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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Máirt, 17 Samhain 2015

Tuesday, 17 November 2015

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

An Cathaoirleach: I have received notice from Senator Trevor Ó Clochartaigh that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

An gá atá ann go soláthróidh an tAire Comhshaoil, Pobail agus Rialtais Áitiúil an t-eolas is déanaí faoin obair atá ar bun ag an Údarás Clárúcháin Maoine ar Chlárlann na Talún i ndáil leis an iniúchadh ar fhóiliónna i limistéir chósta a bhfuil cearta bainte feamainne ag gabháil leo.

I have also received notice from Senator John Whelan of the following matter:

The need for the Minister for Agriculture, Food and the Marine to prepare a strategy for the bee-keeping and honey sector on an all-Ireland basis in tandem with his Northern Ireland counterpart in terms of developing a viable niche agri-sector to protect native honey-bee species and ensure consistent and sustainable standards of honey production.

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

The need for the Minister for the Arts, Heritage and the Gaeltacht to outline what steps are being taken to eradicate the invasive plant known as Japanese knotweed, which is currently spreading across the country and causing severe damage to flora and fauna and built-up environments.

I have also received notice from Senator Jillian van Turnhout of the following matter:

The need for the Minister for Health to outline the current operational status of the MRI scanner in Our Lady's Children's Hospital, Crumlin, and the waiting list for children, in particular, those requiring a general anaesthetic, to use the scanner.

I have also received notice from Senator Catherine Noone of the following matter:

The need for the Minister for Finance to outline the current position regarding the homec-

arer tax credit, how many people are in receipt of same and if there are plans to reform it.

I have also received notice from Senator Pat O'Neill of the following matter:

The need for the Minister Agriculture, Food and the Marine to outline whether any provision has been made to provide grants in respect of forestry plantations that were severely affected in the storms of January 2014 for those not covered by insurance.

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

The need for the Minister for Education and Skills to work with the Minister for Children and Youth Affairs towards providing adequate funding for the Life Centre in Cork, which is providing full-time education for 45 young people who have been referred to the centre by school attendance officers.

I have also received notice from Senator Lorraine Higgins of the following matter:

The need for the Minister for Communications, Energy and Natural Resources to include the N66 from the Seven Eye Bridge at Kilaspic, Kilchreest, Loughrea, to Peterswell Cross in the national broadband plan.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Whelan, Ó Clochartaigh, Landy and van Turnhout for discussion, and they will be taken now. Senators Noone, O'Neill, Burke and Higgins may give notice on another day of the matters they wish to raise.

Commencement Matters

Seaweed Harvesting Licences

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

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire Stáit. Tá mé anbhuíoch di faoi teacht isteach leis an gceist seo - ceist chonspóideach na feamainne in iarthar na hÉireann - a fhreagairt. I thank the Minister of State for coming to the House to answer this question, which relates to the ongoing debate around seaweed harvesting rights along the coasts of Ireland. I have raised this with the Minister of State, Deputy Coffey, on previous occasions as well.

There was a lot of talk about the legal position regarding folios and whether harvesters have traditional rights, whether they have legal rights, how they can enforce those legal rights, etc. Deputy Coffey told us in the spring that he had asked the Land Registry to conduct an audit of all folios within a mile of the foreshore to assess how many folios around the island of Ireland have these rights attached. That is an important piece of work. We were told at that stage that it would be done by September and we have not heard back since. I wrote to the Property Regis-

tration Authority of Ireland, PRAI, but unfortunately it did not respond, so I felt I had no option other than to drag a Minister back to the Seanad to get clarification on this important issue.

As the Minister of State with responsibility for rural affairs, Deputy Phelan will be aware that there is a huge opportunity for us to develop seaweed harvesting around the coast. It is something that has been totally under-utilised since the foundation of the State. There was the company Arramara, which was in State ownership until recently, but its potential to develop as much as possible in the sector was probably hindered by the fact that the seaweed was being processed only to a basic level, after which the pellets were sent away for more diverse and value-added processing abroad. There is considerable potential and it is important for those coastal communities and for the seaweed harvesters that the income they can get from seaweed harvesting is maximised.

One of the concerns is that there is an attempt by the Government to corporatise the industry. We have seen a large international player, Acadian Seaplants, come into the market and take over Arramara Teoranta. We do not have an issue with a company coming in, but we do have concerns about who will be given licensing rights to harvest the seaweeds. One of the pertinent issues is the need to ascertain who has rights at present and who does not.

I understand that having a right written into one's folio is not the only way of asserting one's right to harvest seaweed, but it is an important one. Apparently, if a company applies for a licence to cut seaweed in a particular area, if somebody has a strip of seaweed harvesting in that area, the licence must exclude that strip. There are other ways in which people can assert their rights, but that is another day's work. One possible method is under the 1998 conveyancing Act, which contains articles allowing a person to assert his or her rights even if it is not included in the folio. This was a very important piece of work. I am not sure where it stands, which is why we have asked the Minister of State to clarify it. Has the work been finished? If so, can the information be made publicly available? Can we see a list of all the folios in which people have seaweed harvesting rights included? Can it be shown on a map such that we can see areas of the coastline where the rights exist, almost like a red line, and other areas in which there is a contention as to who has the rights and where licences can be issued? I welcome the Minister of State and hope she can clarify the situation.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): I thank the Senator for raising this very important issue. I know exactly how people are thinking around the issue and I understand their concerns. I welcome my colleague, Senator Máiría Cahill, to the Seanad. Again, I thank Senator Ó Clochartaigh for raising the issue and allowing me the opportunity to set out where the Department stands on regulating the harvesting of wild seaweed under the 1933 Foreshore Act.

The Department has received a number of applications under section 3 of the Foreshore Act for licences to harvest seaweed. As has been outlined in previous debates, the applications are varied, being made by both individuals and commercial harvesters. The applications range from very small-scale harvesting of niche seaweed species to large-scale commercial harvesting, as the Senator pointed out. All foreshore lease or licence applications must be assessed in the context of the applicable regulatory framework. Public participation is a requirement of the foreshore consenting process and a number of submissions received by my Department expressed the view that certain rights to harvest seaweed exist, with some submissions referring to such rights to collect seaweed.

My Department sought the advice of the Office of the Attorney General on the interaction between the Foreshore Act and any relevant appurtenant rights, that is, rights that attach to a piece of land close to the foreshore to collect or harvest seaweed. My Department has engaged with the Property Registration Authority of Ireland, PRAI, to attempt to establish the extent of appurtenant rights specified in Land Registry folios to harvest seaweed that may exist. On foot of this request, the PRAI has provided my Department with data detailing the extent of the rights in seven of the western seaboard counties, namely, Cork, Kerry, Limerick, Clare, Galway, Mayo and Donegal. I acknowledge the valuable assistance of the PRAI in compiling the information for my Department. It was a complex task, given the manner in which the requested data is held by the PRAI and having regard to both the PRAI's and my Department's obligations under data protection legislation.

From information provided by the PRAI, it is clear that appurtenant rights to collect seaweed exist, and the implications of such rights regarding the harvesting applications before my Department are being assessed. It is important that these rights, including the location and scale of such rights, are fully considered to inform the evaluation and determination of such harvesting applications. This process is ongoing.

Senator Trevor Ó Clochartaigh: I thank the Minister of State and welcome that she has told us this work has been done in seven counties. My understanding from the PRAI is that anybody can get a copy of a folio of land if they pay the charges. Making the information available is not necessarily a data protection issue. Will the Minister of State make the information available? Can a map be made available showing where stripes of harvesting rights are attached to certain parts of the shoreline? It would be important and useful to anybody making any future applications to know that there are folio rights in certain areas already. These rights are on the folios, so they are public information. These documents can already be availed of through the Land Registry. It would be important for the Minister of State and her Department to make this information available publicly so that people can see where these rights actually sit.

Deputy Ann Phelan: Perhaps I will go through the legal advice. It is clear from the advice of the Office of the Attorney General that the Department needs to establish the scale of appurtenant rights to harvest seaweed before it can answer some of the questions that have been raised and process certain licence applications. The Department must take account of any established legal rights, and the aggregate quantification of these harvesting rights, as part of the application process. This requires the Department to identify the folios to all land bordering on the part of the foreshore and the folios to all parcels of land with the exception of urban lands and housing estates within one mile of that part of the foreshore which is the subject of the licence applications currently with it, and to examine those folios to ascertain whether they contain any entries showing a right to take seaweed from that part of the foreshore. I appreciate that the note I have read is probably a little legalistic. If it helps the Senator, I will give him a copy of it so that he can go through it. If he still has concerns about specific aspects of this matter, he might come back to me.

Apiculture Industry

An Cathaoirleach: I welcome the Minister of State, Deputy McHugh, to the House.

Senator John Whelan: I join the Chair in welcoming the Minister of State to the House. The issue I am raising today poses some problems and challenges and offers some great op-

portunities. I refer to the concerns, ideas and interests of this country's 3,000 beekeepers, who are represented by the Federation of Irish Beekeepers Associations. They are particularly concerned for the prospects of the native Irish honey bee and for the manner in which this sector is managed.

While apiculture is a niche sector within our food production and agriculture industries, it almost beggars belief that there is no reference whatsoever to it in the Harvest 2020 document that was drawn up by the Government to set out our objectives and ambitions with regard to food production in this country. Most of the 3,000 enthusiastic beekeepers who are operating in this country keep bees as a hobby rather than for commercial purposes. In my own area, the long-established Dunamaise Beekeepers Association, which is based in Stradbally, County Laois, has passed down the tradition of beekeeping within families and communities down through the years. Many of the members of that association have produced and harvested honey of such world-beating quality that they have won medals and cups on the world stage for their produce.

It is astounding that this country, which is renowned for its agrifood sector, its food production and its food exports, imports 90% of the honey that is consumed here. It is hard to believe, but my point is that it does not need to be the case. We could turn it around so that it becomes a fantastic win for honey production, for beekeepers and for employment in rural Ireland in this niche sector. I will set out what is required to do things differently. While honey production is not a big-ticket item like beef production or dairy production - it is not anything of that order - there are certainly great prospects for jobs to be created and for niche rural industries to be spawned in this sector. A number of actions are required if that is to happen. First, an all-island approach needs to be taken. I am sure the Minister of State, as someone who comes from the north of the country, would appreciate that fact. Bees by their nature do not respect, regard or identify with borders. They do not fly over large expanses of water either, which is an advantage in our case. As we are an island nation, we can develop honey which has an integrity and which is produced within a defined area within the European Union. That would be to our advantage in terms of marketing a high quality product, organically produced and so forth.

The native Irish honey bee has adapted to our intemperate climate. While most people believe that bees are only out and about in the sunshine, that is not the case. They are busy pollinating and making honey as long as it is not raining, which is another challenge to which they have adapted. Some of the challenges that both bees and beekeepers find difficult to deal with include the introduction of foreign hives which can introduce disease, parasites and hybridisation which weakens the strain of the Irish honey bee and limits its ability to adjust to the Irish climate. Beekeepers are seeking a ban on the importation of foreign hives, which has already been done elsewhere, including on the Isle of Man. Beekeepers want to prevent interloping bees from places like Italy weakening the Irish bee stock.

Apiculture offers great opportunities and potential not only as a hobby, but as a commercial pursuit. In countries like Poland, one can study apiculture at university and emerge two or three years later with a recognised qualification in this area. We have totally ignored apiculture but there is an opportunity for us to engage, embrace and develop the sector for everyone's benefit.

Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Joe McHugh): I thank Senator Whelan for raising this issue. The value of honey produced in Ireland in 2014 was estimated at slightly over €3 million. The value fluctuates from year to year depending on the climatic conditions during the summer. There are almost 2,500 beekeepers in

the country, over 56% of whom have three colonies or fewer while only 3% or approximately 70 beekeepers have more than 50 colonies. Only five beekeepers have over 150 colonies, which many would consider to be a commercial apiary.

Notwithstanding this scale of activity, the Department of Agriculture, Food and the Marine fully appreciates the importance of beekeeping in Ireland. The value of bees as pollinators far exceeds their value as honey producers. In 2008, the Department of the Environment, Heritage and Local Government estimated the value of pollinators, including honey bees, for Irish food crops was at least €53 million. This does not include the value of pollinators in terms of non-food crops and maintaining bio-diversity in the wild.

One of the major issues facing beekeeping is that of bee health and the Department of Agriculture, Food and the Marine recognises the importance of maintaining and further developing a healthy honey bee population and has devoted considerable effort to this. With this in mind, the signing into law of the Animal Health and Welfare Act 2013 repealed the outdated Bee Pest Prevention Act 1908.

The Control of Animal Diseases Regulations 2014, SI 110 of 2014, lists six pests and diseases of bees of concern, including the small hive beetle. In response to the 2014 outbreak of small hive beetle in Italy, the Department of Agriculture, Food and the Marine established a sentinel apiary programme earlier this year. Working with the Department of Agriculture and Rural Development, a similar programme has also been rolled out across Northern Ireland. This programme was established with the support of the Federation of Irish Beekeeping Associations and the Native Irish Honey Bee Society. Volunteer beekeepers in areas which are considered to represent greatest risk for the introduction of pests such as the small hive beetle, as well as other beekeepers are participating in this programme. Over 20 beekeepers providing a representative geographical spread across the country are involved. The sentinel apiary programme is designed with the objective of providing early notification in the event that any exotic pest or disease affecting honey bees arrives in Ireland. The Department of Agriculture, Food and the Marine co-ordinates the programme and has provided equipment and guidelines to the beekeepers and also provides the diagnostic service to implement the programme.

In addition, a bee diagnostic service is operated from the Teagasc laboratories at Oakpark in Carlow. Analysis of some 300 samples for foul brood, nosema and varroa which are submitted by beekeepers each year are carried out and the Department of Agriculture, Food and the Marine is informed where a case of a notifiable disease is detected. Officials in the Department follow up, where appropriate.

The Department of Agriculture, Food and the Marine co-funds Ireland's national apiculture programme with 50% co-funding from the European Commission. The 2013-16 programme is due to run until August 2016 and is being implemented by the University of Limerick in collaboration with Teagasc Oakpark and NUI Maynooth. Funding of €70,000 per annum is available for the programme. The objectives of the current programme are: to monitor Irish overwinter colony losses during the period from 2014 to 2016 in collaboration with the international COLOSS network; assess the efficacy and tolerability of alternative varroa treatments under Irish conditions; establish the prevalence of pests and pathogens in Irish honeybee colonies and assess if the dark native honeybee has inherent resistant characteristics; and provide technical assistance to beekeepers and groupings of beekeepers.

The Department of Agriculture, Food and the Marine intends to engage with the Irish bee-

keeping associations shortly with a view to preparing plans for submission to the European Commission in early 2016. These plans will seek co-funding for a new national apiculture programme to cover the period 2016 to 2019. Appointment of bee health inspectors under this programme will be one of the issues for consideration in deciding the priorities in terms of Ireland's application for funding.

The Department also provides grant aid to beekeepers under the national horticultural grant scheme. The current scheme is advertised on the Department's website, with a closing date of 18 December 2015. In recognition of the smaller scale of beekeeping compared with other sectors of horticulture, a minimum investment of €2,000 is required compared to €10,000 for other areas of horticulture. Potential funding for beekeeping groups is also available from the Department under the scheme for conservation of genetic resources to develop breeding programmes and strategies to protect the dark native honeybee. The Department also provides an annual grant to the Federation of Irish Beekeepers' Associations, FIBKA. The objective is to assist FIBKA to meet its operating costs, thereby allowing the association to promote the craft of beekeeping among its members, and to inform the general public of the role of bees in our environment.

The Department of Agriculture, Food and the Marine is also active in ensuring that imported and domestically-produced honey marketed in Ireland meets all the various quality and labelling standards. More than 100 samples of honey are taken per annum under the national residue plan. A broad suite of tests are carried out in respect of contaminants such as antibiotics, pesticides, heavy metals, etc. In addition, a sampling programme is being organised across the European Union this year to ensure that the honey marketed is not being mislabelled with regard to its geographical or botanical origin and that products declared as honey do not contain externally added sugars or sugar products. The Department and Health Service Executive have taken upwards of 70 samples under this programme. The Department is also working with a number of stakeholders in producing a guide for beekeepers to ensure they fulfil all legal criteria pertaining to the production, marketing and labelling of their honey.

Officials are in regular contact with their counterparts in the Department of Agriculture and Rural Development in Northern Ireland to ensure that a common approach is taken, particularly in the area of bee health. They will continue to explore the opportunities for greater co-operation in ensuring the development of beekeeping across the island.

Senator John Whelan: I thank the Minister of State for his comprehensive answer, which touched on many of the points I raised. I ask that the Department engage with its Northern Ireland counterpart on this matter because an all-island approach would offer solutions and opportunities. The sting in the tail, to use a pun, is that Ireland should not need to import honey. We have an opportunity to develop a strong, viable and sustainable rural enterprise. Honey production is an enjoyable activity and bees, as pollinators, are important for other food production and agricultural sectors.

As the Minister of State noted, the Department and Teagasc have estimated the value of the bee pollination process at between €50 million and €60 million per annum. Bees are providing a free service and deserve a little payback, as it were. For this reason, we must protect and value them and develop the honey industry, which is currently small in scale. We have an opportunity to develop a rural enterprise and enable Irish honey to join other Irish food products on the world stage.

Deputy Joe McHugh: Meetings of the North-South Ministerial Council take place on a regular basis. I do not know when the next sectoral meeting between representatives of the Department of Agriculture, Food and the Marine and the Department of Agriculture and Rural Development in Northern Ireland will be held. I will raise the matter with the Minister as it should be added to the agenda. I will bring the Senator's message to the Minister.

Invasive Plant Species

Senator Denis Landy: I ask the Minister of State to outline what the Government is doing about the problem of Japanese knotweed, known botanically as *Fallopia japonica*. This weed was introduced to Europe by a German botanist in 1850.

3 o'clock

It was deemed to be the darling of garden plants for many years until it was discovered that it was an invasive species when, after a few years, it started to take over parts of Germany and spread right through Europe. In recent years, it has landed on Irish shores. I acknowledge and thank Councillor Marcia D'Alton from Passage West in Cork who provided me with a great deal of information on this matter.

Knotweed is now in Offaly, Tipperary, in my own town of Carrick-on-Suir, Cork, Kerry, Limerick and many other counties. It is moving unabated across the country and it cannot be controlled by the methods we are currently using. It is causing serious damage to flora, fauna, flood plains, river banks, roadsides and farmland. It grows at a rate of 3 m to 4 m per week. Despite all efforts in Britain, where control efforts are costing the British taxpayer £228 million per year, it infests every 10 sq. km of that country. To date, the only solution has been to spray or inject but that process takes four to five years to achieve containment. Knotweed needs to be buried at least 5 m below ground to ensure it does not resurface.

The issue has been raised at many local authority meetings. I have looked at some of the reports from Kerry and Cork where the official response has been that it is a matter for the National Parks and Wildlife Service and not one for local authorities. Clearly, it is an issue for the country and we need to take some action on it. A number of questions have been asked on this issue in the Lower House and the answer in the main is that we have noxious weeds legislation and that there are a number of EU regulations, namely, the European Communities (Birds and Natural Habitats) Regulations 2011, to control the importation of the weed and its movement. The difficulty is that these regulations have not yet taken effect in Ireland. In any event, it is not a solution to the problem. I would like to hear what the Minister proposes on behalf of the Government to tackle the problem. Following the reply, I will give my view as to how we should start.

Deputy Joe McHugh: Gabhaim buíochas leis an Seanadóir as ucht an t-ábhar seo a ardú inniu. Táim sasta an ceist a fhreagairt ar shon an Aire, Teachta Heather Humphreys, agus ar shon an Rialtais.

I thank the Senator for raising the matter. I am well aware that there is a growing public awareness and concern about the impact of invasive species, including Japanese knotweed. Since it was introduced as an ornamental plant from Japan in the 19th century, it has spread across the country, particularly along watercourses, transport routes and waste ground where

its movement is unrestricted. Japanese knotweed grows vigorously and out-competes native plants. It is recognised that once it becomes established in or around the built environment, it can become hard to control. In this regard, my Department is responsible for the Wildlife Acts and the European Communities (Birds and Natural Habitats) Regulations 2011, which prohibit the spreading of invasive species. In general, control of invasive species is a matter for landowners. My Department carries out considerable work to control such species in national parks and natural reserves. For example, work has been undertaken over many years to deal with the rhododendron threat in Killarney National Park.

While my Department does not have the resources required to extend such work into the wider countryside or to provide dedicated funds for such work to other bodies, it is currently supporting the development of a Japanese knotweed protocol for Ireland. A number of agencies, including the National Biodiversity Data Centre, Inland Fisheries Ireland and the National Roads Authority, are involved in drafting the protocol which it is intended to have completed next year. The protocol should help us to manage the impact of Japanese knotweed more effectively around the country.

I am aware that a number of local authorities are already carrying out control programmes for problem species, including knotweed. In addition, the European Communities (Birds and Natural Habitats) Regulations 2011 include provisions to control the possession and dispersal of ecologically harmful and invasive species of animals and plants, including Japanese knotweed. For example, under regulation No. 49 of the 2011 regulations, a licence is required from my Department for any proposal to remove Japanese knotweed from a site and transport it to another site for disposal.

Invasive species, by their nature, do not recognise political boundaries and I am pleased that a considerable level of co-operation already exists on the issue between Departments and agencies in both jurisdictions on this island. My Department works with the Northern Ireland Environment Agency to fund and manage the invasive species Ireland project, which provides substantial advice and guidance on the management of a range of invasive species that can negatively impact on the environment and property on the island of Ireland. We are also working on this issue with other member administrations in these islands through the British-Irish Council and we will host a workshop next year in Dublin on this theme.

At a European level, my Department is actively participating in discussions with the Commission, member states and other Departments and agencies here on arrangements for the implementation of some key provisions, including border controls relating to the European Union regulation on invasive and alien species. That will come into force next January. One strong focus of that regulation is the prevention of the spread of new species. It seems unlikely, however, that Japanese knotweed will be included on the Union list as it is already widespread in the EU. Therefore, it will remain a matter for individual member states.

Senator Denis Landy: I thank the Minister of State. I recognise the work that has been done already in recognising the problem and the initiative to set up and have a working protocol in this State. There is urgency to this matter, however, which perhaps has been lost in the approach that has been taken.

Most of the statistics we have on knotweed relate to Britain. Knotweed in Britain currently prevents people from getting mortgages to buy houses. It prevents properties from being sold. It has destroyed development property where it has blown in from adjoining wasteland. The

same thing is happening in this country and we need to wake up to what is going on here.

I recognise that what the Minister of State is doing is good but alongside those measures I suggest that he should bring together the various players involved. These include Inland Fisheries Ireland, the National Botanic Gardens, the National Roads Authority, the National Parks and Wildlife Service and, most important, the local authorities. The local authorities are actively facing and dealing with the matter.

I drove through east Cork some weeks ago. Along the road between Fermoy and the Waterford border I saw signs warning people of Japanese knotweed. More than anything else, I call on the Minister of State to get the Department to lead an awareness campaign, because people do not recognise knotweed. They do not recognise it by viewing it and, therefore, they do not realise that if they touch it, the spores will move from that location to wherever they go that day and the next day. People can spread it without knowing. An awareness campaign is essential as a first step. I call on the Mister State to bring the relevant people together and to hold a forum on the matter as soon as possible.

Deputy Joe McHugh: That is not a problem. There is already engagement involving Inland Fisheries Ireland. I say that as much with my other hat on because I have responsibilities in the relevant Department as well. I will speak to my officials again to highlight the obvious sense of urgency. The protocol is being worked on. There will be a gathering or bringing together of minds on the matter next year in a formal setting, but I will certainly speak to my officials to raise Senator Landy's concerns.

Hospital Equipment

Senator Jillian van Turnhout: I wish to raise the issue of the MRI scanner for children in Our Lady's Children's Hospital, Crumlin and the associated waiting list for children. The scanner has broken down, and I believe this is not an irregular occurrence. It broke down at least one week ago but no contingency plan is in place to manage the care and assessment of children. My understanding is that there are only two MRI scanners for children in Ireland with the appropriate medical support, one in Crumlin and the other in the hospital in Temple Street. Children require a general anaesthetic. The result is that the waiting list in Crumlin currently stands at 28 months and I do not know the length of the list for Temple Street - perhaps the Minister can enlighten me. I understand the list is divided between the two hospitals.

I wish to share a case with the Minister of State. Obviously, I will not disclose the name of the person on the floor of the Seanad, but I am happy to provide it to the Minister of State. It is very illustrative of why this is such a critical issue.

One young boy, who is now six years of age, when aged three had symptoms including very poor balance, being tired and lethargic and the development of a tick in his head. His parents were able to afford to bring him to a neurologist on a private basis. The neurologist advised them that the child probably had flat feet and questioned whether something was happening in the home which caused him to develop the tick. Thankfully, the mother insisted on the scan. The neurologist was reluctant to put the child forward saying the child was not an urgent or high priority case. Given that there are only two MRI scanners, at that time the waiting list was eight months.

The child went for an MRI scan over two and a half years ago on a Friday morning and the parents were advised that they could receive the results in about four to six weeks. They were in the recovery room 30 minutes later and a team of medical staff surrounded the bed. The team said a brain tumour had been found and a biopsy needed to be done, the earliest opportunity for which was Monday. The first test was done on the biopsy on Monday and the parents were told there was an 80% likelihood that the child had cancer, but the results were inconclusive and a second, more intrusive, test needed to be done, and was done two weeks later. The further test found that it was a low-grade tumour which required regular monitoring but, thankfully, was not cancerous.

These parents initially brought their child for three-month checks, and then tests on a six-month basis to establish a baseline and ensure they could monitor the situation. At a six-month scan in April 2014, they were told that they were not allowed to leave the hospital as the child had developed hydrocephalus. He was transferred by ambulance to Temple Street, monitored overnight and had surgery the next morning. The parents advise me there were no obvious signs in the lead-up to that test in April 2014 and nothing made them feel that the test would be any different.

The child has scans every six months. Last Friday he was due to have his next six-month scan, but the parents were told on Tuesday last week that the machine was not working and it would take two weeks to get a part from Germany, which is mind-boggling - I would get on a plane and get the part. They were advised that the new appointment would most likely be in early 2016. Thankfully, because of the pressure the child's mother applied and, I imagine, the debate we are having here today, she received a call yesterday to say the child would have an appointment early next week.

I am thinking of all the other parents out there. This is a low priority, non-urgent case involving regular monitoring. How many other children are low priority? How many other parents have been told that their children's cases are not urgent and, therefore, they are on a waiting list? As I said, the waiting list is very long. Why are MRI scanners for children not in operation seven days a week? It would give parents assurance if an MRI scanner did not show anything of concern. A wait of 28 months to find out whether something is wrong is unacceptable.

The parent who contacted me is obviously concerned for her child, but in her generosity is extremely concerned not only for the children lucky enough to be in the system but those on the impossibly long waiting list. I have been told by a senior source in Our Lady's Children's Hospital, Crumlin, that children requiring a general anaesthetic, usually those aged under 12 years, face a waiting list of 28 months.

Over the past two days I have discussed this issue with a number of friends. I could not believe the number who shared frightening cases they knew directly or of friends' children who are on the waiting list to ensure their children can get MRI scans. Over the past three and a half years waiting lists have increased from eight to 28 months. Even eight months is far too long, but the parents to whom I referred were told their child's case was non-urgent and not a priority, it was likely the child has flat feet and something was happening at home. They were able to afford to go an alternative route, but I want to know the situation regarding the MRI scanner for children in Ireland and the length of the waiting list.

Deputy Joe McHugh: I thank the Senator for raising this issue. I am taking this matter on behalf of my colleague, the Minister for Health, Deputy Leo Varadkar, who is elsewhere on

Government business. I want to reassure the House about the MRI scanner in Our Lady's Children's Hospital, Crumlin. I understand some concerns may have been raised last week about whether the machine is in working order. I am happy to advise the House that the MRI scanner was fully operational last week, other than on Friday, 13 November, when scans were postponed to allow for repairs to be carried out on the machine. The repair on Friday affected five patient slots and these scans have been rescheduled for this week. MRI scans recommenced fully on Saturday. Appropriate contingency plans were put in place by Crumlin hospital, with Temple Street hospital, for any emergency cases that might have arisen on the Friday while the machine was being repaired.

On the broader issue of waiting times for MRI scans at Crumlin hospital, the capacity to provide these scans is, as the Senator pointed out, under pressure. Referral patterns reflect the tertiary paediatric nature of services provided in the hospital. The oncology specialty generates the largest portion of MRI activity. Crumlin hospital also provides the only paediatric cardiac MRI service in Ireland. The unit takes consultant referrals from local maternity hospitals and from hospitals nationally where paediatric MRI with general anaesthesia for younger patients is required. Demand for MRI services is steadily increasing from all specialties. In this context, particular attention has been paid to optimising existing capacity and managing demand through clinical triage. MRI capacity at Crumlin hospital has increased in recent years and is at almost 2,000 scans per annum. This compares with 1,600 scans in 2011. The MRI service now operates for 37 hours per week and staff are available to provide lunchtime cover as demand requires it. In addition, a service is provided from 8 a.m. to 3 p.m. on Saturdays, which is suitable for those patients who do not require anaesthesia or sedation. This has improved access and decreased the waiting list.

