



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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# SEANAD ÉIREANN

*Dé Máirt, 1 Nollaig 2015*

*Tuesday, 1 December 2015*

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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

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## **Business of Seanad**

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

The need for the Minister for the Environment, Community and Local Government to publish details of all funding allocated to Cork City Council and Cork County Council for the financial years 2013 and 2014 in respect of all housing matters and, in particular, details of any funding that was unspent and returned to the Department.

I have also received notice from Senator Máiría Cahill of the following matter:

The need for the Minister for the Environment, Community and Local Government to consider the introduction of a points allocation system for victims of domestic violence fleeing from violent situations and to prioritise these victims on the homeless list in order that they are not trapped in a cycle of violence but receive help from the relevant agency in order to be able to leave and be rehoused.

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

The need for the Minister for Transport, Tourism and Sport to re-establish the Motor Insurance Advisory Board to provide for greater regulation of the motor insurance industry in the light of spiralling insurance costs.

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

The need for the Minister for Health to give an update on plans to provide 24/7 cardiology services at University Hospital Waterford.

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

The need for the Minister of State with responsibility for the Office of Public Works to outline when adequate flood relief measures will be implemented along the Dunkellin river

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in County Galway in the light of the continuous destruction of homes and farmland in the area owing to flooding.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Colm Burke, Máiría Cahill, John Kelly and David Cullinane and they will be taken now. Senator Lorraine Higgins may give notice on another day of the matter she wishes to raise.

## **Commencement Matters**

### **Local Authority Funding**

**Senator Colm Burke:** I welcome the Minister of State, Deputy Ann Phelan, and thank her for dealing with this matter. I am raising it in view of the fact that there has been a substantial delay in getting work done, particularly in Cork City Council. On the one hand, there are people saying they are not getting funding and, on the other, there are people saying that when they get it, there is a delay since they are receiving it later in the year. I understand that although there was some funding allocated in 2013 and 2014 and a programme of works in each case, some of the work was not done, the money was not spent and, as a result, it was refunded to the Department. I seek to identify exactly where the problem is and what now needs to be done to ensure this is not repeated in future years.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** I thank the Senator for raising this issue. Funding was allocated by my Department to Cork local authorities for social housing for the years in question across a range of expenditure subheads. In some cases, funding was issued on the basis of a distribution of the available national funding across all local authorities. For example, funding in respect of housing adaptation grants for older people and people with a disability is allocated to all local authorities based on a national budget secured by my Department and drawn down in line with the allocations issued. In other cases, funding is allocated for a specific project. For both Cork local authorities, variations in expenditure across the overall capital expenditure programme in 2013 and 2014 range from under-expenditure of 8% to over-expenditure of 42%. The overspend was in programmes for upgrading, refurbishment and reinstatement of vacant housing units where both Cork local authorities were in a position to draw down additional funds over and above their allocation in 2014.

There can be a range of issues that give rise either to higher or lower spends against allocations. My Department officials stay in ongoing contact with their counterparts in the local authorities regarding drawdown levels and may make adjustments where one local authority notifies a potential underspend and another may have capacity and need to spend more. An underspend in one housing budget line in one particular year does not mean that projects go unfunded. For example, on social housing construction projects, a local authority may anticipate a level of funding drawdown on a project based on anticipated advancement of the project in a particular year. While funding may be allocated in a particular year for this purpose, it is not unusual, with construction activity, that projects may not progress at the speed anticipated and drawdown may, as a consequence, be less than allocated. However, as there are contracts to be honoured in respect of construction projects, my Department and the local authorities

will provide funding for legitimate construction costs even where they are presented later than anticipated.

Given the variance that can arise with housing spending, the position revealed by the figures does not always tell the full story. As local authorities are the housing authorities for their areas, however, it is right and proper that responsibility is vested in them to deliver social housing services. Their performance in that regard is overseen, in the first instance, by the elected members of the respective local authorities. Social housing is a key priority for this Government and my colleagues, the Minister and Minister of State, Deputies Alan Kelly and Paudie Coffey, both in this House and the Dáil, regularly address issues relating to the overall national picture for delivery.

Social housing delivery for a particular local authority area should be and is, I have no doubt, a key issue of debate and questioning in the council chambers, in this case in Cork City Council and Cork County Council. The Government's important local government reform policy, Putting People First - action programme for effective local government, highlighted that a key requirement for an effective and accountable system of local authority governance is the effectiveness of the elected councils in setting policy and rigorously overseeing the performance of their organisations. For that very good reason, I believe the possibility of any social housing funding being unspent and returned to the Department should be rigorously overseen by the elected members locally.

**Senator Colm Burke:** My question asked for details of what funding had been allocated, but there were no such details in the Minister of State's reply, with which I am disappointed. My understanding is that €10 million was allocated to one project but €4.5 million was returned to the Department, something to which the Minister of State did not refer in her reply. I asked her to publish details of all housing allocated to Cork City Council. In other words, what monies were allocated? That is not in the reply. We should be entitled to that information. I can obtain it under freedom of information legislation and do not understand why I cannot receive it in this reply.

**Deputy Ann Phelan:** I draw the Senator's attention again to my point that for both Cork local authorities' variations in expenditure across the overall capital expenditure programme in 2013-14 ranged from underspend of 8% to an overspend of 42%. If the Senator has specific projects in mind, we will undertake to obtain more detail for him. Perhaps he might engage with some of the local members to-----

**Senator Colm Burke:** I am sorry, but the Department should be able to give me figures for what has been allocated to a local authority. I want to know what funding is allocated to local authorities because we have been told that insufficient funding has been given.

