge the presence in the Visitors Gallery today of Professor Brent Northup of Carroll College in Helena, Montana who has been a stalwart supporter of the debating competition. He is here with William Courtney, the current individual debating champion. I hope the House will join me in welcoming them today.

I highlight an issue which is causing undue financial hardship to young people who are returning to Ireland to work. The sad reality is that in recent years tens of thousands of young Irish men and women have left our shores to find work. As everybody knows, as the economy soured and weakened, the numbers leaving grew. The flow of young people from our shores has somewhat reversed in recent months. Many young people find upon their return to find work in Ireland that when they try to buy a car and set out to make a living, they are hit by enormous car insurance bills. At a recent funeral in Mountbellew I spoke to a woman from Aughrim who described how her two sons who had returned from Australia are self-employed and living in a rural area. They need cars to work and were shocked to find that the time they spent driving claims-free in Australia and England did not count. Those years are not transferable and are not recognised by insurance companies in Ireland. They are being hit with premiums of up to €3,500, which is absolute madness when one considers that those young people are not responsible for the economic failure which forced them away in the first place. Why should they be indirectly penalised in this way on their return?

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The young people to whom I referred have about 23 years of claims-free insured driving between them. They are in their early 30s and are being treated as new drivers because of the gap in their insured driving record. Despite their attempts to show that they have been driving safely in Australia and Britain, the insurance company hit them with large bills. I would like the Leader to communicate this growing problem to the Minister for Jobs, Enterprise and Innovation in order that he can issue guidelines to the insurance companies to recognise safe driving abroad as reckonable when calculating insurance premiums. It should not be beyond our wit and ingenuity to solve this problem. It is a serious injustice to young people who are trying to get started again in our country. Anything less than statutory guidelines will result in them being penalised. I would be very grateful if the Leader could inform us as to what the Government can do about this matter.

**Senator Terry Brennan:** I support my colleagues who commended the Garda and the PSNI on recapturing the criminal in Belfast. It is to be hoped he will not be maintained in this country at the taxpayers' expense. I hope he is sent back to where he belongs and serves his sentence.

We have called for a debate with the Minister for Justice and Equality. There were two robberies in my locality in the past four or five weeks and which were obviously carried out by the same gang. Many people have dogs in their properties and in each case the dog on the business premises continued to bark. In one case the wife went to the door to see why it was barking. She was then accosted by four people wearing balaclavas who went into the building. They locked her and her children into a small bathroom and broke the handle of the bathroom door to ensure they could not get out or ring anybody. In both instances when the husbands came home, they found the intruders had robbed the house. It is obvious the same four people were involved in both incidents which took place five miles from the Border. Within five minutes the intruders would have been in another jurisdiction. I called to a house recently but the woman living there did not answer the front door. She spoke to me instead through a bedroom window. She did not know who I was. I commended her on doing that, but things are now at a stage where one cannot open one's front door if one does not know-----

**An Cathaoirleach:** Is the Senator supporting the call for a debate?

**Senator Terry Brennan:** I am calling for a debate to alert people to the dangers. These things are happening in many counties. We cannot expect gardaí to police every house in the country. I do not know whether one should keep a dog, but if the dog bit any of these people they could make a claim.

**Senator Trevor Ó Clochartaigh:** Cé hiad na pleananna atá á gcur in áit ag an gCeannaire maidir le Seachtain na Gaeilge ó thaobh díospóireachtaí in san Teach seo? Will the Leader outline what plans are being put in place for Seachtain na Gaeilge in the Seanad regarding debates through the medium of Irish? They need not necessarily be about the Irish language but they should be conducted in Irish.

I note an article in *The Irish Times* today which reports that since the downturn in 2008, the number of people packing their bags and heading down under in search of work has soared, peaking at 18,200. There are similarly large figures for emigration to other countries. In the case of New Zealand, the figure has increased steadily from 3,131 in 2006-07 to the peak of 4,961 in 2012-13. In Britain, a total of 16,750 Irish people registered for a national insurance number for work in the United Kingdom in the 12 months to September 2014, and almost

18,000 temporary workers and their family members travelled to the United States in 2013. There is a huge diaspora abroad.

I appreciate that the Government has appointed a Minister of State with responsibility for the diaspora. He has had a number of months to settle into his office. I understand a policy on the diaspora is being formulated. Ministers will be sent to all parts of the globe during the St. Patrick's Day week to engage with our diaspora and to discuss the issues relating to Ireland, but I hope we can have a debate before then about diaspora policy. Rather than it being launched during that week it would be good if the Houses could have a debate in order that Members could have an input into that policy. There are many issues surrounding voting rights for emigrants. These rights have been promised and were discussed by the Constitutional Convention. Will we have that referendum in order that people can vote in the presidential election in 2017? With regard to supports for emigrants, there are huge issues regarding homelessness, mental health and so forth. Senator Rónán Mullen raised another interesting issue relating to emigrants who are trying to return. There are issues with social protection, insurance and so forth. I have called previously for a debate on the diaspora with the Minister of State, Deputy Jimmy Deenihan, and hope we can have it before the annual exodus of Ministers to the four corners of the earth in order that they can convey our opinions on the diaspora and what we should be doing from a policy perspective on its behalf.

**Senator Labhrás Ó Murchú:** Chun cur leis an méid atá ráite ag an Seanadóir Trevor Ó Clochartaigh, beidh tuarascáil an chomhcoiste maidir leis an nGaeilge á seoladh an tseachtain seo chugainn. Bheadh sé an-oiriúnach dá mbeadh seans againn é sin a phlé le linn Sheachtain na Gaeilge.

Regarding the point made by Senator Trevor Ó Clochartaigh, I understand that the report of the Oireachtas joint committee on the Irish language will be published next Tuesday. Perhaps the Leader might agree to have a debate on it as part of Seachtain na Gaeilge. First, it would be very helpful and, second, it would give us the opportunity to indicate our support for the Irish language, not in any type of cosmetic way but in a way that was practical and helpful. The Leader might consider this request when he is planning the schedule.

**Senator Michael D'Arcy:** I raise the issue of regional development, specifically with regard to IDA Ireland. As Members know, the local authorities now have an economic development role within their jurisdictions following the Local Government Reform Act 2014. I realise it is not easy to turn a tanker quickly, but the oil tanker that is IDA Ireland has been very slow and reticent in facilitating rural Ireland. It is a criticism that I strongly believe. In recent years IDA Ireland has been disposing of assets, primarily land, throughout the country. I am told that in many cases the land was provided by the local authority for IDA Ireland to develop jobs on it. IDA Ireland is now disposing of these lands and is rationalising its land back. I understand the commonsense of this, but, as a result of the latest legislation passed by both Houses, each local authority has the capacity to advance economic development, and there is now no land available for many of these authorities. It is a peculiar scenario. IDA Ireland was given land by the local authority, sold it and now the local authority is attempting to generate economic development. I ask the Leader to invite the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, to come to the House to address the sale of land assets that were provided for IDA Ireland by local authorities. Something should be done about this. It is unfair and unreasonable that this is happening. I can offer the specific example of my native town of Gorey, County Wexford. The local authority provided land for IDA Ireland. IDA Ireland later sold it and moved on. It has admitted it has no responsibility for Gorey. However, it took the money

and used it for its own purposes, which I consider very unfair. I urge the Leader to invite the Minister to the House as soon as possible to discuss this matter.

**Senator Maurice Cummins:** Senator Thomas Byrne proposed an amendment to the Order of Business similar to the one proposed yesterday. As I mentioned then, there is an ongoing Garda investigation of this matter. I appreciate that it is very serious and have asked the Minister for Justice and Equality if she will be in a position to come to the House, even for a short time next week. That request is with her. She has given an undertaking that when the sizeable amount of legislation she has in hand and ready to be introduced in the House has been completed, she will be willing to have a comprehensive debate not only on this issue but also on law and order, a debate many Senators have requested. Unfortunately, I cannot accept the proposed amendment to the Order of Business.

With regard to the Slane bypass, Senator Thomas Byrne said that an appointment had been broken. I am sure a simple telephone call to the Minister's office would indicate why he could not attend this meeting and why he did not attend another. As the Senator is aware, the Minister for Transport, Tourism and Sport is very busy. He is required to be in Parliament to address matters such as Aer Lingus and many other transport issues. I do not suggest the Slane bypass project is not as important as these, as it certainly is to the people concerned, but I am sure the Minister will rearrange the meeting in early course.

Senator Ivana Bacik asked about the resumed Committee Stage debate on the Employment Equality (Amendment) (No. 2) Bill. I do not have good news in that regard. There is nothing planned and it will be after the Easter recess before I will have news on the matter. The Senator also welcomed the proposals relating to gender inequality at third level and the committee that had been established. They are welcome. I also note her points about the plain packaging of tobacco, an issue which was raised by a number of Members yesterday, in support of the Government's stance on the issue.

Senator Feargal Quinn spoke about absenteeism being a major problem, particularly for small and medium-sized enterprises. He also referred to the measures announced in the United Kingdom yesterday. We will be dealing with Committee Stage of the Workplace Relations Bill today when the matter could be raised. I am sure the Senator will get an opportunity to raise the points made directly with the Minister for Jobs, Enterprise and Innovation.

The issue of calorie counts on menus was referred to. It has been highlighted that some restaurateurs have difficulties but food chains do not. Senator Cáit Keane mentioned the Food Safety Authority of Ireland's website *menucal.ie* which will easily calculate the calorie count. I appreciate that there will be difficulties for some restaurateurs in adhering to the proposed calorie counts on menus, but I hope sense will prevail and that there will not be heavy-handedness when it comes to implementing the scheme.

Senators Cáit Keane, Denis O'Donovan and others spoke about drugs and gangland crime, issues which have been debated for some time by the Oireachtas Joint Committee on Justice, Defence and Equality. A report will come from the committee and when it is complete, we undertake that it will be debated in the House. This may give an opportunity for the Minister for Justice and Equality to come to the House to discuss the issues of drugs, gangland crime and law and order.

Senator Terry Leyden called on the Minister for Foreign Affairs and Trade to come to the



House to debate the situation in the Middle East. The Minister has come to the House twice already this year to discuss the situation in the Middle East and Ukraine. The Senator also called for the Minister to discuss the situation in Azerbaijan. I would like the Minister to come to the House to discuss the situation in Northern Ireland also and have requested that he do so, even though he has come to the House on a number of occasions to discuss the situation in the Middle East, Ukraine and other areas of conflict.

Senator Aideen Hayden spoke about local area partnerships bidding for projects. I appreciate what she stated in that regard, but there is a need to avoid duplication. I understand what she stated about funding being put in place in April for projects already up and running and the difficulties which may accrue as a result. I hope the matter can be teased out with the relevant Minister.

Senator Sean D. Barrett complimented the Minister of State, Deputy Gerald Nash, on his appointments to the Low Pay Commission. Those involved are eminent individuals. I note the Senator's comments on Aer Lingus, a matter which is being debated by the Oireachtas Joint Committee on Transport and Communications. I assure the Senator that there are no done deals with anybody. The Minister for Transport, Tourism and Sport will consider everything which will come before him and a decision will be made by the Government at that time, not beforehand. I assure the Senator that there are no done deals and that nothing has been entered into.

Senator Colm Burke welcomed the establishment of the national rare diseases office and complimented the Ministers involved. He also outlined the Government's position on the construction of the new Cork Prison, which is long overdue.

Senator David Cullinane spoke about JobBridge and new proposals from Sinn Féin, many of which are a rehash of the policy of the Minister of State, Deputy Damien English. There are some good points among them, which I appreciate. They are not like Sinn Féin's budget proposals which can be found in the fiction section of any good bookshop. We welcome its proposals in this regard, even though many of them are a rehash of what the Government has in place.

Senator John Kelly spoke about turf cutting and raised bogs. We have had debates on this issue and perhaps the Minister, Deputy Heather Humphreys, might come to the House to discuss it. I do not believe she has come to the House to discuss it.

I note the points made by Senator Denis O'Donovan about Cork Airport and law and order which I believe I have addressed. We have many recruits in the Garda College in Templemore which we reopened and more are to come. There will be a constant flow of gardaí coming on stream.