To maximise capacity there is a strong focus on active local management of appointments, with the result that did not attend, DNA, rates are extremely low. Triage is also a key element in managing demand and preventing inappropriate referrals. Under the triage process, between six and 14 referrals weekly are triaged as urgent and these are dealt with as soon as possible. Unfortunately, however, patients from specialties other than oncology and cardiology who require a general anaesthetic and who are categorised as routine experience long waiting times of between 15 and 27 months. I emphasise that the Government sees this as unacceptable and acknowledges the difficulties which delays cause for patients and their families.

Crumlin developed a business case for resources to increase capacity and submitted it for consideration in the context of the current service planning process, which is still ongoing. The HSE and the Department of Health continue to work together to address waiting times for diagnostic services, including MRI, and to ensure appropriate collection and reporting of MRI waiting times.

Senator Jillian van Turnhout: I thank the Minister of State. Obviously, somebody is telling somebody untruths because why would those at Crumlin hospital have telephoned the mother I mentioned on Tuesday and said the machine would be down for two weeks? For me, there are serious questions to answer. I am not questioning the veracity of what the Minister of State said but I am concerned that the truth is not being told. How do we actually know this is urgent? The Minister of State spoke about the routine waiting list of between 15 and 27 months. My reference to a 28-month waiting list is probably more accurate. I know the Minister of State is a parent and that he understands what it is like for parents to worry about a child. I welcome the fact that the Government sees this as unacceptable. I will continue to monitor it because I find it totally and utterly unacceptable that we are asking parents to wait this length of time

to be reassured or to ensure their children get the correct and appropriate treatment. We know the importance of early intervention and prevention, particularly in the lives of children, and we need to increase the pressure in respect of this matter. I hope the business case will be put through and we will ensure children are seen in a timely manner. The case I have raised today was routine and the neurologist did not wish to refer it. How many other children are like this?

Deputy Joe McHugh: I appreciate the Senator raising this extremely important matter. I do not doubt that her contact with the parent concerned will have highlighted to her the obvious distress the family went through. Statistics are statistics and, unfortunately, demand for the MRI scans increased from 1,600 in 2011 to 2,000 per annum at present. The Minister is not using statistics as an excuse. However, he will use them to try to improve the service and I have no doubt he will ensure that, where possible, resources will be directed to where they are needed. I will certainly convey the Senator's message to the Minister and I thank her for raising the issue.

Senator Jillian van Turnhout: I thank the Minister of State.

Sitting suspended at 3.20 p.m. and resumed at 3.30 p.m.

Election of Member

An Cathaoirleach: I have to announce that the following Member has been elected to fill the casual vacancy in the membership of the Seanad to which the resolution of Seanad Éireann on 24 September 2015 has reference:

Industrial and Commercial Panel, Oireachtas Sub-Panel: Máiría Cahill.

Senator Cahill was introduced to the Cathaoirleach and then took her seat.

Minute's Silence Following Paris Attacks

Senator Ivana Bacik: Before I read the Order of Business, we will take a minute's silence in commemoration of the victims of the Paris attacks last week.

Members rose.

Order of Business

An Cathaoirleach: I welcome the new Member, Senator Máiría Cahill, to the House.

Senator Ivana Bacik: I also welcome our new Member, Senator Máiría Cahill, and her family and daughter, Saorlaith, who are in the Gallery. The Order of Business is No. 1, Residential Tenancies (Amendment) (No. 2) Bill 2012, Committee Stage, to be taken at 4.45 p.m. and to be adjourned no later than 8 p.m., if not previously concluded.

Senator Darragh O'Brien: On behalf of the Fianna Fáil group, I warmly welcome newly elected Senator Máiría Cahill to the Seanad. I congratulate her and her family on the honour of serving in the Houses of the Oireachtas. I look forward to working with her over the remainder of the Seanad term. I am sure she will be an excellent addition to this House and I assure her of our co-operation as far as is possible. It does not happen all the time, as Senator Bacik will confirm, but now and again it does. I offer our congratulations on her election.

Given the day that is in it, I do not propose to move any amendments or to discuss any particular political matters. All our thoughts are with the French people following the barbaric attack by the so-called Islamic State on innocent people in Paris, which killed over 130 people. All of us are absolutely disgusted by this act of terrorism. We condemn terrorism all over the world, wherever it happens. Hundreds of people are killed every day in Syria and Iraq by these thugs and we in Ireland will have to pay very close attention to this. These are our European colleagues, European citizens. An attack on Paris is an attack on Dublin and an attack on Cork, Galway and Belfast. Those involved attack the freedoms we in Europe enjoy and we should never relent. Europe, France, the United States and others in the coalition should never relent in tracking down these murderers and annihilating them. This is a threat to democracy and to our way of life. We have seen monstrous acts carried out by this group, not only on the people of Paris but also on people in Syria. As a State, we sometimes have to look at what neutrality actually means. One cannot be neutral in the fact of these murderers. Whatever our Government and the intelligence services can do to assist in any small way should be done. Let us remember that more than 30 people with Irish passports and Irish citizens are fighting in Syria and Iraq for the so-called Islamic State. We have to look at how we deal with these citizens should they return to this country. I believe that at an appropriate time, after the three days of national mourning in France are completed, the Minister for Justice and Equality should come to the House and advise us in regard to security in Ireland because anybody going to the theatre, going out for a bite to eat, for a drink or to a football match, such as last night when the thousands of people who were in the Aviva stadium in Lansdowne Road, could just as easily have been a target for these thugs. I congratulate our team on its qualification for the European championships, following its fantastic win, even though this is not the right day to mention that specifically. At the appropriate time I suggest the Leader invite the Minister for Justice and Equality to come to the House because Ireland cannot be neutral when dealing with terrorists like these. I want to ensure as much as possible that our intelligence services are sharing information with those in other states who are leading the fight against the so-called Islamic State.

Senator Jim D'Arcy: Ba mhaith liom ar dtús fáilte mhór a chur roimh an Seanadóir Máiría Cahill chuig an Seanad. Táim lánchinnte go mbainfear tairbhe mhór as a saothar sa Teach seo. I welcome Senator Máiría Cahill to the House. It is a great tribute to her strength of mind and courage that she has arrived at this place, both literally and metaphorically. I am tempted to say she will need all that strength of mind and courage to survive here as well. I do but jest. I know that she is here to make a contribution and I have no doubt that although her time will be relatively short, in the first instance at least, she will make a significant contribution and that her bad and good experiences will inform a narrative that will be of particular interest and significance in this House. I hope she will become a member of the Joint Committee on the Implementation

of the Good Friday Agreement and will bring something significant to that committee also.

What happened in Paris was absolutely horrendous, as Senator Darragh O'Brien said. Paris is known as La Ville Lumière, the City of Light, but last Friday it became the city of darkness where the whole civilisation that we have built up since the Second World War of liberal democracy in Europe appeared to be threatened. As Senator Darragh O'Brien said, we must stand together for democracy, human rights and the rule of law in Europe. I note he was not being adversarial today so that should be reciprocated. The universal becomes the local. In Paris last Friday, a young girl from my village of Blackrock, Katie Healy, and her boyfriend, David Nolan from Millstreet in Cork, were caught in the Bataclan theatre. David, through an heroic gesture in throwing himself over Katie to protect her, was shot but he probably saved both their lives. It shows that we are Paris, we are France, and we are Europe.

Senator Jillian van Turnhout: I join in the very warm welcome to Senator Máiría Cahill. I had no hesitation in supporting Senator Cahill, given her role on violence against children and women. To that end, I also welcome Maeve Lewis of One in Four and Ellen O'Malley-Dunlop of the Dublin Rape Crisis Centre, who have joined us here today in the Gallery. I extend a very special welcome to Senator Cahill's family, especially to her daughter. It is lovely to see children in the Seanad, that is, actual children. I could not resist. Senator Cahill is very welcome and I look forward to working with her over the coming weeks on many issues of mutual concern.

On the horrific events on Friday evening, as the terror unfolded, it shook us all to the core. Indeed, it shook us out of our complacency, as did the attacks that took place in Beirut the day before, the attack on Russian civilians on the plane in Egypt and also the attacks that take place in Turkey, Iraq and Syria every single day. We need to wake up. I echo and support the call by Senator O'Brien to have a debate at an appropriate time in which we can come together and realise the importance of acting together. I was fortunate yesterday to join so many Irish people and French citizens at the French embassy for the one-minute silence in solidarity with Paris. I will echo in the Seanad Chamber the words of the French ambassador to Ireland, H.E. Jean-Pierre Thébault, "No to terror, yes to freedom, yes to life." I hope today in the Seanad that we can be as one. *Nous sommes unis*.

Senator David Norris: Without reflecting in any sense on the legitimacy of the recent by-election under the existing rules, that a person of any kind can be elected to a national parliament by an electorate of 200 votes is a real reproach to democracy and highlights the fact the whole Seanad apparatus needs to be reformed. Nothing has been done since we rescued the Seanad from oblivion.

So much has been said about the situation in Paris that very little more can be said. The thing that struck me most about it was the targeting of people in wheelchairs. It is abominable and beneath any kind of remotely civilised behaviour.

Speaking of civilised behaviour, I send my congratulations to the first people who embarked on same-sex marriage today in this country. That must be about the end of it now. I sincerely hope so. I wish them well.

There are two privacy Bills which have been lodged for many years on the Order Paper of Seanad Éireann and nothing has been done about them. I say this in the context of reports in the *Irish Independent* alleging child sexual abuse against a former Minister. It is a very serious

charge and was leaked, I presume by the Garda. It is very shocking stuff. I heard journalists speaking immediately after this and they were all congratulating themselves on it as wonderful, a great triumph and a big scoop. The next day, however, they were rethinking things a bit and there were more sober voices. It is very shocking.

During the discussion, there was talk of victims. That seriously vitiates any possible forthcoming court case. There are only alleged victims at the moment. It waits for the progress of a legal case, if such is taken. One wonders will such a course be taken. I will not name the person involved. He is known to me and is a gentle, shy, diffident and very kind person. To be the subject of these kinds of allegations is fair enough but to have it bruited about and have newspaper reporters harassing him is very shocking. It is like the situation of Sir Cliff Richard in England, where the police alerted the media, in particular the television media. As a result, there were helicopters around when, without telling Sir Cliff Richard of the fact, they burst into his home and ransacked it. It was all on television and now the charges have been dropped. This man has had to forgo an honour given by the village in Portugal where he lives.

There is a strong case for looking at the operations of the media in this country. Most politicians are terrified of the media, and after my example during the presidential election campaign, when I was routinely libelled every day on radio and television and in the newspapers, I can understand why. However, we must have a little courage. The Government should examine the two privacy Bills with a view to moving one or other of them in the new year.

Senator Aideen Hayden: As the Labour Party Whip in the Seanad, I welcome Senator Máiría Cahill to the Chamber for the first time, along with her family and friends. It is an important occasion for a family. Our former colleague, Jimmy Harte, had been hoping for a Northern voice, and he will be pleased with the outcome of the election, a richly deserved victory on the part of Senator Cahill.

I join the other voices condemning the atrocities in Paris. I had just returned from launching the finals of the Model United Nations in Rathdown school when the first news of the shootings came in. As the night went on, the events became more horrific. I commend the bravery of the many French people who put their lives at risk for others. My friend and colleague, Professor Paddy Gray from the University of Ulster, was one of the people caught in the crossfire. A French man he had never met before in his life took Professor Gray in, from the middle of street shooting, and sheltered him in his apartment. There were many occasions of bravery of that sort, and they must be commended.

While I am very conscious of many of the statements made in the media, we must be very careful to continue to balance private against societal freedoms. We cannot allow our fear to cause us to look at other members of our society differently, particularly those who happen to be a different colour or practice a different religion. In this country in particular, we must continue to treat all members of society equally.

Senator Denis O'Donovan: As Leas-Chathaoirleach, I welcome our new Senator to this august Chamber. I wish her a long career here, or maybe in the other House if that is what she desires. It is a great day for her and her family.

I add my condemnation of and deep disgust at what happened in Paris, our neighbouring city. It is much easier to fly to Paris than to get from Cork to Dublin. While it takes four and a half hours to drive from my home to Dublin, one can fly to Paris in an hour and 15 minutes. It

is to be hoped we can get the right answers. The Syrian situation is very grave and there is much international concern. That a group of people, probably no more than 200 or 300 so-called jihadists can hold the world to ransom is a frightening scenario.

Although I had other matters to raise today, it is the wrong day to raise them. I concur with what my learned colleague, Senator Norris, said about a smear campaign against somebody who was never approached by a garda. Senator Norris rightly condemned the media for having a trial before anyone was arrested or questioned or had a file sent to the DPP. As spokesperson on justice for Fianna Fáil in the House, I think the garda or gardaí, who must have been at the level of sergeant or higher, who leaked the information should be gravely ashamed of themselves and the damage they have done.

Senator David Norris: Hear, hear.

Senator Denis O'Donovan: I am always speaking in the House in support of the Garda and I have done so for many years. Last week, the Garda Commissioner appeared at the Committee on Justice, Defence and Equality. However, if this is how certain gardaí are going to treat us, leaking information and knowing the major damage that can be done by a whisper campaign - there were whispered messages around the House last week asking who it was and whether it was true - it is a most serious issue for the Garda Síochána. If that is the way some gardaí are going to do things, it is a most serious issue for the Garda Síochána. While I appreciate that a complaint has been submitted to GSOC, I emphasise that the Garda Commissioner, GSOC and the Minister for Justice and Equality must grab this issue by the scruff of neck immediately. This type of approach to matters that are not even under investigation is serious because it undermines the morale and confidence of people like us in our Garda Síochána. I am deeply ashamed of the person who leaked this story. We must not forget that he or she did so with malice aforethought. In supporting our gardaí, we must condemn those who stoop so low by doing injustice to one man or to society.

Senator Hildegarde Naughton: I welcome Senator Máiría Cahill to the Upper House. I congratulate her and her family on her election to the Seanad. I wish her every success and look forward to working with her.

I would also like to add my voice to those who have expressed sympathy to the people of France and particularly to the families and friends of those who were injured and who passed away during the horrific act of terrorism at the weekend. Now more than ever, there is a critical need for the political leadership across the world to work together to combat these attacks on our democratic process.

Senator Sean D. Barrett: I welcome Senator Máiría Cahill. I hope she will enjoy being here. I look forward to hearing the perspective she will bring from Belfast to the deliberations of this House.

I echo what other Senators have said about the bombings in Paris. I commend the Taoiseach on his statement. I also commend Uachtarán na hÉireann, who went to the French Embassy in Merrion Square yesterday to sign the book and be present for the minute's silence. I think both were commendable and expressed the national mood at this time.

Senator Marie Moloney: I welcome my new neighbour, Senator Máiría Cahill, to the seat vacated by my dear friend, the former Senator Jimmy Harte. I wish Jimmy well and I wish Senator Cahill well in her future in this Chamber.

I send my sympathies to all the families of those who were killed in the massacre in France. I would also like to sympathise with the family of a young cyclist who was killed on the roads in County Kerry on Saturday morning. I know that people in Killarney Cycling Club and throughout the local area were shocked by his untimely death in such tragic circumstances.

I welcome the decrease in the number of people on the live register that was announced today. It is very welcome that the figure in question has dropped below 9% for the first time since 2008. It is a sign that we are getting people back to work in this country, thankfully. I wish that some of the jobs would come to our neck of the woods. Obviously, most of them are based in large urban areas, particularly Dublin, and that is driving up the demand for rented properties and causing rents to increase in such areas. I know the Taoiseach plans to bring jobs to the west of Ireland and I hope he will think about the south west as well. I look forward to that in due course.

Senator David Cullinane: On behalf of my colleagues in the Sinn Féin Party, I warmly welcome Senator Máiría Cahill to the Seanad. I wish her very well and every success. I acknowledge the presence of her family and friends in the Gallery. Like previous speakers, I think it is appropriate to remember the former Senator Jimmy Harte and to wish him every success in his recovery. It has to be said that I had some fiery exchanges with Jimmy here in the Seanad, but he was still a good friend and a good colleague. I hope he continues to recover. I welcome his daughter to the Gallery.

On behalf of Sinn Féin, I express my sincerest sympathies to all of those who lost their lives in Paris when brutal acts of terror were carried out by the people who were responsible for those attacks. As somebody said, we do not have to be neutral on these issues. We can be a neutral country, but that does not mean we cannot act or show support or solidarity to those who lost their lives in these tragic attacks.

4 o'clock

We must look at what being neutral means but it does not mean staying silent on issues like this. I am also heartened to see that various Islamic organisations in Ireland have spoken out very clearly and condemned these attacks. It is very important for us to focus on that because there have been a number of attacks on Muslims in recent days. A Muslim family in the North was attacked yesterday which should be condemned utterly. There is no place whatsoever for such attacks. As other Senators have said, we are in a republic and we should be tolerant of the faith of all people here. I am very heartened by the very strong condemnation which has come from all the Islamic organisations which have distanced themselves from these acts of brutality which were carried out by people who are twisted and who have a twisted ideology. It is to be hoped we can have more comprehensive statements on these issues in Seanad Éireann in the coming days or weeks and I ask the Deputy Leader to arrange such a debate. It is important we focus on what is causing these problems and what the solutions might be.

Senator Martin Conway: I wish our former colleague and good friend, Senator Jimmy Harte, the very best in his continued recovery. We look forward to seeing him in the House again very soon. I also warmly congratulate our new colleague, Senator Máiría Cahill, on her election to Seanad Éireann. While she may think there is not a lot of time left in this term, I suggest that it is quality rather than quantity that matters in terms of her contribution to society. I point out to everyone that in the past 12 months, Senator Cahill has made a very positive contribution to this society and I have no doubt she will continue in that vein in Seanad Éireann.

Like everyone else, I condemn and express my outrage at what happened in France last week. We have a major problem with religious fundamentalism and the world order as we know it is changing quite dramatically. I agree that it is a good idea to get the Government's perspective on this with a statement from the Minister for Justice and Equality, Deputy Frances Fitzgerald, in this House at the earliest possible opportunity. Seanad Éireann has a role to play in terms of discussing and deliberating on such matters and I support Senator O'Brien's proposal in this regard.

As the Fine Gael Seanad spokesperson on justice, I wholeheartedly agree with everything Senator O'Donovan said about the Garda leak that caused the headlines we all saw last Wednesday and Thursday. It is shameful that a person's good name would be undermined when that individual has not even been questioned by An Garda Síochána. I look forward to a full investigation into this matter. I understand there are now three investigations into media leaks from An Garda Síochána, which is a very serious matter. I look forward with interest to the results of those investigations.

Senator Diarmuid Wilson: On behalf of the Fianna Fáil group in Seanad Éireann, I welcome Senator Máiría Cahill to the House and members of her family to the Public Gallery. We look forward to working with her for the remainder of this Seanad. I understand from recent media reports that Senator Cahill has no desire to sit in the Lower House. I have no doubt she will wish to remain in the Upper House once she sees how it operates.

On the issue of the by-election, I agree with Senator Norris that it is unacceptable that somebody would be elected in a closed shop, with just Members of this House and the Lower House allowed to vote. In this context, I wish to inform colleagues that Fianna Fáil intends putting forward legislation next week that would expand the electorate for any by-election to fill a casual vacancy in one of the 43 seats in this House to include county and city councillors. It is our intention to introduce the legislation next week as part of Seanad reform in the present-----

Senator Gerard P. Craughwell: That is very-----

(Interruptions).

An Cathaoirleach: Please allow Senator Wilson to continue without interruption.

Senator Diarmuid Wilson: As someone who came through the Seanad electoral process in recent months, Senator Craughwell should welcome the extension of the franchise to the entire electorate of county and city councillors. I understand from Senator Norris that if a vacancy arises on a university panel, it is open to the entire electorate to vote in the subsequent election.

Senator David Norris: There is a big difference between 60,000 voters and 200 voters.

Senator Diarmuid Wilson: For the same reason, the franchise should be extended to the entire electorate in respect of the 43 Senators who are elected under the vocational panels. I welcome Senator Cahill and look forward to working with her.

Senator Denis Landy: I listened with interest to my great friend, Senator Wilson. Perhaps the issue he raised should be left for another day as today is one for celebrating Senator Máiría Cahill joining the Seanad. I warmly welcome the Senator and, in doing so, I recall Jimmy Harte who officially finished his time as a Senator yesterday evening. What better way to do so than

with Ireland qualifying for the European Football Championship. Last night's result was fantastic and given Jimmy's passion for soccer, I am sure he was thrilled with it.

I also add my voice to the condemnation of the recent events in Paris. On a much brighter and happier note, when I opened my e-mails this morning, I saw an embargoed message which effectively stated that the era of the hedge school and education in prefabricated buildings have been consigned to the past. The Government has ensured that no child will be allowed to go to school in facilities that are not up to 21st century standards. I congratulate and commend the Minister for Education and Skills, Deputy Jan O'Sullivan, and the Government team which produced the programme announced today.

Senator Rónán Mullen: I wish to be associated with the expression of best wishes to Jimmy Harte and his family and the welcome extended to Senator Máiría Cahill. I welcome the Senator to the practice of the vocation of politics, which is how the former Taoiseach, Mr. John Bruton, described politics last night at the launch of his book, *Faith in Politics*. As one would expect from Mr. Bruton, he made a very interesting speech in which he stated that the purpose of politics was to deal with problems that are intractable. If there were only problems that were capable of a technical resolution, we would not need politics, he added.

That said, one hears the best and worst from the mouths of politicians. Senator Norris spoke for every sensible person when he referred to the media treatment of a former politician last week. Sadly, many of us started off being curious and only later reflected on the horror of what was happening to the individual in question. I also regret that a Member of the European Parliament from the Government side stated on the Marian Finucane programme that he thought the leak came from people on the "No" side in the recent referendum. It is highly regrettable that he made that statement without any substantiation.

We then had comments from Deputies Mick Wallace and Clare Daly in the wake of what happened in Paris. While the comments were harmless enough in themselves in that they are only talk, they were untrue and quite unhelpful. The idea that demilitarisation by western powers would somehow lead to peace is taking us to a fool's paradise. It is a dangerously misleading and futile attempt by western minds to make the pain, fear and uncertainty of what happened on Friday, 13 November somehow capable of being explained away. Pope Francis has spoken about a third world war being waged piecemeal. The frightening thing is that the attacks on Friday were not unexpected. The only things we did not know were the time and place. Tragically, this movement of misguided idealists has beguiled enough young people in many countries to believe in its particular understanding of Islam. It is not just the great military powers that should be concerned. Even the small neutral countries which pride themselves on their ability to talk to the strong and weak together must be worried about the future we all face. We must look at that head on.

Senator Michael Mullins: I congratulate sincerely Senator Máiría Cahill on her election to the Seanad and welcome her and her family to the House, particularly her young daughter. I join colleagues in extending our very good wishes to our dear friend Jimmy Harte and hope he continues to make good progress. We look forward to meeting him in the House as a visitor in the near future. Senator Cahill will bring a great deal to the House as a result of her life experience, some of which no person should have had to endure. She has spoken out with great courage and I was appalled at the level of abuse to which she was subjected in the course of the recent campaign. Senator Cahill is a person of courage and conviction. As someone who has admitted to having made some mistakes, she is ideally suited to be a politician. She will be a

strong advocate for those who have suffered abuse from whatever source and I wish her a long and distinguished career in the short time left in the current Seanad and in her political life into the future.

I join colleagues in expressing the deepest sympathy to the families and relatives of all those who lost their lives in the horrific terrorist attack in Paris on Friday. Our thoughts are very much with the injured, to whom we wish a speedy recovery. This was a horrendous attack which was well planned and executed. It was an attack on democracy and the western way of life. We must all stand in solidarity with the French and work to ensure this axis of evil does not succeed. It is incumbent on all world leaders to address the root cause of these acts of mindless terrorism in order that ordinary people can go about their daily lives in the way we expect. A wonderful article appeared today in *The Guardian* which was written by a man called Nicolas Hénin, who is a French journalist who was recently held captive by ISIS. He makes some very interesting comments and refers to the problems of overreaction, division, fear and all the things that ISIS thrives on. At the end of his contribution, he said that there is no political roadmap to engage the Arab-Sunni community. He said that ISIS will collapse but that it is politics that will make it happen. It is incumbent on us all to work to ensure politics brings about solutions in the most troubled parts of the world today. We think very much of those people in Syria who are under siege.

Senator Trevor Ó Clochartaigh: Ach an oiread le mo chomhghleacaithe, cuirim fáilte roimh an Seanadóir Ní Chathail agus guím gach rath uirthi ina cuid oibre anseo. Guím gach rath freisin ar an iar-Sheanadóir Jimmy Harte atá anois ag ligean a scíth. Last night's match proved that Jimmy Harte is still winning matches, which is a good sign. I wish him very well.

I concur with colleagues who have spoken about the awful situation in Paris over the weekend. It is something one could not even imagine happening to anybody. The fear and terror that has been wrought on the whole community there is unfathomable. I am concerned, however, that we may find jurisdictions jumping to a conclusion that there has to be a crackdown on anybody who is different. I have noted some of the very commendable commentary from France itself where it has been stated that there must still be a respect for diversity and people from different backgrounds. The people who did these atrocious acts in Paris over the weekend are very much a minority and do not speak on behalf of all the Muslim community. They are fundamentalists. We must also look at ourselves as a country and how we deal with integration issues.

I note that the protection Bill has been approved by Cabinet and will be discussed in the Houses. Will the Deputy Leader provide an indication with regard to when that will be coming through? Even though we have been calling for the Bill for a long time, I would hate for it to be rushed through the Houses without a full and proper debate on all the issues relating to people who are coming here seeking asylum and our protection or those who are different in any way and who do not conform to what might be considered the mainstream. It is important that ample time be allocated in respect of what I imagine is going to be a complex Bill. Can the Deputy Leader give an indication of when the legislation is going to be brought before the Houses?

Senator Ivana Bacik: I can.

Senator Catherine Noone: I join colleagues in wishing the former Senator, Jimmy Harte, well with is recovery. I also wish the former Senator's family well. Jimmy Harte is a gentleman

and a nice colleague. We will miss him. I trust his family will pass on our regards.

I welcome Senator Cahill and wish her well. I think she will be a positive voice in the Seanad. She certainly has something new - arising out of difficult circumstances - to bring to this House. As Senator Conway said, she has been very vocal for the past year or more. I look forward to hearing from her regularly in the House.

I, too, join others in extending sympathy to the families of those killed in horrific circumstances in Paris. This tragedy feels close to home. It has hit all Europeans hard and has affected us deeply. What happened was horrific. It is hard to know what the world is coming to.

On a more positive note, I wish to raise a matter on which Senator Landy has already touched. I am being somewhat parochial, perhaps, but I welcome the provision of new schools in the Dublin West area, in particular, two brand-new schools, one primary and one secondary, as well as three extensive rebuilds. I echo what has been said before. This is the first capital programme in respect of which we have made a conscious decision that there will be no more prefabs in schools in Ireland. The latter are no longer acceptable. Much of the school accommodation that is being replaced was hardly fit for purpose. It is very good to hear that, finally, we have money to invest in education and in our children.

Senator Paul Bradford: It was appropriate that we marked the appalling tragedy in Paris with a moment's silence. What we should attempt to do is have a full and frank debate on the security and political crisis facing both Europe and civilisation in general. The attendance in the House of the Minister for Justice and Equality, Deputy Fitzgerald, has been requested and I echo that call. I heard the comments of the Minister for Defence, Deputy Simon Coveney, at the weekend. He outlined his view to the effect that Ireland is in no way under threat. That is an innocent statement. We need a substantial debate on the threat facing both Europe and western civilisation. This is a matter I have been raising for the past two years. Our response to the actions of ISIS has been entirely inadequate. We will sleepwalk into disaster unless we start taking this matter seriously.

I congratulate our newest Senator, Máiría Cahill, and wish her well in the context of whatever political route she chooses to take in future. In seeking to replace former Senator Harte, she is certainly attempting to fill large shoes. We think of the former Senator with affection and we wish him well for the future.

Through the years in this House I have had the privilege and pleasure of serving with colleagues from across the Border in the other jurisdiction. I refer to Gordon Wilson, John Robb and Eddie Haughey. Before that there was Bríd Rodgers and Seamus Mallon. They all had a major and constructive impact on this House. They were very much involved in changing of minds and attitudes. It is fair to say that they came to the House to be constructive. They came in the spirit of reconciliation and of spreading a message of hope to us all. Their role was strong and significant. I know this is what Senator Cahill aspires to as well. It is important that all of us attempt to see everyone's perspective and that we can see something different to black and white - we should always try to see the shades of grey. As a Member of the House, I saw people change their minds because of contributions made by individuals such as John Robb, Gordon Wilson, Edward Haughey and Sam McAughtry. That spirit of generosity and the goodwill those former Senators displayed in debates here was very helpful. I am sure the Senator will act in the same fashion. We look forward to working with her and sincerely welcome her to the House.