**An Cathaoirleach:** There is no provision for questions.

**Senator Colm Burke:** We need specific figures and I am entitled to them.

**Deputy Ann Phelan:** I shall undertake to see what we can get specifically for the Senator.

**Senator Colm Burke:** I thank the Minister of State.

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## **Domestic Violence Policy**

**Senator Máiría Cahill:** I thank the Minister of State for coming to the House.

Recently I have been asked to help with a number of cases specifically around the issue of domestic violence and abuse. One of these cases involves a woman in her fifties who was resident in council accommodation for over 30 years. I do not want to identify her due to the very real danger that she may find herself in and because of the obvious sensitivities. She found herself in a situation in which she had to leave her home recently after enduring decades of domestic violence. Owing to the impending closure of the emergency accommodation she is now living in, she will find herself homeless two weeks before Christmas. She will also find herself way down the housing list as a result, even though she has never missed a payment of rent on the council house that she has lived in for more than 30 years.

Domestic violence affects thousands of people, as the Minister of State will know. An environment needs to be created to encourage victims to leave the danger they are in. As many as 207 women have been murdered in Ireland since 1996. In 2014, Women's Aid heard 595 disclosures of sexual abuse, including 176 disclosures of rape by partners or ex-partners. Out of all of the contacts to Women's Aid, there were more than 1,600 disclosures of emotional, physical, sexual and financial abuse. It is with this in mind that I ask the Minister of State to outline how cases are prioritised in the system. I suggest the Department introduce a verified points-based system to enable those most in need to achieve safe, secure and permanent housing, rather than taking cases by date order, or a separation of lists, which would mean there was a tangible way of measuring need. Victims deserve protection from domestic violence. Owing to the increasing burden being placed on voluntary organisations which do a great job in providing emergency accommodation, will the Minister of State consider a new approach to the allocation of housing?

**Deputy Ann Phelan:** I thank the Senator for raising this very serious issue which, unfortunately, continues to be a blight on society and has a terrible impact on victims and their families. It is important to note that housing authorities do not provide or oversee services specifically designed for victims of domestic violence. Responsibility for the development and provision of services to support victims of domestic abuse rests with the Minister for Children and Youth Affairs, and the delivery of such services is managed through the Child and Family Agency, Tusla.

Victims of domestic violence who seek emergency accommodation from a housing authority are generally placed in temporary accommodation arranged by the council or operated by a voluntary service provider. It is not necessary for such persons to go on the general housing waiting list to avail of short-term emergency housing. Such support can be provided where victims of domestic violence meet the homelessness definition set out in the Housing Act 1988, which is not prescriptive and in practice will generally include victims of domestic violence.

Where victims of domestic violence need continued State support to meet their housing needs, housing authorities are encouraged to work with all service providers to ensure a victim's housing eligibility and need is assessed in a timely manner. This assessment is carried out in accordance with section 20 of the Housing (Miscellaneous Provisions) Act 2009 and the associated Social Housing Assessment Regulations 2011, which includes a review of the suitability of the household's current accommodation having regard to a number of considerations, including particular household circumstances or on exceptional medical or compassionate grounds. This provision allows a housing authority to consider victims of domestic violence as having a hous-

ing need and allows them to be placed on a housing list where all other criteria are met.

The allocation of social housing support to qualified households is a matter for individual housing authorities in accordance with their allocation schemes made under section 22 of the 2009 Act. Each housing authority is required to make an allocation scheme specifying, among other things, the manner of, and the order of priority for, the allocation of dwellings to households and classes of households on the waiting list. Allocation schemes may also contain provisions for exceptional or emergency cases, allowing immediate housing outside of normal waiting list priorities, should circumstances warrant it.

While the allocation of support is a matter for individual local authorities, the 2009 Housing Act provides that the Minister may issue directions to a housing authority regarding the operation of an allocation scheme and the housing authority is required to comply with any such direction. Using this power, the Minister, Deputy Alan Kelly, issued a direction, which applies until 31 January 2016, to key local authorities requiring them to prioritise homeless and vulnerable households in the allocation of tenancies under their control. Victims of domestic violence who are considered homeless by the housing authority or who are in accommodation that is considered unsuitable, on exceptional medical or compassionate grounds and who are qualified for social housing support on or before 1 June 2015 may benefit under this direction.

I am satisfied that the current provisions and arrangements provide local authorities with appropriate mechanisms to ensure sufficient priority is afforded to victims of domestic violence and other vulnerable groups. In addition to the current provisions which allow for the adequate prioritisation of victims, my Department is involved in a number of initiatives which support victims. Under my Department's capital assistance scheme, support may be provided through housing authorities towards approved housing bodies, AHB, costs in providing accommodation for persons that are qualified for social housing supports that may have particular accommodation needs. There are a number of AHBs which have an emphasis on providing suitable accommodation to victims of domestic violence. It is a matter for individual housing authorities to prioritise the projects to be advanced under the capital assistance scheme. Furthermore, Cosc, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, which was established in 2007 as an executive office of the Department of Justice and Equality, works to ensure the delivery of a co-ordinated response to issues of domestic, sexual and gender-based violence across government. My Department continues to liaise with Cosc on the development of a second national strategy on domestic, sexual and gender-based violence which should be finalised shortly. While there is no proposal to redefine victims as a specific category of prioritised housing need, my Department will commit, under the strategy, to develop guidance for housing authorities to ensure effectiveness and consistency in local authority responses for victims of domestic violence.