Senator Michael Mullins spoke about justice and law and order issues and investigating people with the trappings of wealth with seemingly no evident means of income. This is something the Garda and the Criminal Assets Bureau are constantly examining. I appreciate the Senator's comments on the link-up with the Department of Social Protection in this regard.

Senator Rónán Mullen spoke about the cost of car insurance for those returning from abroad. It is strange that evidence of no claims bonuses produced by people who were driving abroad is not taken into consideration. This is a matter which should be addressed. It is wonderful to be speaking about people who have come back; many people are returning to set up their own business in the country. I appreciate what the Senator stated and will bring the matter to the attention of the relevant Minister.

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Senator Terry Brennan spoke about burglaries in his area. I note his points in that regard.

Senator Trevor Ó Clochartaigh spoke about Seachtain na Gaeilge. We will have the Minister of State, Deputy Joe McHugh, in the House on 11 March to discuss the Irish language strategy, a point which was also raised by Senator Labhrás Ó Murchú. The Minister of State, Deputy Jimmy Deenihan, has been invited to come to the House to discuss various issues, including the diaspora strategy and policy. I hope to secure a debate with him before St. Patrick's Day.

Senator Michael D'Arcy spoke about IDA Ireland and the disposing of assets over a number of years and local authorities not having land for development. This could be the subject of a Commencement debate in which the Senator could get the answers to the questions he has raised.

**An Cathaoirleach:** Senator Thomas Byrne has proposed an amendment to the Order of Business, "That a debate with the Minister for Justice and Equality on crime, justice and policing, in view of the circumstances surrounding the escape of a prisoner from custody during a hospital visit, be taken today." Is the amendment being pressed?

**Senator Thomas Byrne:** Yes it is because this is too urgent to leave until next week.

Amendment put:

The Seanad divided: Tá, 15; Níl, 22.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Craughwell, Gerard P.	Bradford, Paul.
Crown, John.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
Leyden, Terry.	Coghlan, Eamonn.
Mooney, Paschal.	Coghlan, Paul.
Mullen, Rónán.	Conway, Martin.
Norris, David.	Cummins, Maurice.
Ó Clochartaigh, Trevor.	D'Arcy, Jim.
Ó Murchú, Labhrás.	Hayden, Aideen.
O'Donovan, Denis.	Healy Eames, Fidelma.
Power, Averil.	Higgins, Lorraine.
Quinn, Feargal.	Keane, Cáit.
White, Mary M.	Kelly, John.
Wilson, Diarmuid.	Landy, Denis.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegard.
	O'Neill, Pat.
	van Turnhout, Jillian.
	Whelan, John.

*Seanad Éireann*

Tellers: Tá, Senators Paschal Mooney and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

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

The Seanad divided: Tá, 27; Níl, 12.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Bradford, Paul.	Craughwell, Gerard P.
Brennan, Terry.	Crown, John.
Burke, Colm.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	Mooney, Paschal.
Conway, Martin.	Ó Clochartaigh, Trevor.
Cummins, Maurice.	Ó Murchú, Labhrás.
D’Arcy, Jim.	O’Donovan, Denis.
Gilroy, John.	Power, Averil.
Hayden, Aideen.	White, Mary M.
Healy Eames, Fidelma.	Wilson, Diarmuid.
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullen, Rónán.	
Mullins, Michael.	
Naughton, Hildegarde.	
Norris, David.	
O’Neill, Pat.	
Quinn, Feargal.	
van Turnhout, Jillian.	
Whelan, John.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Paschal Mooney and Diarmuid Wilson.

Question declared carried.

### **Regulation of Lobbying Bill 2014: Report and Final Stages**

**An Leas-Chathaoirleach:** I welcome the Minister. Before we commence, I remind Members that a Seantor may speak only once on Report Stage, with the exception of the proposer of an amendment who may reply to the discussion on it. On Report Stage each amendment must be seconded. Amendments Nos. 1 and 2 are related and may be discussed together, by agreement. Is that agreed? Agreed.

**Senator Rónán Mullen:** I move amendment No. 1:

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

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

I welcome the Minister back to the Seanad. As he knows, the last time this Bill was before the House, I tabled an amendment that I believed would prevent whistleblowers from coming within the rubric of lobbying as defined in the Bill. The Minister told me it was certainly not the Government’s “intention that matters which are an essential part of whistleblowing would be or could be relevant matters to be registered under this Bill”. He assured me that the provisions of section 5(9) would preclude whistleblowing from being defined as lobbying. The definition of “relevant matter” for the purposes of lobbying in section 5(9) is worth noting. It provides:

“relevant matter” means any matter relating to—

(a) the initiation, development or modification of any public policy or of any public programme,

(b) the preparation or amendment of an enactment, or

(c) the award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds,

apart from any matter relating only to the implementation of any such policy, programme, enactment or award or of a technical nature.

I wish to reiterate my concerns. I look forward to hearing from the Minister on this matter. I have serious reservations regarding the protection of sources where an organisation might approach a Member of the Oireachtas with confidential information regarding actual or alleged wrongdoing. As I said previously, there is a subtle but importance difference between lobbying with the aim of changing official discourse or decision-making on a given issue and disclosing information with the aim of changing official discourse or decision-making on a given issue. Furthermore, this legislation places the Standards in Public Office Commission in the position of interpreting the balance of disclosure in this legislation. It will have to decide whether lobbying has occurred. I have expressed concern in the past about the commission’s expansive interpretation of legislative provisions, particularly section 49 of the Electoral Act 1997 around

including charities in the section under organisations acting with political purposes. My principal concern with regard to this legislation is that there is no provision for the disclosure of certain contacts to be exempted where privacy and confidentiality are important reasons for the person or organisation coming forward in the first instance. I do not wish to rehearse in full the concerns I set out the previous time we debated this Bill. I think it would be fair to say the Minister appeared to agree on that occasion that there is a potential issue here. I think he said he would write to the Attorney General in this regard. I wonder if he can advise us now if his concerns and mine were so addressed.

**Senator Feargal Quinn:** I second the amendment which has been explained very well by Senator Rónán Mullen. I do not need to add to it. There is little doubt that it is not intended that this Bill will lead to a whistleblower who approaches a Member of this House or the other House being accused of lobbying or regarded as a lobbyist. I know that is not the intention of the Minister. I am not sure we have solved this problem.

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I thank both Senators for raising this issue. I undertook to reflect on the very coherent case that was made in this regard on Committee Stage. Certainly, the intent as set out by Senator Rónán Mullen coincides with the intent of the Government in this regard. While I was confident in the position I set out during the Committee Stage debate, I agreed - ar eagla na heagla and for the avoidance of doubt - to consult further the Office of the Attorney General and have the Chief Parliamentary Counsel examine this matter in some detail.

Amendments Nos. 1 and 2 seek to exempt from the scope of the Regulation of Lobbying Bill any communication coming within section 5(2)(b) relating to a representative body or within section 5(2)(c) relating to advocacy bodies “where the purpose of that communication is to disclose relevant wrongdoings”. I said I would reflect further on it and take further advices. I have consulted the offices of the Chief Parliamentary Counsel and the Attorney General on this matter. On foot of those consultations and my further examination of the issues involved with my own staff, I want to set out for the information of the Seanad the case that has been presented to me.

There are very limited circumstances in which there could even be a potential lack of alignment between the Regulation of Lobbying Bill and whistleblowing-type communications, or where that is likely to occur. There are two reasons for this. First, to be a registerable activity under the lobbying legislation that is in front of us, the communication must be carried out by a person within the scope of sections 5(1) and 5(2)(b) with a designated public official, as set out in the Bill, and come within the definition of “relevant matters” under section 5(9), as Senator Rónán Mullen has read into the record of the House. Second, the type of information that would be required to be registered is not detailed and is unlikely to cause problems of the type envisaged by the Senator other than in very limited and specific circumstances. That is the strong advice I have received.

I have looked specifically at the alignment of the Bill with the Protected Disclosures Act 2014, which is the current whistleblowing legislation. The 2014 Act focuses on whistleblowing within the workplace and seeks to ensure protections from reprisals or any sanctions imposed in the workplace for the disclosure of wrongdoing in that environment. The scope of the issues raised by the Senator on the previous occasion, as evidenced by the actual text of the amendment before the House now, is considerably broader than this. The Senator is seeking to extend confidentiality beyond the workplace setting to a wide range of other areas which are not cap-

tured by the 2014 Act, which simply seeks to protect those reporting suspected wrongdoing in the workplace.

I accept that these amendments are very well intentioned. My concern is that the creation of an exception along the lines now proposed would inadvertently create a significant loophole in the Regulation of Lobbying Bill. It would mean that lobbyists who are able to link the matter in which they are interested in any way to an allegation or suspicion of wrongdoing would benefit from a broad concession that would allow them to decide what goes on the register and what does not. It is certainly not the intention of the Senator to provide for such an out for people who do not want to register these communications.

I am proposing to address this matter by adopting a balanced response which would identify and put in place a strategy to address this issue while maintaining the integrity of this Bill and of the Protected Disclosures Act 2014. I propose that we should allow this legislation, as it stands before the House, to operate for the first 12 months and use that period to gather evidence, if such evidence manifests itself, on the narrow range of whistleblowing communications that may warrant protection from disclosure. This would be done in consultation with Members of both Houses. I think both Senators are particularly interested in communications with Members of the Oireachtas. I would welcome, in particular, the input of Senators as part of that consultation process.

In plain English, I do not want to put a lacuna in this legislation to address an issue that may or may not arise. Instead, I ask the House to give this Bill a year because we are going to review it after a year. If any such issue arises, we can craft a bespoke solution to the problem that actually arises, as opposed to accepting a solution that, on the face of it, creates an ever bigger problem than one which might potentially arise in this narrow area of whistleblowing. I am strongly advised that this approach which involves living within the Bill for an initial period before deciding on a specific amendment in this area is supported by the Chief Parliamentary Counsel. It would enable evidence to be collected to focus any amendment or regulation that might be required on the particular type of communication that may necessitate the enactment of protection, rather than having a broad amendment which, as I have said, in the view of my advisers, in the view of the Chief Parliamentary Counsel and in my view would actually do harm to what we want to achieve.

I am taking seriously the point that has been very well made by the Senators. The strong advice I have received is that this is very unlikely to arise. If it does arise, we would have to address it in a way that addresses the manifestation of its need in the course of the actual implementation of an Act. I hope the Senators will give the legislation the space to do this in the next 12 months. If an issue that needs to be addressed arises within the first 12 months, or in a review 12 months after that, I assure the Senators that it will be addressed.

**Senator Rónán Mullen:** I thank the Minister for his response. However, I have to say I am not happy with it. I say this as somebody who has great respect for the Minister as a legislator and particular respect for his credentials in this area. Quite frankly, as I listened to his response to me, I could not help concluding he was quite aware that I was on to something. I suggest he is quite sympathetic to what I am proposing. This is yet another example of a culture that has crept into Irish parliamentary life, although perhaps it was always there. It is that the Government does not accept Opposition amendments unless it is absolutely shamed into doing so, and unless it is blindingly obvious that some massive injustice will occur unless they do. That is not sufficiently respectful of the role of the Oireachtas. The Minister's answer amounts to say-

ing we may be onto something and that there may be some mischief in the form of a problem for potential whistleblowers if no exception is created, as I have proposed. He is suggesting, however, that if we create this exception, some other mishap or problem will occur, but he gave no definition of what type of mischief could result from creating not a lacuna but a legitimate exception, to allow Members of the Oireachtas to do their work, as the Minister has done in this very area, by listening to people who have evidence of wrongdoing and letting that inform their work as legislators.