Senator Colm Burke: I, too, welcome Senator Cahill to the House and wish her well in her future career. I also want to pay tribute to former Senator Jimmy Harte. I wish him well and a full recovery.

Senator Moloney referred to the employment figures. These now show that over 135,000 new jobs were created since February 2012. The unemployment rate is now 8.9%, which is a significant and welcome drop from the rate of 15% which obtained when we entered office. For the first time since 2008, fewer than 200,000 people are unemployed. There are interesting figures for job creation in terms of the south east, where employment has increased by 14.4%. In the midlands it has increased by 13.8% and by 12% in Border areas. Job creation is happening right across the country. I accept what Senator Moloney said, namely, that certain areas require further work. In the past 12 months, 56,000 new jobs - over 1,000 per week - were created. This shows that what the Minister, Deputy Bruton, the Taoiseach and the Tánaiste have said and done in recent months is now coming home to roost in the sense that people are back in employment. The number of long-term unemployed has decreased from 204,000 to 109,800, which is a substantial drop, but we still have a lot of work to do in this area.

We also have a great deal of work to do in respect of people under 25 years of age who are unemployed. We need to ensure they have access to training and education opportunities in order that they will not become long-term unemployed. Perhaps we might have a debate at some stage to determine the further action we need to take to deal with young people aged under 25 who are currently unemployed and who have missed out on education and training opportunities. This is an important area on which we need to work. I ask the Leader to make time available in order that we might invite the Minister to the House to come before the House to discuss the matter.

Senator Gerard P. Craughwell: I join Senators Norris and Wilson regarding the farce that is Seanad by-elections. Fortunately, the new Senator did not have the same trouble I did in the context of trying to find nine people to sign a nomination form. I thank Fianna Fáil and the nine Independent Members of the Oireachtas who gave me two nominations. I will support Senator Wilson's new Bill to extend the electorate beyond the confines of Leinster House.

I did not know Jimmy Harte and I regret that to some degree. Given the kind words have been said about the former Senator, apparently I missed out on knowing a great man. I wish him well.

I welcome Senator Cahill. I will echo Senator Bradford's words by saying that she should use her time here to engage in constructive debate, champion the issues she has brought into the public domain in recent times, see people for who they are in here and see our point of view. That will be important.

Like every other Senator, I am appalled by the situation in Paris. The security of a nation does not fall to the security services alone. We must wake up to the fact that we live in a new world where people can traverse the globe and travel to this country in a matter of hours. It behoves every citizen in the country to report things they find suspicious. We walk past a suitcase sitting unattended and leave it there. Last night, as I sat in Lansdowne Road and watched a fantastic match which led to our qualifying for the finals of the European Championships, it crossed my mind that if three individuals walked into the stadium wearing vests loaded with explosives and detonated them, how many hundreds more people would be killed in the ensuing stampede? It behoves every single one of us, and I do not appreciate the Minister stating the

country is safe. Nowhere in the world is safe now. This message needs to go out. I support the call for a debate on security in the House.

Senator Eamonn Coghlan: I welcome Senator Máiría Cahill and wish her the very best of luck in Seanad Éireann.

I express my disgust at the atrocities which occurred in Paris. It has shaken the very core of the world's liberty and has instilled fear in our society. When we think of going out to enjoy a concert, dinner, date or drink, one never knows the hour or the day when something like this will happen.

I echo what Senators Landy and Burke stated. They took the very words out of my mouth when they referred to how proud former Senator Jimmy Harte would have been with the great win Ireland had last night. Having said this, we are definitely the only island in Europe which has two teams playing in the European championship. Being the only island with two teams, we also have two managers by the name of O'Neill - Michael and Martin. Sport has united Ireland in many ways for many a decade, and when teams from the North or South were playing in respective championships, both North and South cheered. It will be quite interesting to see whether the North and the Republic will be matched up in the European championships next year, but we will cheer for both of them. Well done to the Republic of Ireland last night.

Senator James Heffernan: I welcome Amy Rose Harte to the Gallery. If Jimmy were here, he would be having a great time talking about the qualification last night, and I am sure he would be giving me a bit of a ribbing for Limerick's capitulation when the team went to Ballybofey to play Finn Harps. Ba mhaith liom a rá leis an Seanadóir Ní Chathail, a clann agus a cairde agus le Páirtí an Lucht Oibre that today really is their day. Senator Cahill is very welcome to the House.

I read with interest Mary Minihan's article in *The Irish Times* yesterday in which she gave five reasons it is hard to be a "Nordie" south of the Border. I will not start singing Gene Autry's "Down Mexico Way", but her first reason was we think they talk funny. I am sure Senator Cahill will have no problem making herself understood in the Chamber. She joins a long list of illustrious characters, including Martin McAleese, John Robb, Brid Rogers, Sam McAughtry, Seamus Mallon and Gordon Wilson. Gordon Wilson and Seamus Mallon in particular had a vision of a just and peaceful society in Ireland. They were voices of reason and integrity and they spoke against what was a warped ideology tearing our country apart at the time. Senator Cahill has laid down the gauntlet today by bringing in members of the Rape Crisis Centre and those affected by abuse, and I am sure she will be a strong advocate on their behalf as well as being someone who will speak out against criminality on the island.

The same warped ideology I mentioned, which thrives on disenfranchisement, marginalisation and deprivation, manifested itself in Paris at the weekend in the very shocking attacks made against innocent members of the public. We need to learn the lessons of integration from our European partners, particularly countries such as Denmark which has had issues with integration in Copenhagen, but countries such as France, Belgium and others. What we do with direct provision in this country leaves much to be desired, and anything which would drive young men to wear a suicide belt and carry an assault rifle and do what they did on the streets of Paris cannot be condoned.

I am sure Ireland's neutrality is the responsibility of the Minister for Justice and Equality.

Our neutral position in the international community is an issue held dear by many citizens in this country. The continued use by the US military of Shannon Airport flies in the face of that neutrality. This issue has been advocated very strongly by An tUachtarán, Michael D. Higgins, and it has been argued for very strongly by the Labour Party. I hope it will step up to the plate again and call for this debate to happen sooner rather than later. The Social Democrats will be against the airport's use and we advocate a phase-out. I hope the Government will support that.

Senator John Whelan: Is that Social Democrats policy? That is news.

Senator Máiría Cahill: I thank everybody for their good wishes and particularly Senator Craughwell for his constructive advice. I hope to watch Senator Craughwell in the debates over the next few weeks and follow his good example.

Senator Denis Landy: The Senator will have more quality.

Senator Máiría Cahill: It is a huge honour to serve in Seanad Éireann and I have my friends and family here, including my five-year-old daughter, Saorlaith. I was going to say she was being uncharacteristically quiet, but she has actually fallen asleep.

Senator Rónán Mullen: It happens in here too.

Senator Máiría Cahill: I also pay tribute to Senator Jimmy Harte, who has experienced a horrific number of years. I had the privilege of speaking with him last week and I am glad to say he is slowly but surely making a great recovery. I also thank the Harte family in its entirety for their support, particularly Jimmy's daughter, Amy Rose, who has looked after me so well over the past number of weeks. There has been a great Northern tradition of representation in the Seanad. I have not had the privilege of meeting all the former Senators but I am lucky to have met and have the support of Mr. Seamus Mallon and Bríd as well.

I echo the heartfelt sympathies sent from this House to the people of Paris and I strongly condemn the very cruel attacks that took place at the weekend. I ask the Leader for a debate on sexual offences and abuse. I am thankful that the directors of the Dublin Rape Crisis Centre and One in Four are here today, and I welcome them. I ask for an indication of when Committee Stage of the sexual offences Bill will be taken.

Visit of French Delegation

An Cathaoirleach: Before I call the Leader, I am sure Members will join me in welcoming the French ambassador, H.E. Jean-Pierre Thébault, and his colleagues. They are very welcome to Seanad Éireann today and we express our sincere sympathy to them on the tragedies of last Friday.

Order of Business (Resumed)

Senator Ivana Bacik: I join in welcoming the French ambassador. As Deputy Leader, I

acknowledge the show of unity being displayed by everybody today in absolutely condemning the horrific attacks on Paris last week. They were appallingly brutal attacks on people enjoying sports and cultural life in a great city that is so well known to all of us. It really represents an attack on all of us on our doorstep in Europe. It is an attack on democracy, our way of life, our values and our civilisation. That is perhaps a summary of the sentiments that colleagues expressed today. I join with all of them in such expressions. I also have enormous sympathy and solidarity with the French people and the families of the bereaved and those who are injured. We must also remember those who were bereaved and injured in other attacks on Beirut last week, in which more than 40 people were killed, and the attack on the Russian aeroplane, which killed so many civilians.

It is appropriate that we marked the French attacks with a minute's silence today. I remind colleagues that there is a book of condolences in the French Embassy and I was privileged to be there yesterday, along with Senator van Turnhout and colleagues from the other House, to sign it after it was signed by an tUachtarán, Michael D. Higgins. The President and the Taoiseach have expressed the sympathy and solidarity of the Irish people with the French after this horrific attack.

I agree with colleagues who have asked for a debate in this House on the bigger context and security issues arising from those attacks. I will certainly seek a debate on that issue in early course.

On a more positive note, before I respond to Senators, I wish to again thank colleagues, all of whom, I think, expressed such a warm welcome to our new colleague, Senator Máiría Cahill. I join again in expressing my own fáilte mór to Máiría. She is very welcome here. I welcome her family who are in the Public Gallery. I also welcome the directors of the Dublin Rape Crisis Centre and One in Four, Ellen O'Malley Dunlop and Maeve Lewis, respectively. We are delighted to have them in the Gallery. We are delighted to have Senator Cahill join us as a member of the Labour Party group of Senators in the Seanad. I know she will make a tremendous contribution here and that she will be a powerful advocate for the rights of victims and survivors of abuse and of violence. She has started already on a very constructive note in that regard.

I again thank all colleagues for their warm welcome and for their lovely words about our new Senator and also about our colleague, Jimmy Harte. I extend a warm welcome to Amy Rose Harte, his daughter, who is in the Gallery. I thank the Harte family for all they have done and all the support they have given all of us. We all very much wish Jimmy Harte a speedy recovery. We hope we will see him soon visiting us again here in the Seanad. I hope he is celebrating the wonderful win, which many of the Senators mentioned, of the Irish team last night in Lansdowne Road and our qualification for the championships. I understand there is also good news from Stormont on the Northern Ireland leaders having reached agreement after two months of negotiations. I hope there is something there for the former Senator Harte and all of us to celebrate.

Senator Marie Moloney: Hear, hear.

Senator Ivana Bacik: I will now turn to the issues raised by colleagues. Senator Darragh O'Brien welcomed Senator Cahill and sought a debate on the Paris attacks. I would be happy to facilitate such a debate with the Minister for Justice and Equality, which he and other Senators sought.

Senator Jim D'Arcy raised the same issues and spoke of how the universal becomes local. That is very true. I think all of us know somebody who was caught in the horrific attacks in Paris. Senator D'Arcy spoke of the Irish couple caught in the attacks on the Bataclan concert venue, Katie Healy and David Nolan. We all wish, in particular, Mr. Nolan a speedy recovery. Clearly, people who have been involved in these attacks will have been hugely affected by them, even if they escaped with no physical injury, and that must be remembered also. Senator van Turnhout also spoke about the issue of the Paris attacks and expressed her condemnation of them.

Senator Norris spoke about the issue of Seanad reform. This House is united on the need for reform of the Seanad and we have had many debates on that over the last few years.

Senator Gerard P. Craughwell: It is great to see a start.

Senator Ivana Bacik: Senator Norris also raised the issue of media reportage of allegations about a former Minister last week, on which a number of Senators spoke. I absolutely agree with Senator Norris and share his concern about the way in which this story came into the public domain at such an early stage of a Garda investigation and apparently before an investigation is properly commenced. I share Senator Norris's sentiments on that. The Garda Síochána Act 2005 makes it an offence for a serving garda to disclose information in certain circumstances. Clearly, there are already investigations into how this information came into the public domain and those investigations should run their course but, clearly, any breach of due process must be very much condemned.

Senator Hayden welcomed Senator Cahill and condemned the Paris attacks and pointed out the need for balance. I agree with her that those refugees who are fleeing Syria are fleeing ISIS and fleeing terrible brutality and atrocity there, and they should not be scapegoated in the response to the horrific attacks in Paris.

Senator O'Donovan spoke about the Parish attacks. He shared Senator Norris's sentiments on the issue of the smear campaign in the media reportage. The investigations, in particular by Garda Síochána Ombudsman Commission, GSOC, into this incident must run their course. Senator Naughton welcomed Senator Cahill and also spoke about the Paris attacks. Senator Barrett commented similarly.

Senator Moloney also commented similarly. She noted the drop in unemployment to 8.9%, which is very welcome and positive news. This is the first time the rate has fallen below 9% since December 2008.

Senator Cullinane expressed his welcome for Senator Cahill and remembered our colleague, the former Senator Harte. He pointed out that Islamic groups in Ireland have condemned the Parish attacks, which is an important point. An article in today's edition of the *Irish Independent* by my Trinity College colleague, Dr. Neville Cox, points out that this is not about Islam, that this is a twisted ideology that led to those attacks.

Senator Conway congratulated Senator Cahill on her election to the Seanad and also spoke about the Paris attacks. Senator Wilson commented similarly. He also referred to the Bill on Seanad reform which apparently Fianna Fáil will put before us next week in its Private Members' time and in particular on reforming the process for filling the casual vacancy through a by-election. I should remind Senator Wilson that Fianna Fáil had 14 years to carry out Seanad reform.

Senator Diarmuid Wilson: It is a very complicated Bill, very complex.

Senator Ivana Bacik: If I may be allowed to make that point, clearly, we all await the Bill with great interest. I thank the Senator for informing me about it.

Senator Landy welcomed Senator Cahill and mentioned the Paris attacks. He also noted the school programme announced just today and commended the Minister, Deputy Jan O' Sullivan, on her commitment to ending the practice of housing schoolchildren in prefabs. We all very much welcome that and the extensive building programme, which will ensure proper facilities for all children.

Senators Mullen and Mullins welcomed Senator Cahill and referred to the Paris attacks. Senator Ó Clochartaigh also welcomed Senator Cahill and referred to the Paris attacks. He asked specifically when the Immigration, Residence and Protection Bill will be before us. I can give the Senator a very clear answer that Second Stage will be taken in this House on 1 December. Colleagues will welcome that development.

Senator Catherine Noone welcomed Senator Cahill and condemned the Paris attacks. She noted the school programme and the good news in that respect. Senator Bradford also welcomed Senator Cahill and condemned the Paris attacks. Senator Burke did so also and welcomed the drop in unemployment.

Senator Craughwell referred to Seanad reform. I responded on that already. He welcomed Senator Cahill and mentioned the Paris attacks. Senator Coghlan referred to the same issues and also noted that we have two football teams on this island. We will have to await the draw for the championships. Senator Heffernan welcomed Senator Cahill and mentioned the Paris attacks.

I thank Senator Cahill for her words. She is very welcome. As she said, she carries on a very noble tradition of Northern Ireland representation in the Seanad. We all very much appreciate that. Specifically on her point on the sexual offences Bill, I am very hopeful that Committee Stage will be taken in the Seanad in very short course, in a number of weeks' time. A number of amendments have been proposed by a number of Senators and the Minister is considering them at present. Our colleagues in the Visitors Gallery will very much welcome Committee Stage. The Bill was initiated in the Seanad and we are very hopeful that it will be passed into law in the lifetime of the Government.

On such a sombre day, it is really welcome that we have such a display of unity in the face of the horrific Paris attacks. I thank the French ambassador for being here with us. On her first day here, Senator Cahill should note it is not normal for Senators to be so united that the business would send a child to sleep. I am sure that will change over the coming weeks.

Order of Business agreed to.

Residential Tenancies (Amendment) (No. 2) Bill 2012: Committee Stage

SECTION 1

Government amendment No. 1:

In page 6, to delete line 1 and substitute the following:

"(3) The Housing Acts 1966 to 2014, *sections 10*, *63* and *65* and this".

Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey): This is a technical drafting amendment to provide for the amendment of the collective citation of the Housing Acts.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 2, 53, 54, 83, 86 and 102 to 104, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed. Amendment No. 103 is a logical alternative to amendment No. 53.

Government amendment No. 2:

In page 6, line 4, after "Act" to insert the following:

" ", other than *section 18*, *subparagraph (i)* of *paragraph (a)* of *subsection (1)* of *section 19*, *section 19(2)* and *section 19*,".

Deputy Paudie Coffey: Amendments Nos. 2, 53, 54, 83 and 86, taken together, will bring much-needed stability to the rental sector pending the coming on stream of the supply of new housing. These amendments will extend the period between the reviews of rent, extend the minimum period of notice of new rent, and introduce new requirements for the notification of new rent and the formal provision of information as regards the confirmation of tenancies and the rights and obligations of tenants and landlords.

Under the 2004 Act, the rent for all tenancies may be reviewed every 12 months. Amendment No. 53 provides that this period be extended to 24 months. This means that anyone who has had a rent review in 2015 will not face a rent review again until at least 2017. There is no change to the mechanism for determining rents under legislation, which is by reference to the market rent, but there will now be a longer period of predictable rent. The provision is subject to a sunset clause such that the period will revert to every 12 months in four years' time.

The Act currently provides that a landlord give his or her tenant a minimum of 28 days' notice of new rent. Amendment No. 54 provides for the extension of this notice period to a minimum of 90 days, giving tenants a longer period to challenge or dispute the proposed new rent or find new accommodation if necessary. Such a measure was recommended in the DKM report entitled Rent Stability in the Private Rented Sector, which was commissioned by the PRTB.

Amendment No. 54 also provides that a landlord, when notifying a tenant of new rent as required under section 22 of the 2004 Act, will now have to provide the notification in a prescribed form. The form will include the provision of information to the tenant in relation to the dispute resolution procedures that a tenant can pursue through the PRTB. The form will also have to be accompanied by information on the rents of three other similar dwellings in the area. The purpose of this amendment is to ensure that tenants are adequately informed on prevailing rents and aware of their rights under the Act, particularly in regard to market rent and the procedures for bringing a dispute to the PRTB where a tenant believes the new rent is in excess of market rent.

While the PRTB currently sends information of a tenancy registration to the landlord, amendment No. 83 provides that, in future, both landlords and tenants will be notified of a tenancy registration in a prescribed form and the notice will, *inter alia*, advise both parties of their rights and obligations relating to the setting and review of rent, security of tenure under Part 4 of the Act, determination of tenancies and dispute resolution procedures available through the PRTB. The confirmation form will also state that the PRTB routinely discloses information to the Revenue Commissioners. In addition to notifying the PRTB of an increase in rent within one month, as is currently required under section 139 of the Act, landlords will be required as a result of amendment No. 86 to provide additional supporting information in a prescribed form. This will include a signed statement by the tenant that they have been made aware of their rights on rent and rent reviews along with information on market rent for three similar dwellings in the area. This amendment will further ensure that tenants are fully informed of their rights in relation to market rent. I would like to flag to the Seanad that the Government intends to bring forward another amendment on Report Stage to section 139 regarding further information on the registration form. Together with the new notice provided for under section 22, this will ensure that all parties are aware of their rights and the consequences of any infringement of those rights. This will assist in protecting tenants from illegal rent increases and will also act to discourage landlords from breaking the law.

In regard to the Opposition amendments grouped with these amendments, amendment No. 102 proposes to amend the 2004 Act such that the rent would be reviewed by reference to the rate of inflation. In providing for an extension to the period in which rent reviews may occur from 12 to 24 months, the Government decided on an approach that would bring stability and predictability for the tenant but without changing the fundamental mechanism for the setting and reviewing of rent as laid down in the 2004 Act. The Government is mindful of the need not only to protect tenants from the circumstances that currently exist, but also not to deter investment in any way. Amendment No. 53 achieves that balance and so I cannot accept the amendment tabled by the Senators.

Amendment No. 103 proposes that a review of rent may not occur more often than once in each period of 24 months. This is already provided for by the Government amendment No. 53.

Amendment No. 104 proposes to empower the PRTB to work with local authorities to set a local standard of rent based on the size and location of the accommodation. This would entail a fundamental departure from the principle laid down in the Act whereby rent is set by reference to the market, where a market rent is defined as the rent which a willing tenant, not already in occupation, would give and a willing landlord would take for the dwelling. As I have outlined already, the Government has decided not to alter the mechanism for the setting and reviewing of rent as laid down in the 2004 Act and has decided on an approach that balances the needs of tenants and landlords and investors alike. For this reason, I cannot accept the amendment.

Amendment No. 2 amends the commencement provision in the published Bill to provide for the commencement on enactment of three of the provisions announced in the package of measures to support housing supply and rent stability generally. These are the extension of the duration between rent reviews from 12 to 24 months, the extension of the period of notice of a new rent from 28 days to 90 days and the extension of the period of notice of termination of a further Part 4 tenancy. Rents are increasing and it is imperative that we act quickly in order to bring stability to the market. The Government amendments to the Bill will ensure stability and predictability and a level of certainty that will stabilise the market until such time as the property and construction sector recovers to sustainable levels and the supply increases and there is

normality in the rental sector.

Senator Jillian van Turnhout: I welcome the Minister of State to the House. While the amendments fall far short of the measures of rent certainty I would like to have seen introduced, for example, rent increases that are in line with an external measurement such as the consumer price index, which has been suggested by Threshold, I welcome them as a much needed and long overdue first step. The latest quarterly *daft.ie* report published today shows that in the third quarter of 2015, rents rose nationwide by an average of 3.2%, which represents the largest three-month jump in rent since 2007. Supply on the rental market is at its tightest on record with just 4,000 properties available to rent nationwide, very few of which offer affordable family accommodation. The current monopolistic private rental market characterised by rapidly increasing rents and a complete dearth of housing supply is intrinsically linked to our spiralling homelessness and risk of homelessness crises. I have spoken on this issue on a number of occasions but I plan to speak only on this grouping of amendments so I ask the Minister of State to bear with me. I have a number of questions and look forward to hearing the Minister of State's answers from the floor. I would be happy to forward any of these questions in writing if they require further time for consideration.

In November 2014, homelessness agencies reported that 700 children were living in emergency accommodation. In 12 months, this figure has grown to 1,500 and it is highly likely that this number will continue to increase as supply continues to be constrained and there is no indication of a step-change in new supply given the pipeline of sites that are ready for development with available finance. Recently announced modular housing will only serve to meet part of the backlog. The private rental sector is likely to remain attractive to those who can afford it and those who cannot access home ownership, the so-called young professionals. Affordable family accommodation is therefore chronically undersupplied. Does the Minister of State have a figure for the projected demand for emergency accommodation for families with children? What is the Minister of State planning for?

Setting aside numbers in emergency accommodation, research has shown that when homelessness among children increases, it is coupled with a rise in children living in unsuitable or overcrowded accommodation, sometimes sharing with other families, which parents view as preferable to presenting as homeless. Does the Minister of State have an estimated figure for the number of children living in overcrowded accommodation? Has a study been done into this area of concern or is one planned? I and many of the children's rights organisations following these issues are deeply concerned by the immediate and long-term impacts for children who are placed in emergency accommodation. Temporary accommodation, whether hostel, emergency or another form of temporary accommodation, can adversely impact on children. In many cases, the lack of stability and uncertainty is deeply worrying for children. This is reflected in anecdotal evidence from the ISPCC Childline service. It affects children's ability to play due to lack of space. Often, quiet spaces to study are impossible to find. At worse, lack of natural light and outdoor spaces is likely to affect development. Children report being very stressed and often hide this stress and worry from their parents who are often struggling.

Emergency and hotel accommodation is the most concerning type of accommodation for homeless children. It should only be used in exceptional circumstances. It is increasingly being used as the norm because of the severe lack of purpose-built temporary accommodation for families. I am genuinely concerned about child protection, safety and security issues and a range of developmental impacts, as I have set out briefly.

Has Tusla, the Child and Family Agency, been involved in assessing the suitability of hotels and hostels that are housing families with children? If so, has it determined that some forms of accommodation are unsuitable? Who determines whether there may be child protection risks? Are individuals working in hotels where homeless children are placed Garda vetted? If not, why not? I appreciate that hotel staff are not normally vetted, but placing children in hotels as a formal State intervention to the homelessness crisis changes the said hotel's official usage. The children are living there, playing there and growing up there. On this basis, they could be of interest to predators. It is essential that urgent steps are taken to ensure all children in emergency accommodation are safe. In other jurisdictions with similar homelessness levels, emergency accommodation is used as an exception and for no more than six weeks. How many children have lived in emergency accommodation for more than six weeks?

5 o'clock

Does the Minister of State agree this is unacceptable? Are wraparound services available for all families in emergency accommodation? What steps are being taken to work with families to help them to secure and keep a tenancy elsewhere?

Have officials from the Minister of State's Department been assigned to inspect emergency accommodation and its suitability for children on an ongoing basis, for example, to assess the safety and security of shared and communal areas and the availability of safe spaces to play? Has the Minister of State required providers of emergency accommodation to make accommodation suitable for children? Has Tusla been involved in advising on suitability?

I have some questions on the new modular housing project for Dublin. Will the design of modular housing reflect the fact that it is to be purpose-built accommodation for homeless families? Will the design meet the needs of children? Will there be sufficient space for children in which to play? Will the Child and Family Agency and other appropriate bodies and agencies be consulted on the design of the accommodation? If so, when?

Senator Kathryn Reilly: I welcome the Minister of State to the House to discuss this legislation, particularly in light of announcements in recent weeks. We have known for a number of years that a shortage of housing and an absence of meaningful rent regulations were leading to continual and unsustainable rent increases across the State. As Senator van Turnhout mentioned, data from *daft.ie* show that, since September, rents have risen across the State by 3.2%. However, it is not just an issue that is restricted to the cities and urban centres. In my constituency, for example, the increase in Monaghan in September was recorded at 6.8%, and in Cavan the increase was an astonishing 10%. That is not to mention the increase of between 8.9% and 13.5% last year in urban centres. Foot-dragging on how to tackle the crisis has encouraged landlords to raise rents even further in preparation for the measures coming down the line.

With regard to our amendment, No. 103, and the Minister of State's amendment No. 53, we welcome the decision to delay rent reviews by a further 12 months. For the past five years, Sinn Féin has been calling on the Government to implement a system of regulation of rents that would not only limit increases, but also deal directly with existing unaffordable rents, as has been done with great success in cities such as Berlin. The PRTB should be empowered to set local standard rates with a maximum deviation based on the size of the accommodation. Amendment No. 104, in our name, would achieve that. The standards could be imposed by existing tenants via a review request when one becomes available, and new tenancies would be required to meet these standards immediately. As I stated, Berlin has implemented a similar model with

great success. There has already been a decrease in rents in that city of approximately 5%.

We all know rents are too high now. If they were frozen, they would still be too high next year. It is important to remember that. It is the reality for all tenants in the State, especially those in the capital. It is important that we, as legislators, do something to try to address this, and that is why we have tabled amendments Nos. 102 to 104, inclusive. We recognise that amendment No. 103 is unnecessary given the Minister of State's amendment, No. 53.

Senator Katherine Zappone: I compliment the Minister of State and Minister on the measures that aim to provide rent certainty for both landlords and tenants in the private rental sector. It is very positive and welcome for those thousands of families who, as we speak, are at risk of homelessness, which could become a reality for them if rents rise further. I have met a number of such families recently throughout the constituency of Dublin South-West.

I consider these measures to be fair. They could not be considered punitive for landlords. I am using the word "punitive" in a strong sense. I note landlords will miss the opportunity to review the rent three times during the relevant period of four years, but they will be allowed to adjust rents to the market level every 24 months during the four-year period. That measure will create more stability in the market. Therefore, it would be less likely that losses in market rents will be significant.

It is to be welcomed that there will be more emphasis on the landlord's responsibility to demonstrate a justifiable market rent. However, I am concerned to some extent about the practicality of the arrangements for landlords, particularly in regard to the need to present evidence of three comparable properties, etc., in order to justify an increase in rent. I am particularly concerned about the practicality because, as we know, many landlords in the market are small operators. As we also know, they are treated less favourably in the taxation system than the corporate operators. This Bill does not refer to the taxation of private landlords. I want to keep my comments on what is in front of us in the Bill today. I acknowledge that this matter will be raised in regard to the Finance Bill. There are landlords who may be willing to provide rental accommodation to those on the housing assistance programme. I would have more to say about that in terms of the Government's decision on increasing tax relief across the board. With regard to this Bill, however, we need to consider the time and work involved for landlords. This would need to be balanced against the goals regarding the stabilisation of rents.

Many landlords have stated their intention to leave the sector. We need to protect the current supply so we need to listen to them in terms of both practicalities and taxation, which we will deal with later. Today's landlords are simply trying to be reactive to their own cost base. If there is a greater flight of smaller landlords, we may be opening a space for the vulture funds that could buy into the sector and which may have a negative impact on what we are trying to legislate for today.