**An Cathaoirleach:** I thank the Minister of State. Does Senator Máiría Cahill have a question?

**Senator Máiría Cahill:** I welcome the Minister of State's comprehensive answer. I note with some concern that the direction made by the Minister only extends to 31 January 2016. I will obviously be calling for it to be extended for much longer. We are talking about the need to remove barriers for those who urgently need to leave their homes. We are not talking about emergency accommodation but about long-term, safe and secure accommodation. With that in mind and while all of this is welcome, I believe that a national direction should be given in order to have a systematic, joined-up approach. In addition, some sort of regulated, uniform

thinking is required among those allocating housing to assist based solely on need. This is one category of victims which should absolutely be based on high priority housing need. Would it be possible, therefore, to get a commitment that there will be some degree of creative thinking nationally, instead of dealing with such problems locally? In the case I am dealing with, it is clearly not working.

**Deputy Ann Phelan:** I am mindful that we sometimes need housing bodies to have a degree of flexibility. A local solution to a local problem is often the best way to go. Given that the Department is liaising with Cosc in developing a second national strategy on domestic, sexual and gender-based violence which will be finalised shortly, perhaps the Senator might wait to see what that strategy contains. I could, perhaps, assist the Senator in working with the Minister to see how we can have better recognition of domestic violence in that strategy. I am mindful of not weighting things too much. Sometimes when we make changes we have to be careful about unintended consequences for another cohort of people. Perhaps we might wait and see what the strategy states and we will continue to work on it.

### **Motor Insurance Coverage**

**An Cathaoirleach:** I welcome the Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe.

**Senator John Kelly:** I also welcome the Minister. In the past year or so we have seen many protests about water charges and so on. In some cases people were asked to pay an extra €160 when the conservation grant is taken into account. In some cases the charge was €80. In many cases there was no charge at all. We have a bigger problem with charges. The bigger problem is the major increase in car insurance, house insurance and health insurance costs. This year, many of the costs seem to have gone up by 25%, 30%, 50% or 60% for absolutely no reason whatsoever. I know of many examples. I have one example involving house insurance. A man made a claim for an iPad that broke. There was an excess on the policy and all he was able to claim was €150, but his insurance policy went up by €300. When he rang and questioned those responsible, they told him that if he paid back the €150, they would reduce his policy by €300. They seem to be making it up as they go along.

This problem arose in 1984 and, as a result, the Motor Insurance Advisory Board was set up. The board last reported in 2004. At that stage responsibility for those duties was transferred to the Department of Transport, Tourism and Sport. Now, it appears nothing is listed on the Department's website indicating that the Department has any responsibility. There seems to be no monitoring body. Consequently, these companies are showing no loyalty to their customers. Although I advise customers to shop around, it seems to be clear that there is a degree of cartelism operating with all the insurance companies. All of them are guilty of the same thing.

I am calling on the Minister to re-establish the Motor Insurance Advisory Board. I will set out two examples for him. An elderly man telephoned me. He is 73 years of age and drives a 2003 Ford Fiesta. The value of the car is €1,000. He has a 60% no-claims bonus. He is asked to pay €880 per year. A lady was on the telephone to me the other day. Her son drives a small 2002 Audi to bring him to college in Mountbellew every day. The college is not far enough away for him to get accommodation there. Last year his insurance policy was €1,400 on the basis of no claims, no penalty points and the car depreciating all the time. The premium has gone up to €2,648 this year. That is almost a 90% increase for absolutely no good reason. I heard

from another young person who told me that cars 13 years or older are particularly targeted by the insurance companies. That is the reason the young man I referred to has had this dramatic increase in his policy.

We put cars through the national car test. Either the result of an NCT is of value or it is not. We have to get clarity on the matter because families are being crippled with these payments.

There is no evidence to suggest the reason for these hikes in insurance charges is vast payouts. In fact, there is €1 billion in the difference between premium income and the published awards.

My final point relates to the 3% levy policyholders pay. It is fine for people who are paying €200 or €300 for car insurance. They can get away with €6 or €9 per year extra. However, the young man I made reference to will have to pay an extra €158.88 because of the 3% levy. As well as re-establishing the Motor Insurance Advisory Board, I call on the Minister to introduce a set fee rather than a set percentage.

**Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe):** I thank the Senator for raising this matter with me.

*3 o'clock*

I should clarify that the Motor Insurance Advisory Board, MIAB, was not originally established by my Department, nor do I have a legal role in that area or the re-establishment of the board. The MIAB was originally established under the Motor Insurance Advisory Board Act 1984, introduced by the then Minister for Industry, Trade, Commerce and Tourism.

My responsibilities, as Minister for Transport, Tourism and Sport, in relation to motor insurance are limited to the requirements under the Road Traffic Acts relating to compulsory insurance for drivers of mechanically propelled vehicles. To that end, I have responsibility for the current agreement with the Motor Insurance Bureau of Ireland, MIBI. This body was established in 1995, having as its principal role the compensation of victims of road traffic collisions caused by uninsured and unidentified vehicles. It is regulated under the terms of an agreement with me, as Minister for Transport, Tourism and Sport. The most recent such agreement is that of 2009. It is funded by all insurance companies underwriting motor insurance in Ireland which must by law be members of MIBI and contribute to funding the claim in proportion to their market share.

The area for which I have direct responsibility relates to motor insurance costs and the impact they have on road safety, which is my responsibility. On the broader point the Senator has raised, to which I want to respond, I am aware of the clear trend to which he refers, whereby there have been increases of between one fifth and one third in many premia within the motor insurance market in the past 12 months. The motor insurance industry itself is pointing to a number of factors that are causing this, such as the frequency and scale of claims and the cost of those claims. It is also making some observations about the operation of the insurance market and the particular requirement under the solvency II directive from January next year for insurance companies to increase their capital reserves, which could be a contributory factor in some of the premia to which the Senator refers.