In recent days we have had a particularly intense discussion about the role of advice from the Attorney General, legal advice to the Government, the occasional lack of transparency around the procurement of such advice, and questions as to whether such advice turns out to be well-founded in the fullness of time. Since I raised this issue last week, I have not heard from the Minister or his officials. It is not my ego that is hurt, but I remind the Minister that I brought forward a specific instance of a situation which I felt necessitated the amendment I have proposed. Senator Denis O'Donovan, who is in the Chair today, remembers the issue well because he was also involved in that debate on the Defence Bill with the former Minister, Deputy Alan Shatter. We came to know about wrongdoing in the proposed appointment of particular persons, or certainly procedural failings leading to a likely lack of qualification on the part of a person who was intended to be appointed by the Defence Forces. We did not, and would not, disclose the source of that information. Indeed, I was contacted by the military police on that very matter. If an organisation or representative body had approached us, however, seeking to encourage us to oppose that legislation and giving as a reason for such opposition certain wrongdoings or procedural irregularities that had gone on before, there would be a lack of protection for them. In other words, if this Bill were to apply in those circumstances, they would be in a situation in which such an approach to myself or Senator Denis O'Donovan would have to be recorded somewhere as lobbying. That very fact would have a chilling effect on them. The whole point of approaching a Member of the Oireachtas is to give them information. Members of the Oireachtas have privilege of advertizing to that information in whatever way protects their source but allows them to address a mischief.

Let us imagine there were no protection such as I am proposing. If an organisation or representative body wanted to report some wrongdoing in the course of lobbying us on legislation and seeking to influence our position on legislation and, in order to persuade us of this, drawing our attention to some wrongdoing that lay behind the need or push for such legislation they might well suffer a chilling effect. In other words, they may well be unlikely to approach us because if it were known that they had approached us in particular circumstances it might expose them, or persons working for them, as being in breach of official secrets legislation. It is as serious as that.

I have given the Minister a real-life example, not just today but also last week. The Minister's officials should examine the record of what was said in the Seanad during that debate on the Defence Bill. In that way, they will see whether I produced an example to illustrate the need for the exception I have proposed in my amendment. With sincere respect to the Minister and his credentials, I ask him to address that point. I do not believe he has addressed it or given any credible example of any possible mischief that could flow from including the exception I am proposing. In fact, if there is a balance of convenience or a benefit of the doubt to be given, it should be given to Members of the Oireachtas who want to be able to receive information about alleged wrongdoings. Such information should be received in confidence, if necessary, in order to allow them to do the job. The judgment of Members of the Oireachtas should be trusted as

to whether the disclosure of wrongdoing is in fact bona fide. That is the side towards which the Minister should be leaning in these circumstances.

**Deputy Brendan Howlin:** I thank the Senator for his kind comment about my own performance. Unfortunately, he punctured it a little by going on to say that somehow I never accept amendments. That is not my form.

**Senator Rónán Mullen:** It is a culture.

**Deputy Brendan Howlin:** It is a culture that is not exercised by me, as even a cursory examination of my record will show. I come in here with an open mind. I have had good ideas in Opposition that were seldom accepted. In the 1990s, I spent some time as my party's spokesperson on justice and produced very good legislation on a Garda ombudsman and a Garda authority, all of which was voted down. I knew go dtiocfadh ár lá, however, and that they would come into being some day. Therefore, I always come into this House or the other House with an absolute respect for ideas coming from the Opposition, and honestly with an open mind. I reject the notion that there is a culture, that I am the creature of the Civil Service, or captured by my Department. That has never been my style.

I have always believed in the role and right of the Oireachtas to legislate, as well as the right of the Opposition to be heard and to have good ideas implemented. That is why I responded as I did on Committee Stage, saying that there was something I needed to think about here. I do not think the Senator was listening to me earlier. It was not simply a vague notion that his amendment could do a mischief. His amendment would do a mischief, and I will explain why. I did explain it already, but will refer to what I said earlier. The structure of the Bill is that the person who needs to make the registration is the lobbyist - the person doing the lobbying. Therefore, it is not a matter for Members of the Oireachtas to make any judgment call at all about whether a matter is registerable. If information is given to the Senator, whether or not he thinks it has merit or there is wrongdoing, it is neither here nor there as regards it being registerable. That is a matter that falls on the legal obligation of the lobbyist.

My fear is not about the goodwill of Members of the Oireachtas but about putting a lacuna in the Bill that undermines the whole registration process and essence of this Bill. This could occur if one couches the information given in lobbying by saying it will resolve mischief or that there is some wrongdoing attached to it. With a clear conscience, that absolves the lobbyist from registering and guts the whole purpose that this Bill set out to achieve. That purpose is to ensure that when people approach decision-makers - Members of the Oireachtas or members of the Government - that approach, if it is captured in the way set out in section 5, is required to be registered. My formal advice from the Parliamentary Counsel is that that is the effect of the Senator's amendment. I have a difficulty in accepting it because I think that is a greater mischief than the mischief he seeks to resolve. With an open mind, however, I said there is a potential that the Senator might have some issue. Let us see how it works and cure it in a way that does not cause greater harm. That is the only thing I have asked for.

The Senator cited a specific case. Normally on Committee Stage we listen to all Senators, although we do not do one-to-one dialogue. It is not normal to do so between sections with individual Members of the House. The debate is for all Members because other Members have an interest in the Senator's amendment also. The Senator will forgive me if we did not have one-to-one dialogue with him in the past seven days as we researched these matters and as I sought further advices on them. He gave me a particular instance. I took the view at the time that the



particular instance would not be captured by this lobbying legislation. It relates to the giving of information to a person. Let us suppose another person demanded the specifics of that information. That scenario is clearly exempted under section 5(5)(d) because the other person is seeking information about something that is factual. If one person gives another factual information about wrongdoing, it is exempt. My advices are that such a scenario would not be captured by this legislation. If, in the fullness of time, some issue does arise that creates a difficulty, I am pleased to say I will deal with it with an open mind when it is manifest.

**An Leas-Chathaoirleach:** Is the amendment being pressed?

**Senator Rónán Mullen:** May I respond to the Minister?

**An Leas-Chathaoirleach:** The Senator cannot reply again. I am sorry, but he has spoken twice. That is the rule.

**Senator Rónán Mullen:** That is understood.

**An Leas-Chathaoirleach:** Obviously, the Senator can press the amendment.

**Senator Rónán Mullen:** I am keen to accept the Minister's correction on the point that the Oireachtas Member would not have to disclose and I wish to acknowledge the bona fides of the Minister in that regard.

I said that it was not a case of my ego being offended. However, I did not hear from the Minister that the Department had examined what happened in the case of the defence Bill. I remind him that this amendment seeks to protect a communication whose purpose is to disclose relevant wrongdoing, as opposed to wrongdoing dropped in by the way.

Amendment put:

The Seanad divided: Tá, 15; Níl, 20.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Bradford, Paul.	Brennan, Terry.
Byrne, Thomas.	Burke, Colm.
Craughwell, Gerard P.	Coghlan, Eamonn.
Crown, John.	Coghlan, Paul.
Daly, Mark.	Cummins, Maurice.
Leyden, Terry.	D'Arcy, Jim.
Mullen, Rónán.	Gilroy, John.
Norris, David.	Hayden, Aideen.
O'Donovan, Denis.	Higgins, Lorraine.
Power, Averil.	Keane, Cáit.
Quinn, Feargal.	Kelly, John.
White, Mary M.	Landy, Denis.
Wilson, Diarmuid.	Moloney, Marie.
Zappone, Katherine.	Mulcahy, Tony.
	Mullins, Michael.

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	Noone, Catherine.
	O'Neill, Pat.
	van Turnhout, Jillian.
	Whelan, John.

Tellers: Tá, Senators Rónán Mullen and Feargal Quinn; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

**An Cathaoirleach:** Amendment No. 2 has already been discussed with amendment No. 1.

**Senator Rónán Mullen:** I had hoped to call for a walk-through vote.

**An Cathaoirleach:** We have moved past it.

**Senator Rónán Mullen:** I move amendment No. 2:

In page 9, between lines 14 and 15, to insert the following:

“ “relevant wrongdoings” are defined exclusively as follows:

- (a) the commission of an offence;
- (b) a miscarriage of justice;
- (c) non-compliance with a legal obligation;
- (d) health and safety threats;
- (e) misuse of public monies;
- (f) mismanagement by a public official;
- (g) damage to the environment;
- (h) abuses of constitutionally protected rights; or
- (i) concealment or destruction of information relating to any of the foregoing.”.

**Deputy Brendan Howlin:** May I make a brief comment on amendment No. 2?

**An Cathaoirleach:** It has been discussed already.

**Deputy Brendan Howlin:** It has.

**Senator Rónán Mullen:** Perhaps the Minister has good news for me.

**An Cathaoirleach:** Is there a seconder for the amendment?

**Senator Feargal Quinn:** I will second it.

**Deputy Brendan Howlin:** I have indicated to Senator Rónán Mullen that I believe the amendment, as crafted, is not acceptable because it would do more damage to the Bill. I think the Senator understands this. I have been talking to my officials about whether we could accommodate the essence of the amendment by way of regulation. I would like to make an offer to the Senator before he decides whether to call a vote on this amendment, which is that my officials might discuss this matter with him in the coming week. I hope this legislation will be enacted before the middle of March. Perhaps we can provide for this issue to be captured in regulation some time after that.

*2 o'clock*

**An Cathaoirleach:** We have discussed the amendment already. Is it being pressed?

**Senator Rónán Mullen:** In the light of the Minister's response, I am happy to press the amendment.

I would like to facilitate Senator Thomas Byrne, if that is possible.

**Senator Thomas Byrne:** On a point of order, I wonder whether we could postpone Final Stage until the Minister has a draft of the regulation he proposed. We have been fobbed off, not by this Minister but by others, in the House many times. It happened most recently during the debate on the Irish Water Bill when the Minister, Deputy Alan Kelly, said he would accept changes and listen to the Opposition.

**Deputy Brendan Howlin:** I withdraw my offer.

**Senator Rónán Mullen:** I want to respond.

*(Interruptions).*

**Senator Rónán Mullen:** The Minister said something very positive. Did I hear him say he has now withdrawn everything?

**Deputy Brendan Howlin:** The regulations cannot be drawn up until both Houses have enacted the Bill. The notion that we could not deal with Second Stage until I had draft regulations is impossible. That is the conditionality. I am trying to accommodate the Senator-----

**Senator Rónán Mullen:** I am grateful to the Minister.

**Deputy Brendan Howlin:** -----but obviously the offer of accommodation has not been accepted.

**Senator Thomas Byrne:** That is the democracy in which we live.

**Senator Rónán Mullen:** I very much welcome what the Minister has offered. I presume the offer stands, regardless of whether Senator Thomas Byrne says what he says or I press the amendment.

Amendment put and declared lost.

Government amendment No. 3:

In page 14, line 6, after "been" to insert "(whether before or after the passing of this Act)".

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**Deputy Brendan Howlin:** I am suggesting this minor technical amendment to provide clarity around the provision of section 12(4)(f). Section 12(4) of the Bill details the information lobbyists must supply in the returns to the registrar on a tri-annual basis - that is, every four months. Section 12(4)(f) states that the lobbyists must include in the returns “the name of each person who is or has been a designated public official employed by, or providing services to, the registered person who was engaged in carrying on lobbying activities”. The Office of the Parliamentary Counsel has advised that in order to clarify that this provision applies whether that person was a designated official either before or after the passing of the Bill, a minor technical amendment should be made, as proposed in the amendment.

Amendment agreed to.

Bill, as amended, received for final consideration and passed.

*Sitting suspended at 2.05 p.m. and resumed at 2.30 p.m.*

### **Workplace Relations Bill 2014: Committee Stage**

#### SECTION 1.

Government amendment No. 1:

In page 9, line 22, to delete “This Act” and substitute “Subject to *subsection (5) of section 8*, this Act”.

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton) (Deputy Richard Bruton):** This amendment deals with the commencement arrangements that will apply after enactment. The amendment’s purpose is to clarify that section 8(5) contains a specific commencement provision.

Amendment agreed to.

Section 1, as amended, agreed to.

#### SECTION 2.

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 2 to 13, inclusive, 20 and 138 are related and may be discussed together.

Government amendment No. 2:

In page 9, to delete line 28.

**Deputy Richard Bruton:** These amendments are of a drafting and technical nature. They do not result in any substantive change in the Bill.

Amendment agreed to.

Government amendment No. 3:

In page 10, to delete line 3.