I welcome the positive measures the Government is proposing to extend the period of notice for any rent increase. I have a question on the practicalities of that. Does the extension of the period from 28 days to 90 days mean a landlord who in the first period of rent freeze intends to raise the rent must give notice 90 days prior to the ending of the first period of two years? I just cannot find the answer to that in the legislation. I am confident, however, that, by extension, the measures will have a positive impact and help to slow down the rent increases, thereby creating stability on both sides.

Based on consultation with Mr. Mike Allen from Focus Ireland in preparing for the debate, I believe the Bill does not help those who are already in difficulty owing to rent rises so far. Many families are homeless or at risk of homelessness because rent supplement levels have simply fallen behind the market. The Department has been consistent in stating raising the rent supplement levels would only drive rents up further. However, as we now have legislation in front of us that will effectively freeze the rent increases for the next two years, I wonder whether the Government, of which the Minister of State is a representative, will go back to the drawing board and consider raising the maximum rent supplement levels after this legislation becomes operational to help many families who are struggling to secure a long-term home. Since we are effectively freezing the rent, increasing the rent supplement will not drive the rents up.

Senator Aideen Hayden: I welcome the Minister of State to the House, and I welcome the legislation and the various amendments. As Members will know, the rent increases and the response thereto are issues I have raised on a number of occasions. Other Members present today have also shown great concern over these issues. It has been asked whether we got the whole cake. The answer is obviously that we did not. I would have liked to have seen rent increases linked to the consumer price index over the longer term because, ultimately, if legislation that gives tenants four years' security of tenure does not give them four years of rent certainty at the same time, their security of tenure is effectively being undermined. That being said, the main question remains: are the measures before us today meaningful, on the issue of rent in particular, and will they assist in a situation that nobody is trying to deny is extremely serious, particularly when it comes to children and homeless families?

I am not going to dwell on this, as I know we have a lot of work in front of us, but I will make a few comments. A total of 739 families actually exited homeless services in the Dublin region between January and September 2015. We are not dealing with the same cohort of people all of the time; we are dealing with people who enter and exit homeless services. Credit is due to the Dublin Regional Homeless Executive for the work it has done in this area. The tenancy protection service, operated by the four Dublin local authorities along with the Dublin Regional Homeless Executive and Threshold, the organisation I chair - prevented 1,346 families from falling into homelessness between January and October 2015. A number of interventions are being made and it is important to recognise them. The most important thing we can do in the current crisis is to prevent people from becoming homeless in the first instance. The tenancy protection service does that by doing exactly what Senator Zappone spoke about - by allowing the rent supplement to be increased to a point at which the family is able to remain in its accommodation, so that it does not become homeless in the first place.

Homelessness is a three-pronged situation. We must act to prevent families from becoming homeless. I agree that we will have to re-examine the issue of rent supplement, but it should only be done in a scenario in which we are doing something to limit the rate of rent increases. Otherwise, we are simply putting Government money into a bottomless pit. Once families become homeless, everything must be done to ensure that their stay in homeless services is as limited as possible. Measures have been announced recently as part of the cold weather initiative, which should be acknowledged. One measure is the extension of services, particularly from the children and family homeless action team run by Focus Ireland, into homeless accommodation and into hotels, where it can be difficult to operate outreach services. The number of staff allocated to that outreach measure has been increased to 25 project workers. There is coordination with Tusla and the HSE to ensure that there is on-the-ground protection for families, particularly those families with children who are in homeless services. Work is also being done

on Garda liaison with homeless services. It is important to acknowledge that good work is happening in these areas among a significant number of organisations, including household names such as the Peter McVerry Trust and Focus Ireland, and at local authority level.

There is no immediate answer to this crisis. We will not have the level of supply that will be required to adequately tackle the housing issue for the next three years. We need to act now to ensure that what can be done will be done. I believe that this legislation goes a very long way to ensure that, especially in regulating rent increases.

Senator Sean D. Barrett: I welcome the Minister of State to the House. With regard to amendment No. 102, which the Minister of State, Senator Aideen Hayden and Senator Kathryn Reilly referred to, I believe that we must ask why this sector is way out of line with consumer price inflation. As legislators, we have to put the pressure back on the appropriate party. At the banking inquiry, we asked Michael O'Flynn, a leading developer who appeared as a witness, what happened here. We made the point that we used to be able to have housing provided for two and a half times a person's income, but then the multiple went as high as 12. Sixty or so developers emptied out the banks, and then they emptied out the Exchequer. I am not too sure that relying on these developers and financial institutions can solve this problem. The onus must be put right back on them. There is a small calculation by Shelter, the UK housing charity, which shows that if the price of a chicken had been index-linked to the price of houses since the post-war period, a chicken would now cost well over £50. Why are builders not as efficient as chicken farmers or the producers of any other product that we consume? This question must be asked, and the economist Ronan Lyons has constantly asked it. He said that at their present cost levels the prices of houses have to go up again, because our high-cost builders cannot afford to build at the kind of prices that the rest of society can afford. There is the whole legacy of builders buying up expensive sites in London, Chicago or wherever - and in Dublin as well - and the huge tradition of cost overruns, which has been investigated by the Comptroller and Auditor General and the Committee of Public Accounts.

In that context, the Minister of State will see on the Order Paper for the Seanad the National Mortgage and Housing Corporation Bill 2015, which we tabled last week. The object was to allow the State to use its powers to borrow at low cost and to leverage the production of housing - without the kind of shenanigans that the Irish housing construction sector has seen heretofore, with the dire consequences we all know of - at average and below-average prices to try to deal with the problem of homelessness. We drew the short straw when it went onto the Order Paper, as there was no Minister available from either the Department of the Environment, Community or Local Government or the Department of Finance, so we had three Ministers in the House from different Departments. The item was put forward on the basis that we need new financial institutions and a new construction industry. For starters - this is linked to amendment No. 102 - we should not countenance a situation in which house prices rise to large multiples of earnings and by maxi-multiples of prices elsewhere in the economy. What is wrong with this sector that renders it unable to do what it was able to do five, six or seven decades ago - to produce living accommodation for two and a half times average incomes? It is worthwhile keeping on the agenda the fact that we have had far too many scandals in relation to the construction industry and the bribing of politicians. The sector now has to deliver to the people of this country solutions to homelessness and rapidly rising rents and to conform in some way with the consumer price index. The goal, which the Minister of State has himself referred to, is to leave the construction industry in no doubt as to what we want to happen, and also to leave the financial sector in no doubt as to what we want to happen.

I regret, in the mad financial sphere, that building societies were abolished. They operated as mutual benefit societies. As pointed out by Ms Eithne Tinney, a witness at the banking inquiry, the point of the Educational Building Society was that established teachers who had some money to spare would help the next generation of teachers with housing. We need to get back to that. If credit unions or other bodies can play a role, that is desirable. As Mr. Ronan Lyons repeatedly points out, inflation has gone in the rest of the economy but it is rampant in housing. The rest of us must ask that the sector pull its socks up and deliver some kind of performance so that we can deal with homelessness and house people without extended mortgages of 30 and 40 years. I thank the Minister of State for his forbearance.

Senator Paul Bradford: I welcome the Minister of State and I apologise for missing his initial presentation of the amendments. I have heard him make the case in this regard previously. I agree with Senator Sean Barrett's comments on the broader scope of the industry and on the problems affecting so many families who are on various housing waiting lists. I recall asking the question of the Minister of State in this House some months ago, whether he had responsibility for housing or for the construction sector, and I was happy with his response at the time. I recoiled with horror when, upon the Minister of State's appointment, I read a construction industry magazine pronouncement. It was glad that it had what it called its "own" Minister again.

I stress that what we need is for the Minister of State to be the Minister for housing, people in need of housing and the building of homes for families, rather than a Minister providing for the construction sector. Senator Barrett has spoken about this issue on many previous occasions. Something has gone absolutely, profoundly, deeply and morally wrong with the construction industry in this country. There was a time when builders built houses, but builders seem to have been replaced with developers. Developers and bankers played a not insignificant role in the near ruination of this country. It appears that there are people who believe that the past few pages of the history script can be torn up and that we can move back to business as usual. There is still a fear, which I share, but perhaps the Minister of State can dissuade me, that housing policy is still being led and set by the construction industry. I look forward to the Minister of State's observations on that.

When the multiplier effect of the cost of homes and houses relative to family incomes continues to increase, we have to accept that things have gone very wrong and we have to attempt to reinvent the wheel. If the recovery in our country, society and economy simply means that we go back to where we were in 2007 and 2008, then it is a question of shame on all of us. We must not attempt to return to the construction industry position as it existed in the midst of the so-called Celtic tiger. That led to disaster on this island for Irish people and we need a new model of housing policy. As a society we have to rethink our view on housing and the amendments on tenancy, rent increases and all of that are important. We could debate them at length, but until such time as we put a housing policy and philosophy in place, changing the current model, such as not seeing a housing estate as a weekly lottery win for a developer but rather as a place where families and communities live and thrive, we are going down the wrong road.

Long after the passage of the Bill, it is important that we fundamentally review the Irish philosophy and approach to doing business *vis-à-vis* housing. We pride ourselves on home ownership, yet we and Britain stand alone and almost isolated in Europe regarding how we look at home ownership and how we view the rental market and long-term leasing in a very negative light. In the Minister of State's broader approach to housing, it will be very important that he tries to change that equation because what we have previously done has not worked. I support

the words of caution on the setting of policy by construction moguls, as outlined by Senator Barrett.

I refer to the series of amendments before us. Much of the talk following the protracted and relatively phoney war between various Ministers related to rent certainty. The Minister of State cannot be blamed for the hand of cards he was dealt and is presenting the Bill before us today. No matter what side of the House one occupies, one has to try to be fair and reasonable. The Bill is possibly as good a stab at a short-term sticking plaster solution as is possible.

However, in advance of the passage of the new rules, regulations and legislation, we have already seen rent increases, certainty will have a very small "c" and capacity still exists in the crucial short-term period for significant increases to occur. That is quite understandable because of the main problem, namely, supply. Where there is a demand and supply imbalance, the person with the supply holds the aces. We should not be surprised that this Bill cannot, by way of a magic wand, solve the issue of rent certainty.

It is funny how in Irish politics phrases we had never used before take on a new currency. If one had spoken about rent certainty 12 months ago, people would have looked at one as if one had two heads, but now everybody is talking about it. We need to talk about housing certainty and put it on the agenda. I and others have suggested that we at least reflect on the concept of a constitutional entitlement to housing - that does not mean a constitutional entitlement for everybody to live in a mansion. The Constitutional Convention sat at some length a few years ago and brought forward many recommendations and spent many a lengthy Saturday in the Grand Hotel in Malahide proposing ways to improve and enhance society.

Elected politicians should be setting the agenda. I would like us to contemplate matters such as a constitutional provision for housing. If such a provision was enshrined in our Constitution by the Irish people, the hand which politicians, Government and the State would be allowed to play would ensure negotiations with developers would be very different - they would not go against them - and would be rebalanced in favour of citizens and communities.

I thank the Leas-Cathaoirleach for his latitude. I apologise to the Minister of State for being relatively aggressive, by my own standards, on this matter but we have to learn from the Ireland of the past decade. When people refer to the restoration of pay, society or the political system, we have to ask ourselves whether we are suggesting that we should try to restore this country to the politics, economics and imbalances of 2005, 2006, 2007 or 2008. That would be a shocking legacy for which to plan. Our housing policy must be entirely new in its scope, breadth and vision, and housing certainty must mean that every citizen has a fair opportunity to have a home or family home of his or her reasonable choosing, be it purchased or provided by way of suitable long-term rent.

New models must be considered. My party has suggested a major programme of social and community housing funded by public-private partnerships and pension funds. There are billions of euro in pension funds, most of which - I understand the figure is in excess of 90% - is invested overseas. It should not be beyond the scope of Governments, politicians and public servants to devise a scheme whereby people who have a lot of money to invest would be allowed to invest it at a reasonable return of 5% or 6% in a housing fund or programme which could provide long-term accommodation for tens of thousands of people.

When all is said and done, housing is the great leveller. It is a valid argument that educa-

tion is the great leveller, but if children or parents are not sure where they live or do not have certainty of accommodation or housing, education is very much down the list of their concerns. If as a society we want to offer opportunities and whatever equality we can - we can get carried away with the term "equality" in debates at times - housing must go to the very core of that because the people who tonight are worried that they will lose their homes tomorrow, next week or next month and those on endless housing lists are not able to plan for the future or provide for their children. It can be done.

When I joined Cork County Council in 1985 it was in the midst of another great period of recession. It was a deeply dreary time economically and politically. I can only speak for my membership of the council, but the northern committee of the council covered a territory of 60,000 or 70,000 people. The local authority built 140,000 or 150,000 houses per annum in just one small section of County Cork. That was at a time when we were in deep recession. There was no money, yet housing was seen as a fundamental priority. Now between local authority housing, public private partnerships and the housing associations, all of which have worked quite well, we can surely come up with a solution. The Minister of State, his colleagues, and all of us must be driving that solution for the housing of people and the provision of homes. It is not the philosophy of the Construction Industry Federation that the Minister of State has to take on board; it is the arguments he hears in his constituency office, in his constituency and from all of us. I regret that I am not as knowledgeable on this piece of legislation as I should be. I am sure it will be a help, but it is a very small step while there is still a supply imbalance. The supply imbalance will only be dealt with by very different and radical thinking. It is a debate for the weeks and months ahead. Until we have housing certainty, issues such as rent certainty are a drop in the ocean. I wish the Minister of State well with the longer term project, but our thinking has to be much bigger and different. As a starting point, there can be no going back to the policies of the Celtic tiger era, which have left too many wounded people in mortgage arrears, on housing lists and with shattered lives. We have a shattered economy as a result of it as well.

An Leas-Chathaoirleach: I thank the Senator. I have been over-indulgent. I do not want to subject the Minister of State to a series of Second Stage speeches. Others have spoken for nearly as long as Senator Bradford, who was dealing with one particular amendment. I remind Members that there are more than 102 amendments and if we allow speeches of this sort we will certainly not have it sorted out before Christmas. There is a hurry with it. I promise the Minister of State that when the next amendments come up I will be much stricter and ask people to stick to the point and not wander off into general housing policy. As I said, when I give one a break, I have to give them all a break, but I am dropping the guillotine now on Second Stage speeches. I apologise to the Minister of State.

Deputy Paudie Coffey: I appreciate Senators' views. This is probably the most topical issue in the country at this particular time. I welcome Senators' views and opinions on the whole housing debate. I acknowledge that there is an opportunity now on the floor of the Seanad to express those views. The debate on the first group of amendments has been very wide-ranging, covering everything including rent, supply, the current state of the construction sector, the economics of the construction sector and much of the detail that surrounds that.

The Government is attempting to normalise the construction sector by making provisions and introducing measures and interventions where necessary so that the supply of houses can return to a normal and sustainable level. It is a dual approach which will be achieved through the tenancies provisions in this legislation, through the supply provisions, some of which will be introduced in the Finance Bill, and by other measures in terms of planning legislation. Whilst

housing may seem simple in terms of putting a roof over people's heads, it is a very complex area that is open to very many variable factors in terms of economics, construction, tenancies and regulation right across the board. There is no simple intervention. The Government has looked at all areas to see what measures it can introduce to have a positive impact on sustaining tenancies and increasing the supply of houses, which I think is the objective that we all share.

Recently, I attended a meeting with ministerial colleagues from the United Kingdom, Northern Ireland, Wales and Scotland and they are experiencing the very same problems that we are experiencing here in Ireland. I can say that clearly. We are sharing information because they are looking at some of the interventions we are making to see how they could introduce them in their jurisdictions, and we are also looking at what they are doing. That is the way it should be in terms of how we address the challenge that we are currently facing.

I will address some of the issues that Senators raised on the amendments. I acknowledge Senator van Turnhout's specific concerns around children at risk and the issue of emergency accommodation and the protections that are placed around that. Senator Hayden also raised this issue. Tusla sits on the Cabinet sub-committee on housing and has an input into that. The Senator is rightly concerned about it. That is why Government is prioritising emergency accommodation and getting people out of that situation into more sustainable accommodation provided by local authorities or approved housing bodies. The Senator had a number of detailed questions which I am happy to clarify for her if she corresponds with me. I will arrange to do that. She is right to raise the issue of emergency accommodation on the floor of the Seanad tonight. We are addressing that through a number of measures. First and foremost is the Bill before us, the purpose of which is to enhance sustainment of tenancies in houses, because the best way to provide a home for a person or family is to keep them in the home that they are currently in. As Senator Hayden has already done, I acknowledge the role of Threshold, the Dublin homeless executive and other local authorities in their particular regions for the manner in which they are engaging with families and individuals to keep them in their own homes. It has been made clear, and I want to make it clear again here on the floor of the Seanad, that tenants have rights in current law. We will enhance those rights in terms of notice periods and other interventions with the amendments we are making in the Residential Tenancies (Amendment) (No. 2) Bill. Tenants have rights, and no tenant should be asked to vacate a home or be evicted from a home without receiving appropriate advice from people who can provide it - namely, the local authorities, Threshold and other agencies. I encourage any public representative, if presented with the case of a person under threat of homelessness, to engage in a proactive way with Threshold or the local authorities, who can advise them best.

I heard the calls in the Seanad today for increasing the cap on rent supplement. There are thousands of cases. The Government has concerns about increasing rent supplement because we feel it could lead to rent inflation and is just the market chasing itself. That is a cause of concern. Thousands of cases have been resolved by the Department of Social Protection on a case-by-case basis whereby rent supplement has been increased to keep people in their homes. That is happening right around the country as we speak, and it will continue to happen. They are the short-term measures to enhance and enforce tenancy rights to keep people in their own homes.

Through the social housing strategy and Construction 2020 we will increase supply. As Senators have quite rightly identified, supply is the nub of the problem. We do not have an adequate number of appropriate housing units where they are needed in this country. We are focusing Government resources on establishing the quickest way to turn around, enhance and

increase the number of units available for people who most need them. There is good news in this area. Before the social housing strategy, the number of vacant houses, or voids, around this country in all local authorities was far too high. That was for various reasons. Councils will say they do not have the resources to do them up and turn them around and that they do not have the manpower. More than 300 additional staff have been allocated to local authorities right around the country to deal with housing and planning issues. That is essentially to deal with the housing crunch that we are experiencing at present. In 2014, more than 2,000 voids were turned around and put back into beneficial use by local authorities. In 2015, we expect it to be more than 2,500. That is a substantial improvement on the situation in which we had existing stock lying vacant in local authorities' hands that was not being used. Between 2014 and 2015, almost 5,000 of those units will be put back into use. In addition to that, we will continue to fund local authorities that present proposals to us to turn those voids around. It is the quickest way of turning existing assets and stock back into use for those on the housing list. We are also approving many acquisitions for local authorities and approved housing bodies where there is value for money and where they can buy houses from the market and utilise those. In Dublin alone, more than 50% of those allocations are being used for homeless families. Senator Hayden correctly identified that more than 739 people or families have been exited from homelessness over the past year by the Dublin Region Homeless Executive. This is progress, but the problem is the pressure continues on the other side of the equation. This is why we must address the supply measures in as many innovative ways as possible, including getting social housing programmes up and running in local authorities and enhancing the roles of the approved housing bodies, which can access off-balance sheet funds and provide housing. The provision of modular homes is a short to medium-term measure, whereby we will provide 500 modular homes within the next six or seven months in the Dublin area to address emergency accommodation. We have provided a supported unit for families to move them out of hotels in Tallaght, which will provide supported homes for more than 70 families.

Much work is being done, and this should be acknowledged, but I am under no illusions that much more needs to be done. The legislation we are debating has the capability to bring stability to the rental market, which will sustain tenancies for a period of up to four years as it has a sunset clause. Senators have asked why we have dysfunctional property and construction sectors. It should be no surprise because we had an overinflated dependence on the property sector in recent years, which contributed to the economic bust we have seen. It has left consequences and a legacy which we are finding very difficult to deal with. We can see this legacy everywhere, with builders who have gone bust, left the trade and are no longer building, people who went bust because inflated property prices meant they were over indebted to banks, and the banks which eventually went bust. Economists such as Senator Barrett know only too well why this happened.

In the current economic climate, as we see recovery happening, unfortunately the construction sector is the last to recover. We are beginning to see it recover gradually. The number of planning permissions is beginning to increase but there are still challenges. Senator Bradford asked whether I have responsibility for housing or for construction. I am a Minister of State at the Department of the Environment, Community and Local Government, and I am doing my utmost with my colleagues in government, including the Minister, Deputy Kelly, to bring the construction sector back to a sustainable normalised level.

We need to learn from the past. Senator Bradford was a member of Cork County Council and he knows only too well we had far too much overzoning in places where it was unneces-

sary. We had more than 3,000 unfinished housing estates a short number of years ago. The good news is many of them have been resolved due to Government interventions, such as the special resolution fund. The number of unfinished estates throughout the country has been reduced to fewer than 600. Further progress will be made on these. The market is beginning to resolve some of this also. Many of them will never recover because they were built in places where there is no demand. One may ask quite rightly what the Government has done and whether we will return to the same cycle. I argue and contend we will not, because we now have the Housing Agency which is independent of the Government. Its role is to analyse the demographics of the country to see where the demand is, what type of housing is required to meet this demand and consider where it is needed. Its information and the recommendations it makes are used by the Government to inform policy and to inform where we will invest in infrastructure and prioritise investment so the supply and demand equation is better matched than what we have seen. This is only right.

We will also introduce measures such as those in the Urban Regeneration and Housing Act, which we passed last July, to incentivise and encourage investment in house building in the centres of towns and cities. This is to move away from the sprawling housing we saw in the past in out of town locations, where large-scale infrastructure and costly investment is needed. We state it should be invested in town and city centres, where we already have infrastructure and services. We are legislating to incentivise it, and we will bring further legislation forward in forthcoming planning Bills to try to increase the supply of housing. This may attract some criticism from some quarters because we want to increase the number of units available in cities and we will make interventions with regard to the standard of apartments because we feel some of them are over-onerous with regard to the cost of delivery, for example, there may be requirements for dual aspect, lift shafts or car parks. We believe there is scope and availability for legislating to allow for less onerous design concepts for apartments. They can provide homes and units which are badly needed and we need to see progress on this.

Senator Reilly asked why there is no link with the consumer price index. The Government took account of all views on this and we feel what we have brought forward is a form of stability, with a sunset clause. The DKM report and other reports and economists state if one directly intervenes in the market through rent control one will deter investment, and investment is what we require if we are to see more building and housing supplied. For these reasons we will not accept the Sinn Féin amendment. The key point is to extend the period between rent reviews to 24 months, so the fundamental rent setting principle of the 2004 Act is not replaced but tenants benefit from 24 months of certainty.

I have tried to address many of the issues which have been raised. I acknowledge Senator Zappone who, in general, welcomed some of the provisions introduced as being more or less balanced. She stated they were fair but not punitive, which I welcome. She asked about the increase in the number of days' notice from 28 to 90. The question is whether one can serve a notice of new rent before rent is reviewed. The answer is this cannot be done, because the notice must contain the amount of the new rent which can only be set pursuant to a review. I am happy to clarify this further for the Senator in writing.

The provisions in the Bill will go a long way to providing certainty in rent with regard to keeping and sustaining people in their homes over the coming years. The Bill includes sunset clauses because this is a short-term to medium-term intervention. We expect the property and construction sectors to recover as the economy recovers, and with this we expect to see increased supply and the dysfunction to leave the market. As Senator Bradford and others have

said, what we need to see in this country is demand being matched with supply. There needs to be an appropriate match with regard to the type of housing unit and where they are required.

I feel quite strongly about creating mobility in the market again. Unfortunately, the economic circumstances which have pertained in recent years have meant we have not seen much mobility in the market. People who have reared their families are living in houses with capacity. We need to see much more accommodation for elderly people as the population grows older. This would allow mobility, as people could move into supported care homes and settings and retain their independence. This is why the Government is investing substantially in capital assistance programmes, whereby we provide homes for the elderly throughout the country so people can have supported independent homes. I hope in time this, in turn, will see the provision of existing family homes, which are probably underused at present, becoming available. Many factors feed into the housing and economic situation we have at present. The Government feels the Bill is a balanced and pragmatic approach, particularly to address rental issues and to sustain tenancies. In the short term we will introduce other measures in the Finance Bill which will assist with regard to supply. It is certainly not to support the construction sector in any way, but to support the citizens of the country who require homes. This is a shared objective of us all.

Amendment agreed to.

Section 1, as amended, agreed to.

Section 2 agreed to.

SECTION 3

An Leas-Chathaoirleach: Amendment No. 3 has been ruled out of order as it involves a potential charge to the Exchequer.

Amendment No. 3 not moved.

An Leas-Chathaoirleach: Amendments Nos. 4, 6, 8 to 11, inclusive, 18, 19, 21, 22 and 98 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 4:

> In page 6, line 21, after "authority" to insert the following:
>
> "and without prejudice to the generality of the foregoing, including a dwelling provided by a public authority to an approved housing body other than a dwelling referred to in subsection (2A)".

Deputy Paudie Coffey: The purpose of these amendments is to clarify the relationship between local authorities and the approved housing bodies, AHBs, where dwellings are let by local authorities to AHBs and subsequently let by those bodies to social housing tenants. These provisions were included in the published Bill but amendments Nos. 4, 6, 8 and 9 redraft those provisions to make it clear that for the purposes of the application of the Residential Tenancies Act to dwellings let by the AHBs, the Residential Tenancies Act does not apply to the tenancy between the local authority and the AHB. The Residential Tenancies Act does apply to the tenancy between the AHB and the social housing tenant. This makes it clear that all the rights and obligations under the Residential Tenancies Act apply to the tenancy between the AHB and

its tenant.

Amendment No. 6 clarifies that the relationship between the approved housing body and its tenant is that of landlord and tenant and is not a sub-tenancy.

Amendment No. 21 is a technical amendment to the definition of approved housing body to provide for this relationship. Amendment No. 98 is a consequential amendment to section 65 of the published Bill.

Amendments Nos. 10, 11, 18 and 19 are drafting amendments and correct errors in the published Bill. Amendment No. 22 is a consequential amendment on that as well.

Amendment agreed to.

An Leas-Chathaoirleach: Amendment No. 5 has been ruled out of order as it involves a potential charge to the Exchequer.

Amendment No. 5 not moved.

Government amendment No. 6:

In page 6, to delete lines 24 to 33 and substitute the following:

" "(2A) Where—

(a) a public authority provides a dwelling, of which it is the owner, to an approved housing body under a contract or lease between the public authority and the approved housing body pursuant to paragraph (ea) of section 6(2) of the Housing (Miscellaneous Provisions) Act 1992, and

(b) subsequent to such provision the dwelling concerned is the subject of a tenancy between the approved housing body concerned and a household within the meaning of section 20 of the Housing (Miscellaneous Provisions) Act 2009 that has been assessed under that section of that Act as being qualified for social housing support (within the meaning of that Act),

for the purposes of subsection (1) and without prejudice to paragraph (c) of subsection (2)—

(i) this Act applies to that dwelling (including any such dwelling that is the subject of a tenancy created before the coming into operation of this subsection),

(ii) any such tenancy shall not, for the purposes of this Act, be treated as a sub-tenancy arising out of such lease or contract between the public authority and the approved housing body, and

(iii) references in this Act to a sub-tenancy shall not include a dwelling that is the subject of a tenancy between the approved housing body and the household within the meaning of section 20 of the Housing (Miscellaneous Provisions) Act 2009.".".

Amendment agreed to.

An Leas-Chathaoirleach: Amendment No. 7 has been ruled out of order as it involves a potential charge to the Exchequer.

Amendment No. 7 not moved.

Government amendment No. 8:

In page 6, to delete lines 36 to 41, and in page 7, to delete lines 1 to 19 and substitute the following:

" "(4) Without prejudice to subsection (1), for the purposes of the application of this Act to—

(a) a dwelling referred to in subsection (2A), and

(b) a dwelling, other than a dwelling referred to in paragraph (a), that—

(i) is owned and provided by an approved housing body to whom assistance is given under subsection (2) of section 6 of the Housing (Miscellaneous Provisions) Act 1992, other than the assistance referred to in paragraph (ea) of that subsection, for the purposes of such provision by the approved housing body,

(ii) is the subject of a tenancy (including a tenancy created before the commencement of this subsection), and

(iii) is let by that approved housing body to a household within the meaning of section 20 of the Housing (Miscellaneous Provisions) Act 2009 that has been assessed under that section of that Act as being qualified for social housing support (within the meaning of that Act),

subsections (5) and (6) (both inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2015*) and sections 3A and 3B (both inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2015*) shall apply to a dwelling referred to in paragraphs (a) and (b).".

Amendment agreed.

Government amendment No. 9:

In page 7, to delete lines 30 to 34 and substitute the following:

"(c) the person who is the tenant of the dwelling shall be construed in accordance with subsection (6).".

Amendment agreed to.