The Central Bank is the regulatory body in respect of all this, but it is only able to issue directions to firms in respect of where they price, how they operate and whether any decisions

they make would risk the sustainability of the company as a going concern and then cause further issues for policy-holders. I have met and engaged with representatives of the insurance industry regarding this matter and believe the Department of Finance, with the Central Bank, will be reviewing the circumstances that led up to the issues with Setanta Insurance, which have also been a contributory factor in this matter. They will then report back to the Minister for Finance to see what can be learned from this and whether anything can be implemented to deal with the matters to which the Senator is referring.

**Senator John Kelly:** When I looked for this Commencement debate, I was looking for the re-establishment of the MIAB. I sent the request to the Department of Transport, Tourism and Sport initially because that is where it ended up once it had been disbanded. When my Commencement debate ended up on his desk, the Minister's Department said it had nothing to do with it. It sent it back to the Seanad Office which then sent it to the Department of Finance which stated it had nothing to do with it and sent it back to the Department of Transport, Tourism and Sport. Regarding the exact issue I wanted to discuss, namely, the re-establishment of the MIAB, is the Minister saying it was initially established under the Department of Industry and Commerce? If so, perhaps that is who I should have had in here, not the Minister. The Minister said the Central Bank was regulating insurance costs, but it is not. Costs are spiralling out of all control.

**Deputy Paschal Donohoe:** On the area of responsibility, when I became aware of what was happening, I said I would answer the question for the Senator because this matter is best understood relative to what is happening with car insurance, for which I have a responsibility in the context of road safety.

The re-establishment of the MIAB would best sit with either the Department of Finance or the Department of Jobs, Enterprise and Innovation. As I am answering the Senator's question in the House, I will pass this debate we have had on to the Minister for Finance this week because we are engaging within government on some aspects of what the Senator referred to and ask the Minister to revert back to the Senator with a response on this point.

## Hospital Services

**An Cathaoirleach:** I welcome the Minister, Deputy Leo Varadkar.

**Senator David Cullinane:** I also welcome the Minister. I am pleased he is taking this Commencement matter.

I have raised this at least seven times as a Commencement matter in the Seanad in recent years. When the new hospital groups were being established - it was not under the Minister's leadership but under the leadership of a previous Minister for Health - Waterford was grouped with Cork in a new hospital grouping and we were promised 24/7 cardiology care for the south east to be provided in University Hospital Waterford as part of that new hospital grouping.

We have one catheterisation laboratory, cath lab, which is open five days a week from 8.30 a.m. to 5.30 p.m. and three interventional cardiologists. Patients may be treated in emergency circumstances from 8.30 a.m. to 5.30 p.m., but outside of these hours, if somebody presents as an emergency, although we have 24/7 consultant cover, we do not have the primary percutaneous coronary intervention, PPCI, cover and patients are transferred to hospitals in the south

and south west for emergency treatment outside of these hours. On the previous occasion I raised this as a motion in the Seanad, I was told that an extension to the service would require three additional interventional cardiologists or consultant cardiologists, extra support staff and a second cath lab, involving a capital cost of €1.9 million and a revenue cost of approximately €2.7 million. The Government tells us constantly that the economy is recovering, there is more money and the Exchequer figures are up. If that is to mean anything to citizens, these are the types of service which should be provided.

Figures reported in the *Waterford News and Star* last week showed that the service in Waterford was the sixth busiest cardiology service in the State. St. James's Hospital in Dublin was the busiest, followed by the services Cork, the Mater Hospital in Dublin, Galway, Limerick and Waterford. A number of hospitals see fewer patients but yet have 24/7 emergency cardiology cover and two cath labs. It is the same old story for Waterford and the south east. While we have the population of 500,000 and there is clear demand given that it is the sixth busiest cardiology service, we do not have the 24/7 cardiology cover people feel they deserve and need and which was promised by the previous Minister for Health.

In the light of the response I received in August which referred to the cost and the resources that needed to be put in place to have 24/7 cardiology services, what is Government policy? Is there a commitment to provide a 24/7 cardiology service? Are we working towards it? Are there plans for additional services in this area for University Hospital Waterford and will the Minister update the House on the matter?

**Minister for Health (Deputy Leo Varadkar):** I thank the Senator for raising this matter.

Services at the regional cardiac catheterisation laboratory, cath lab, at University Hospital Waterford are led by three consultant interventional cardiologists and their teams. The service is developing in line with best practice and the national clinical programme for acute coronary care. The cath lab at University Hospital Waterford performs approximately 40 invasive cardiovascular procedures each week and offers a comprehensive range of invasive and non-invasive diagnostic services. This includes the insertion of stents, pacemakers and implantable defibrillators. PPCI is undertaken on patients with ST elevation myocardial infarction, STEMI, heart attacks, which account for approximately 20% of all heart attacks. It is done in a cath lab by an experienced cardiologist. The cath lab at University Hospital Waterford is open five days per week from 8.30 a.m. to 5.30 p.m. Patients who require PPCI outside these hours are transferred to Cork University Hospital or to a Dublin hospital. However, 24-hour, seven-days-a-week consultant medical cover for cardiac patients, and all medical patients, is provided at University Hospital Waterford.

The acute coronary syndrome programme was established in order to standardise the treatment of patients. The model of care produced by the programme was informed by advice from the principals involved in centres in the United Kingdom and other European countries. Experience at national and international level highlights the importance of having sustainable rotas of clinical staff to support the 24/7 requirements of the service. University Hospital Waterford is committed to the progressive extension of the current PPCI service. Any extension to the service will require significant investment, both capital and revenue.