Amendment agreed to.

Government amendment No. 4:

In page 10, to delete line 9.

Amendment agreed to.

Government amendment No. 5:

In page 10, between lines 14 and 15, to insert the following:

“ “Act of 2007” means the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007;”.

Amendment agreed to.

Government amendment No. 6:

In page 10, to delete line 18.

Amendment agreed to.

Government amendment No. 7:

In page 10, to delete line 21.

Amendment agreed to.

Government amendment No. 8:

In page 10, to delete lines 24 to 27.

Amendment agreed to.

Government amendment No. 9:

In page 10, to delete lines 31 and 32 and substitute the following:

“(a) an Act of the Oireachtas specified in *Part 1 of Schedule 1* or an instrument under such an Act of the Oireachtas,”.

Amendment agreed to.

Government amendment No. 10:

In page 11, to delete lines 1 to 5.

Amendment agreed to.

Government amendment No. 11:

In page 11, to delete line 24 and substitute the following:

“(j) the Competition and Consumer Protection Commission,”.

Amendment agreed to.

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Government amendment No. 12:

In page 11, to delete lines 31 and 32.

Amendment agreed to.

Government amendment No. 13:

In page 12, to delete lines 9 to 11 and substitute the following:

“ “relevant enactment” means—

(a) an employment enactment,

(b) Part VII (inserted by section 22 of the Social Welfare (Miscellaneous Provisions) Act 2004) of the Pensions Act 1990, or

(c) the Act of 2000.”.

Amendment agreed to.

Section 2, as amended, agreed to.

### SECTION 3.

Question proposed: “That section 3 stand part of the Bill.”

**Deputy Richard Bruton:** I may be introducing an amendment to section 3 on Report Stage.

Question put and agreed to.

Sections 4 and 5 agreed to.

### SECTION 6.

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 14 to 16, inclusive, are related and may be discussed together.

**Senator David Norris:** I move amendment No. 14:

In page 14, line 13, to delete “address;” where it secondly occurs and substitute the following:

“address. For the avoidance of doubt, the address given on any letter or other document to the complainant/employee by a respondent/employer shall also be deemed to be an address at which the person ordinarily resides as shall any address specified under the Registration of Business Names Act 1963;”.

I express my gratitude to the firm Hayes Solicitors for sending me on copies of these amendments with reasoned arguments. When I spoke on Second Stage, I adverted to this fact and discussed it with my good colleague and friend Senator Gerard P. Craughwell. A week later, he tabled them and, for some reason, his name appeared first. We agreed we would do a two-handed job on this in that I would propose the amendments and he would second them. I felt a little strongly about it but Senator Gerard P. Craughwell was extremely amenable about it. I have not been all that well and had to drag myself out of bed to come here. It was a little irritat-

ing to find that I was not really required.

The second amendment proposes to insert a new subsection in order that an unincorporated entity as a respondent which does not register the name of the unincorporated entity under the Registration of Business Names Act 1963, or an incorporated entity which in its dealings with a complainant or employee uses a business name which has not been registered under the Registration of Business Names Act 1963, shall be deemed to have committed an offence. There is a further amendment to section 6 by the insertion of a new subsection (3):

The service of any complaint or the making of a complaint against an unincorporated or incorporated body where the respondent has not notified the complainant in writing pursuant to section 3 of the Terms of Employment (Information) Act 1994 shall be deemed for all purposes to have been validly served on that entity using the trading name as advised to the complainant/employee or in the absence of notification the trade name or other name under which the respondent trades.

This is to address a very serious problem of confusion which arises very often to the great disadvantage of the individual making the complaint or taking the action. Businesses do not always register properly or under their correct trade name. Often they do not engage at all with the Registration of Business Names Act. A number of employers, therefore, do not provide proper statements giving their full legal name. Many companies use trade names. Only the trade name appears on the documentation provided to the employee. The employee, therefore, believes he or she is employed by that entity. Sometimes no documentation is given notifying the employee that a trade name is owned by a company or individual. In many cases, the trade name is not registered under the Registration of Business Names Act 1963. In certain circumstances, employees have to go to the Revenue to get their Revenue file to work out who is their employer. Even then, immense difficulties are created for a complainant because P60 and P45 documentation do not require the full legal name of the employer to be disclosed because there is a problem in identifying the target, the legal entity, that is responsible.

A number of cases have been dismissed because a person with a valid complaint did not have an accurate grasp of the identity of the legal entity against which the complaint was brought. They complain, for example, against a trade name or a company. In fact, the legal responsibility was in some other associated area. A number of claims before the Labour Relations Commission and the Employment Appeals Tribunal are dismissed because the wrong entity is named. In addition, many cases have to be adjourned for correcting applications or orders to be made. This creates a financial burden for the State. This is a cost to the State. I am sure that is something the Minister will want to clear up as it is something that causes cost to the Exchequer. There is no reason employees should not know who is their employer. By this, I mean who is legally their employer. Significant difficulties in claims can be avoided by providing that it would be an offence not to advise an employee who is their employer. There would be an additional saving to the State. Many good compliant employers provide the relevant information. It is a minority which fails to do so. It saves considerable time and expense if employees know by whom they are employed. There is a legal right to know but invariably non-compliant employers use the lack of enforcement to circumvent rights. There is a legal requirement but it is not enforced. This series of three amendments together would give security to the complainant as it would make it much easier to find out the legal entity employing the person. I urge the Minister to accept the amendment.

**Senator Gerard P. Craughwell:** I will not take up a lot of the Minister's time other than

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to agree with everything said by Senator David Norris. This is a tremendous Bill. There are many good features to the Bill. The amendments being brought forward by the Irish Congress of Trade Unions, a firm of solicitors, Senator David Norris, Senator David Cullinane, various others and me are being brought forward in good faith to seek as much clarity as possible and to ensure employers and employees are equally represented and protected under the legislation. I am asking the Minister to take on board these amendments, which we bring in good faith, and, where possible, to accept the amendments. It will save us the bother of having to seek amendments to this Bill at a later stage. The Minister might bear this in mind.

**Senator David Cullinane:** I support my two colleagues and the amendment. In a submission to the committee, the Employment Law Association of Ireland, ELAI, suggested this amendment and a number of other amendments also. It noted that a number of employers do not provide proper statements setting out their full legal name. Some companies use a trade name and an employee believes they are employed by that business which in many cases is not registered, resulting in the employee having to get such details from the Revenue Commissioners to work out who is their employer. As P60s and P45s are not required to include the full legal name of the employer, the ELAI has noted that this causes huge difficulties because the case is not being pursued against the right entity. The ELAI advises that making it an offence not to advise an employee of the identity of the legal employer would result in savings and time not being wasted. We have all made that clear argument. We hope the Minister accepts the amendments tabled.

**Deputy Richard Bruton:** The first thing to point out is that an employer is obliged under the Terms of Employment (Information) Act 1994 to inform an employee of the legal name and address of the employer. That is provided for in law. Turning to the individual amendments, on the first one about ordinary residence, the advice I have received is that it is not appropriate or necessary as the issue of the address at which an employer or respondent is deemed ordinarily resident is dealt with comprehensively in the Bill by means of a standard provision in legislation which has stood the test of time. In respect of amendment No. 15, the Senators' proposed new subsection (3) refers to matters that are currently already provided for in sections 3 and 18 of the Registration of Business Names Act 1963 and is therefore unnecessary. This is the offence section.

In respect of amendment No. 16, I am advised that for reasons of legal certainty it would not be possible to accept the proposed amendment. To do so would be to attempt to provide that a document may be served on an entity that does not legally exist. A court or a tribunal cannot make a determination or an award against an entity that does not legally exist. Any attempt to do so would be thrown out of court and would be a waste of the court's time and any taxpayers' money expended pursuing the case on such a basis. Any determination made on the basis suggested in the amendment would be unenforceable. There is a very strong alternative legal view available to us than the one provided by the company referred to earlier. The fundamental point is that an employer has an obligation to provide the necessary name and address to the employee. Therefore I cannot accept the amendments.

**Senator Gerard P. Craughwell:** On amendment No. 15, I appreciate the Minister stated that it is catered for in other legislation. The legislation before us is attempting to bring together all the strands which have made industrial relations confusing and difficult for people to pursue claims. They have not been sure whether something belongs rightly with a rights commissioner, the Labour Court or the EAT. This legislation provides a huge amount of clarity for trade unionists, legal firms and employees. An individual in his own right will be able to approach



a single entity and pursue their rights through it. Notwithstanding the fact that the provision is in another Act, I believe in my heart it would no do harm to have it incorporated in this Bill for clarity purposes.

The same applies to amendment No. 16. We clearly have a difference in legal opinion in so far as the amendment that has been proposed by Senators David Norris and David Cullinane and me has come from an impeccable legal source. This is where we run into the difficulties of legal opinions in the drafting of legislation. It would be terrible to think that this will all finish up in the High Court some day as someone tries to sort out whether that paragraph should have been included in this legislation. I ask the Minister to think about it a second time.

**Senator David Cullinane:** When preparing for this debate and looking at the range of tabled amendments and the Bill itself, it was interesting to note a correlation between what the Minister is trying to do in this Bill and what is being done in the Companies Act, on which we had a lengthy debate in this House. There is an interrelationship between the two in many respects. I accept that some of this comes back to company law. As Senator Gerard P. Craughwell said, the purpose of the Bill is to simplify procedures for employers and employees. We support the Bill because it streamlines the employment rights bodies and makes it easier for both parties to have proper adjudication. There is also a mediation process. However, there is a difficulty where a company uses a trade name and the person believes that is his or her employer but then finds out, if he or she has to take a case, that it is not. This amendment tries to simplify that and to add value to the Minister's attempts to make it easier for everybody so that people know where they stand. I have had experience of this when I was employed by what I thought was a company but which turned out to be a subsidiary of a different company and I did not know who the actual employer was, so this does create difficulties. The Employment Law Association of Ireland has pointed out what it sees as difficulties here. It has lobbied all of us and I would imagine that these amendments have come directly from that source. I ask the Minister to reconsider because, as Senator Gerard P. Craughwell said, it would add value to the Bill if we were to simplify this and be very clear about this issue.

**Senator David Norris:** The Minister has said quite clearly and categorically that two of these amendments are already provided for. We will have to mull that over, take advice and see the extent to which this is a complete reflection. I am sure the Minister has put this statement on the record of the House in good faith, and it may very well be true. However, there are certain circumstances that cannot be avoided. The fact that P60 and P45 documentation is not required to carry the legal name of the employer causes confusion in the real world, and cases are dismissed or held up because the wrong entity is sued. That is an objective fact. These amendments, particularly the middle one, are trying to resolve a situation regarding an un-incorporated entity. It is not directly affected by law and cannot be, because we have these situations arising all the time in the courts; therefore, it seems quite reasonable to say that an un-incorporated entity which does not use a name under the Registration of Business Acts should be deemed to have committed an offence. That means that there is an obligation on it. Why do P45s and P60s not require the legal name of the employer? It seems absurd that an employer is not required to put its legal name on these legal documents, because these documents relate directly to employment. Surely something should be done about this.

**Senator Sean D. Barrett:** I note that there are 200 amendments today, of which 134 are proposed by the Minister; therefore, the thinking is obviously evolving. The submissions made to the Minister by the Employment Law Association of Ireland and Senator Gerard P. Craughwell, who is a trade union leader, might merit consideration at the next stage. The Minister's

thinking is obviously evolving as he listens to the debates and arguments, and I pay tribute the 134 amendments he has tabled today. They are a sign that this Bill has had a lot of new thinking put into it. Perhaps what my learned colleagues have said here might feature on Report Stage.

**Deputy Richard Bruton:** I would not be disposed to reconsider. The legal advice I have is that any determination made on the proposals suggested in the amendment would be unenforceable; therefore, I would be inviting people to participate in a piece of legal machinery which, when they test it in the courts, is likely to prove unenforceable. I would be letting people down if I agreed to an amendment that might have superficial attractions but collapsed when it came to be tested in the courts. Given that we are trying to improve or simplify the procedure, we would be serving nobody's interests if we invited them along a path that would ultimately end in failure with their case being dismissed. I know Senator Sean D. Barrett is attempting to be helpful but, based on the advice available to me, I cannot really see that I would be doing anyone a service if I did that.