Government amendment No. 10:

In page 7, lines 36 and 37, to delete "in subsection (4)(a)" and substitute "in paragraphs (a) and (b) of subsection (4)".

Amendment agreed to.

Government amendment No. 11:

In page 7, line 48, to delete "in subsection (4)(a)" and substitute "in paragraph (a) or (b) of subsection (4)".

Amendment agreed to.

Section 3, as amended, agreed to.

SECTION 4

An Leas-Chathaoirleach: Amendments Nos. 12 to 15, inclusive, 23 to 25, inclusive, 28 and 29 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 12:

In page 8, line 40, to delete "sections 19 to 22" and substitute "sections 19, 20, 21 and 22".

Deputy Paudie Coffey: The published Bill provides that sections 19 to 22, inclusive, and 139 of the Residential Tenancies Act 2004 will not apply to approved housing body tenancies. Approved housing bodies generally use a differential rent scheme as applied by local authorities to determine the rents of their dwellings. Under this system the amount of rent to be paid by a tenant is based on the income of the household, and the provisions in the 2004 Act, including section 19 which deals with market rent, conflict with the scheme. As the differential rent scheme is more advantageous to approved housing body tenants than the provisions relating to rent in the 2004 Act, they are excluded from these sections. AHB rents for their social housing tenants are set when the AHB signs an agreement with the housing authority to house those tenants. Those agreements are made under section 6 of the Housing (Miscellaneous Provisions) Act 1992. Amendment No. 23 inserts a new section 19A into the principal Act to clarify how AHB rents are determined. Amendment No. 24 inserts a new section 20A into the principal Act which provides that any review of rent is determined under this agreement and that where no review of rent is provided for in the agreement, either party may request a review.

Amendments Nos. 12, 13 and 15 are technical drafting amendments. Amendment No. 14 is a consequential amendment on amendments Nos. 23 and 24. Amendment No. 25 provides for the notification of new rent to AHB tenants. Amendments Nos. 28 and 29 are consequential amendments.

Amendment agreed to.

Government amendment No. 13:

In page 8, line 42, after "section 3(4)," to insert "and".

Amendment agreed to.

Government amendment No. 14:

In page 8, to delete lines 43 to 45.

Amendment agreed to.

Government amendment No. 15:

In page 8, line 46, to delete "(g) section" and substitute "(f) section".

Amendment agreed to.

An Leas-Chathaoirleach: Amendments Nos. 16, 17, 20 and 26 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 16:

In page 8, line 48, to delete "section 3(4).".” and substitute "section 3(4).".

Deputy Paudie Coffey: Amendments Nos. 16, 17, 20 and 26 are related. Under Part 4 of the 2004 Act, security of tenure is based on rolling four-year tenancy cycles. A landlord may not serve a notice of termination except in very clearly defined circumstances, such as a failure by the tenant to comply with his or her obligations in relation to the tenancy. As I am sure members are aware, many AHB tenants rely on the provision of care services and would be unable to live in their home without the provision of such care. The AHB sector had sought exemptions from Part 4 of the Act in order that it could terminate Part 4 tenancies if such supports or services were no longer available. The Bill as drafted therefore included a provision whereby an AHB, notwithstanding the provisions of Part 4 of the Act regarding security of tenure, could terminate a tenancy on the grounds that the dwelling is no longer suitable because the care services required by the tenant are no longer available. A number of concerns were raised on Committee Stage in the Dáil about this provision querying what would happen to the tenant when the tenancy was terminated and the possibility that these tenants could become homeless following the termination of their tenancies. Having considered the issues raised I believe it is not appropriate to terminate the tenancy for reasons that are not linked to the conduct of the tenant. As such, amendment No. 20 removes these termination grounds from the Bill and any issues arising in this area will instead be dealt with through consultation with the AHB and the tenant together with the relevant agencies with a view to finding the optimal solution for all concerned.

With regard to a transitional accommodation in some cases, such as short-term transitional accommodation for those learning to adjust to independent living, it makes sense to exempt these dwellings from the automatic right to a four-year tenancy after six months in occupation. For this reason amendments Nos. 17 and 26 provide that Part 4 of the Act, the right to a four-year tenancy, will not apply to this specific type of AHB accommodation However, all other rights and obligations under the Act will apply to these tenancies and AHBs will need the consent of the relevant local authority to designate the dwelling as transitional accommodation.

Amendment No. 16 is a technical drafting amendment.

Amendment agreed to.

Government amendment No. 17:

In page 8, between lines 48 and 49, to insert the following:

“Notification to Minister of designations

3C. Where an approved housing body makes a designation referred to in subsection (5) of section 25, it shall notify the Minister of such designation and consent of the public body concerned not later than 6 months after the making of such designation.”.”.

Amendment agreed to.

Government amendment No. 18:

In page 9, to delete lines 3 and 4 and substitute the following:

"accordance with section 3B(b) (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2015*)" after "is commenced".".

Amendment agreed to.

Government amendment No. 19:

In page 9, to delete line 14 and substitute "*(Amendment) Act 2015*)" after "commences on or after the relevant date".".

Amendment agreed to.

Government amendment No. 20:

In page 9, to delete lines 15 to 51, and in page 10, to delete lines 1 to 3.

Amendment agreed to.

Section 4, as amended, agreed to.

SECTION 5

Government amendment No. 21:

In page 10, to delete lines 6 to 8 and substitute the following:

" " 'approved housing body' means a body—

(a) approved under section 6(6) of the Housing (Miscellaneous Provisions) Act 1992 for the purposes of section 6 of that Act, and

(b) to which—

(i) assistance under section 6 of the Housing (Miscellaneous Provisions) Act 1992 is given for the provision by the approved housing body of dwellings owned by it, or

(ii) assistance referred to in section 6(2)(ea) of that Act is given;".

Amendment agreed to.

Government amendment No. 22:

In page 10, to delete line 11 and substitute the following:

"1992;",

and".

Amendment agreed to.

Section 5, as amended, agreed to.

NEW SECTIONS

Government amendment No. 23:

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

"**Setting of rent under tenancy for dwellings referred to in section 3(4)**

6. The Principal Act is amended by inserting the following section after section 19:

"**19A.** (1) In setting the rent under the tenancy of a dwelling referred to in section 3(4) the amount of rent under the tenancy of a dwelling—

(a) referred to in paragraph (a) of section 3(4), shall be determined in accordance with the contract or lease referred to in section 3(2A), and

(b) referred to in paragraph (b) of section 3(4), shall be determined in accordance with the terms of the assistance referred to in that paragraph.

(2) Where there is a subsequent setting of rent under a tenancy referred to in subsection (1) by way of a review under section 20A, the amount of rent set following such review shall be determined—

(a) in the case of a dwelling referred to in paragraph (a) of subsection (1), in accordance with the contract or lease referred to in that paragraph, and

(b) in the case of a dwelling referred to in paragraph (b) of subsection (1), in accordance with the assistance referred to in that paragraph.".".

Amendment agreed to.

Government amendment No. 24:

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

"Rent review for dwellings referred to in section 3(4) of Principal Act

7. The Principal Act is amended by inserting the following section after section 20:

"**20A.** (1) A review of the rent under the tenancy of a dwelling referred to in section 3(4) shall be carried out in accordance with the tenancy agreement relating to the tenancy of the dwelling

(2) Where a tenancy agreement referred to in subsection (1) does not include provision for a review of the rent of a dwelling referred to in section 3(4), subject to subsection (3), either party may require a review of the rent under the tenancy to be carried out for the purpose of setting the rent.

(3) A review referred to in subsection (2) shall not be carried out more than once in any 12 month period.".".

Amendment agreed to.

Government amendment No. 25:

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

"Notification of change in amount of rent following review under section 20A

8. The Principal Act is amended by inserting the following section after section 22:

"**22A.** Where, following a review of rent under section 20A, there is a change in the amount of rent, the landlord shall notify the tenant of the amount of rent set following that review in accordance with the tenancy agreement or where there is no such provision in the tenancy agreement, as soon as practicable.".".

Amendment agreed to.

Government amendment No. 26:

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

"Amendment of section 25 of Principal Act

9. Section 25 of the Principal Act is amended by inserting the following subsections after subsection (4):

"(5) This Part does not apply to a tenancy of the dwelling referred to in section 3(4) where—

(a) the dwelling concerned is designated by the approved housing body for the use by it as a transitional dwelling, and

(b) the consent of the public authority which—

(i) is, in the case of a dwelling referred to in paragraph (a) of section 3(4), a party to the lease or contract referred to in section 3(2A), or

(ii) provides, in the case of a dwelling referred to in paragraph (b) of section 3(4), the assistance referred to in that paragraph,

has, in respect of the designation referred to in paragraph (a), been obtained by the approved housing body before it makes the designation.

(6) In subsection (5) 'transitional dwelling' means a dwelling that an approved housing body leases for periods not exceeding 18 months for the purposes of the approved housing body concerned.

(7) Where, before the coming into operation of *section 3* of the *Residential Tenancies (Amendment) Act 2015*, an approved housing body had not, for the purposes of subsection (5), made a designation in respect of a dwelling referred to in paragraph (a) or (b) of section 3(4) that it leases to a household referred to in subsection (2A) or (4)(b) of section 3 for a period not exceeding 18 months, the approved housing body concerned—

(a) may designate that dwelling to be a transitional dwelling for the purposes of subsection (5) at any time during the period of 12 months commencing on the day on which *section 3* of the *Residential Tenancies (Amendment) Act 2015* comes into operation, and

(b) shall notify the Minister of that designation not later than 3 months after it is made.”.”.

Amendment agreed to.

Senator Kathryn Reilly: I move amendment No. 27:

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

“6. Section 12 of the Principal Act is amended in subsection (1) by inserting the following:

“(i) provide that the dwelling shall have access to suitable and adequate pest and vermin proof refuse storage facilities, which shall be provided in such a manner so as not to be visible from the public street, or to cause nuisance, or to detract from the amenity of adjoining dwellings,

(j) ensure that waste is presented for collection in accordance with the Waste Management Act 1996 (as amended),

(k) upon registering the dwelling under section 134 of the Act, and on an annual basis thereafter, the landlord must submit to the Board a contract with an authorised waste collection agent, or any other details as the Boards consider necessary, to ensure compliance with the Waste Management Act 1996 (as amended).”.”.

6 o’clock

It is essentially to ensure tenants are provided with space to deal responsibly and hygienically with refuse without attracting vermin. It would ensure refuse facilities could not be tampered with or used for dumping by passing members of the public. It sets out that a landlord must provide the PRTB with proof of a waste management contract.

Deputy Paudie Coffey: The Government will not be accepting the amendment. Essentially, it means a landlord would be responsible for managing the waste of his tenants. Considering the fundamental polluter pays policy and the responsibilities that go with it, I see no reason to accept the amendment. Essentially, tenants are responsible for their waste.

I acknowledge the part of the amendment that refers to the provision of adequate storage facilities for refuse. The most appropriate way to deal with this is through the planning process. Local authorities have a role to ensure facilities are appropriate to the demands of the development. We will not be accepting the amendment because individuals should be responsible for their own waste. The planning process should be the appropriate process for ensuring adequate facilities are provided in developments.

Senator Kathryn Reilly: In light of what the Minister of State said, particularly on storage facilities and the planning process, I will not press the amendment this time.

Amendment, by leave, withdrawn.

Sections 6 and 7 agreed to.

NEW SECTION

Government amendment No. 28:

In page 10, between lines 34 and 35, to insert the following:

"Amendment of section 78 of Principal Act for purpose of *Part 2*

8. Section 78 of the Principal Act is amended, in paragraph (b) of subsection (1), by inserting "or, as the case may be, section 19A" after "section 19".".

Amendment agreed to.

SECTION 8

Government amendment No. 29:

In page 11, line 29, to delete "by substituting" and substitute "in subsection (3), by substituting".

Amendment agreed to.

Section 8, as amended, agreed to.

Sections 9 and 10 agreed to.

SECTION 11

An Leas-Chathaoirleach: Amendments Nos. 30, 32, 34 to 42, inclusive, and 44 to 49, inclusive, are related and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 30:

In page 12, to delete line 42 and substitute "specified in section 137A(1)(b),".

Deputy Paudie Coffey: The Bill provides for the registration fees that approved housing bodies will pay to register their tenancies with the PRTB and the timeframe within which tenancies must be registered. Where the tenancy is registered within the first year after the commencement of these provisions, the fee to be paid by approved housing bodies will be €45 for a single tenancy and €187.50 for multiple registrations. This is equal to half the registration fee currently paid by landlords in the private sector. The Bill further provides that the fee, after the first 12 months, is to be prescribed by the Minister. My predecessor, Deputy Jan O'Sullivan, indicated on Committee Stage in the Dáil that approved housing bodies will pay the same fee as private landlords after the initial discount period. That fee is currently €90 per tenancy. A similar power is given in the Bill to prescribe fees for late registration. Again, my predecessor indicated they would be the same as the fees charged to the private sector.

For the purpose of providing clarity and certainty to the approved housing bodies, I have decided it is appropriate to set these fees out in the primary legislation as they are set out for the private rental sector. As such, amendment No. 42 provides that the fee after the first 12 months will be €90. Amendment No. 44 provides the composite fee after the first 12 months will be €375. These are the same fees that are paid by the private sector.

The published Bill makes provision for a graduated a late fee. Under the 2004 Act, if a landlord is late in registering a tenancy, he must pay double the registration fee. However, the Bill provides for penalties for late registration on an ascending scale. There is a penalty of €20

for each month the landlord is late registering the tenancy.

Amendments Nos. 41 and 46 place a cap on the late fees that can be charged to a landlord in either the private or approved housing bodies sector of €240. Amendment No. 47 provides that the PRTB may increase or decrease approved housing body registration fees only in line with changes in the value of money. A similar provision applies to fees for the private sector. Amendment No. 49 provides that the PRTB may charge an administration fee for an application that is not made online. The published Bill provided that this fee was to be prescribed. Therefore, amendments Nos. 32 and 40 are consequential. Amendments Nos. 30, 35, 37, 38, 45 and 48 are consequential. Amendments Nos. 34, 36 and 39 are technical drafting amendments to correct an omission in the published Bill.

Amendment agreed to.

Senator Kathryn Reilly: I move amendment No. 31:

In page 12, between lines 42 and 43, to insert the following:

"(iii) a tax clearance certificate from the Revenue Commissioners Office before renewal of registration is completed,

(iv) a certificate of approval of approved housing standards as agreed by the relevant local authority in accordance with current statutory regulations enacted by the Minister,".

This amendment requires landlords to provide a tax clearance certificate and certificate of approved housing standards from the local authority on registering a tenancy. The rationale is that there is a lack of standards in much rental accommodation, particularly in Dublin where the local authority and Royal Institute of the Architects of Ireland both found that more than 90% of flats in the inner city failed to meet basic standards.

Deputy Paudie Coffey: While I appreciate the intention behind the amendment, I believe it is important we do not lose sight of the core functions of the PRTB. Its primary role is to register tenancies and resolve disputes between landlords and tenants. It is not the role of the PRTB to collect revenue; it is the role of the Revenue Commissioners to ensure citizens pay their tax.

However, the PRTB can take and has taken every opportunity to work with the Revenue Commissioners in this area and improve data exchange between the two bodies. In fact, following a recommendation from the Committee of Public Accounts, the 2004 Act was amended in 2009 to make express provision for the exchange of information between the PRTB and Revenue Commissioners. This allows the Revenue Commissioners access to the register of tenancies maintained by the PRTB in order to facilitate tax compliance checks by them. There is already a very proactive collaboration arrangement between the Revenue Commissioners and the PRTB. There is sharing of information, as is appropriate, so we will not be accepting the amendment.

Senator Kathryn Reilly: I will not press the amendment this time but may consider resubmitting it on Report Stage.

Amendment, by leave, withdrawn.

Government amendment No. 32:

In page 13, to delete lines 1 to 3 and substitute the following:

"(c) where a fee referred to in section 176(3)(ba) is required to be paid, be accompanied by that fee.",".

Amendment agreed to.

Acting Chairman (Senator Pat O'Neill): Amendments Nos. 33, 51, 52, 65, 82, 84, 85 and 88 to 91, inclusive, are related. Amendments Nos. 93, 94 and 96 are related. Amendments Nos. 43 and 96 are logical alternatives to amendment No. 90. Amendments Nos. 33, 43, 51, 52, 65, 82, 84, 85, 88 to 91, inclusive, 93, 94 and 96 may be discussed together. Is that agreed? Agreed.

Government amendment No. 33:

In page 13, between lines 3 and 4, to insert the following:

"(d) by inserting the following subsection after subsection (3):

"(3A) Where a deposit referred to in section 12(1)(d)—

(a) has been paid to the landlord, the application under this section shall, pursuant to section 135A(1), be accompanied by the deposit, or

(b) has not been paid to the landlord and a statement referred to in section 135A(2) is, pursuant to that section, required to be furnished to the Board, the application under this section shall be accompanied by that statement.",".

Deputy Paudie Coffey: The list of amendments referred to by the Acting Chairman shows the complexity of the Bill. Essentially, the section and the amendments deal with deposit protection, which has been called for by many Senators from all sides of the House for a long time. My amendments in the group concern putting in place the structural changes necessary to support the introduction of the deposit protection scheme. Amendment No. 87, which will be discussed later, will deal with the mechanics of how the scheme will operate. The amendments I am now introducing are some of the most significant measures to be introduced in the Bill.

The issue of the illegal retention of deposits is one that has negatively affected the private rental sector for many years. Senators, councillors, Deputies and all other public representatives have often raised concerns about this. Almost every Senator who spoke on the Bill during Second Stage supported the programme for Government commitment to establishing a tenancy deposit protection scheme. I acknowledge Senator Hayden, in particular, as she has worked tirelessly in support deposit protection for some considerable time. Her contribution on deposit protection measures has been of significant value and one to which I have listened carefully.

The unjustified withholding of tenants' deposits by a small number of rogue landlords is a matter we simply cannot tolerate. The establishment of the scheme will eliminate this practice and contribute to the ongoing regulation and development of rented housing as an attractive and long-term housing option. As such, I am pleased to introduce the following amendments. Amendment No. 51 amends section 12 of the principal Act to place an obligation on the landlord to transmit the deposit to the PRTB. An obligation is also placed on the landlord to respond to notifications of the board regarding the return of the deposit and to provide the board with an

up-to-date contact details.

Amendment No. 84 provides that this is done at the time of registration and provides for a statement to be provided to the board where the tenant does not pay any deposit. The enforcement of this obligation is provided for by a new section 135B in the principal Act.

Amendment No. 85 provides that the amount of the deposit must be included in the registration application form. Amendment No. 52 places an obligation on tenants to provide the board with up-to-date contact details and to respond to notifications sent by the board. Amendment No. 65 is a transitional provision, consequential to the amendment to section 12, to provide for deposit-related disputes that have not been fully determined as the time of the commencement. Amendment No. 82 provides for the cancellation of the return of the deposit in circumstances where it is incorrectly returned by the PRTB.

With regard to accounting provisions, amendment No. 88 amends section 151 of the principal Act to provide that the retention of deposit is now a function of the board. Amendments Nos. 89 and 90 provide for the financial control of the deposit funds which must be kept in separate accounts and from which funds may only be withdrawn to return deposits or withdraw the interest.

Amendment No. 91 provides that the board must include information on the operation of the scheme in its annual report. There is a small error regarding the type of information that must be included in the annual report and I intend to deal with this matter on Report Stage.

Amendment No. 33 clarifies that approved housing bodies, where they take deposits, must also send them to the board at the time of registration.

With regard to the Opposition amendments tabled by Sinn Féin, namely, amendments Nos. 93, 94 and 96, I appreciate the intention behind the amendments and I fully appreciate and share the concerns that lie behind them. However, the amendments I have introduced have adequately provided for in the deposit protection scheme envisaged in these amendments and in view of this I would respectfully ask the Senator to withdraw the amendments.

With regard to amendment No. 43 tabled by Senator Mary White, the Government amendments provide for the establishment of a custodial deposit protection scheme. Where a deposit is involved the landlord must remit the deposit to the PRTB at the time of registration. There is no fee for a landlord or tenant and while I understand the motivation behind the Senator's amendment, it could and would promote the idea that it is permissible for a landlord to retain a tenant's deposit, something from which we are now moving away. It would also result in compliant landlords having to pay extra to effectively pay for the illegal activities of a very small number of non-compliant landlords. For these reasons, I cannot accept the amendment.

Senator Kathryn Reilly: I think the Minister of State for his response. I will not press our amendments and will withdraw them in light of his comments. Our amendments were submitted before we knew the content of the Government amendments. The legal withholding of deposits is, as I said, a major issue and takes up a large proportion of the time of organisations like Threshold which advocates for tenants, as well as the PRTB which, as the Minister of State said, mediates in such circumstances.

Many tenants are not aware of their rights regarding deposits and the return and the withholding of a deposit from a tenant for an extended period of time is common and causes serious

hardship for people who are trying to secure new places to live or cover the costs of moving. A relative of mine had a very difficult time with a landlord who took a deposit. Through mediation with the PRTB, it initiated legal proceedings and the landlord skipped the country. She never got her deposit back. The fact that this scheme will be implemented will go a long way to protect tenants and make sure they get their property back because deposits, as the PRTB has emphasised, are the property of tenants and not that of landlords. I welcome the insertion of this principle into the Bill and will not press our amendments.

Deputy Paudie Coffey: I thank the Senator for withdrawing the amendments. The Government amendments are a significant part of the Bill and were commitments in the programme for Government. It is welcome that they are now being introduced. These measures will, in another way, aid tenancy sustainment. As public representatives we often hear that people are having difficulties getting their deposits back from one tenancy or landlords when they move to another and then find it difficult to acquire funds for deposits for other houses. These measures alone will address that particular problem and for those reasons it is to be welcomed.

Amendment agreed to.

Government amendment No. 34:

In page 13, to delete lines 7 and 8 and substitute the following:

"(iii) by substituting "subsection (2)(a), (2)(b), (2A)(i), (2A)(ii) or (2A)(iii)" for "subsection (2)(a) or (b)",".

Amendment agreed to.

Government amendment No. 35:

In page 13, line 13, to delete "prescribed under" and substitute "specified in".

Amendment agreed to.

Government amendment No. 36:

In page 13, to delete lines 15 to 17 and substitute the following:

"(ii) in paragraph (a), by substituting "subsection (2)(a), (2)(b), (2A)(i), (2A)(ii) or (2A)(iii)" for "subsection (2)(a) or (b)", and".

Amendment agreed to.

Government amendment No. 37:

In page 13, line 28, to delete "section 137A(3)" and substitute "section 137A(3),".

Amendment agreed to.

Government amendment No. 38:

In page 13, line 34, to delete "following subsections" and substitute "following subsection".

Amendment agreed to.

Government amendment No. 39:

In page 13, to delete line 41 and substitute the following:

"(b) in subsection (2A)(i), (2A)(ii) or (2A)(iii).".".

Amendment agreed to.

Government amendment No. 40:

In page 13, to delete lines 42 to 44, and in page 14, to delete lines 1 to 3.

Amendment agreed to.

Section 11, as amended, agreed to.

SECTION 12

Government amendment No. 41:

In page 14, to delete lines 12 to 25 and substitute the following:

" "(6) If an application under section 134(2) is not made within the period specified in section 134(2)(b)(ii), the fee to accompany that application shall, subject to subsection (7), be the total amount of —

(a)the fee referred to in subsection (1)(b)(ii), and

(b) an additional amount of €20 for—

(i)each month, or

(ii)part of a month, falling after the expiration of the period specified in section 134(2)(b)(ii).",

and

(e) by inserting the following subsection after subsection (6): "(7)The fee referred to in subsection (6) shall not exceed the total amount of €240.".".

Amendment agreed to.

Section 12, as amended, agreed to.

SECTION 13

Government amendment No. 42:

In page 14, to delete lines 33 to 35 and substitute the following:

"(b) if the application is made after the period referred to in paragraph (a)—

(i) unless subparagraph (ii) applies, a fee of €90, or

(ii) if the Board has, under subsection (1A) of section 138, declared a fee for the purposes of this paragraph, the fee declared by the Board under that subsection.".

Amendment agreed to.

Amendment No. 43 not moved.

Government amendment No. 44:

In page 15, to delete lines 14 to 16 and substitute the following:

"(b) if the applications concerned are made after the period referred to in paragraph (a) —

(i) unless subparagraph (ii) applies, a fee of €375, or

(ii)if the Board has, under subsection (1A) of section 138, declared a fee for the purposes of this paragraph, the fee declared by the Board under that subsection.".

Amendment agreed to.

Government amendment No. 45:

In page 15, line 21, to delete "paragraph (a) or (b)" and substitute "paragraph (a), (b) or (c)".

Amendment agreed to.

Government amendment No. 46:

In page 15, to delete lines 22 to 37 and substitute the following:

"(6) If an application under section 134(2A) is not made within the period specified in paragraph (a), (b) or (c) of section 134(2A), the fee to accompany that application shall, subject to subsection (7), be the total amount of—

(a) the fee referred to in paragraph (a) or, as the case may be, paragraph (b) of subsection (1), and

(b) an additional amount of €20 for—

(i)each month, or

(ii)part of a month, falling after the expiration of the period specified in paragraph (a), (b) or (c) of section 134(2A).

(7)The fee referred to in subsection (6) shall not exceed the total amount of €240.".".

Amendment agreed to.

Section 13, as amended, agreed to.

NEW SECTION

Government amendment No. 47:

In page 15, between lines 37 and 38, to insert the following:

" **Amendment of section 138 of Principal Act 14**

Section 138 of the Principal Act is amended —

(a) by inserting the following subsection after subsection (1):

"(1A)Without prejudice to subsection (1), where, in respect of the fee referred to in subsections (1)(b) and (4)(b) of section 137A, the Board is satisfied that, having regard to changes in the value of money generally in the State that have occurred in —

(a) any period ending on or before the date that falls 24 months after the commencement of subsection (2A) of section 134, or

(b) any period subsequent to that date,

it is appropriate for it to declare a fee of a greater or lesser amount than—

(i)in the case of section 137A(1)(b)—

(I) €90, or

(II) the amount that was last previously declared (in exercise of the power under this section)for the purposes of that provision,

or

(ii) in the case of section 137A(4)(b)—

(I)€375, or

(II) the amount that was last previously declared (in exercise of the power under this section) for the purposes of that provision,

it may, subject to subsection (2A), declare in writing, for the purposes of subsection (1)(b) or (4)(b) of section 137A, a fee of such greater or lesser amount.",

and

(b)by inserting the following subsection after subsection (2):

"(2A) In respect of the declaration of a fee referred to in subsection (1A), the amount (expressed as a percentage) by which the amount of a fee declared under that subsec-

tion is greater or lesser than the amount of the relevant fee mentioned in that subsection shall be such as, in the opinion of the Board, approximates to the percentage increase or decrease in the value of money generally in the State that has occurred in—

(a) unless paragraph (b) applies, the period beginning on the commencement of subsection (2A) of section 134 and ending on the making of the declaration, or

(b) if the power under this section has been previously exercised for the purpose of subsection (1)(b) or (4)(b) of section 137A, as the case may be, the period beginning on the date that the power was last exercised and ending on the making of the declaration.”.”.

Amendment agreed to.

SECTION 14

Government amendment No. 48:

In page 15, line 40, after “or” to insert “, as the case may be, subsection”.

Amendment agreed to.

Section 14, as amended, agreed to.

NEW SECTIONS

Government amendment No. 49:

In page 15, after line 43, to insert the following:

“Amendment of section 176 of Principal Act 15. Section 176 of the Principal Act is amended, in subsection (3), by inserting the following paragraph after paragraph (b):

“(ba) the making of an application under section 134 which is not made in electronic form,”.”.

Amendment put agreed to.

Government amendment No. 50:

In page 16, between lines 2 and 3, to insert the following:

“Amendment of section 8 of Principal Act 15. Section 8 of the Principal Act is amended by inserting the following subsection after subsection (1):

“(1A) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.”.”.

Deputy Paudie Coffey: This is a technical amendment to the general regulation making power in section 8 of the Act to provide for incidental and supplementary provisions, where

necessary.

Amendment agreed to.

Government amendment No. 51:

In page 16, between lines 2 and 3, to insert the following:

"Amendment of section 12 of Principal Act

16. Section 12 of the Principal Act is amended

— (a) in subsection (1), by substituting the following paragraph for paragraph (d):

"(d) where a deposit is paid by the tenant to the landlord on entering into the agreement for the tenancy or lease —

(i) transmit the deposit to the Board in accordance with this Act, and

(ii) for the purpose of the effecting, by the Board, the return of that deposit to the tenant, subject to the conditions specified in subsection (4), and ascertaining, for the purpose of such return, if a default referred to in that subsection is to be taken into account —

(I) respond to the notification of the Board that relates to the return of the deposit in accordance with this Act,

(II) provide information, in accordance with this Act, to the Board of any such default,

(III) notify the Board, as soon as practicable, of any change in the information provided to the Board under section 136(1) (b) in respect of his or her address for correspondence, and

(IV) notify the Board on or as soon as practicable after the end of the tenancy with a statement, in the prescribed form, that he or she requires a default referred to in subsection (4) to be taken into account by the Board,",

(b) in subsection (4), by substituting "A deposit referred to in subsection (1)(d) shall, in accordance with this Act, be returned to the tenant" for "Subsection (1)(d) applies and has effect", and

(c) by inserting the following subsection after subsection (5):

"(6) A landlord shall send a copy of the notification referred to in subsection (1)(d)(ii)(IV) to the tenant at the same time as he or she sends the notification to the Board.".