To provide 24-hour emergency PPCI cover requires, at a minimum, two cath labs on site and a minimum of six interventional cardiologists. As for any complex acute hospital service, a key criterion for deciding if a 24-hour PPCI service should be provided is whether there is a suffi-

cient volume of appropriate patient activity to ensure the safe provision of the service. Without sufficient volume of patients or caseload, staff will not be in a position to maintain their skills, and in those circumstances it will not be possible to ensure a safe service with good patient outcomes. Given that funding for new developments is very limited, it is critically important that the available funds be targeted appropriately. University Hospital Waterford is a constituent hospital of the south-south west hospital group. The priority to be afforded to the expansion of the PPCI service in Waterford must first be considered from a hospital group perspective and in respect of the planning for the cardiology needs of the group population. The development must then be considered in a national context and in the light of competing demands for scarce resources. The issue remains to be considered and prioritised by the HSE, in the development of the strategic plan for the south-south west hospital group. It is expected that the groups will develop and complete their strategic plans in 2016.

**Senator David Cullinane:** The Minister's answer seems to be different from the one I received in May which seemed to be an outright "No". The Minister's answer may be somewhat positive in that the issue remains to be considered and prioritised by the HSE. The Minister has said one of the key criteria is that there be sufficient patient volume, which is the case. I gave him the figures earlier and we have the population. It is concerning that he has said the priority to be afforded must be in the context of the needs and population of the group of which the hospital is a member. This will worry many people. One of the concerns the people of Waterford had when we joined the south-south west hospital group with Cork was that what is now University Hospital Waterford was a regional hospital servicing the population of the south east. If we are now ignoring this population base, we are ignoring the fact that Waterford is the capital, if you like, of the south east, and facility services patients in Wexford, Tipperary, Carlow and Kilkenny, but is seen solely in the context of the population of the hospital group. It is a clear departure from how services were provided in Waterford in the past and I am slightly concerned about it. It remains to be seen what will be in the new plan for 2016. I appeal to the Minister to examine the facts and figures, the population and the patient throughput in the hospital. He will see that there is justification for full, 24/7 cardiology cover in University Hospital Waterford.

**Deputy Leo Varadkar:** When we discuss patient numbers and caseload on the particular issue the Senator is raising, we are referring only to patients who could benefit from a PPCI, not patients or cardiology patients in general. General cardiology is already provided on call, 24/7, in Waterford. Only a few months ago, there were three 24/7 PPCI hospitals in Dublin serving the greater Dublin area. That was reduced from three to two because the patient load was not sufficient to sustain three services in the greater Dublin area. That decision was made by the national programme. That is how these decisions should be made. It is a long time since Ministers or politicians decided where special centres or cancer centres should be. We are not going back to that. We are certainly not going back to it while I am Minister. Decisions will be made based on what is best in terms of patient safety and clinical outcomes. Consideration is being given to extending the existing service in Waterford to 8 p.m. Such a decision will have to be made in the context of the group's strategic plan. We will have to be sure it is safe, sustainable and staffable. Obviously, that is much more important than any financial issue. We need to know the caseload is sufficient to ensure any new service or extension of the service is sustainable and staffable.

*Sitting suspended at 3.15 p.m. and resumed at 3.30 p.m.*

## **Order of Business**

**Senator Maurice Cummins:** The Order of Business is No. 1, Motor Vehicles (Duties and Licences) Bill 2015 - all Stages, to be taken, notwithstanding anything in Standing Orders, at the conclusion of the Order of Business and brought to a conclusion not later than 6.15 p.m. by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Government, with the time allocated on Second Stage for group spokespersons not to exceed six minutes, the contributions of all other Senators not to exceed four minutes and the Minister to be called on to reply to the debate for five minutes not later than 5.45 p.m; No. 2, motion for earlier signature of the Motor Vehicles (Duties and Licences) Bill 2015, to be taken without debate at the conclusion of No. 1; No. 3, Legal Services Regulation Bill 2011 - Report Stage (resumed) and Final Stage, to be taken at 6.15 p.m; and No. 4, International Protection Bill 2015 - Order for Second Stage and Second Stage, to be taken at the conclusion of No. 3, with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed seven minutes.

**Senator Labhrás Ó Murchú:** I am glad to have the opportunity to touch on an item on which I believe we should clarify our standing. We should be proactive in our position on global terrorism, as evident from some of the contributions in the Seanad each time there is an atrocity underpinned by the type of depravity seen in Paris. We should not feel we are outside the loop in terms of responsibility.

I recall a debate in the House during the bombing of Iraq. A very vulgar title was given to the debate, which included the term “shock and awe”. It is estimated that tens of thousands of men, women and children were killed during that campaign. At the time a number of Senators spoke. I recall saying I believed what we were doing there would spawn a whole new generation of terrorists. World powers are now competing with each other to bomb opposing factions in Syria. One can only imagine the carnage left behind when all of this is over. We can be pretty sure it will spawn a further generation of terrorists.

We have had many debates on the Palestinian problem and know that thousands of people were slaughtered by Israel in Palestine. It was allowed to do so with absolute impunity and was able to get away with it, even though it was suggested by spokespeople in the United Nations that it could be held responsible for war crimes. In recent months, Israeli forces have killed 71 people, including young babies. What do we expect the outcome of this to be? In addition to the killings, it has devastated completely the infrastructure in Palestine. People can barely survive. Recently I spoke to a medical specialist in Dublin who is from Palestine. He goes back to visit his family. He says he has to psych himself up for days before he goes and he must psych himself up again when he comes back. He said one could not believe what was happening there.