Senator Gerard P. Craughwell said that one does no harm by repeating offences that are found elsewhere in legislation. If we appended to legislation everything one could conceivably think of, we would have rakes of company law and other forms of law in here. I do not think the Office of Parliamentary Counsel would thank us for asking it to draft stuff that was entirely superfluous. I do not think that is a route we should be encouraged to go down. I do not think these positions are sustainable against the sort of very strenuous legal advice that I am receiving. Unfortunately, I am not in a position to accept the amendments.

**Acting Chairman (Senator Michael Mullins):** Is amendment No. 14 being pressed?

**Senator David Norris:** I would like to make a comment first before I withdraw it. Does the Minister accept that there is a situation of confusion out there and that a certain number of complaints are dismissed or held up because of uncertainty regarding the legal entity that constitutes the employer?

**Deputy Richard Bruton:** There have been some cases, but they are not large in number as far as I can ascertain. The Senator makes a valid point about the P60. I do not know why that was the case originally, but we are not dealing with legislation pertaining to the Revenue Commissioners.

**Senator David Norris:** This would be another way of addressing it. I feel particularly strongly about this issue. The Minister accepts that there is an objective situation out there. Despite the fact that the number of cases might be small, the injustice to those cases still remains and it seems that it is up to us to address that. It seems absurd not to require in law that an employer should identify itself correctly and accurately in legal documentation. I will leave it at that, with the possibility of resubmitting some, if not all, of these amendments on Report Stage.

Amendment, by leave, withdrawn.

Amendments Nos. 15 and 16 not moved.

**Senator Gerard P. Craughwell:** We reserve the right to bring those amendments back on Report Stage.

**Acting Chairman (Senator Michael Mullins):** That is perfectly understood.

Question proposed: "That section 6 stand part of the Bill."

**Deputy Richard Bruton:** I may return on Report Stage with further amendments to sections, including section 6. These are purely technical and drafting amendments. Will I read the list of sections? They are sections 6, 7, 11, 13, 17, 21, 27, 28, 30, 31, 39, 41, 42, 45, 51, 53, 68, 71, 77 and 81 to 85, and Schedules 1 to 6, inclusive.

**Acting Chairman (Senator Michael Mullins):** These will be technical amendments.

**Deputy Richard Bruton:** Yes, and there may be a requirement to introduce certain provisions in the Bill which provide for transition arrangements arising from the establishment of the new workplace relations structures. The Office of the Parliamentary Counsel is reviewing the transitional provisions in sections 8, 53, 54, 57, 81, 84 and 85, and any issues arising will be dealt with by way of amendment on Report Stage.

Question put and agreed to.

Section 7 agreed to.

## SECTION 8.

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 17 to 19, inclusive, are related and may be discussed together.

Government amendment No. 17:

In page 15, line 9, to delete “in respect of” and substitute “in relation to”.

**Deputy Richard Bruton:** These amendments are related to the transitional arrangements that will apply to certain complaints under the Minimum Notice and Terms of Employment Act 1973 and the Unfair Dismissals Act 1977. Subsections 3 and 4 are amended to ensure the relevant repeals provided for in Schedule 2 to the Bill will not apply to complaints under the aforementioned legislation referred to in the Employment Appeals Tribunal before the commencement of Part 4 of the Workplace Relations Act 2015.

3 o'clock

Amendment agreed to.

Government amendment No. 18:

In page 15, line 12, to delete “section 11 of the Act of 1973” and substitute “sections 11 and 13 of the Minimum Notice and Terms of Employment Act 1973”.

Amendment agreed to.

Government amendment No. 19:

In page 15, to delete lines 15 to 17 and substitute the following:

“(4) The repeal of sections 11 and 12 of the Unfair Dismissals (Amendment) Act 1993 effected by *subsection (1)* shall not apply in relation to a claim for redress under the Act of 1977 brought before the commencement of *Part 4*.”.

Amendment agreed to.

Section 8, as amended, agreed to.

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Sections 9 and 10 agreed to.

#### SECTION 11.

Government amendment No. 20:

In page 16, line 15, to delete “Act of 1941” and substitute “Trade Union Act 1941”.

Amendment agreed to.

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 21 and 22 have been ruled out of order as they are not relevant to the subject matter of the Bill.

Amendments Nos. 21 and 22 not moved.

Section 11, as amended, agreed to.

Sections 12 to 19, inclusive, agreed to.

#### SECTION 20.

Government amendment No. 23:

In page 21, between lines 5 and 6, to insert the following:

“(10) In this section “employment enactment” does not include the Act of 1998.”.

**Deputy Richard Bruton:** Amendment No. 23 is necessary to clarify that the definition of an employment enactment for the purpose of section 20 does not include the Employment Equality Act 1998. This means the Workplace Relations Commission will not have responsibility for the preparation of codes of practice under the Employment Equality Acts, as this function would come under the remit of the newly established Irish Human Rights and Equality Commission. This was previously a function in the remit of the Equality Authority.

Amendment agreed to.

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 24 and 25 are related and may be discussed together, by agreement. Is that agreed? Agreed.

**Senator David Norris:** I move amendment No. 24:

In page 21, between lines 5 and 6, to insert the following:

“(10) The Chairman of the Labour Court may require any representative, of a complainant or respondent, for gain, to comply with any code of practice made by the Commission under *subsection (1)(a)* of this section.”

This concerns the direction as to the manner in which business should be conducted, particularly by people who are not solicitors or barristers. There are many representatives plying for trade and providing services for gain in the employment area, which is a growth area. By no means all of them are professionally qualified in the manner that one would assume. Some are regulated - for example, solicitors and senior counsel - while others are not. A number of cases have to be adjourned before Rights Commissioners and the Labour Court because relevant documentation or procedures are not complied with, despite the fact that parties would be

advised of what they need to bring to any hearing. Where a code of practice is put in place, it seems reasonable that, where an individual or entity is providing services for gain, the Labour Court can direct the manner and basis on which they will act and that it would be enforceable by the Labour Court against the individual. It would be a cost saving to the State, employers and employees where their representatives who are providing services for gain do not comply with a code of practice, as it would be a control element for the court. This would maintain good standards of practice for people who are not legally qualified, a number of whom are plying for trade.

**Senator Gerard P. Craughwell:** I second the amendment.

**Deputy Richard Bruton:** The purpose of codes of practice promulgated by the Workplace Relations Commission, WRC, is to provide general guidance to employers, workers and their representatives in terms of good practice in the workplace. They would be admissible in proceedings before an adjudication officer or the Labour Court. Although they are not enforceable at the direction of the Labour Court or any other body, they would be used as an example of good practice, with which, perhaps, the employer did not co-operate and would therefore stand outside a normal approach. I do not agree that the WRC should take a role in regulating whom people should choose to represent them at hearings. We are not trying to be legalistic or confine it to licensed lawyers but we are trying to make it accessible. We do not see the WRC entering into competence testing, for example, regarding whom people choose to represent them. It is not a proper role to ask the WRC to take on. Therefore, I do not support the amendments.

**Senator David Norris:** The Minister referred to people choosing who they want to represent them. Nobody has any problem with it and there is nothing in the amendments to suggest anything to do with people not having the complete right to choose who they want to represent them. All that is involved is the code of practice made by the commission. The commission makes the code of practice. This amendment would require people to abide by it, and I see no difficulty with it. If the chairman of the Labour Court makes a determination on the way business should be carried out, surely it should be a requirement that those representing plaintiffs in the Labour Court should observe them. I see no difficulty with it and it seems only good practice that would obviate a series of delays.

**Senator Gerard P. Craughwell:** I concur with what my colleague Senator David Norris said. I have been before the Labour Court and rights commissioners on many occasions and while I respect that individuals have a right to choose whomever they want to represent them, we have a responsibility to ensure that it is a competent person. I will be accused again of supporting the creation of a nanny state. I have seen too many people's cases put back and resubmitted because somebody who had no clue what he or she was talking about misled the complainant in the first instance. The staff in the Labour Court and the Rights Commissioner Service have always been excellent at assisting, in so far as they can. The Minister has gone a long way towards ensuring we do not make the process overly legalistic, and I do not want that to happen. At the same time, I want some protection for the unsuspecting claimant who brings a case.

**Deputy Richard Bruton:** There is a power in the Bill to make regulations governing the proceedings before the Workplace Relations Commission, WRC, the adjudications and the Labour Court. The WRC can make rules on how a case will be handled. The Senators seek to go beyond this and confine representation to counsel and solicitors - people with negotiating licences.

**Senator David Norris:** We are not.

**Deputy Richard Bruton:** We are dealing with codes of practice. The purpose of a code of practice is to guide employers and workers as to what is fair and equitable treatment based on the Workplace Relation Commission's experience in dealing with industrial relations situations. The Senators are seeking to make codes of practice, which are about guidance, compelling in some way and to get into the issue of regulating those who would attend at the hearings. I do not intend to establish a workplace relations commission which proceeds to invigilate the people chosen by people in good faith to represent them.

**Senator David Norris:** We are dealing with the behaviour of people, not any requirement that they should be part of a professional group, and the Minister is disingenuous to suggest it. He is suggesting the amendments are tabled to ensure that only barristers, solicitors and members of the legal profession are in this situation. That is not the case at all. We are simply looking to govern the behaviour of people in a situation where it is clear that the practice in the past has been unsatisfactory and to weed out unsatisfactory behaviour. There is no requirement in any of these amendments that the persons involved should be members of the legal profession. We have scrupulously avoided that, although the Minister appears to be very suspicious. We are regulating the behaviour of those who purport professionally to represent the individual citizen before the court.

Amendment, by leave, withdrawn.

**Senator David Norris:** I move amendment No. 25:

In page 21, between lines 5 and 6, to insert the following:

(11) A representative for gain shall include but shall not be limited to counsel, solicitor, trade union or employer representative body with a negotiating licence, a body corporate or unincorporated body or individual including but not limited to any insurance company but shall not include any unincorporated body or incorporated body which does not provide services for any fee or reward, premium or annual or other premium or fee.”.

The amendment clearly states “shall include but shall not be limited...”. That could not be clearer. I do not know what the Minister is on about saying this is an attempt to confine it within limits. I withdraw the amendment with the intention of resubmitting it on Report Stage.

Amendment, by leave, withdrawn.

Section 20, as amended, agreed to.

Sections 21 to 24, inclusive, agreed to.

## SECTION 25

**Senator David Norris:** I move amendment No. 26:

In page 24, between lines 17 and 18, to insert the following:

“(c) who has a minimum of seven years practical experience in representing employees and/or employers in employment cases before the Workplace Commission and/or the Labour Relations Commission and/or the Employment Appeals Tribunal and/or the Equality Tribunal and/or the Labour Court.”.

The provisions relating to the appointment of a registrar as they currently stand mean an individual who is an employee of the State could be appointed. A registrar should be a person who has practical experience before the employment for now and into the future. The reason for this is to ensure people bring practical and relevant experience and apply the same.

**Senator Gerard P. Craughwell:** The matter is self-explanatory and I concur with Senator David Norris.

**Deputy Richard Bruton:** We are providing that a lawyer or a public servant with legal qualifications can apply for this position. If we confined this to people who have a minimum of seven years practical experience representing employees or employers in employment cases before the LRC, we would rule out many perfectly qualified applicants. The system will be that the PAS will select people based on suitability and the best candidates will win but I will not exclude people who might have all the relevant strengths, including legal experience, but who do not have the specific requirement of seven years practical experience that the Senators have set out. It is unnecessary to confine this and a more general provision provides for a wider range of applicants. The PAS will select the best qualified person, bearing in mind all the attributes of the applicants rather than one dimension.

**Senator Gerard P. Craughwell:** I accept the Minister's comments and there is no doubt eminent legal professionals and public servants will apply for these jobs. There is a huge difference, however, between being suitably qualified and having the experience to run the position. Employment cases and employment law can be extremely difficult and specialism is required, which can only be gained through experience. I will push for this again on Report Stage even if the Minister continues to reject the amendment.