Amendment agreed to.

Government amendment No. 52:

In page 16, between lines 2 and 3, to insert the following:

"Amendment of section 16 of Principal Act 17

Section 16 of the Principal Act is amended —

(a) in paragraph (m), by substituting "withhold)," for "withhold), and",

(b) in paragraph (n), by substituting "dwelling, and" for "dwelling.", and

(c) by inserting the following paragraph after paragraph (n):

"(o) where a deposit referred to in section 12(1)(d) has been paid to the landlord by the tenant, for the purpose of the effecting, by the Board, the return of the deposit to the tenant subject to the conditions specified in section 12(4) and ascertaining, for the purpose of such return, if a default referred to in section 12(4) is to be taken into account —

(i) to respond to the notification of the Board that relates to the return of the deposit in accordance with this Act,

(ii) to provide information, in accordance with this Act, to the Board of any such default, and

(iii) to notify the Board, as soon as practicable, of his or her address for correspondence when the tenancy has ended.".".

Amendment agreed to.

Government amendment No. 53:

In page 16, between lines 2 and 3, to insert the following:

"Amendment of section 20 of Principal Act 18

(1) Section 20 of the Principal Act is amended by inserting the following subsections after subsection (3):

"(4) The references to '12 months' in — (a) paragraphs (a) and (b) of subsection (1), and (b) subsection (3), shall, for the duration of the relevant period, be construed as references to '24 months'.

(5) Subsections (4) and (6) shall cease to have effect on the day immediately before the fourth anniversary of the day on which section 18# of the Residential Tenancies (Amendment) Act 2015 came into operation and, on and from the first-mentioned day—

(a) paragraphs (a) and (b) of subsection (1), and

(b) subsection (3),

shall be read as if subsection (4) had not been enacted.

(6) In subsection (4), 'relevant period' means the period commencing on the day

on which section 18# of the Residential Tenancies (Amendment) Act 2015 comes into operation and ending on the day immediately before the fourth anniversary of the day on which that section came into operation.".

(2) In the case of a tenancy which commenced before the coming into operation of subsection (1), for the purposes of the amendments effected by that subsection, where—

(a) a period of 12 months, beginning on the commencement of the tenancy, has not lapsed before the day on which subsection (1) comes into operation, a review of rent under that tenancy may not occur until a period of 24 months, beginning on the commencement of the tenancy, has elapsed,

(b) a period of 12 months, beginning on the date of the commencement of the tenancy, has elapsed before the day on which subsection (1) comes into operation and a review of rent under section 20 of the Principal Act has not been carried out before that day, a review of rent may not occur until a period of 24 months, beginning on the commencement of the tenancy, has elapsed, (c) a review of rent was carried out pursuant to section 20(3) of the Principal Act and that review of rent was the most recent review of rent carried out before the coming into operation of subsection (1), a review of rent may not occur until a period of 24 months, beginning on the date of service of the most recent notice served under section 22(2) of the Principal Act, has elapsed, or

(d) one or more reviews of the rent under that tenancy has, or have, been carried out in accordance with section 20 of the Principal Act, a review of rent may not occur until a period of 24 months, beginning on the date of service of the most recent notice served under section 22(2) of the Principal Act, has elapsed.

(3) The amendments effected by subsection (1) —

(a)shall not apply in respect of a review of rent under the tenancy of a dwelling carried out under section 20 of the Principal Act where a review of rent —

(i) is being carried out in accordance with that section before the day on which subsection (1) comes into operation, or

(ii) has been carried out in accordance with that section before the day on which subsection (1) comes into operation, pursuant to which a notice under section 22(2) of the Principal Act has been served on the tenant concerned before the day on which subsection (1) comes into operation,

and

(b) shall apply in respect of a review of rent under the tenancy of a dwelling carried out after the review of rent referred to in paragraph (a).".

Amendment and agreed to.

Government amendment No. 54:

In page 16, between lines 2 and 3, to insert the following:

"Amendment of section 22 of Principal Act 19.

(1) Section 22 of the Principal Act is amended —

(a) in subsection (2)—

(i)by substituting "90 days" for "28 days",

(ii)by substituting "in the prescribed form" for "in writing", and

(iii)by inserting "and the matters specified in subsection (2A)" after "have effect",

and

(b)by inserting the following subsections after subsection (2):

"(2A) The notice referred to in subsection (2) shall —

(a)without prejudice to subsection (2) and pursuant to the condition referred to in that subsection, state the amount of the new rent and the date from which it is to have effect,

(b)include a statement that a dispute in relation to the setting of a rent pursuant to a review of the rent under a tenancy must be referred to the Board under Part 6 before —

(i) the date stated in the notice as the date from which that rent is to have effect, or

(ii) the expiry of 28 days from the receipt by the tenant of that notice, whichever is the later,

(c) include a statement by the landlord that in his or her opinion the new rent is not greater than the market rent, having regard to—

(i) the other terms of the tenancy, and

(ii) letting values of dwellings —

(I) of a similar size, type and character to the dwelling that is the subject of the tenancy, and

(II) situated in a comparable area to that in which the dwelling the subject of the tenancy concerned is situated,

(d) specify, for the purposes of paragraph (d), and without prejudice to the generality of that paragraph, the amount of rent sought for 3 dwellings—

(i)of a similar size, type and character to the dwelling that is the subject of the tenancy, and

(ii)situated in a comparable area to that in which the dwelling the subject of the tenancy concerned is situated, and

(e)include the date on which the notice is signed.

(2B) The notice referred to in subsection (2) shall be signed by the landlord or his or her authorised agent.

(2C) In this section 'amount of rent sought' means the amount of rent specified for the letting of a dwelling in an advertisement the date of which falls within the period of 4 weeks immediately preceding the date on which the notice referred to in subsection (2) is served.".

(2) Where, before the coming into operation of subparagraph (i) of paragraph (a) of subsection (1), a notice under subsection (2) of section 22 of the Principal Act has been served on a tenant, notwithstanding the amendments to that section by subsection (1), that section shall continue to apply to—

(a)that notice, and

(b)the operation of subsection (3) of that section in respect of that notice, as if subparagraph (i) of paragraph (a)of subsection (1)had not been enacted.".

Amendment agreed to.

Acting Chairman (Senator Pat O'Neill): Amendment Nos. 55 to 57, inclusive, and amendment No. 59 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 55:

In page 16, between lines 2 and 3, to insert the following:

"Additional requirements relating to termination by landlord

15 . The Principal Act is amended by inserting the following section after section 33:

"33A. Without prejudice to section 33, in addition to the grounds for termination by a landlord under section 34, in accordance with section 57(b), Part 5 shall apply in relation to the termination of a Part 4 tenancy by a landlord.".".

Deputy Paudie Coffey: In summary, this group of amendments provides for changes to termination provisions and for improved security of tenure. Amendment No. 55 is a technical amendment which clarifies that when terminating a Part IV tenancy a landlord must comply with Parts IV and V of the Act. The 2004 Act specifies the grounds upon which the landlord may terminate a tenancy. A landlord may not serve a notice of termination on a tenant, except in very clearly defined circumstances, such as a failure by the tenant to comply with his or her obligations regarding the tenancy, where the landlord intends to sell the property within three months after the termination of the tenancy or where the landlord requires a dwelling for his or her own occupation or that of a family member.

Amendments Nos. 56 and 57 will strengthen the protections around tenancy terminations by providing for measures that will guard against, for example, landlords fasley declaring that the property is needed for a family member or that it is going to be sold. These measures involve, *inter alia*, a landlord having to explain in a written statement to the tenant why a property might not be suitable for his or her accommodation needs, having regard to the number of bed spaces

and the size and composition of the household, a landlord having to make a statutory declaration as to his or her intention to sell a property, a landlord having to make a statutory declaration that the property is needed for his or her occupation or that of a family member and a landlord providing a copy of planning permission obtained, where relevant.

Under section 66 of the current legislation, the period of notice of termination increases according to the length of the tenancy. A landlord must give a tenant a minimum of 28 days' notice for tenancies of less than six months' duration and up to a maximum of 112 days' notice for tenancies of four years or more. A tenant must give a landlord a minimum of 28 days' notice for tenancies of less than six months' duration up to a maximum of 56 days' notice for tenancies of two years or more.

Amendment No. 59 introduces further graduated increases in the notice period in order that a landlord will have to give a tenant up to a maximum of 224 days' notice for tenancies of eight years or more. In particular, for tenancies of five years or more but less than six years it requires 140 days' notice, for six years or more but less than seven years it requires 168 days' notice, for seven years or more but less than eight years it requires 196 days' notice, and for eight years or more 224 days' notice is required. This will give tenants who have lived in rented accommodation for long periods sufficient time to source alternative accommodation. It is consistent with a recommendation in the DKM Economic Consultants report, Future of the Private Rental Sector, which was commissioned by the Private Residential Tenancies Board. Meanwhile, a tenant will have to give a landlord up to a maximum of 112 days' notice for tenancies of eight years or more. In particular, a tenancy of four years or more but less than eight years will require 84 days' notice, while for eight years or more 112 days' notice will be required.

Amendment agreed to.

Section 15 deleted.

NEW SECTION

Government amendment No. 56:

In page 16, between lines 4 and 5, to insert the following:

"Amendment of section 34 of Principal Act

16. The Table to section 34 of the Principal Act is amended—

(a) in paragraph 1(a), by inserting "in writing" after "notified",

(b) in paragraph 2, by inserting "and the notice of termination is accompanied by a statement referred to in section 35" after "occupying household",

(c) in paragraph 3, by inserting "and the notice of termination is accompanied by a statutory declaration referred to in section 35" after "containing the dwelling",

(d) in paragraph 4, by substituting "by a statutory declaration" for ", in writing, by a statement",

(e) in paragraph 5—

(i) in subparagraph (a), by substituting "intended works," for "intended

works, and",

(ii) by inserting the following subparagraphs after subparagraph (a):

"(aa) that, in a case where planning permission has been obtained, a copy of the planning permission is attached to the notice or statement,

(ab) that planning permission is not required and he or she has complied with the requirements of section 35(9)(b), and",

and

(iii) in subparagraph (b)(i) by inserting "within the period of 6 months from the expiry of the period of notice required to be given by the notice, or if a dispute in relation to the validity of the notice was referred to the Board under Part 6 for resolution, the final determination of the dispute" after "available for re-letting",

and

(f) in paragraph 6—

(i) in subparagraph (a), by substituting "intended use," for "intended use, and",

(ii) by inserting the following subparagraphs after subparagraph (a):

"(aa) that, in a case where planning permission has been obtained, a copy of the planning permission is attached to the notice or statement,

(ab) as to whether any works are to be carried out in respect of the change of use and where such works are required to be carried out, specifying—

(i) details of those works,

(ii) the name of the contractor, if any, employed to carry out such works, and

(iii) the dates on which the intended works are to be carried out and the proposed duration of the period in which those works are to be carried out,

and".".

Amendment agreed to.

Section 16 deleted.

NEW SECTIONS

Government amendment No. 57:

In page 16, after line 42, to insert the following:

"Amendment of section 35 of Principal Act

17. Section 35 of the Principal Act is amended by inserting the following subsections

after subsection (6):

"(7) The statement to accompany a notice of termination in respect of a termination referred to in paragraph 2 of the Table shall specify—

(a) the bed spaces in the dwelling, and

(b) the grounds on which the dwelling is no longer suitable having regard to the bed spaces referred to in paragraph (a) and the size and composition of the occupying household.

(8) The statutory declaration that is to accompany a notice of termination in respect of a termination referred to in paragraph 3 of the Table shall include a declaration that the landlord intends to enter into an enforceable agreement to transfer to another, for full consideration, of the whole of his or her interest in the dwelling or the property containing the dwelling.

(9) A notice of termination in respect of a termination made on the ground specified in paragraph 5 of the Table, or the statement referred to in that paragraph shall—

(a) for the purposes of the statement referred to in subparagraph (aa) of paragraph 5 of the Table, be accompanied by a copy of the planning permission required for the carrying out of the refurbishment or renovation of the dwelling concerned, and

(b) specify, where planning permission is not required—

(i) the name of the contractor, if any, employed to carry out the intended works, and

(ii) the dates on which the intended works are to be carried out and the proposed duration of the period in which those works are to be carried out.

(10) A notice of termination in respect of a termination made on the ground specified in paragraph 6 of the Table, or the statement referred to in that paragraph shall, for the purposes of the statement referred to in subparagraph (aa) of paragraph 6 of the Table, be accompanied by a copy of the planning permission required for the carrying out of the change of use of the dwelling concerned."."

Amendment agreed to.

Acting Chairman (Deputy Pat O'Neill): Amendments Nos. 58, 60, 62, 63, 66 to 70, inclusive, 72 to 78, inclusive, 80, 81, 92, 105 and 106 are related and may be discussed together by agreement.

Government amendment 58:

In page 16, after line 42, to insert the following:

"Slip or omission in notice of termination

18. The Principal Act is amended by inserting the following section after section 64:

"64A. On the hearing of a complaint under Part 6 in respect of a notice of termi-

nation, an adjudicator or the Tribunal, as the case may be, may make a determination that a slip or omission which is contained in, or occurred during the service of, the notice of termination shall not of itself render the notice of termination invalid, if he or she or it, as the case may be, is satisfied that—

(a) the slip or omission concerned does not prejudice, in a material respect, the notice of termination, and

(b) the notice of termination is otherwise in compliance with the provisions of this Act.”.”.

Deputy Paudie Coffey: I acknowledge this is a substantial group of amendments. All of these measures are enforcement related measures. The group of amendments includes a number of measures to enable the PRTB to deal effectively with tenants who do not comply with their obligations, including the obligation to pay rent. The published Bill provides for a new procedure to deal with tenants who do not comply with the statutory obligation to pay rent pending the determination of the dispute.

These amendments insert a new section 76A into the 2004 Act which will provide that where there is a dispute before the board and the tenant does not pay the rent, the landlord may bring a complaint before the PRTB. On the hearing of this complaint, the PRTB can order the tenant to pay any rent due. The published Bill provides that the matter will then be adjourned for a period of no more than 14 days to allow the tenant to comply with this order. It also provides that where the tenant does not comply, the PRTB will have the power to terminate the tenancy irrespective of whether a notice of termination has been served.

Significant concerns regarding the power of the PRTB to terminate the tenancy at 14 days' notice were expressed during Committee Stage in the Dáil and on foot of subsequent legal advice. These amendments remove this termination provision from the procedure. However, the interim procedure to compel a tenant to pay the rent remains part of the Bill and is provided for by means of the insertion of the new section 76A into the principal Act. The provision is being included in the Bill. This is provided for by means of amendments Nos. 62 and 63, with consequential amendments including amendments Nos. 66 to 70, inclusive, and amendments Nos. 77, 78, 105 and 106.

Amendments Nos. 72 to 76, inclusive, and amendment No. 79 are technical drafting amendments.

Amendment No. 92 provides that the board must report to the Minister on the operation of the new section 76A six months after its commencement and each year thereafter in its annual report. This procedure, together with amendments Nos. 58, 80 and 81, will provide for a fast and effective way for the PRTB to deal with that small minority of tenants who do not pay the rent.

In addition to the section 76A procedures, amendment No. 58 is designed to address an issue that has been a cause of concern to landlords in particular. It has been the case that a minor error in a notice of termination has caused an entire case to fall at the last hurdle, regardless of the merits of the case and sometimes after months of processing and hearings. This is something we must address. This situation is being remedied by amendment No. 58 to the effect that a minor error or defect that is not prejudicial to the tenant in a notice of termination would not invalidate the notice.

Section 124 of the Residential Tenancies Act provides for the enforcement of PRTB determination orders in the Circuit Court. The PRTB endeavours to enforce as many of its orders as possible. However, Circuit Court sittings are limited throughout the country and in many cases there are significant waiting lists. Therefore, amendments Nos 80 and 81 will amend the Act in order that in future the PRTB determination orders can be enforced in the District Court rather than the Circuit Court. This will considerably reduce the expense of enforcing a determination order. It should also provide for faster hearings as there are more sittings of the District Court than the Circuit Court.

Amendment No. 60 clarifies that the notice period for the termination of a tenancy for non-payment of rent is 28 days. I recommend the amendments.

Amendment agreed to.

Government amendment No. 59:

In page 16, after line 42, to insert the following:

"Amendment of section 66 of Principal Act

19. (1) Section 66 of the Principal Act is amended—

(a) by substituting the following Table for Table 1:

"TABLE 1

Termination by Landlord

Duration of Tenancy(1)	Notice Period(2)
Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 3 years	56 days
3 years or more but less than 4 years	84 days
4 years or more but less than 5 years	112 days
5 years or more but less than 6 years	140 days
6 years or more but less than 7 years	168 days
7 years or more but less than 8 years	196 days
8 or more years	224 days

",

and

(b) by substituting the following Table for Table 2:

"TABLE 2

Termination by Tenant

Duration of Tenancy(1)	Notice Period(2)

Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 4 years	56 days
4 years or more but less than 8 years	84 days
8 or more years	112 days

”.

(2) Where, immediately before the coming into operation of *subsection (1)*, a period of notice was specified in a notice of termination in respect of a tenancy to which section 66 of the Principal Act applies but that period had not expired, notwithstanding the amendments to section 66 of the Principal Act made by *subsection (1)*, the periods of notice specified in the Tables to that section before those amendments were made shall continue to apply in respect of the notice of termination concerned as if those amendments had not been made.”.

Amendment agreed to.

Government amendment No. 60:

In page 17, before line 1, to insert the following:

“Amendment of section 67 of Principal Act

17. Section 67 of the Principal Act is amended in subsection (2)—

(a) by inserting the following paragraph after paragraph (a):

“(aa) in the case of the termination of a tenancy of a dwelling to which Part 4 applies, 28 days regardless of the duration of the tenancy,”,

and

(b) in paragraph (b), by inserting “in the case of the termination of a tenancy of a dwelling to which Part 4 does not apply,” before “28 days”.”.

Amendment agreed to.

Section 17 deleted.

SECTION 18

Acting Chairman (Deputy Pat O’Neill): Amendments Nos. 61, 71 and 79 are technical drafting amendments and may be discussed together by agreement.

Government amendment No. 61:

In page 17, to delete line 17 and substitute “by inserting “by the landlord” after “(“the subtenant”)”.”.

Deputy Paudie Coffey: These are technical drafting amendments to correct minor errors in the published Bill.

Amendment agreed to.

Section 18, as amended, agreed to.

NEW SECTIONS

Government amendment No. 62:

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

"Amendment of section 75 of Principal Act

19. Section 75 of the Principal Act is amended—

(a) in subsection (2), by inserting "76A," after "76(4),",

(b) in subsection (4)(d), by substituting "landlord," for "landlord, and", and

(c) in subsection (4) by inserting the following paragraph after paragraph (d):

"(da) in the case of a complaint mentioned in section 76A—

(i) the landlord and the tenant, or

(ii) in the case of a sub-tenancy, the head-tenant and the sub-tenant referred to in that section,

and".".

Amendment agreed to.

Government amendment No. 63:

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

"Right of referral of complaint in respect of compliance with section 86(1)(a)

20. The Principal Act is amended by inserting the following sections after section 76:

"76A. (1) This section applies where a matter has been referred to the Board for resolution (the 'original dispute') and pending the determination of that dispute a tenant referred to in section 86(1)(a)(i), or as the case may be, a sub-tenant referred to in section 86(1)(a)(ii), has failed to comply with section 86(1)(a).

(2) (a) Without prejudice to the generality of section 76 or to section 78(1) (q), or the obligation referred to in section 16(a), a landlord may refer to the Board for resolution a complaint that the tenant referred to in section 86(1)(a)(i) has failed to comply with section 86(1)(a).

(b) Without prejudice to the generality of section 76 or to section 78(1)(q), or the obligation referred to in section 16(a), a head-tenant may refer to the Board for resolution a complaint that the sub-tenant referred to in section 86(1)(a)(ii) has failed to comply with section 86(1)(a).

(3) In this section—

'head-tenant' has the meaning assigned to it by paragraph 1 of the Schedule;

'sub-tenant' has the meaning assigned to it by paragraph 1 of the Schedule.

Section 76A: supplemental provisions relating to adjudication and determination of dispute relating to complaint

76B. (1) Where in respect of a dispute concerning a complaint under section 76A, the Board has made a communication under section 92 in relation to the dispute and has, in accordance with section 94(aa), arranged for the dispute to be the subject of adjudication—

(a) when adjudicating, under section 97, such dispute and without prejudice to section 97, the adjudicator—

(i) shall have regard to the original dispute referred to in section 76A, and

(ii) may proceed to give such directions under section 117 as he or she considers appropriate for the purpose of providing relief of an interim nature in respect of the complaint,

and

(b) the Board shall arrange for the original dispute referred to in section 76A and the dispute concerning a complaint under section 76A to be determined concurrently.

(2) Where in respect of a dispute concerning a complaint under section 76A, the Board has made a communication under section 92 in relation to the dispute and has, in accordance with section 94(aa), referred it to the Tribunal—

(a) when determining such dispute, without prejudice to Chapter 6 of this Part, section 109 or any other provision of this Part, the Tribunal—

(i) shall have regard to the original dispute referred to in section 76A, and

(ii) may proceed to give such directions under section 117 as it considers appropriate for the purpose of providing relief of an interim nature in respect of the complaint,

and

(b) the Board shall arrange for the original dispute referred to in section 76A and the dispute concerning a complaint under section 76A to be determined concurrently.".".

Amendment agreed to.

Government amendment No. 64:

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

"Amendment of section 77 of Principal Act

21. Section 77 of the Principal Act is amended—

(a) by inserting the following subsection after subsection (1):

"(1A) Without prejudice to subsection (1), where the breach of duty referred to in that subsection concerns a breach of duty referred that relates to the obligation of the tenant under section 16(h), the complaint may, if the conditions specified in subsection (2A) are satisfied, be referred to the Board by, or on behalf of, a person referred to in section 15.",

(b) by inserting the following subsection after subsection (2):

"(2A) The conditions mentioned in subsection (1A) are—

(a) the person referred to in section 15 is or was directly and adversely affected by the breach of duty alleged in the complaint, and

(b) before making the reference, the person referred to in section 15 took all reasonable steps to resolve the matter—

(i) by communicating or attempting to communicate with the landlord or former landlord, or

(ii) by—

(I) requesting a person referred to in subsection (4) (in this section referred to as a 'subsection (4) person') to communicate with the landlord or former landlord on his or her behalf, and

(II) the subsection (4) person to whom such request was made having communicated or attempted to communicate with the landlord or former landlord on behalf of the person referred to in section 15,

and the requirement in this paragraph shall not be read as requiring the institution of legal proceedings or the landlord, or former landlord, being given to understand that such proceedings might be instituted.",

(c) in subsection (3) by—

(i) inserting "or, as the case may be, subsection (2A)(b)" after "with subsection (2)(b)", and

(ii) inserting "or, as the case may be, a subsection (4) person to whom a request under subsection (4) has been made," after "under this section", and

(d) by inserting the following subsections after subsection (3):

"(4) In the case of a complaint referred to in subsection (1A) a person referred to in section 15 may request—

(a) an owners' management company within the meaning of the Multi-Unit Developments Act 2011,

(b) a body corporate, or

(c) an unincorporated body of persons where one of the principal objects of the unincorporated body is to promote the safety and security of dwellings or the safety, security and the general wellbeing of persons residing in the vicinity of the dwelling that is the subject of the tenancy concerned and includes a body commonly known as a residents' association or a neighbourhood watch group,

to do either or both of the following on his or her behalf:

(i) to make the communication referred to in subsection (2A)(b);

(ii) to refer the complaint referred to in subsection (1A) to the Board.

(5) For the purposes of section 75(4)(e), where, in accordance with this section, a subsection (4) person—

(a) refers a complaint to the Board on behalf of a person referred to in section 15, or

(b) makes the communication referred to in subsection (2A)(b) on behalf of a person referred to in section 15,

the subsection (4) person shall not be treated as a party to the complaint under this section and shall not be construed as being a party to a complaint under this section for the purposes of this Part.".".

Deputy Paudie Coffey: This amendment relates to anti-social behaviour. The Residential Tenancies Act prohibits a tenant in a private residential tenancy from engaging in anti-social behaviour in or, in the vicinity of, a dwelling to which the Act applies. It also provides that a landlord may terminate any tenancy where the tenant is engaging in or allowing others to engage in such behaviour.

Section 77 of the 2004 Act provides that a third party affected by anti-social behaviour may take a case to the PRTB against a landlord who has failed to enforce a tenant's obligation not to engage in anti-social behaviour. Under the current legislation, the third-party complainant must contact the landlord and tenant to try to resolve the issue before referring the complaint to the PRTB. This can often be difficult in situations in which the complainant is intimidated by the tenant concerned. Therefore, amendment No. 64 provides that a third-party complainant may refer a complaint to the PRTB if he has attempted to resolve the matter by communicating with the landlord. The amendment also provides that an owner's management company, a residents' association or a neighbourhood watch scheme may bring a third-party complaint to the PRTB.

The amendment is long overdue. Many public representatives, including Senators, Deputies and councillors, have often seen at first hand the consequences of anti-social behaviour on estates, in respect of which, unfortunately, the legislation has not been strong enough for third parties to make complaints or for intervention to materialise to deal with anti-social behaviour. I expect this Government amendment will be welcomed because it represents a strong move in terms of dealing with unacceptable anti-social behaviour in private rented accommodation throughout the country.

Senator Denis Landy: I commend the Minister of State on ensuring that this amendment was tabled. No more than the Minister of State, I served at local authority level over many years. We saw frustration with this particular issue, whereby if a house was in private ownership but rented through the housing assistance payment the local authority could do nothing about it. I sat at many local authority meetings listening to discussions on this issue. The amendment is proof the Minister of State is listening and, as a former member of the local authority, he understands the issues. I commend the amendment and I hope it will be accepted by all sides of the House.

Question put and agreed to.

NEW SECTIONS

Government amendment No. 65:

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

"Amendment of section 78 of Principal Act

22. (1) Section 78 of the Principal Act is amended in subsection (1)—

(a) by substituting "where appropriate, and without prejudice to section 76A, complaints" for "where appropriate, complaints", and

(b) by substituting the following paragraphs for paragraph (a):

"(a) without prejudice to the generality of paragraph (e), failure by a landlord to transmit the deposit to the Board under section 12(1)(d)(i),

(aa) failure by—

(i) a landlord to comply with section 12(1)(d)(ii)(III), or

(ii) a tenant to comply with section 16(o)(iii),

(ab) the return of the deposit to one or both parties,

(ac) failure by a party to the tenancy to comply with sections 148A, 148F(2) or 148I(3),

(ad) any loss referred to in section 148I(6),".

(2) Where, on or before the coming into operation of *subsection (1)*, a dispute referred to in paragraph (a) of section 78(1) of the Principal Act had been commenced but had not been finally determined in accordance with the Principal Act, the dispute shall be determined in accordance with that Act as if that paragraph had not been amended by *subsection (1)* and for the purposes of that dispute—

(a) paragraph (d) of section 12(1) of the Principal Act shall apply in relation to that dispute as if that paragraph had not been amended by *section 16*, and

(b) subsection (4) of section 12 of the Principal Act shall apply in respect of the return or repayment of that deposit as if that subsection had not been amended by *section 16*.

(3) Where on or before the coming into operation of *subsection (1)* and *section 16*, a tenancy had ended and the deposit had not been returned to the tenant (whether the landlord was relying on section 12(4) of the Principal Act or otherwise) and a dispute referred to in paragraph (a) of section 78(1) of the Principal Act had not been referred to the Board for resolution—

(a) paragraph (d) of section 12(1) of the Principal Act shall apply to the landlord as if that paragraph had not been amended by section 16,

(b) subsection (4) of section 12 of the Principal Act shall apply in respect of the return of that deposit as if that subsection had not been amended by section 16,

and

(c) where a dispute on the retention or refund of the deposit arises, either party may refer the dispute to the Board under paragraph (a) of section 78(1) of the Principal Act as if paragraph (a) of that section had not been amended by subsection (1) and the dispute shall be determined as if that paragraph had not been amended by subsection (1).