There is an opportunity for people in Ireland, particularly at Government level, to be more proactive in our response to human rights abuses. At the end of the day, moderates are being sidelined in this. One wonders where the great diplomats of the past have gone. Where are the peacekeepers? All we are using is the language of war and the act of war and innocent people, as happened in Paris and in so many other cases, are losing their lives. We will have more of it, because the people doing this cannot be reasoned with, but we can reason with those who are moderate and must bring the moderates back into the circle.

Ireland must be clear on where it stands with regard to climate change and the environment. We must think about the economy, but Ireland has always been seen as being particularly friendly towards the environment. The farming community could take the credit for being the custodians of the environment. The language we use on this issue is important, because if we are not seen to be supporting what now seems to be a momentum towards finding a solution, we may find ourselves to some extent being regarded as selfish and not prepared to play our role.

**Senator Ivana Bacik:** I concur absolutely with Senator Ó Murchú's comments on Palestine, the appalling situation there and the lack, it appears, of any move towards a resolution in the interests of the lives of civilians. Any sign that the American Secretary of State, Mr. John Kerry, and others are seeking to intervene to try to restore some form of peace or achieve some resolution is very welcome.

I welcome the speech by the US President, Barack Obama, at the Paris summit yesterday, where he pointed out that the Paris conference was a potential turning point for us in curbing global warming. We are at a critical point to try to ensure we do not see it take hold, with the dire consequences we all know will occur. I concur with Senator Labhrás Ó Murchú's comments on Ireland's role in this regard. Clearly, it will be difficult for us to seek to meet the 20% reduction by 2020, particularly because of our agricultural emissions, but we have a duty to ensure we try to meet these targets. The House recently concluded a debate on the Climate Action and Low Carbon Development Bill which was very welcome, but in the new year I would like us to have a debate on how best to implement the policy in the Bill and how best to ensure we meet our targets in the light of whatever decisions are made in Paris. I know all colleagues will want to join in expressing hope for a positive and effective agreement among the international leaders represented in Paris.

I commend the "RTE Investigates" team for its excellent and very powerful documentary which many colleagues saw last night on the sex trade in Ireland, in other words, prostitution and sex trafficking. It had some very disturbing findings. We are debating changes to prostitution law under sections 20 and 21 of the Criminal Law (Sexual Offences) Bill 2015. In the light of that, I have invited the makers of the "RTE Investigates" documentary to come to the AV room in Leinster House tomorrow at 12.30 p.m. to brief us on their findings. I have also asked a couple of independent experts to speak in more general terms about the way in which the law can impact on change in behaviour in terms of prostitution. The links between prostitution and organised crime were made explicit in last night's documentary and confirmed the findings we made in the justice committee report which led to the change in the law. I welcome this and invite colleagues to attend.

I welcome the Northern Ireland High Court decision yesterday, by Judge Mark Horner, in a case taken by the Northern Ireland Human Rights Commission. The judge found a breach of Article 8 of the European Convention on Human Rights in respect of the failure to provide for abortion in cases of fatal foetal abnormality and rape. Clearly, there are implications for this jurisdiction, but the Leader has agreed already to a debate on that issue in the new year.

**Senator Jillian van Turnhout:** Yesterday, I attended the launch of the report of the Child Care Law Reporting Project. Its research showed that nearly one in three children in care cases had psychological, educational or physical special needs. The report highlights the need for a dedicated family court. The authors, Dr. Carol Coulter with Lisa Colfer, Kevin Healy and Meg McMahon, also raised the reality for vulnerable adults and vulnerable parents and the difficulty accessing services such as mental health, intellectual disability and addiction services. Perhaps

that is an issue we might address in the Seanad. We could also examine the connected issue of families, children and their parents, being able to access the appropriate services they need in a timely manner. I commend the authors on giving us this evidence which will help us in our work. I also commend the Free Legal Advice Centres, FLAC, Atlantic Philanthropies and the One Foundation which supported this work.

I also wish to refer to the International Protection Bill 2015. We will have an opportunity this afternoon to outline our views on the Bill, which is very welcome. However, I have concerns about children. Many of the recommendations of the working group report regarding children have been ignored in the Bill. Committee and Remaining Stages are scheduled for Thursday next. Given the time that is available to us, I give notice to the Leader that I intend to table Report Stage amendments. I, therefore, ask that Report Stage be scheduled for a date next week. That would give us time to table considered amendments. I was not here last week owing to the passing of my father - I thank Senators for their kind wishes - but I wish to ensure this Bill is given the consideration it is due. I also wish to ensure children are not ignored in it.

**Senator David Norris:** First, I express my sympathy to Senator Jillian van Turnhout on the death of her father.

I note that we will be dealing with the Legal Services Regulation Bill at 6.15 p.m. and that the Leader has said we will debate the International Protection Bill when that is concluded. We are debating amendment No. 42 on Report Stage of the Legal Services Regulation Bill and 303 amendments have been tabled. How much time will be allocated for this debate? Even at two or three minutes per amendment, it will be quite late tonight if we are to deal with the International Protection Bill. I wonder if that is wise.

I welcome the decision of the court in Belfast on the abortion issue. Nobody likes abortion and nobody feels she is not a complete person unless she has one. However, it is outrageous that third parties should seek to intervene in a situation where, for example, a 13 year old girl has been raped by a neighbour and is pregnant, where there is a fatal foetal abnormality and the parents decide together that they do not wish to bring the pregnancy to term or where there is a case of incest. It is monstrous that third parties should seek to intervene. This is a private decision for the family and I very much welcome what has happened in the North.