**Deputy Richard Bruton:** They are practising barristers and solicitors in respect of whom a recommendation has been made. The Senator is trying to reduce the field from which we would select. I do not see the justification for that. Let the dog see the hare and let the best dog win.

**Senator Gerard P. Craughwell:** If I am fishing for sharks, I would rather fish where the sharks are rather than bother myself with salmon and the like.

Amendment, by leave, withdrawn.

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 27 and 28 are related and will be discussed together.

**Senator David Norris:** I move amendment No. 27:

In page 24, to delete lines 24 to 27 and substitute the following:

“ “practising barrister” means a person having been called to the Bar of Ireland;”.

These amendments define “practising barrister” and “practising solicitor”. It is simply a question of definition and clarity.

**Deputy Richard Bruton:** Section 25(4) does not contain exhaustive definitions of the terms “practising barrister” or “practising solicitor”. It merely clarifies that certain persons are deemed to come within those groupings in addition to those persons included in any plain English interpretation of the words.

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It has been a long-standing practice in the State when drafting statutory criteria for legal, including judicial, appointments to ensure such criteria are not drafted in such a restrictive manner as to render ineligible suitably qualified persons whose experience has consisted partly or wholly of service to the State. To include an amendment along the lines proposed by the Senators would most likely have the effect of confining eligibility for appointments to the position of registrar to too narrow a pool of candidates. It is the same argument. A common plain English language interpretation as opposed to a specified enrolment in whatever roles are involved is what we tend to put in place. This is the way it is done to broaden the pool of people who can apply and who nonetheless are qualified as barristers or solicitors. As I understand it, the Senators are seeking to restrict the appointments to certain persons.

**Senator David Norris:** I am afraid the Minister's reply is patent nonsense. While he read it out, he did not read it with any great conviction. This is a question of definition. The definitions do not rule anybody out who is there already. They simply state what are practising barristers or solicitors. Will the Minister give an example of a practising barrister or solicitor who would be ruled out by this definition, as I cannot think of any?

**Deputy Richard Bruton:** Then why bother with the amendment if it does not rule anyone out?

**Senator David Norris:** To make it perfectly clear. The Minister is moving his position. He has admitted it is as the definition and there is a place for definitions.

**Deputy Richard Bruton:** Not at all. I am using what the Senator would call Occam's razor. One does not start putting stuff into legislation that is unnecessary.

**Senator David Norris:** Occam's razor prohibits the hypothetical discussion of the non-existent, as I am sure the Minister knows only too well. He only threw it in because he thought it would floor me but I know as much as about philosophy as he does.

**Deputy Richard Bruton:** I would say a lot more. I am inclined to joust on the same grounds as the Senator very feebly.

**Acting Chairman (Senator Michael Mullins):** Is the Senator pressing the amendment?

**Senator David Norris:** Not at this stage but we will consider it again on Report Stage because I do not see why a definition should be ruled out.

Amendment, by leave, withdrawn.

Amendment No. 28 moved.

Section 25 agreed to.

#### NEW SECTION

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 29 and 30 are related and will be discussed together.

**Senator David Cullinane:** I move amendment No. 29:

In page 24, between lines 33 and 34, to insert the following:



**“Employer obligation to display notice of Employment Rights in the workplace**

26. Every employer shall display in a prominent position in or at the place of work, being a place to which employees have regular access and in such a position that it may be read easily by employees, a notice or notices in a form, manner, and in an appropriate language or more than one language that is reasonably likely to be understood by the employees concerned containing the following information—

(a) entitlements under employment legislation, either generally or by reference to particular enactments or a particular class or particular classes of enactments or to employees of one or more than one particular class or description, as may be specified in the notice concerned,

(b) complaints procedures concerning entitlements under employment legislation,  
and

(c) the contact details of the Workplace Relations Service for the purposes of—

(i) making general enquiries regarding entitlements under, and the application and enforcement of, employment legislation, and

(ii) communicating information to the Director pursuant to the Protected Disclosure Act.”

The amendment seeks to place an obligation on an employer to display notice of employment rights in the workplace. It does not provide that all legislation relevant to workers’ rights, employment law or industrial relations should be on notice.

It is very specific with regard to entitlements under employment legislation, either generally or by reference to particular enactments. Generally, there would be notices on the Acts governing a worker’s rights in various spheres and on complaints procedures. More crucially, there would also be information on making general inquiries regarding entitlements under, and the application and enforcement of, employment legislation and the workplace relations service itself. The amendments would oblige employers to display as much information as possible on the rights of workers, what the Workplace Relations Bill seeks to do and, more importantly, what procedures a worker is obliged to follow or take if he or she wants to make a complaint and the proper information on how to do it. This is the purpose of amendment No. 29.

Amendment No. 30 seeks to increase the penalty from €3,000 to €4,000. It is our experience and that of unions, and the Irish Congress of Trade Unions has lobbied on this, that too many employers do not take seriously their obligations to maintain or produce employment records. This is in stark contrast with how they maintain Revenue records. There is an obligation on employers to maintain Revenue records and they place emphasis on this because huge penalties are involved, but they do not seem to have the same approach when it comes to employment rights or employment law. I could argue that we still have many weaknesses in terms of compliance and enforcement in this area and employers still do not take their obligations seriously. For consistency in penalty monetary amounts we propose that the penalty in the Bill be increased from €3,000 to €4,000.

**Deputy Richard Bruton:** I do not think it is practical to require under section 29 that every employer display in a prominent position information about employees’ rights.

**Senator David Cullinane:** Basic information.

**Deputy Richard Bruton:** It could run to a book. NERA provides this information on its website, and the Bill will embody NERA. It is an obligation of the State to ensure people are well informed. To expect employers to have such a comprehensive amount of information and keep it up to date would be unfair. We have websites to ensure both sides can easily understand their material. The Senator stated this information should be in a number of languages, which is going beyond what could be a reasonable expectation on an employer to provide this amount of detail displayed in a prominent place at work. We will have what I hope will be a world-class workplace relations commission, which will provide people with easy access through all forms of contact so people will be able to acquire information. There will be phonelines and websites.

In respect of amendment No. 30, the requirement to make and retain employment records to demonstrate compliance with individual enactments is already comprehensively provided under the enactments. The Senator's proposal would have the effect of replicating these provisions. Likewise, the failure to retain records and produce them for inspection are offences under enactments in respect of which summary prosecution can be brought. There are powers whereby if employers are not able to produce records when an inspector comes they are subject to offence provisions.

**Senator David Cullinane:** To be fair the Minister has misrepresented the point I made. If he listened to what I said it was very clear we do not expect employers and it would be unreasonable to do so, to put on notice or make available every piece of legislation that would impact on workers and workers' rights. The third element of the amendment is to have the contact details of the workplace relations service available. This is not an onerous responsibility to put on employers. With regard to the complaints procedures concerning entitlements under employment legislation, the amendment could be tidied up to state the pieces of legislation are simply listed rather than having to detail all of the legislation. It could be the same with regard to entitlements under employment legislation either generally or by reference to particular enactments or pieces of legislation.

Perhaps because of how the amendment is worded the Minister may be of the view we are looking for employers to place on notice huge amounts of information and pieces of legislation, which is not the purpose. It is to provide limited but important information that employees should have. The amendment seeks to strengthen employees' rights and make employers responsible for ensuring they make employees aware of their rights.

I will withdraw the amendment and look at the wording and come back with something a little tighter on Report Stage. I ask the Minister to take on board the point I am making, namely, to provide limited but important information about employment rights legislation, particularly about the workplace relations service, which is what we are seeking to do. If the Minister wants the legislation to be effective and wants employees to know the services available, how they can make a complaint and to whom they should make it, why is it unreasonable to suggest an employer should have to make this information available to employees? I ask the Minister to reconsider this, not today because he is not minded to accept the amendment, but perhaps he might look at the wording and come back on Report Stage.

**Senator Gerard P. Craughwell:** I find myself in total agreement with my colleague, Senator David Cullinane. I have been involved in workplace relations committees from local branch level through to national level and the level of ignorance with respect to knowledge of employ-

ees' rights is unbelievable. What Senator David Cullinane is asking for - I look forward to him tabling an amendment on Report Stage - is basic information. He is not looking for a 500-page document hanging on the wall. We are looking for a notice that points to all of the wonderful websites the Minister speaks about with all of the wonderful information.

I ask Senator David Cullinane to examine a provision that this basic information would be in the handbook an employee receives when he or she is employed in the first instance. There should be a one-stop page where one can find relevant websites. This is vital information. A number of employees in this country are not aware of the basics of the Working Time Act and are not sure as to when they are entitled to a tea break. These are very simple matters which make work a pleasure. The absence of this information can sometimes turn work into a nightmare. I ask the Minister to work with the Senator or table his own amendment.

**Senator David Norris:** One can have all the rights in the world but if one does not know about them one will be unlikely to be in a position to want to enforce them or try to enforce them. It is a question of information. I remember a previous Government quite some years ago closing down a series of Citizens Advice Bureaux, which was deliberately done to stop people getting information as to their rights and entitlements and save the Exchequer money. It is rather mean-minded. People are entitled to the maximum information as to their entitlements in work. This is a good amendment and I support it.

**Deputy Richard Bruton:** I cannot say I agree. We have obligations for employers, which are set out under the Terms of Employment (Information) Act 1994. It requires employers to provide each employee with a written statement of the employee's terms of employment and to notify him or her of any change in the particulars given in the statement. An employer cannot provide terms of employment that are in breach of any of the provisions of the approximately 130 Acts that govern this area. An employer has an obligation to tell an employee exactly the grounds on which he or she is employed. The National Employment Rights Authority, NERA, and, in future, the workplace commission do not only have an obligation, but also good procedures for informing people through websites, telephone lines, simplified complaints forms and plain English guides to the various enactments. Putting up some abbreviated form or notice in the corner of a tea room that was not kept up to date would confer no benefit that would be worth making it an obligation on employers.

We are trying to provide something that encourages compliance without finding new obligations. The Senator knows well what the response would be, namely, the cost would be an unfair burden and it would not be effective. If people want up-to-date information on employment rights, they ask NERA, which covers all of the legislation. It is not the obligation of an employer to refresh continually a notice of these provisions in one or more languages. I do not see the practicality of what the Senator is seeking. We are trying to make it easier for employers to employ, not to add costs. We are trying to make a system that is more easily and effectively enforced. We are not trying to make new provisions that, though appearing nice on paper, will require 200,000 or 300,000 workplaces to take action, keep notices up to date, etc. It would not be the correct approach.

**Senator David Cullinane:** If the Minister or his Department were to undertake research on workers' awareness of their rights and employment rights bodies, they would be astounded to find that, as Senator Gerard P. Craughwell stated, many do not know. As with anything else, unless one needs something, one does not give it much thought. The Minister mentioned NERA. If he were to survey workers in any factory, I wonder how many would know what it was or

what website or section on employment rights to visit. I challenge the Department to do this.

There used to be a number of routes, for example, the Labour Relations Commission and the rights commissioners. Now, the Government is simplifying the process through this body. It might make matters easier, but the Minister is missing the point entirely. Many employees do not have the confidence to ask an employer for information. It is not always an equal relationship. If someone who is in a vulnerable position wants to challenge an employer on a matter, he or she will not ask the employer for that information. The employer may be legally obliged to give it, but that does not mean that the person should be forced to ask the employer.

This amendment seeks to have provided basic information that sets out a map in simple terms of the route people should take if they have complaints. It would simplify the workplace relations service's process. Basic information should be made available in a prominent place in the workplace. If an employee needs to access that service, he or she could do so without having to ask an employer, a local politician, a solicitor or Google for information on employees' rights.

The Minister is exaggerating the intent of the amendment and overestimating the knowledge that many workers have of their entitlements and the various employment rights bodies. The Minister and I might be aware of them, but that does not necessarily mean that a worker on a factory floor, in a supermarket or in a job where many such workplace disputes arise is as aware, comfortable or knowledgeable in that respect. That is the purpose of my amendment. I will withdraw it, but the Minister should consider the wording and revert with a different amendment on Report Stage. I hope he will be in a position to reconsider the matter in light of the amendment's intention rather than his interpretation of same.