(4) Where, on or before the coming into operation of *subsection (1)* and *section 16*, a notice of termination had been served in respect of a tenancy and a deposit had been paid to the landlord and had not been returned to the tenant (whether the landlord was relying on section 12(4) of the Principal Act or otherwise), and a dispute referred to in paragraph (a) of section 78(1) of the Principal Act had not been referred to the Board for resolution—

(a) paragraph (d) of section 12(1) of the Principal Act shall apply to the landlord as if that paragraph had not been amended by *section 16*,

(b) subsection (4) of section 12 of the Principal Act shall apply in respect of the return of that deposit as if that subsection had not been amended by *section 16*, and

(c) where a dispute on the retention or refund of the deposit arises, either party may refer the dispute to the Board under paragraph (a) of section 78(1) of the Principal Act as if paragraph (a) of that section had not been amended by *subsection (1)* and the dispute shall be determined as if that paragraph had not been amended by *subsection (1)*.

(5) In *subsection (2)* the reference to a dispute being finally determined in accordance with the Principal Act includes, in respect of that dispute, the final determination of an appeal under section 123(3) of that Act or an application for the enforcement, under section 124 of that Act, of the determination order concerned.".

Amendment agreed to.

Government amendment No. 66:

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

"Amendment of section 79 of Principal Act

23. Section 79 of the Principal Act is amended—

(a) by designating that section as subsection (1), and

(b) by inserting the following subsection after subsection (1):

"(2) In the case of a complaint made under section 76A—

(a) subsection (1) shall not apply to the complaint, and

(b) the reference to the Board of a complaint made under section 76A shall not include any other dispute or complaint.".".

Amendment agreed to.

Section 19, as amended, agreed to.

Section 20 agreed to.

NEW SECTION

Government amendment No. 67:

In page 17, between lines 34 and 35, to insert the following:

"Amendment of section 86 of Principal Act

21. Section 86 of the Principal Act is amended, in subsection (1), by substituting the following paragraph for paragraph (a):

"(a) the rent payable—

(i) under the tenancy concerned shall continue to be payable to the landlord by the tenant, or as the case may be, each multiple tenant, and

(ii) under any sub-tenancy arising out of a tenancy referred to in subparagraph (i), shall continue to be payable to the head-tenant by the sub-tenant, or as the case may be, each sub-tenant,".".

Amendment agreed to.

Section 21, as amended, agreed to.

Section 22 agreed to.

NEW SECTION

Government amendment No. 68:

In page 18, between lines 14 and 15, to insert the following:

"Amendment of section 94 of Principal Act

23. Section 94 of the Principal Act is amended by inserting the following paragraph

after paragraph (a):

"(aa) mediation of the kind mentioned in that section in relation to a complaint referred to in section 76A in which case the Board may, as it thinks appropriate—

(i) arrange for the dispute to be the subject of adjudication under section 97 by a person appointed by it from amongst the panel of adjudicators under section 164(4), or

(ii) refer the dispute to the Tribunal,".".

Amendment agreed to.

Section 23, as amended, agreed to.

Section 24 agreed to.

NEW SECTION

Government amendment No. 69:

In page 19, between lines 35 and 36, to insert the following:

"Amendment of section 97 of Principal Act

25. Section 97 of the Principal Act is amended—

(a) in subsection (1), by substituting ", 94(a) or 94(aa)" for "or 94(a)", and

(b) in subsection (2), by substituting ", 94(a) or 94(aa)" for "or 94(a)".".

Amendment agreed to.

Section 25, as amended, agreed to.

NEW SECTION

Government amendment No. 70:

In page 19, between lines 37 and 38, to insert the following:

"Amendment of section 101 of Principal Act

26. Section 101 of the Principal Act is amended in subsection (3), by substituting "94(a) or 94(aa)" for "94(a)".".

Amendment agreed to.

Section 26, as amended, agreed to.

Section 27 agreed to.

SECTION 28

Government amendment No. 71:

In page 20, line 12, to delete "is amended" and substitute "of the Principal Act is amended".

Amendment agreed to.

Government amendment No. 72:

In page 20, between lines 15 and 16, to insert the following:

"(b) in paragraph (d)(i) by inserting "or 94(aa)" after "section 94(a)",".

Amendment agreed to.

Government amendment No. 73:

In page 20, line 17, to delete "section".

Amendment agreed to.

Government amendment No. 74:

In page 20, line 18, to delete "section".

Amendment agreed to.

Government amendment No. 75:

In page 20, line 19, to delete "*Subsection (1)* shall" and substitute "*Paragraphs (a)*, *(b)* and *(c)* of *subsection (1)* shall".

Amendment agreed to.

Section 28, as amended, agreed to.

SECTION 29

Government amendment No. 76:

In page 20, line 30, to delete "€1,000."." and substitute "€1,000.".

Amendment agreed to.

Government amendment No. 77:

In page 20, between lines 30 and 31, to insert the following:

"(6) For the purposes of a direction under subsection (3), where a complaint under section 76A was made, the amount that is directed under subsection (3) to be paid to a party when that complaint and the original dispute referred to in section 76A have been determined concurrently, shall include the amount of rent that was directed to be paid in the interim direction referred to in section 76B."."

Amendment agreed to.

Section 29, as amended, agreed to.

NEW SECTION

Government amendment No. 78:

In page 20, between lines 30 and 31, to insert the following:

"Amendment of section 117 of Principal Act

30. Section 117 of the Principal Act is amended by inserting the following subsection after subsection (4):

"(5) Without prejudice to subsection (1), in the case of a complaint referred to in section 76A, the adjudicator, or as the case may be the Tribunal, may, in dealing with the complaint, proceed to give such directions under this section as the adjudicator or Tribunal, considers appropriate for the purpose of providing relief of an interim nature (other than payment of arrears of rent) to the parties including a direction that pursuant to section 86(1)(a)—

(a) the tenant shall continue to pay the rent payable under the tenancy,

or

(b) the sub-tenant shall continue to pay the rent payable under the subtenancy,

pending the determination of the original dispute referred to in section 76A.".".

Amendment agreed to.

Government amendment No. 79:

In page 20, line 31, to delete "is amended" and substitute "of the Principal Act is amended".

Amendment agreed to.

Section 30, as amended, agreed to.

Sections 31 and 32 agreed to.

NEW SECTIONS

Government amendment No. 80:

In page 21, between lines 16 and 17, to insert the following:

"Amendment of section 124 of Principal Act

33. (1) Section 124 of the Principal Act is amended—

(a) by substituting "District Court" for "Circuit Court" in each place it occurs,

(b) by inserting the following subsections after subsection (7):

"(7A) Without prejudice to the generality of subsection (2), where the determination order that is the subject of an application under this section includes provision for the return of a deposit pursuant to section 148B(b) and the Board has paid the deposit in accordance with section 148B(b), the court shall have regard to that payment when making an order under this section including an ancillary or other order referred to in subsection (7).

(7B) Without prejudice to the generality of subsection (2), where the determination order that is the subject of an application under this section includes provision for the return of a deposit pursuant to section 148B(b) and the Board has not, before the application under this section, paid the deposit in accordance with section 148B(b), the court shall have regard to such provision for the return of a deposit when making an order under this section including an ancillary or other order referred to in subsection (7).",

(c) in subsection (9), by substituting "District Court district" for "circuit", and

(d) by inserting the following subsection after subsection (9):

"(10) The monetary limit for the time being standing specified of the jurisdiction of the District Court shall not apply in respect of proceedings brought or heard, as the case may be, in the District Court under this section on or after the commencement of *section 33* of the *Residential Tenancies (Amendment) Act 2015* and, the monetary limit which shall apply in respect of those proceedings, shall be the monetary limit for the time being standing specified of the jurisdiction of the Circuit Court.".

(2) Subject to *subsection (3)*, the amendments effected by *paragraphs (a)* and *(b)* of *subsection (1)* shall not affect any proceedings brought under section 124 of the Principal Act before this section comes into operation.

(3) Where, before this section comes into operation, proceedings have been brought under section 124 of the Principal Act but not yet heard either in whole or in part by the Circuit Court, the Circuit Court may—

(a) on application to it in that behalf, and

(b) with the consent of each party to the proceedings,

remit those proceedings to the District Court.

(4) For the purposes of *subsection (3)*, proceedings shall not be taken to have been heard in part by reason of the Circuit Court having heard an interlocutory application or any procedural application or motion relating to the proceedings.".

Amendment agreed to.

Government amendment No. 81:

In page 21, between lines 16 and 17, to insert the following:

"Amendment of section 125 of Principal Act

34. (1) Section 125 of the Principal Act is amended by substituting "District Court" for "Circuit Court" in each place it occurs.

(2) Subject to *section 33(3)*, the amendments effected by *subsection (1)* shall not affect any proceedings brought under section 124 of the Principal Act before this section comes into operation.".

Amendment agreed to.

Government amendment No. 82:

In page 21, between lines 16 and 17, to insert the following:

"Cancellation of return of deposit in cases of failure to provide statement of agreement or disagreement

35. The Principal Act is amended by inserting the following section after section 125:

"**125A.**(1) A person who establishes to the satisfaction of the Board that, in relation to the return, under section 148L(1), of a deposit (or an amount of the deposit), that there are good and substantial reasons for his or her having failed to comply with section 148F(2) and 148I(3), the Board may, subject to subsection (3), exercise the powers referred to in subsection (2).

(2) The powers mentioned in subsection (1) are—

(a) to cancel the return of the deposit,

(b) to direct that the return of the deposit be the subject of a dispute to be referred to the Board under paragraph (ab) of section 78(1), and

(c) to direct the party to whom the deposit was returned under section 148L, to return the deposit (or a specified amount of the deposit) to the Board.

(3) The Board may direct that—

(a) the cancellation of the return of the deposit under section 148L shall not have effect unless specified conditions are, within a specified period, complied with by the person referred to in subsection (1), and

(b) the return of the deposit be subject to specified conditions, including, where appropriate, a condition referred to in paragraph (a).

(4) The reference to conditions in subsection (3) means conditions analogous to the terms the High Court may impose under the Rules of the Superior Courts for setting aside a judgment obtained in circumstances where one of the parties did not appear at the trial concerned.

(5) The reference in subsection (4) to the Rules of the Superior Courts shall be construed in accordance with subsection (6) of section 125.

(6) The Board, before deciding whether to exercise the powers under this section, shall afford the party to whom the deposit was returned under section 148L an opportunity to be heard.".".

Amendment agreed to.

Government amendment No. 83:

In page 21, between lines 16 and 17, to insert the following:

"Amendment of section 135 of Principal Act

33. Section 135 of the Principal Act is amended—

(a) by inserting the following subsection after subsection (1):

"(1A) Where—

(a) a further Part 4 tenancy comes into being, and

(b) pursuant to subsection (1)(c), such further Part 4 tenancy is required to be registered,

the requirement under section 134(3A) that such registration be accompanied by the deposit referred to in section 135A or the notice referred to in section 135A(2) shall be satisfied if—

(i) the deposit that, in accordance with section 134(3A), accompanied the registration of the tenancy under section 134, has not been returned to either or both parties and remains in the designated tenancy deposit account,

(ii) the deposit that, in accordance with section 148P, was transmitted to the Board, has not been returned to either or both parties and remains in the designated tenancy deposit account,

(iii) a notice referred to in section 135A accompanied, in accordance with section 134(3A), the registration of the tenancy under section 134, and subsequent to the furnishing of that notice to the Board, the tenant has not paid a deposit referred to in section 12(1)(d) to the landlord, or

(iv) a notice referred to in section 148P(2) was sent to the Board and subsequent to the furnishing of that notice to the Board the tenant has not paid a deposit referred to in section 12(1)(d) to the landlord.",

(b) by substituting the following subsection for subsection (4):

"(4) An acknowledgement, in the prescribed form, shall be given to the applicant under section 134 and to the tenant and shall—

(a) acknowledge the receipt by the Board of the application under section 134,

(b) acknowledge the receipt by the Board of a fee referred to in subsection (3) of that section,

(c) acknowledge the receipt by the Board of a deposit referred to in section 135A and the amount of that deposit, or a notice referred to in

section 135A,

(d) specify the reference number, referred to in subsection (3), assigned by the Board in respect of the tenancy concerned,

(e) include a statement setting out—

(i) a summary of the rights and obligations of tenants and landlords under this Act and without prejudice to the generality of the foregoing, the statement shall set out a summary of the rights and obligations of tenants and landlords in relation to—

(I) the setting of rent under section 19, a review of rent under section 20 and the notification of a new rent under section 22,

(II) security of tenure under Part 4, and

(III) the termination of tenancies under Parts 4 and 5,

(ii) the matters which may be referred to the Board for resolution under Part 6 and without prejudice to the generality of the foregoing the statement shall specify that—

(I) a complaint may be referred to the Board under section 78(1)(b) in respect of the amount of rent that ought to be initially set in compliance with section 19, and

(II) a complaint may be referred to the Board under section 78(1)(c) in respect of the amount of rent determined on foot of a review of rent,

(iii) the redress that may be granted by the Board and without prejudice to the generality of the foregoing the statement shall specify the maximum amount of damages that may be paid to a party to a dispute pursuant to section 115(3), and

(iv) the function of the Board, referred to in section 147A, to disclose to the Revenue Commissioners information contained in the register referred to in that section.",

(c) by inserting the following subsections after subsection (4):

"(4A) An acknowledgement referred to in subsection (4) shall specify—

(a) the procedures for the return of the deposit and the requirement on the parties under this Act and the conditions, in respect of such return, referred to in section 12(4),

(b) the obligations on the parties referred to in sections 12(1)(d)(ii),16(o) and 148A,

(c) that, without prejudice to paragraph (b) and the obligation on the parties under sections 12(1)(d)(ii)(III) and 16(o)(iii), all notifications re-

lating to the return of the deposit referred to in section 12(1)(d) will be sent to the most recent address provided to the Board by each party, and

(d) that any interest that accrues on the deposit held by the Board will be retained by the Board in accordance with this Act.

(4B) Where an application under section 134 is received by the Board and is not accompanied by the deposit, or statement, referred to in section 135A(2), without prejudice to subsections (4) and (5), the Board shall, as soon as practicable, notify the parties in writing of the omission concerned and request the landlord to transmit such deposit or provide such statement not later than 14 days from the receipt of the notice under this subsection.

(4C) The notification in writing under subsection (4B) shall be in the prescribed form.",

(d) by substituting the following subsection for subsection (5):

"(5) Where an application, other than an application referred to in subsection (6), under section 134 is received by the Board and the application is—

(a) incomplete, or

(b) not accompanied by—

(i) the fee referred to in section 134(3)(b)(i) or as the case may be section 134(3)(b)(ii), or

(ii) the fee referred to in section 134(3)(c), where that fee is required to be paid, the Board shall notify the applicant of the omission concerned and specify a date by which the application is to be completed or the fee is to be paid.",

and

(e) inserting the following subsections after subsection (5):

"(6) Where—

(a) an application under section 134 received by the Board is incomplete, and

(b) the Board, having regard to—

(i) the information provided with that application, and

(ii) the information required to be contained in the register pursuant to section 127(3),

is satisfied that the information provided with the application, is sufficient to effect the registration of the tenancy concerned,

the Board, having regard to the proper discharge by it of its functions under this Act and where in its opinion it is appropriate, may, subject to

subsection (7), treat the application as complete for the purposes of this Part and register the tenancy concerned.

(7) Subsection (6) shall not apply where the deposit, or the statement, referred to in section 134(3A), have not accompanied the application under section 134.

(8) Where an application referred to in subsection (6) is received by the Board before the coming into operation of subsection (6), and has not been determined before such coming into operation, subsection (6) shall apply to such application.”.”.

Amendment agreed to.

Section 33, as amended, agreed to.

NEW SECTIONS

Government amendment No. 84:

In page 21, between lines 29 and 30, to insert the following:

“Obligation to transmit deposit to Board

34. The Principal Act is amended by inserting the following sections after section 135:

“135A.(1)For the purposes of section 12(1)(d), where a deposit referred to in that section is paid by a tenant to his or her landlord on entering into the agreement for the tenancy or lease, the landlord shall, subject to subsection (2), transmit that deposit to the Board with the application for registration under section 134.

(2) Where a tenant has not paid a deposit referred to in subsection (1) to his or her landlord on entering into the agreement for the tenancy or lease, the application for registration under section 134 shall be accompanied by a statement, in the prescribed form, stating that the tenant has not paid a deposit referred to in subsection (1) to the landlord and that a deposit is not available to provide for a default referred to in section 12(4).

(3) For the purposes of subsection (1), where the landlord transmits a sum of money to the Board that is equal in value to the sum of the deposit, the sum transmitted to the Board shall be treated as the deposit paid to the landlord by the tenant.

(4) The Minister may make regulations relating to the manner in which the deposit referred to in subsection (1) may be transmitted to the Board and may include provision for the electronic transfer of the deposit.

Enforcement of obligations under section 135A

135B. (1)Where a notice under section 135(4B) is sent to a landlord and he or she does not transmit the deposit concerned or furnish the statement concerned within the period specified in that notice, the Board shall serve a further notice on the landlord stating that he or she is required to transmit the deposit concerned or furnish the

notice concerned to the Board within 14 days of receipt by him or her of the further notice under this section and that where he or she fails to do so within that period, he or she is guilty of an offence.

(2) A person who fails to comply with the further notice under subsection (1) is guilty of an offence.

(3) It shall be a defence for a person charged with an offence under subsection (2) for the person to show that he or she took all reasonable steps to comply with subsection (1).”.”.

Amendment agreed to.

Government amendment No. 85:

In page 21, to delete lines 31 and 32 and substitute the following:

“(a) by designating that section as subsection (1),

(b) in subsection (1)—

(i) by deleting paragraph (e),

(ii) by deleting subparagraphs (i) and (ii) of paragraph (i), and

(iii) by inserting the following paragraph after paragraph (k):

“(ka) if a deposit referred to in section 134(3A) has accompanied the application, the amount of that deposit,”,

and

(c) by inserting the following subsection after subsection (1):

“(2) Nothing in subsection (6) of section 135 shall operate to affect the obligation under subsection (1).”.”.

Amendment agreed to.

Section 34, as amended, agreed to.

NEW SECTIONS

Government amendment No. 86:

In page 21, between lines 32 and 33, to insert the following:

“Amendment of section 139 of Principal Act

35. Section 139 of the Principal Act is amended—

(a) in subsection (1), by substituting “, by a notice in writing in the prescribed form, the information specified in subsection (2)” for “the information mentioned in

subsection (2) in the prescribed form",

(b) by inserting the following subsection after subsection (1):

"(1A) The landlord and the tenant shall sign the notice referred to in subsection (1).",

(c) by substituting the following subsection for subsection (2):

"(2) The notice referred to in subsection (1) shall—

(a) specify the amount of rent referred to in subsection (1) following the alteration referred to in that subsection,

(b) include a statement by the tenant that—

(i) he or she has knowledge of the provisions of Part 3, and

(ii) without prejudice to the generality of subparagraph (i), he or she has knowledge of the requirements, under section 19, for setting an amount of rent under a tenancy,

(c) include a statement by the landlord specifying the amount of rent sought for 3 dwellings—

(i) of a similar size, type and character to the dwelling that is the subject of the tenancy concerned, and

(ii) situated in a comparable area to that in which the dwelling the subject of the tenancy concerned is situated,

and

(d) so far as any of the other matters in respect of which particulars were entered in the register in respect of the tenancy have changed in any material respect since, as appropriate—

(i) the tenancy was registered in the register, or

(ii) information in respect of them was last previously furnished to the Board under subsection (1), include particulars in respect of those other matters as they stand at the date of this furnishing of information under subsection (1).",

and

(d) by inserting the following subsections after subsection (4):

"(5) Without prejudice to subsection (1), the Board shall, as soon as may be, update the register following the receipt by it of—

(a) information referred to in section 12(1)(d)(ii)(III), and

(b) information referred to in section 16(o)(iii).

(6) No fee shall be payable in respect of the furnishing to the Board of the information referred to in subsection (5).

(7) In paragraph (d) of subsection (2), 'amount of rent sought' has the same meaning as it has in section 22.".".

Amendment agreed to.

Government amendment No. 87:

In page 21, between lines 32 and 33, to insert the following:

"New sections 148A to 148Q inserted into Principal Act

36. The Principal Act is amended by inserting the following sections after section 148:

"Obligation of parties in relation to return of deposit

148A.Without prejudice to sections 12(1)(d)(ii), 16(o), 148F(2) and 148I(3), for the purpose of the performance of the Board of its functions relating to the return of a deposit referred to in section 12(1)(d), a landlord and a tenant shall respond to a notification of the Board in respect of such return within the prescribed period that is specified, in regulations, for the notification concerned.

Return of deposit by Board

148B.The Board shall return a deposit transmitted to it by the landlord pursuant to section 134(3A), to one or, as the case may be, both parties —

(a) pursuant to an agreement between the parties, in respect of which an application is made under section 148C, as to such return or, as the case may be, pursuant to section 148G or 148J,

(b) where one or both parties have referred a dispute to the Board in respect of the return of the deposit and the Board has, under section 121, prepared and issued a determination order, such return shall be made —

(i) in accordance with the determination order concerned and, in the case of a determination order referred to in section 123(1), as soon as practicable after the determination order is issued to, and becomes binding on, the parties in accordance with section 123(1) or such other period as may be specified in the determination order,

(ii) in accordance with the determination order concerned and, in the case of a determination order referred to in section 123(2), as soon as practicable after the expiry of the relevant period (within the meaning of section 123(8)), or such other period as may be specified in the determination order,

(iii) where the determination order is appealed under section 123(3), in accordance with the final determination of those proceedings and as soon as practicable after such final determination or such other period as may be specified in the determination order or such final determination, or

(iv) where an application is made under section 124 in respect of the determination order before the deposit is paid, in accordance with the final determination of those proceedings and as soon as practicable after such final determination,

or

(c) in accordance with section 148L.

Agreement between the parties on the return of deposit

148C. (1) Where the landlord and tenant are in agreement in respect of the manner in which the deposit referred to in section 12(1)(d) is to be returned by the Board, an application may be made to the Board by both parties (in this Act referred to as a 'joint agreed application') in respect of the return of the deposit to one or both of the parties.

(2) A joint agreed application shall be made on, or as soon as practicable after, the end of the tenancy.

(3) A joint agreed application under this section shall include—

(a) the reference number, referred to in section 135(3), used by the Board for the tenancy concerned,

(b) the date on which the tenancy ended,

(c) a statement that the landlord and the tenant have agreed the manner in which the deposit is to be returned to one or both of the parties,

(d) having regard to the conditions referred to in section 12(4), a statement that—

(i) all of the deposit is to be returned to the tenant,

(ii) all of the deposit is to be returned to the landlord, or

(iii) the whole amount of the deposit is not to be returned to the tenant or the landlord and specifying the amount that is to be returned to each party,

(e) the address of the dwelling, and

(f) the address for correspondence, after the tenancy has ended, of the landlord and the tenant if the address has not been provided to the Board as required under section 12(1)(d)(ii)(III) or, as the case may be, section 16(o)(iii).

(4) A joint agreed application shall be made in the prescribed form and each party shall state their agreement to the return of the deposit in the manner specified in the joint agreed application.

(5) A joint agreed application under this section shall be sent to the Board by the landlord.

(6) The Minister may make regulations under this section for the making of a joint agreed application and provision may be made for the making of the application by electronic means and such regulations may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purpose of

the regulations.

Return by Board of deposit where joint agreed application made under section 148C

148D. (1) Where the Board has received a joint agreed application under section 148C for the return of the deposit referred to in section 12(1)(d), it shall, as soon as practicable —

(a) acknowledge receipt of the joint agreed application to each party, and

(b) return the deposit in accordance with the manner specified in the joint agreed application pursuant to section 148C(3)(d), unless one of the parties notifies the Board, in writing, within the prescribed period, that there is no agreement between the parties in respect of the manner in which all or part of the deposit is to be returned to one or both of them.

(2) Where the address provided for the landlord or tenant in the joint agreed application is different to the address furnished to the Board pursuant to —

(a) section 12(1)(d)(ii)(III), in the case of the landlord or, as the case may be, the address for correspondence furnished to the Board pursuant to section 136, or

(b) section 16(o)(iii), in the case of the tenant,

the Board shall notify the parties accordingly and require confirmation of the correct address for correspondence in respect of the return of the deposit.

(3) Where the Board does not receive a notification referred to in paragraph (b) of subsection (1) within the prescribed period, the Board shall, as soon as practicable, return the deposit in accordance with the joint agreed application.

(4) Where the landlord or the tenant notifies the Board of the matter specified in subsection (1)(b), the Board shall notify the parties, in writing, that —

(a) as there is no agreement between the parties in respect of the return by the Board of the deposit referred to in section 12(1)(d), and

(b) as the Board is required under section 148B to return all or part of the deposit referred to in section 12(1)(d) to one or both of the parties in accordance with section 148B,

it is a matter for the parties to agree the manner of the return of the deposit or, where there is no agreement in respect of the return of the deposit, for one party or both parties to refer the dispute on such return to the Board for resolution under Part 6.

Application for return of deposit where no agreement between the parties

148E.(1) Where a landlord and tenant do not agree on the return, by the Board, of a deposit to one or both of them, the landlord or the tenant may apply to the Board in respect of such return to one or both of them on, or as soon as practicable after, the end of the tenancy.

(2) An application under this section shall include —

(a) the reference number, referred to in section 135(3), used by the Board for the tenancy concerned,

(b) the date on which the tenancy ended,

(c) a statement that the parties are not in agreement in respect of the return of the deposit to one or both of them,

(d) a statement that—

(i) all of the deposit is to be returned to the tenant,

(ii) all of the deposit is to be returned to the landlord, or

(iii) the whole amount of the deposit is not to be returned to the tenant or the landlord and specifying the amount that is to be returned to each party,

(e) the address of the dwelling,

(f) confirmation that the applicant has complied with the obligation under section 12(1)(d)(ii)(III) or, as the case may be, section 16(o)(iii),

(g) if the application is made by the landlord, a statement as to whether he or she has—

(i) made the notification referred to in section 12(1)(d)(ii)(IV) to the Board, and

(ii) complied, where the notification was made, with section 12(6),

and

(h) if the application is made by the tenant, a statement—

(i) as to whether he or she has received a copy of the notification referred to in section 12(1)(d)(ii)(IV),

(ii) as to whether he or she agrees with the matters specified in that notification, and

(iii) as to whether the statement referred to in paragraph (d) incorporates the matters specified in that notification.

(3) Where the Board receives an application under this section from each party in respect of the same tenancy, the Board shall consider each such application together.

(4) An application under this section shall be made on notice to the other party to the tenancy.

(5) An application under this section shall be made in the prescribed form.

(6) Without prejudice to paragraph (h) of subsection (2), where—

(a) a tenant makes an application under section 148E,

(b) the tenant has received a copy of the notification referred to in section 12(1)(d)(ii)(IV),

(c) the tenant does not agree with the matters specified in the notification, and

(d) the tenant has not incorporated all or any of the matters specified in that notification in the statement referred to in paragraph (d) of subsection (2),

the Board shall notify the parties that—

(i) as, pursuant to the statement referred to in paragraph (d) and the notification referred to in paragraph (b), there is no agreement between the parties in relation to the matters specified in the notification, and

(ii) as the Board is required under paragraph (b) of section 148B to return all or part of the deposit referred to in section 12(1)(d) to one or both of the parties in accordance with that section,

it is a matter for the parties to agree the manner of the return of the deposit or, where there is no agreement in respect of the return of the deposit, for one party or both parties to refer the dispute on such return to the Board for resolution under Part 6.

(7) The Minister may make regulations under this section for the making of an application under this section and provision may be made for the making of the application by electronic means.

Notification by Board of application for return of deposit where no agreement between the parties

148F. (1) On receipt of an application under section 148E, the Board shall—

(a) acknowledge receipt of the application on notice to the party who did not make the application,

(b) notify the party who did not make the application—

(i) that an application has been made under section 148E for the return of the deposit,

(ii) of the statement referred to in section 148E(2)(d), and

(iii) if the application was made—

(I) by the landlord, whether the landlord has provided the notification to the Board under section 12(1)(d)(ii)(IV) and whether the notification has specified a default referred to in section 12(4), or

(II) by the tenant, whether he or she has received a copy of the notification and whether he or she agrees with the matters specified in it and has taken it into account in the statement referred to in subparagraph (ii),

(c) request the party who did not make the application concerned to notify the Board, in writing and within the prescribed period, if he or she—

(i) agrees with the return of the deposit as set out in the application concerned (in this Act referred to as a 'statement of agreement'), or

(ii) does not agree with the return of the deposit as set out in the application concerned (in this Act referred to as a 'statement of disagreement'),

(d) notify the party who did not make the application—

(i) of the requirements for return of the deposit under section 148B, and

(ii) that it is a matter for the parties to agree the manner of the return of the deposit or, where there is no agreement in respect of the return of the deposit, for one party or both parties to refer the dispute on such return to the Board for resolution under Part 6,

(e) inform the party who did not make the application of the right of referral to the Board for resolution under Part 6 of a dispute between the parties in respect of the return of the deposit,

(f) request the party who did not make the application to notify the Board that if he or she does not agree with the return of the deposit whether he or she proposes to refer, or has referred, the disagreement on such return to the Board for resolution under Part 6,

(g) inform the party who did not make the application that where he or she does not respond, within the prescribed period, to the Board with the information requested under paragraph (c), the return of the deposit shall be made in accordance with section 148L, and

(h) inform the party who did not make the application of the obligations on the parties under sections 12(1)(d)(ii)(III) and 16(o)(iii) to provide the Board with his or her address for correspondence when the tenancy has ended and of the obligations of the parties under section 148A and subsection (2).