I support what Senator Labhrás Ó Murchú said about the Iraq war and the position of the Palestinians. Mr. Cameron knows perfectly well that bombing Syria will have absolutely no impact on ISIS. However, it will affect the civilian population. He is making the very same mistake Mr. Blair made. It is a disaster. It is very regrettable that Mr. Corbyn, the UK Labour Party leader, a man of great principle who stood against the Iraq war and all these matters, has been forced into a position where he has had to allow a free vote.

I have just been made aware today of a Palestinian family in the old city of Jerusalem who are being pushed out of their house and evicted to make way for a Jewish family. The Palestinian family has been in that house for 65 years. There is an endless process of attrition of the civil and human rights of the Palestinian people. The Israeli Government suffers no rebuke whatsoever because it is protected by the United States.

I am not sure I will be able to attend the briefing on prostitution tomorrow. I saw part of the programme in question. It is a disastrous mistake to criminalise one half of those involved in a transaction. Nobody believes the lamentable legislation in Sweden has succeeded and nobody

believes it will end prostitution in Ireland. I gave a great deal of factual, scientific information from a study produced by Queen's University Belfast in this House and it has never been challenged. This is an exercise in hypocrisy and self-righteousness by people who are either pretty strong feminists-----

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

**Senator David Norris:** I will end on this - or religious and from a particular background. Many of them are from the order that supervised the Magdalen laundries, which ought to tell us something.

**Senator Colm Burke:** Today, 1 December, is World AIDS Day. It is important that we highlight the issue of AIDS. The average number of people to contract AIDS annually in this country is 350. To date in 2015, however, there seems to have been an increase. One factor is that there are better tests available and more people are aware of the syndrome. The population, especially young people, needs to be aware of the importance of sexual health education and the curriculum in schools should be fully taught. AIDS was an issue people did not even dream of talking about a number of years ago. People totally distanced themselves from it or anyone who had AIDS. We have moved on from that, but it is important that sexual health and the risks be dealt with comprehensively among all students in schools during the year. It is worrying that the number identified with AIDS this year has increased by comparison with other years. We need to be careful about this.

**Senator Paschal Mooney:** I join Senator Labhrás Ó Murchú in raising what seems to be increasing tension over the question of ISIS. It is incumbent on the Government to take an independent line on international affairs, as it has always done traditionally. Specifically, we should be calling for an end to the civil war in Syria rather than for bombing more people, which inevitably results in a high cost in terms of civilian lives. To realise this, we have only to see the consequences in the form of an upsurge in the number of Syrian refugees. The refugees are ordinary, decent people. A significant number of them were, like us, living normal lives but they have been bombed out of their homes or threatened with bombs or murder. The key to this is ending the civil war in Syria. I hope that in the ongoing talks in Vienna, in which the so-called great powers, including the Russians, the British, the French and now the Germans are becoming involved, some resolution will be reached. The United States and those supporting it in attempting to remove President Assad should change their tactics. We saw what happened in Iraq when the Americans got rid of Saddam Hussein. Instead of maintaining the infrastructure that was in place, they destroyed it. Now look what we have. Is there going to be a similar situation in Syria? One should end the war and then start political negotiations. Churchill famously said jaw-jaw was better than war-war and that statement still holds true some 70 years after he said it.

Will the Leader say when the Bill on the reduction in bankruptcy years, to be published next week, will be brought before the House? Will it be a Seanad Bill or a Dáil Bill? It is very important that this Bill be brought through both Houses as quickly as possible, particularly in light of the imminent general election. I compliment Deputy Willie Penrose who doggedly and, initially, single-handedly fought on this issue. With others, I raised it when the then Minister, Deputy Alan Shatter, was taking the bankruptcy Bill through the House. I asked repeatedly on Second and Committee Stages why we differed from the United Kingdom in this regard and why one could be declared bankrupt after one year in the United Kingdom but 12 years here. It did not make sense and I am glad the Labour Party has seen the error of its ways in this regard

and now supports Deputy Willie Penrose's proposals. I understand the decision has been taken by the Cabinet and that the Bill will be published next week. It is important and it is incumbent on the Government to introduce the legislation as quickly as possible. Without having had any prior discussion with colleagues on this side of the House, I assume there will not be any major opposition from Fianna Fáil to the efficient passing of this legislation.

**Senator Lorraine Higgins:** A major issue has surfaced in my home town of Athenry relating to school admission procedures and the patent unfairness of the system in place. I have been contacted by numerous parents on the failure to have their children accepted into the school of their choice in the town. It is clear from the information I have gleaned from parents that there are a number of discrepancies in enrolment procedures which warrant further scrutiny. For example, boys and girls attend the same feeder school to the secondary school for the first three years of their schooling life, at which point the boys progress to the boys national school and all is fine and well until it comes to the point when the boys apply to the secondary school of their choice. They end up at a competitive disadvantage for school places because the girls get priority on account of the fact that their school is designated a feeder school. There is a gender bias and the impact is even more far-reaching as it is more difficult for the families in question to establish a family precedence of attendance at the school of their choice if they are unlucky enough to have a male student in the family. One child in particular whose parents came to my clinic on Monday lives in the middle of the town but was placed No. 77 on the waiting list, notwithstanding the fact that the student had attended the feeder school from the ages of five to seven years. It is outrageous that a child from the centre of Athenry cannot get into the school he wants to attend. There are other difficulties with parents who are applying to numerous schools.