**Acting Chairman (Senator Paschal Mooney):** I have no wish to stifle debate, but there has been an extended discussion on this amendment and its proposer is withdrawing it. As the Minister has also replied, we should move forward.

**Senator David Norris:** I wish to make a point. If there are a couple of hundred thousand employers, could a leaflet not be provided centrally that gave information on contact details? In this way, people would know where to go if they had complaints. This is not an extravagant demand. Will there be a programme whereby employees will be made aware? Will there be some kind of propaganda exercise or a general information distribution on this matter? How are employees supposed to know about the commission when it comes into operation?

**Acting Chairman (Senator Paschal Mooney):** The amendment is being withdrawn, by leave of the House.

**Senator David Norris:** I would like to hear the Minister's response.

**Acting Chairman (Senator Paschal Mooney):** He has already replied, unless he wishes to add anything further.

**Senator David Norris:** He did not reply to my question.

**Deputy Richard Bruton:** Of course, there will be.

**Senator David Norris:** That was very clear.

Amendment, by leave, withdrawn.

Amendment No. 30 not moved.

Section 26 agreed to.

#### SECTION 27.

**Acting Chairman (Senator Paschal Mooney):** Amendments Nos. 31 and 39 are cognate and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 31:

In page 25, line 17, to delete “enter” and substitute “enter (if necessary by the use of reasonable force)”.

**Deputy Richard Bruton:** Amendments Nos. 31 and 39 are being introduced in aid of the labour inspectors and will provide them with a statutory basis to use reasonable force where necessary in order to gain entry to premises connected with the employment of persons. In the majority of inspections, the employers consent to the inspections and inspectors are not required to use force to gain entry. However, the inspection of certain time-sensitive matters would, in the absence of the power to use reasonable force, be frustrated where the employer locked and-or abandoned the premises, for example.

Amendment agreed to.

**Acting Chairman (Senator Paschal Mooney):** Amendments Nos. 32, 33 and 36 are related and may be discussed together, by agreement. Is that agreed? Agreed.

**Senator Feargal Quinn:** I move amendment No. 32:

In page 25, line 23, to delete “take” and substitute “make”.

It is my first time to speak on this Committee Stage. I am concerned by paragraphs (b) and (c) of section 27(1), under which inspectors can enter a place of work or any premises. I am particularly concerned by their powers to remove business documents. It is not fair that an inspector can remove a document from a business, particularly one that could be of vital importance to a small business, and perhaps impede that small business’ ability to defend itself in a subsequent legal action. An inspector should only be allowed to make copies of relevant material, not remove it. For instance, if certain documents were seized from a small to medium-sized enterprise, SME, and it did not have copies, its day-to-day business could be impeded because it might not know whom to pay and when. If one loses certain documents, it can have a major impact on one’s business, particularly if one is a small business owner. Paragraph (e) compels the business owner to furnish relevant materials. The inspectors already have a great deal of power through such a provision.

My amendment aims to give a little protection to businesses so as to ensure vital documents of which they might not have copies are not seized. It allows inspectors to make copies of relevant documents, but not to remove them. Inspectors will already get a great deal of power through this legislation. There is a slight concern about the word “take”. If an inspector may make a copy of relevant material, there will be no misunderstanding. However, if an inspector may take a copy, there could be a misunderstanding. “Taking a copy usually” means making a copy, but it could mean the other also. I have concerns around those two particular issues.

Amendment No. 36 seeks to insert the following:

“(2) If an inspector removes or copies documents from a place of work or premises, then they shall be required to issue the owner or person in charge of that place of work or premises with a receipt of any records taken or copied by the inspector.”.

The purpose of the amendment is to provide some protection to businesses by ensuring they have a record of what documents have been taken. SMEs in particular are vulnerable if certain documents are taken. If businesses have a record of what documents are taken this will help them in any future legal proceedings. The purpose of this amendment is to provide some safeguards for businesses, particularly SMEs. It makes sense and removes any doubt.

**Senator David Norris:** Senator Feargal Quinn’s amendment is well thought out, particularly in a situation where documentation that would have a crucial impact on the day-to-day running of a business is removed. That seems to be a crippling of business for no good reason. Unless an original document is required for legal purposes - for example, by the court - then a copy of it should be taken and the original should remain with the business. Often, it is only the information contained in the document that is necessary. That is reasonable.

With regard to amendment No. 36 and the provision of a receipt, that is absolutely essential. One has only to recall the number of times Garda files and public records have gone missing. Documents have been lost on many occasions and from places where one would imagine they would be secure. It is vital that receipts be provided. It is natural, when one takes something, to issue a receipt for it. That is inarguable.

**Senator Gerard P. Craughwell:** I support Senator Feargal Quinn’s amendments, which many may find a little surprising. I agree wholeheartedly with what he said. I have, however, one caveat which, if these amendments are accepted, I will address by way of amendment on Report Stage - namely, that where a copy of a document is taken it be certified as a true copy of the original document. I do not want to see a situation where a copy would be presented at a hearing and then the employer would present the original and say he or she forgot to include this or that. From that point of view, I would want the copy to be certified.

**Deputy Richard Bruton:** While some of what is proposed makes sense, I do not agree with some of it. Senator Feargal Quinn is proposing the deletion of the subsection that allows an inspector to remove any books, documents or records from a place of work or premises and detain them for such period as he or she reasonably considers to be necessary for the purpose of his or her functions under the Act. That is a proportionately stated right. It follows the provision which allows the inspector to take copies of documents. In other words, he or she cannot remove the books or documents. It is only in cases where an inspector has reasonable grounds for considering it necessary for the purposes of his or her act that he or she can remove books or documents. I believe that is a reasonable power to give to an inspector. I will come back to Senator Feargal Quinn on amendment No. 36, which provides that where records are taken a receipt be provided. I understand it is perfectly permissible for the employer to request that he or she retain copies of the records before they are removed by the inspector. However, I will consider whether there should be a formalised record taken in those circumstances.

**Senator Feargal Quinn:** I understand what the Minister is saying and welcome his undertaking to take another look at the point raised in amendment No. 36 prior to Report Stage.

Amendment, by leave, withdrawn.

Amendment No. 33 not moved.

**Acting Chairman (Senator Paschal Mooney):** Amendments Nos. 34, 35 and 40 to 42, inclusive, are related and will be taken together.

Government amendment No. 34:

In page 25, line 39, to delete “and”.

**Deputy Richard Bruton:** The purpose of these amendments is to clarify and remove confusion surrounding the effect of subsection (7) of this section and the capacity to use incriminating evidence given voluntarily after caution. Currently, the statutory functions and powers of labour inspectors are scattered over a large number of Acts dating back to 1946. Section 27 restates and consolidates all of those functions and powers in one location having regard to current best practice and development in case law.

These amendments place on a statutory basis the practise of the labour inspectors of issuing a formal caution to a person in appropriate circumstances before questioning that person in relation to compliance issues. The use of a formal caution before questioning is consistent with a person’s constitutional right not to incriminate himself or herself and serves as a reminder that the information that he or she gives on being questioned may be used in any subsequent legal proceedings arising from the inspection in question.

Amendment agreed to.

Government amendment No. 35:

In page 26, to delete lines 1 to 5 and substitute the following:

“(f) require any person, whom the inspector has reasonable grounds for believing to be, or to have been, an employer or employee, to answer such questions as the inspector may ask relative to any matter under this Act or a relevant enactment and to make a declaration of the truth of the answers to those questions, and

(g) examine with regard to any matter under this Act or a relevant enactment, any person whom the inspector has reasonable grounds for believing to be, or to have been, an employer or employee, following the inspector’s having cautioned the person that the person is not obliged to say anything unless he or she wishes to do so but that whatever he or she says will be taken down in writing and may be given in evidence.”.

Amendment agreed to.

Amendment No. 36 not moved.

**Acting Chairman (Senator Paschal Mooney):** Amendments Nos. 37 and 38 are related and will be discussed together.

**Senator Feargal Quinn:** I move amendment No. 37:

In page 26, line 6, to delete “may” and substitute “shall”.

Amendment No. 37 speaks for itself. On amendment No. 38, we should strictly limit access to a person’s property to An Garda Síochána and should not be opening it up to many other State

officials. Also, when presenting a warrant an inspector should be accompanied by a member of An Garda Síochána.

The Criminal Law Act 1996 provides for entry and search of any premises, including dwellings, by An Garda Síochána to make an arrest in certain circumstances, namely, to enter a premises on a specific criminal matter. The Bill, as drafted, provides that an inspector is potentially allowed to enter a premises, which does not appear to fit. If the legislation is enacted as drafted it may erode the power of An Garda Síochána, as it provides other actors with more power to enter property. I do not believe we should be adding to the list of people who can enter a premises. Article 40.5 of the Constitution states: “The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.” If the amendment is accepted, then an inspector who has a warrant from the District Court to enter a premises will have to do so with a member of An Garda Síochána. I believe this provision would ensure greater protection for everybody. It may give more assurance to business owners that entry of their premises is in full compliance with the law, as opposed to a situation in which an inspector, who has a somewhat uncertain legal status compared with a member of An Garda Síochána, may enter the premises. I believe acceptance of these amendments will ensure the legislation will be more compatible with the Constitution than is the case.

**Deputy Richard Bruton:** The Senator may be mistaken. Inspectors have always had the power to inspect. The Bill provides that for the purposes of the legislation an inspector may enter at all reasonable times a place of work or any premises to do the work that inspectors do. This power is essential to their normal everyday work. Subsection (2) provides that an inspector may in certain limited circumstances be accompanied by a garda but only where he or she deems it appropriate. If the party was under some sort of duress, he or she could ask to be accompanied by a garda. If the party was accompanied by a garda and the process was subject to warrant, that would have to be respected also. The Senator’s amendment would inadvertently require all inspectors entering the premises to have a garda with them. That would be totally impractical. Inspections occur on a regular basis in workplaces to ensure compliance. This is part of an effective inspection service. The next section indicates that an inspector shall not enter a dwelling except under certain circumstances, so any entrance to a dwelling would be done in accordance with the law as set out in the next subsection. The Senator’s amendment probably goes too far.

I may come back to subsection (4) on Report Stage.

**Senator Feargal Quinn:** I appreciate that. I am still of the opinion that the intrusion into one’s own private property needs to be protected by the State. We must do this very carefully and not give too much power to somebody who would not otherwise have that power. That is why there should always be a garda accompanying the inspectors, although I understand the Minister’s point. I would like the Minister to give this some thought before Report Stage.

Amendment, by leave, withdrawn.

Amendment No. 38 not moved.

Government amendment No. 39:

In page 26, line 19, to delete “enter” and substitute “enter (if necessary by the use of reasonable force)”.



Amendment agreed to.

Government amendment No. 40:

In page 26, line 20, to delete “and (f)” and substitute “, (f) and (g)”.

Amendment agreed to.

Government amendment No. 41:

In page 26, to delete lines 26 to 30 and substitute the following:

“(b) fails or refuses to comply with a requirement of an inspector or member of the Garda Síochána pursuant to *paragraph (d) or (f) of subsection (1)*, or in purported compliance with such requirement gives information or makes a declaration to the inspector or member that he or she knows to be false or misleading in any material respect.”.

Amendment agreed to.

**Senator Gerard P. Craughwell:** I move amendment No. 42:

In page 26, line 35, to delete “shall not” and substitute “made to the Inspector after receiving a caution shall”.

Amendment put and declared lost.

Question proposed: “That section 27, as amended, stand part of the Bill.”

**Senator Gerard P. Craughwell:** I wish to refer to amendment No. 42.

**Acting Chairman (Senator Paschal Mooney):** The amendment has already been discussed and disposed of but the Senator may speak to the section. We cannot open a discussion on the specific amendment but the Senator may debate the section if he wishes.