(2) Without prejudice to section 148A, the party who did not make the application under section 148E and to whom the notification in subsection (1) is sent, shall send the statement of agreement or, as the case may be, the statement of disagreement to the Board within the prescribed period.

(3) Where the party who did not make the application under section 148E proposes to refer, or has referred, the disagreement referred to in paragraph (f) of subsection (1), to the Board for resolution under Part 6, he or she shall, within the prescribed period, notify the Board accordingly and such notification shall be made in writing in the prescribed form.

Return of deposit where statement of agreement under section 148F received

148G. (1) Where the party who did not make the application under section 148E, and to whom a notification under section 148F(1) was made, sends the Board a statement of agreement, the Board shall—

(a) acknowledge receipt of the statement of agreement on notice to the party who made the application under section 148E, and

(b) return the deposit in accordance with the application under section 148E as soon as practicable.

(2) A statement of agreement shall be in writing and in the prescribed form.

Notification to parties of statement of disagreement under section 148F

148H. (1) Where the party who did not make the application under section 148E, and to whom a notification under section 148F was made, provides the Board with a statement of disagreement, the Board shall—

(a) acknowledge receipt of the statement of disagreement on notice to the party who made the application under section 148E, and

(b) notify both parties that—

(i) as, pursuant to the statement of disagreement by the party who did not make the application under section 148E, there is no agreement between the parties in respect of the return by the Board of the deposit referred to in section 12(1)(d), and

(ii) as the Board is required under paragraph (b) of section 148B to return all or part of the deposit referred to in section 12(1)(d) to one or both of the parties in accordance with that section,

it is a matter for the parties to agree the manner of the return of the deposit or, where there is no agreement in respect of the return of the deposit, for one party or both parties to refer the dispute on such return to the Board for resolution under Part 6.

(2) A statement of disagreement shall be in writing and be made in the prescribed form.

(3) The notification under subsection (1)(b) shall be in the prescribed form.

(4) Following the notification under subsection (1)(b)—

(a) where the parties subsequently agree on the amount of the deposit to be returned to one or both of them, the parties may make a joint agreed application under section 148C in respect of that deposit, or

(b) either of the parties may, subsequent to that notification, make an application under section 148E (in this section referred to as a 'revised application') and nothing in this Act shall be construed as preventing the party who did not make the revised application from providing a statement of agreement in respect of that revised application.

(5) Where the parties make a joint agreed application pursuant to subsection (4)(a), the parties shall notify the Board that the joint agreed application replaces the first application made under section 148E.

Notification by Board where no statement of agreement, or disagreement, received within prescribed period

148I. (1) Where the Board does not receive, pursuant to section 148F, a statement of agreement or, as the case may be, a statement of disagreement within the prescribed period, the Board shall—

(a) notify the party who did not make the application under section 148E that the Board has not received, within the prescribed period, a statement of agreement or, as the case may be, a statement of disagreement as required under section 148F(2),

(b) request the party referred to in paragraph (a) to provide the Board, within the prescribed period, with—

(i) a statement of agreement or, as the case may be, the statement of disagreement as required under section 148F(2), and

(ii) a notification specified in subsection (2), if a statement of disagreement is provided to the Board pursuant to subparagraph (i),

(c) notify the party referred to in paragraph (a) of the return of the deposit by the Board in accordance with section 148L if—

(i) the notification referred to in subparagraph (i) of paragraph (b) is not provided to the Board within the period prescribed for the purposes of that paragraph,

(ii) a notification referred to in subparagraph (ii) of paragraph (b), that is required under that subparagraph to be provided to the Board, is not provided to the Board within the period prescribed for the purposes of that paragraph, and

(iii) the Board is satisfied of the matters specified in subsection (1) of section 148L,

and

(d) notify the party referred to in paragraph (a) of the obligation of the landlord under section 12(1)(d)(ii) and the tenant under section 16(o), the obligations on the parties under section 148A, the obligation under section 148F(2) and of the obligation under subsection (3).

(2) Where a statement of disagreement is provided to the Board pursuant to subsection (1), it shall be accompanied by a notification, in writing, to the Board stating whether the party to whom the notification under subsection (1) was sent—

(a) has made an application under section 148E in respect of the deposit concerned, or

(b) has referred a dispute to the Board, for resolution under Part 6, in relation to the deposit concerned.

(3) Without prejudice to section 148A, the party to whom the request referred to in paragraph (b) of subsection (1) is made shall provide the Board, within the prescribed period, with—

(a) the statement of agreement or, as the case may be, the statement of disagreement, and

(b) where a notification specified in subparagraph (ii) of that paragraph is required to be provided to the Board, shall provide the Board with that notification.

(4) Where, pursuant to a notification under subsection (1), the Board does not, within the prescribed period, receive—

(a) a statement of agreement or, as the case may be, a statement of disagreement, and

(b) a notification referred to in subparagraph (ii) of paragraph (b) of subsection (1) where such notification is required to be provided to the Board under that subparagraph,

the Board shall request the party who made the application under section 148E to make a statutory declaration which shall include a declaration as to the matters specified

in subsection (5).

(5) A statutory declaration referred to in subsection (5) shall include a declaration —

(a) that the person making the declaration —

(i) has not participated with the other party to make a joint agreed application under section 148C in respect of the return of the deposit concerned,

(ii) has not made a new application (including a revised application referred to in section 148K) under section 148E in respect of the deposit concerned,

(iii) has not, pursuant to the failure, by the other party, to comply with subsection (3) or section 148F(2), referred a dispute to the Board for resolution under Part 6, other than a dispute under subsection (6), in relation to the return of the deposit, and

(iv) has not received a notification from the Board, pursuant to Part 6, that an application has been made to it pursuant to section 76 in respect of the return of the deposit or any matter relating to the return of the deposit,

(b) that, in respect of the return, by the Board, of the deposit —

(i) the deposit be returned to the tenant,

(ii) the deposit be returned to the landlord, or

(iii) if the whole amount of the deposit is not to be returned to the tenant or the landlord, the amount of the deposit that is to be returned to each party,

(c) of the grounds on which he or she is relying on for the return of the deposit and where an amount of the deposit is to be returned to him or her, as specified in accordance with paragraph (b)(iii), the grounds on which that amount is calculated,

(d) if he or she is the tenant, that —

(i) he or she has not, received a notification under section 12(6) of a default referred to in section 12(4), and

(ii) to the best of his or her knowledge, there has, or has not, been a default referred to in section 12(4), and if there has been such default that it has been addressed in the declaration pursuant to the requirements of paragraphs (b) and (c),

and

(e) if he or she is the landlord, that —

(i) he or she has complied with sections 12(1)(d)(ii)(IV) and 12(6), and

(ii) there has been a default referred to in section 12(4), and it has been addressed in the declaration pursuant to the requirements of paragraphs (b) and (c).

(6) Any loss accruing to the party who made the application under section 148E by reason of delay in the return of the deposit that arises from either or both of the following may be the subject of a complaint to the Board under Part 6:

(a) the failure of the other party to provide the Board with a notification of agreement or disagreement under section 148F and subsection (3) (or either of them) within the prescribed period;

(b) the failure of the other party to comply with section 12(1)(d)(ii)(III) or, as the case may be, section 16(o)(iii).

(7) A notification and request under subsection (1) shall be made in the prescribed form.

(8) The Board shall send the party who made the application under section 148E a copy of a notification under subsection (1).

(9) The party referred to in subsection (1)(b) shall notify the party who made the application under section 148E that he or she has sent to the Board —

(a) the statement of agreement, or

(b) the statement of disagreement and a notification required under subsection (2),

within the prescribed period.

(10) Where —

(a) the application under section 148E is made by a tenant,

(b) the landlord has failed to comply with subsection (3),

(c) the landlord has made the notification to the Board in accordance with section 12(1)(d)(ii)(IV), and

(d) the tenant has not received the copy of the notification referred to in section 12(6),

the Board shall notify the parties, in writing, that —

(i) having regard to the making to the Board of the notification referred to in paragraph (c) and the absence of the notification referred to in paragraph (d), the matter of the default concerned requires to be addressed, and

(ii) having regard to section 148B(b), it is a matter for the parties to agree the manner of the return of the deposit or, where there is no agreement in respect of the return of the deposit, for one party or both parties to refer the dispute on such return to the Board for resolution under Part 6.

Return of deposit where statement of agreement under section 148I received

148J. (1) Where, pursuant to the notification under section 148I(1), the Board receives a statement of agreement, the Board shall —

(a) acknowledge receipt of the statement of agreement on notice to the party who made the application under section 148E, and

(b) return the deposit in accordance with the application under section 148E as soon

as practicable.

(2) A statement of agreement shall be in writing and be made in the prescribed form.

Notification to parties of statement of disagreement under section 148I

148K. (1) Where, pursuant to the notification under section 148I(1), the party concerned provides the Board with a statement of disagreement, the Board shall—

(a) acknowledge receipt of the statement of disagreement on notice to the party who made the application under section 148E, and

(b) notify both parties, in writing, of the matters specified in paragraph (b) of section 148H(1).

(2) Following the notification under subsection (1)(b)—

(a) where the parties subsequently agree on the amount of the deposit to be returned to one or both of them, the parties may make a joint agreed application under section 148C in respect of that deposit, or

(b) either of the parties may, subsequent to that notification, make a revised application and nothing in this Act shall be construed as preventing the party who did not make the revised application from providing a statement of agreement in respect of that revised application,

and section 148H(5) shall apply to the joint agreed application referred to in paragraph (a).

(3) A notification under subsection (1)(b) shall be in writing and be made in the prescribed form.

(4) In this section 'revised application' has the meaning assigned to it in section 148H.

Return of deposit where no notification of agreement or disagreement made

148L. (1) Where—

(a) pursuant to a notification under section 148I(1), the Board does not, within the prescribed period, receive—

(i) a statement of agreement or, as the case may be, a statement of disagreement, and

(ii) a notification referred to in subparagraph (ii) of paragraph (b) of subsection (1) of that section where such notification is required to be provided to the Board under that subparagraph,

(b) the Board has received a statutory declaration referred to in section 148I(5),

(c) the Board has satisfied itself, having regard to the statutory declaration referred to in section 148I(5) that the party who made the application under section 148E—

(i) has not made a joint agreed application under section 148C in respect of the return of the deposit concerned,

(ii) has not made a new application (including a revised application referred to in section 148H) under section 148E in relation to the return of the deposit concerned,

(iii) has not referred a dispute to the Board for resolution under Part 6 in relation to the return of the deposit other than a dispute referred to in section 148I(6), and

(iv) has not received a notification from the Board, pursuant to its functions under Part 6, that an application has been made to it under section 76 in respect of the return of the deposit or any matter relating to the return of the deposit,

(d) the Board is satisfied that, having regard to the statutory declaration referred to in section 148I(5), all the matters that are required, under section 148I(5), to be declared, have been declared,

(e) the Board has satisfied itself that no other application for the return of the deposit concerned has been made in respect of the tenancy concerned having regard to the reference number assigned to the tenancy in accordance with section 135(3),

(f) the Board has satisfied itself that no dispute has been referred to the Board under Part 6 in respect of the tenancy concerned and where a dispute was referred to the Board, that it did not concern the return of the deposit, and

(g) the Board has satisfied itself that the other party has been notified of the application at the address provided by him or her in accordance with section 12(1)(d)(ii)(II) or 16(o)(iii),

the Board shall, subject to subsection (2), return the deposit referred to in section 12(1)(d) to the party who made the application under section 148E as soon as practicable.

(2) Where a party has failed to comply with section 148I(3)—

(a) the Board has had regard to—

(i) the circumstances of the application under section 148E, or

(ii) the matters referred to in paragraphs (b) to (g) of subsection (1),

and

(b) in the opinion of the Board, the return of the deposit is a matter that requires resolution by the Board under Part 6,

the Board may request the party who made the application under section 148E to refer the application under section 148E to the Board for resolution under Part 6.

Offence of furnishing false or misleading information in relation to return of deposit

148M.A person who, in purported compliance with, section 148C, 148E or 148F or subsection (1), (2), (3) or (9) of section 148I, furnishes information to the Board which is false or misleading in a material respect knowing it to be false or misleading or being reckless as to whether it is false or misleading, is guilty of an offence.

Notifications by Board for purposes of return of deposit

148N.For the purpose of the performance by the Board of its functions relating to the return of a deposit referred to in section 12(1)(d), the Board shall, when making a notification to a party pursuant to those functions, send the notification to the most recent address which the party concerned has, as required under section 12(1)(d)(ii) or, as the case may be, section 16(o), provided to the Board.

Reference by party of return of deposit to Board as a dispute for resolution under Part 6

148O. (1) Without prejudice to sections 76 and 78, where a party made an application under section 148E and the other party has not provided a statement of agreement or a statement of disagreement in respect of that application within the prescribed period specified for the purposes of section 148F(1)(c) or 148I(1)(b), that party may, at any time after the prescribed period concerned, refer the return of the deposit to one or both parties to the Board as a dispute requiring resolution under Part 6.

(2) The party who refers the dispute referred to in subsection (1) for resolution under Part 6 shall notify the Board and the other party to the tenancy that the application under section 148E has been withdrawn and the return of the deposit to one or both parties has been referred to the Board as a dispute requiring resolution under Part 6 and the notification under this section shall be made at the time the reference of the dispute for resolution under Part 6 is made.

(3) For the purposes of section 148B, where the dispute referred to in subsection (1) is referred to the Board for resolution under Part 6□—

(a) the application under section 148E shall be treated as withdrawn, and

(b) the return of the deposit concerned shall be made in accordance with section 148B(b).

Transitional provisions relating to transmission of deposits of certain tenancies

148P. (1) Where, on or before the coming into operation of *sections 16#* and *36##* of the *Residential Tenancies (Amendment) Act 2015*□—

(a) a tenancy was registered in accordance with section 134,

(b) the tenancy has not been terminated,

(c) a notice of termination has not been served in respect of the tenancy, and

(d) a deposit had been paid by the tenant to the landlord on entering into the agreement for the tenancy or lease and in respect of which sections 12(1)(d) and 12(4) applied to the return or repayment, by the landlord, of the deposit before those sections were amended by *section 16#* of the *Residential Tenancies (Amendment) Act 2015*,

the landlord shall transmit the deposit to the Board not later than 6 months from the date on which *sections 16#* and *36##* of the *Residential Tenancies (Amendment) Act 2015* come into operation.

(2) Where, on or before the coming into operation of *sections 16#* and *36##* of the

(a) a tenancy was registered in accordance with section 134,

(b) the tenancy has not been terminated,

(c) a notice of termination has not been served in respect of the tenancy, and

(d) the tenant had not paid a deposit to the landlord on entering into the agreement for the tenancy or lease,

the landlord shall, not later than 6 months from the date on which *sections 16#* and *36##* of the *Residential Tenancies (Amendment) Act 2015* come into operation, provide a statement to the Board, in the prescribed form, stating that the tenant has not paid a deposit referred to in subsection (1) to the landlord and that a deposit is not available to provide for a default referred to in section 12(4).

(3) A landlord shall furnish the reference number, referred to in section 135(3), assigned by the Board for the tenancy concerned with the transmission of the deposit or, as the case may be, the statement referred to in subsection (2).

(4) The landlord shall notify the tenant in writing that he or she has complied with the obligation under subsection (1) or (2) at the same time he or she transmits the deposit or provides the statement to the Board.

(5) The following provisions shall apply to a tenancy referred to in this section with the modifications specified for those sections:

(a) clauses (I) to (IV) of section 12(1)(d)(ii);

(b) subparagraphs (i) to (iii) of section 16(o);

(c) paragraphs (c) and (d) of section 135(4) and the reference in those paragraphs—

(i) to 'acknowledgment' shall be construed as 'acknowledgment of a deposit transmitted or notice provided pursuant to section 148P', and

(ii) to 'applicant under section 134' shall be construed as 'landlord who furnished a deposit or notice pursuant to section 148P';

(d) subsection (4A) of section 135 and the reference in that subsection to 'the acknowledgement referred to in subsection (4)' shall be construed as 'the acknowledgement of a deposit transmitted or notice provided pursuant to section 148P';

(e) subsections (3) and (4) of section 135A and the reference in subsection (4) to the manner in which the deposit is to be transferred to the Board shall be construed as including the transmission of a deposit under this section;

(f) paragraph (ka) of section 136(1) and the reference to 'has accompanied the application' shall be construed as a reference to 'has been furnished pursuant to section 148P';

(g) subsections (5) and (6) of section 139;

(h) sections 148A to 148O.

Enforcement of obligation under section 148P

148Q. (1) Where, after the expiration of the 6 month period referred to in section 148P, it appears to the Board that a deposit for a tenancy registered in the register or a notice referred to in section 148P(2) has not been furnished to the Board in accordance with section 148P within that period, the Board shall, as soon as practicable —

(a) notify the parties to the tenancy in writing that it has not received the deposit or the notice referred to in section 148P, and

(b) request the landlord —

(i) to transmit the deposit to the Board or to furnish the statement referred to in section 148P(2) not later than 14 days from the receipt of the notice, or

(ii) to notify the Board in writing, not later than 14 days from receipt of the notice, that a notice of termination has been served on the tenant and of the date of service of that notice, or that the tenancy has been terminated, and of the date of the termination.

(2) The landlord shall notify the tenant in writing of the transmission of the deposit or notice pursuant to paragraph (b)(i) or the notification to the Board referred to in paragraph (b)(ii).

(3) Where a notice under subsection (1) is sent to a landlord and he or she does not —

(a) transmit to the Board, within the period referred to in paragraph (b)(i) of subsection (1), the deposit referred to in that subsection,

(b) provide to the Board, within the period referred to in paragraph (b)(i) of subsection (1), the statement referred to in that subsection, or

(c) notify the Board, within the period referred to in paragraph (b)(ii) of subsection (1), that a notice of termination has been served in respect of the tenancy or that the tenancy has been terminated in accordance with this Act,

the Board shall serve a further notice on the landlord stating that he or she is required to —

(i) transmit a deposit referred to in subsection (1)(b)(i) or provide the statement referred to in subsection (1)(b)(ii) to the Board within 14 days from the date of receipt of the further notice, or

(ii) notify the Board, within 14 days from the date of the further notice that a notice of termination has been served in respect of the tenancy or that the tenancy has been terminated in accordance with this Act,

and that where he or she fails to do so within that period, he or she is guilty of an offence.

(4) A person who fails to comply with a further notice under subsection (3) is guilty of an offence.

(5) It shall be a defence for a person charged with an offence under subsection (4) for that person to show that he or she took all reasonable steps to comply with subsection (3).”.”.

Amendment agreed to.

Government amendment No. 88:

In page 21, between lines 32 and 33, to insert the following:

“Amendment of section 151 of Principal Act

37. Section 151 of the Principal Act is amended, in subsection (1), by inserting the following paragraphs after paragraph (b):

“(ba) to retain deposits transmitted to it in accordance with this Act in one or more designated tenancy deposit accounts and to return the deposits to the parties concerned in accordance with this Act,

(bb) to retain the interest that accrues on a designated tenancy deposit account and use it to meet the costs of the performance by it of its functions under this Act,”.”.

Amendment agreed to.

Section 35, as amended, agreed to.

Sections 36 to 38, inclusive, agreed to.

NEW SECTIONS

Government amendment No. 89:

In page 22, between lines 34 and 35, to insert the following:

“Amendment of section 177 of Principal Act

39. Section 177 of the Principal Act is amended by inserting the following subsection after subsection (3):

“(3A) Without prejudice to subsection (3), for the purpose of the performance by the Board of its functions under paragraphs (ba) and (bb) of section 151(1), the Director, under the direction of the Board, shall—

(a) cause to be kept on a continuous basis and in a legible or a machine readable form, all proper books and records of account of all income and expenditure of the Board pursuant to those functions,

(b) keep and shall account to the Board for all designated tenancy deposit accounts as the Minister or the Board, with the consent of the Minister, may from time to time direct should be kept,

and

(c) cause to be kept on a continuous basis and in a legible or a machine

readable form, and keep and shall account to the Board for, all accounts relating to the holding of interest that, pursuant to section 151(1)(bb), has been withdrawn in accordance with section 177B, from a designated tenancy deposit account.”.”.

Amendment agreed to.

Government amendment No. 90:

In page 22, between lines 34 and 35, to insert the following:

“Designated tenancy deposit account

40. The Principal Act is amended by inserting the following sections after section 177:

“177A. (1) The Board shall cause to be maintained one or more bank accounts for the purpose of holding deposits transmitted to it in accordance with this Act (a ‘designated tenancy deposit account’) for the purpose of the performance by it of its functions under paragraph (ba) of section 151(1).

(2) The Board shall cause to be retained in a designated tenancy deposit account all of the following:

(a) a deposit transmitted to it in accordance with this Act;

(b) interest that accrues on such designated tenancy deposit account until the interest is withdrawn in accordance with section 177B.

(3) The Board shall cause a deposit transmitted to it under section 134(3A) to be lodged into a designated tenancy deposit account as soon as practicable following such transmission.

(4) The Board shall not cause to be withdrawn any sum from a designated tenancy deposit account unless the withdrawal—

(a) is for the purpose of returning a specified deposit to one or both parties in accordance with this Act, or

(b) is made in respect of withdrawing interest under section 177B.

(5) Without prejudice to section 177, the Board shall cause records of all deposits transmitted to it and lodged in a designated tenancy deposit account to be maintained and shall cause such records to be maintained in a manner that permits a deposit held in a designated tenancy deposit account to be, at all times, attributable to the landlord who transmitted it to the Board and the tenancy to which, and tenant to whom, it relates.

(6) For the avoidance of doubt—

(a) references in section 177(1) to income and expenditure shall include the income and expenditure arising from the performance by the Board of its functions under paragraphs (ba) and (bb) of section 151(1), and

(b) references in section 178(1) to books or other records of account shall include books or other records of account relating to designated tenancy deposit accounts and accounts referred to in section 177(3A)(c).

Withdrawal by Board of interest from designated tenancy deposit account

177B. (1)The Board shall, for the purposes of the withdrawal of interest from a designated tenancy deposit account, direct the manner in which, and the times at which, interest that has accrued on a designated tenancy deposit account is to be withdrawn from that account and placed in a bank account referred to in subsection (2).

(2) The Board shall cause to be maintained one or more bank accounts for the purpose of holding interest that is withdrawn from a designated tenancy deposit account for the purpose of the performance by it of its functions under section 151(1)(bb).”.”.

Amendment agreed to.

Government amendment No. 91:

In page 22, between lines 34 and 35, to insert the following:

“Amendment of section 180 of Principal Act

41. Section 180 of the Principal Act is amended by inserting the following subsection after subsection (4):

“(5) Without prejudice to subsections (2) to (4), each annual report shall include the information regarding the holding and return of deposits by the Board specified in subsection (6) and any other information as the Minister may direct.”.”.

Amendment agreed to.

Government amendment No. 92:

In page 22, between lines 34 and 35, to insert the following:

“Reports to Minister concerning determination of complaints under section 76A

42. The Principal Act is amended by inserting the following section after section 180:

“180A. (1) Without prejudice to section 180, the Board shall, not later than 6 months after the coming into operation of section 76A, make a report to the Minister in such form as the Minister may approve, on the performance of its functions under that subsection and in respect of the determination of complaints under section 76A and appeals against determinations of those complaints.

(2) The Board shall, not later than 6 months after the day on which the report under subsection (1) was made, make a further report to the Minister in respect of the same matters provided for in that subsection.

(3) Following the making of the report referred to in subsection (2), the Board shall include in its annual report under section 180 the matters provided for in sub-

section (1).”.”.

Amendment agreed to.

Section 39, as amended, agreed to.

Sections 40 to 49, inclusive, agreed to.

Sections 50 to 62, inclusive, deleted.

Amendments Nos. 93 to 97, inclusive, not moved.

Section 63 agreed to.

Section 64 agreed to.

SECTION 65

Government amendment No. 98:

In page 31, to delete lines 16 to 20 and substitute the following:

“ “(ea) by providing a dwelling of which the housing authority is the owner (including a house provided under Part V of the Planning and Development Act 2000) to another housing authority referred to in subsection (1)(a) or a body referred to in subsection (1)(b), under a contract or lease between the housing authority which owns the dwelling concerned and another housing authority referred to in subsection (1)(a) or a body referred to in subsection (1)(b);”.”.

Amendment agreed to.

Section 65, as amended, agreed to.

NEW SECTION

Acting Chairman (Senator Pat O’Neill): Amendments Nos. 99 to 101, inclusive, are related and may be discussed together.

Senator Diarmuid Wilson: I move amendment No. 99:

In page 31, after line 20, to insert the following:

“66. Upon commencement of this Act the Comptroller and Auditor General will undertake a review of the staffing arrangements and requirements of the Residential Tenancies Board and present said review to the Minister for the Environment, Community and Local Government.”.

I welcome the Minister of State and his officials. Amendment No. 99 seeks to assess the operation of the Private Residential Tenancies Board and would, if accepted, provide a mechanism to ensure the board, which has an increasingly burdensome but vital task, would have the necessary resources to carry out its statutory duty. Given the current housing and homelessness crisis which has engulfed our country, it would be a great shame if this legislation became impotent as a result of a failure to provide the Private Residential Tenancies Board with the necessary staff and Exchequer allocation to carry out its duties. I suggest that this amendment will go some

way towards preventing such a scenario from arising.

Amendment No. 100 deals with dispute resolution waiting time targets and seeks the publication of quarterly updates on waiting time targets. Amendment No. 101 is an attempt to guarantee the effectiveness of the disputes board. For that board to be at its most effective it must have a full membership. I look forward to hearing the views of the Minister of State on these three amendments.

Deputy Paudie Coffey: I once shared the concerns just articulated by Senator Wilson but the good news is that since this Government has come to office, substantial improvements have been made to the operation and efficiency of the Private Residential Tenancies Board, PRTB. In the context of amendment No. 99 there is no need for a review of the staffing arrangements and requirements of the PRTB. My Department keeps the resources available to the PRTB under close review and engages regularly with the board on this and other matters. Given the sustained increase in demand for the services of the PRTB, approval was provided in 2014 for an additional nine permanent staff. The board is in the process of recruitment to fill these posts which will bring the number of personnel at the board to 42. In addition, approval was secured just two weeks ago for a further eight staff to join the PRTB in the context of the new responsibilities arising from this Bill.

Regarding the proposal set out in amendment No. 100, the PRTB's published three-year corporate plan committed to the more efficient processing of cases to resolution based on targets set for different categories of dispute and in a fairer and more transparent way. This has been very successful, with major improvements in processing times. I remember that when I raised concerns about this issue a number of years ago, the PRTB was processing all applications via hard copy and did not have a computer system. It is important to put on record that processing times have been improving at the PRTB since the publication of its corporate plan in 2012. In 2014, 50% of all applications for dispute resolution were closed or processed within four months, and the latest figure for 2015 shows that 83% were closed or processed within four months. Substantial progress has been made and that will continue. In respect of amendment No. 101, there are no vacancies on the disputes resolution committee of the PRTB.

Having outlined the progress made to date, the continual improvements in efficiency, the additional staff that have been approved and the new posts that will be filled, I will not be accepting these amendments.

Amendment, by leave, withdrawn.

Amendments Nos. 100 to 104, inclusive, not moved.

SCHEDULE

Government amendment No. 105:

In page 32, to delete lines 9 to 12.

Amendment agreed to.

Government amendment No. 106:

In page 32, to delete line 17.

Amendment agreed to.

Schedule, as amended, agreed to.

TITLE

Government amendment No. 107:

In page 5, line 25, after "1983;" to insert the following:

"to provide for the Private Residential Tenancies Board to hold, and return, deposits paid by tenants to landlords, for any interest received from the holding of such deposits by the Private Residential Tenancies Board to be retained by it for its use in respect of its performance of its functions under the Residential Tenancies Acts 2004 to 2015; to amend the Housing (Miscellaneous Provisions) Act 1992; in accordance with the exigencies of the common good, to provide, for a certain period, for the regulation of reviews of rent; to amend the periods of notice for the setting of new rents and the periods of notice for certain tenancy terminations;".

Amendment agreed to.

Title, as amended, agreed to.

Bill reported with amendments.

Acting Chairman (Senator Pat O'Neill): When is it proposed to take Report Stage?

Senator Tony Mulcahy: On Thursday, 19 November 2015.

Report Stage ordered for Thursday, 19 November 2015.

Acting Chairman (Senator Pat O'Neill): When is it proposed to sit again?

Senator Tony Mulcahy: At 10.30 a.m. on Wednesday, 18 November 2015.

The Seanad adjourned at 6.55 p.m. until 10.30 a.m. on Wednesday, 18 November 2015.