**Senator Gerard P. Craughwell:** I will not do so at this time.

**Senator Feargal Quinn:** I will speak to the section. Section 27 undermines the powers of inspectors in that it prohibits inspectors using any statements provided by the employer during the inspection. It states, “A statement or admission made by a person pursuant to a requirement under *subsection (1)(d) or (f)* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (5)*).” The Migrant Rights Centre of Ireland has drawn attention to this issue and pointed out that labour inspectors currently issue a caution if, in their view, the inspection may result in a prosecution. This is similar to the approach of the Revenue Commissioners. The centre argues that the watering down of the powers of inspectors to prosecute cases is a worrying development. What I suggest purely aims to ensure that statements made subsequent to the employer being given a caution would be admissible as evidence. It would be fair and reasonable. Our straightforward amendment should have been accepted.

**Deputy Richard Bruton:** We are seeking to respect constitutional requirements. The inspector may question anyone and demand answers but if a caution has not been issued to the person, this cannot be used as evidence against that person, although it could be used against another person. If a caution is issued, the evidence provided could be used against the individ-

ual being questioned. That is what we are seeking to achieve. It is a reasonable approach. One cannot require questions to be answered but if compelling force is used with pain of offence for not answering, one cannot use any resulting evidence because of the right not to incriminate oneself. It could be used against another person. If a caution is issued, the evidence may be used. There has been considerable thought given and legal advice obtained as to how this could be done. This is a robust way to proceed.

**Senator Feargal Quinn:** I would like the Minister and his officials to give our amendment some thought before Report Stage.

**Deputy Richard Bruton:** We shall do so. I know that there is quite a bit of debate around this issue but whatever we put in place needs to be legally robust and respect constitutional rights. We must proceed with caution and ensure that we have is robust. This is robust enough to withstand any challenge.

**Senator Feargal Quinn:** I am sure the Minister will proceed with caution.

**Senator Gerard P. Craughwell:** The proposed amendment mentions evidence made to the inspector “after receiving a caution”. There is a proviso. Is the constitutional provision met by this?

**Deputy Richard Bruton:** As I understand it, the amendment requires a caution.

**Senator Gerard P. Craughwell:** We sought to remove the phrase “shall not” and substitute the phrase “made to the Inspector after receiving a caution shall”.

**Deputy Richard Bruton:** I will revert to the Senator and check it out before Report Stage. We are seeking to achieve a balance in order that where there is a caution, evidence can be used. If compulsion has been used to obtain the answers, the evidence cannot be used. I will revert to the Senator about this.

**Senator Gerard P. Craughwell:** I do not wish to delay the Minister. Does he wish to gather information without compelling somebody in doing so? If we use the word “caution”, are people compelled to answer, which may damage the collection of evidence?

**Deputy Richard Bruton:** As I understand it, the power would allow a person to question a party and demand answers. Compulsive powers of an inspection are used in that case. The evidence could only be used against another person and not the person against whom the compulsory powers are used. This is in order for the process to be legally robust. We have had engagement to ensure anything we put in here is legally robust and there has been quite a bit of debate to ensure we get this right. I will revert on Report Stage and provide in the mean time an explanation of the approach we are taking to the Senator.

**Senator David Norris:** I understand the Minister’s comments about rights. It is rather like the Miranda rights in American criminal law. The Minister has indicated that if information is elicited as a result of questioning without a caution from an individual, it is not admissible against the person who makes the statement.

However, it can be used against a third party. I am perplexed by this. If a thing is inadmissible against a person who is saying it but it can be used against a third party, that appears to be absurd on the face of it, but perhaps there is some reason this is the case.

**Deputy Richard Bruton:** I would have thought every court case involves witnesses who produce evidence against a person. That is what is used ultimately as-----

**Senator David Norris:** They are given their rights.

**Deputy Richard Bruton:** If one takes a case against an individual, one arraigns the witnesses and seeks to establish that an offence was committed. The testimony of those witnesses is evidence against a third party. The Senator is saying it is unthinkable that one would have evidence against a third party. If the information was acquired from that individual under some compulsion, the provision provides that if there is compulsion on witnesses they cannot incriminate themselves. That is my understanding of our law. If one compels people to answer a question, they have a right to silence. If they give up their right to silence, having been cautioned, that answer can be used against them. However, if they provide evidence under compulsion, that evidence can be used in a case against somebody else. An accomplice can always provide evidence that can be used to prosecute. It is not my understanding that this is any breach or unusual in the way a case could be conducted.

**Senator David Norris:** Surely they should be warned and given their rights.

**Deputy Richard Bruton:** There are two ways of doing this. Either one warns them and says, "Anything that you say will be taken down in evidence and may be used against you", or one says, "I am compelling you under my rights as an inspector that you must answer the following questions, but in compelling you to do so your answers cannot be used as evidence against you because you cannot be compelled to be a witness against yourself."

**Senator David Norris:** That appears to be grotesquely unfair on the third party. It could lead to all kinds of wild accusations.

**Deputy Richard Bruton:** That is what happens in every case.

**Senator David Norris:** No, they are sworn. They are under oath.

**Deputy Richard Bruton:** In gathering evidence a person can be compelled. We are giving compulsion powers to require people to answer questions. It is much like a tribunal, as I understand it. If somebody refuses to answer a question in a tribunal, that is an offence. Equally, we know that evidence produced in a tribunal cannot be used to prosecute the people who were compelled to come to it.

**Senator David Norris:** Evidence from a tribunal cannot be used to accuse third parties either.

Question put and agreed to.

## SECTION 28.

**Acting Chairman (Senator Paschal Mooney):** Amendments Nos. 43, 44, 46 and 103 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 43:

In page 27, line 4, to delete "in this Act" and substitute "in this section".

**Deputy Richard Bruton:** Section 28 currently provides that the manner in which an ap-

peal against a compliance notice to the Labour Court would be effected and likewise an appeal of the decision of the Labour Court to the Circuit Court under this section, would be subject to regulations made by the Minister. This amendment obviates the need for the Minister to make such regulations and provides that the aforementioned appeals would be regulated by rules made under section 20 of the Industrial Relations Act 1946.

Amendment agreed to.

Government amendment No. 44:

In page 27, line 30, to delete “prescribed manner” and substitute “manner prescribed by rules under subsection (5) of section 20 of the Act of 1946”.

Amendment agreed to.

**Acting Chairman (Senator Paschal Mooney):** Amendments Nos. 45, 47, 53, 56 and 57 are cognate and may be discussed together. Is that agreed? Agreed.

**Senator David Cullinane:** I move amendment No. 45:

In page 27, line 31, to delete “42 days” and substitute “28 days”.

As all of the amendments seek to do the same thing, there is no problem with them being grouped. We are seeking to reduce the time an employer has to appeal a compliance notice from six weeks to four weeks. We previously sought two weeks when the Bill was before the Dáil on Committee Stage, but this was deemed too short a period for an employer to prepare the necessary documentation and information. The Minister says it should be six weeks. However, I note that the Government is giving the survivors of symphysiotomy just 20 working days from the commencement date of the redress scheme to apply for redress. If one applies for social welfare and one’s claim for benefit is turned down, one has 28 days to appeal. The standard for the vast majority of citizens appears to be 28 days. However, when it comes to employers, who in these cases are unscrupulous employers who have already been found guilty of a breach of employment law, they are given six weeks. We do not understand the logic of this.

The reason for tabling the amendment is that obviously an appeal would hold up whatever compensation would be due to an employee. If the Minister cannot accept a two week period, he should at least opt for the standard four weeks which appears to apply in most situations where one is entitled to appeal. That is the purpose of the five amendments.

**Senator Gerard P. Craughwell:** I support Senator David Cullinane’s request to reduce the period from 42 days to 28 days. It never ceases to amaze me that we provide such latitude to organisations that have all the resources in the world available to them to prepare documentation. A period of 28 days is an ample amount of time for an employer to put together any documentation required. A period of 42 days is excessive and not required. As Senator David Cullinane pointed out, if I apply for social welfare and I do not have a seat in my pants, I have 28 days in which to submit my appeal. The 28 days period is ample for anybody.

**Senator David Norris:** I also support the amendment.

**Deputy Richard Bruton:** The period of 42 days an employer has to initiate an appeal against a compliance notice issued by an inspector and an appeal from the Labour Court to the Circuit Court, mirrors the standard appeal period which applies, for example, to the bringing of

an appeal to the Labour Court from the decision of an adjudication officer. An important principle underlying the procedural reforms which the Bill introduces is that of consistency. The Bill aims to make navigation of the employment rights compliance and enforcement system more user friendly by providing for standard procedures and timeframes wherever possible. On this basis it would be inappropriate to accept the Senator's proposal to shorten the period within which an employer may appeal a compliance notice.

**Senator David Cullinane:** The Minister has not addressed the point. I ask him to reflect on it and to take on board the points we made. Why is it that the vast majority of citizens are given 28 days, which appears to be the standard, to make an appeal in most situations yet when employers are involved that does not appear to apply? In addition, one of the flaws in employment law is that often the enforcement, penalties and sanctions do not deter an employer from doing something they should not do. For example, if an employer do not pay someone his or her proper entitlements and the employee then brings the employer to an employment rights body which agrees that the employer has not paid the employee the proper wages and orders the employer to do so, that is akin to somebody walking into a supermarket, walking out with a basketful of goods, getting caught and just saying, "I am giving back your goods and I am sorry". That appears to be the case when dealing with unscrupulous employers, which is what we are discussing here.

There appears to be a different set of standards when it comes to the vast majority of citizens. The victims of symphysiotomy are another example. Perhaps the Minister would address that point. I am sure he would have supported thousands of people in making appeals regarding various social welfare claims; therefore, he knows one has 28 days either to seek a referral or to make an appeal. Why is that the standard across those areas but not when it comes to employers? The Minister said he is working from what is already in place, but why is that the case? Why is there a different set of rules for employers? The point is that this then delays the entire process. That is the reason trade unions would query why it should be six weeks. They say it should be two weeks, but we have opted for the compromise of four weeks. I do not see why that cannot be agreed.

**Deputy Richard Bruton:** We are providing the same period for workers and for employers. It is six weeks in both cases. That is fair. Not all employers have all the resources in the world, as Senator Gerard P. Craughwell said. That is not the truth for all employers.

**Senator Gerard P. Craughwell:** They have a lot more than their employees.

**Deputy Richard Bruton:** It is an even-handed approach. The same provision is being made for all parties in respect of these periods.

Amendment put:

The Committee divided: Tá, 12; Níl, 16.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Burke, Colm.
Craughwell, Gerard P.	Coghlan, Eamonn.
Cullinane, David.	Coghlan, Paul.
Leyden, Terry.	Conway, Martin.

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Mullen, Rónán.	Cummins, Maurice.
Norris, David.	D'Arcy, Jim.
Ó Murchú, Labhrás.	Gilroy, John.
Power, Averil.	Hayden, Aideen.
White, Mary M.	Keane, Cáit.
Wilson, Diarmuid.	Mulcahy, Tony.
Zappone, Katherine.	Mullins, Michael.
	O'Neill, Pat.
	Quinn, Feargal.
	van Turnhout, Jillian.
	Whelan, John.

Tellers: Tá, Senators Gerard P. Craughwell and David Cullinane; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Government amendment No. 46:

In page 28, to delete lines 5 to 7.

Amendment agreed to.

Amendment No. 47 not moved.

Question put: "That section 28, as amended, stand part of the Bill."

The Committee divided: Tá, 16; Níl, 8.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Craughwell, Gerard P.
Coghlan, Eamonn.	Cullinane, David.
Coghlan, Paul.	Leyden, Terry.
Conway, Martin.	Mullen, Rónán.
Cummins, Maurice.	Norris, David.
D'Arcy, Jim.	Power, Averil.
Gilroy, John.	White, Mary M.
Hayden, Aideen.	
Keane, Cáit.	
Mulcahy, Tony.	
Mullins, Michael.	
O'Neill, Pat.	

*Seanad Éireann*

Quinn, Feargal.	
van Turnhout, Jillian.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Gerard P. Craughwell and David Cullinane.

Question declared carried.

Progress reported; Committee to sit again.

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

**Senator Maurice Cummins:** Next Tuesday at 2.30 p.m.

The Seanad adjourned at 4.30 p.m. until 2.30 p.m. on Tuesday, 24 February 2015.