**An Cathaoirleach:** This subject may be more suitable for a Commencement debate.

**Senator Lorraine Higgins:** I accept that, but if this is happening in Athenry, it is happening in Portumna, Tuam, Loughrea, Gort and throughout Ireland. Some parents are applying to have their children educated in numerous schools and are clogging up the system for others who are trying to get their children into just one school. It is unfair and there are issues relating to the enrolment process which require further scrutiny. I know several attempts have been made to look into this by the Department, for which I commend it, but given the specific circumstances which have arisen in Athenry, we must have a further debate on this issue. I would appreciate it if the Leader could schedule some time to debate the enrolment process and invite the Minister for Education and Skills to come to the House for that purpose.

**Senator Sean D. Barrett:** In Paris yesterday the Taoiseach promised new legislation in the current Dáil session to tackle climate change. I suggest the legislation start in this House in view of the fine debate we had recently on climate change. If the Taoiseach brought the Bill to this House, it would be an improvement in tackling the climate change issue.

*4 o'clock*

I compliment the organisers of the climate change conference held in Ballina on Saturday. It featured notable speakers such as the former President, Mrs. Mary Robinson, and the widow of Nelson Mandela. There is now a momentum behind tackling these issues, which is to be commended.

I commend the Ceann Comhairle and the Speaker of the Northern Ireland Assembly,

Mitchel McLaughlin, who were in this Chamber last Friday to promote a discussion on the role of women in political and public life, in the North and the South. Both the speaker and the Ceann Comhairle must be complimented on the wonderful spirit they generated between people of different political persuasions. It was quite an inspiring occasion and they deserve credit for their work.

**Senator Paul Coghlan:** I welcome the postponement of the revaluation of the property tax from next year to 2019. There is a big problem in the sense that many of the areas where there has been a significant increase in prices since the tax was introduced in 2013 are also at the upper end of the local property tax. Naturally, the people concerned are fearful of an impending increase in the tax if the revaluation date were to be next year, as originally intended. However, the Department of Finance conducted a consultation process earlier this year which generated more than 40 submissions that have all been posted on its website in conjunction with a review by Dr. Don Thornhill, which I welcome. The upshot is we should take on board the views of professional valuers and the Institute of Professional Auctioneers and Valuers, IPAV, and that the property tax should not be based on value alone. Other factors such as location, size and many other aspects should be taken into account. I hope all this will be borne in mind by the Department and the Minister.

**Senator David Cullinane:** I concur with the sentiments expressed about the issue raised by Senator Lorraine Higgins. School enrolment is not an issue that should be confined to a Commencement motion. For some reason it is an issue throughout the State. This week I have been contacted by three families and I could not understand why, all of a sudden, school enrolment was an issue. There seems to be some sort of co-ordinated campaign being conducted by some schools not to enrol children or to enforce rules that were always in place but never enforced. For some political - with a small "p" - reasons, this issue has arisen. It has caused real concern for some parents who have had their child on an enrolment list since their child was six months old. These parents have now been told the school cannot take their child, even though it is the closest school, and there is the potential that they will have to send their child to a school miles away. Such situations are unacceptable. Parents have been told that if they baptise their child, he or she will be allowed to enrol. That is no way for any republic to treat its children and we need to examine the matter. The Government has had five years to deal with the matter. If it were to bring forward legislation to deal with this matter before the general election or even before the Christmas recess, we in Sinn Féin would lend our support. We are considering tabling our own legislation in the absence of the Government doing so. School enrolment is an important issue.

I support Senator Labhrás Ó Murchú because he raised the issue of Syria. We need to confront what is called ISIS. We need to confront the fanatical element of people who live in Syria, Iraq, Iran and Afghanistan. It is clear to me that ISIS will not be defeated by France, Britain and America dropping bombs on Syria, and many people, quite rightly, believe such an initiative would make the situation worse. We need a global strategy to deal with the people who were involved in the brutal acts of terror in Paris and elsewhere. What we will see if we continue to bomb Syria is more displacement, more refugees and more people being radicalised. Bombing the region will not solve the problem. Ireland, because of its position of neutrality and proud track record of peacekeeping, has a clear role to play. As I said a couple of weeks ago, we do not have to be neutral on such issues. As a State, we should not be neutral when it comes to fanatics like ISIS. Ireland does and should speak out against potential wars which are not in the interests of people located across the world. We have a clear role to play in this regard. I

support a call for a debate in this House on that important issue. The Minister should attend the House before the Christmas recess for such a debate.

**Senator Michael Mullins:** I also support the call for a debate on global terrorism, as requested initially by Senator Labhrás Ó Murchú and supported by Senator David Cullinane and others. The appalling situation that is developing worldwide has to be a cause of great concern to us all, particularly the situation in Syria. In the four years since the commencement of the civil war there, 250,000 people have been killed and 12 million displaced, with no sign of the situation abating. International peace talks on Syria commenced in Vienna in October and are due to recommence in January. They are being led by a Syria support group. Renewed urgency needs to be given to those peace talks. I find it difficult to see how progress can be made while the Assad regime, with the support of Russia, continues to barrel bomb innocent civilians every day.

As Senator Labhrás Ó Murchú said, it is a time for international statesmen to step forward and take this situation in hand. They must try to resolve it in order that innocent people who are arriving in Europe, having been forced out of their homeland, can start to return to some sort of normality. I know it will be a major problem but it must be addressed.

I welcome the formal adoption by the European Commission in Brussels of a peace programme for Northern Ireland and the southern Border counties. This programme will bring €270 million of Structural Funds for EU-funded cross-Border activity. Successive programmes have made an enormous contribution to developing the peace process, as well as building bridges and reconciling people in Northern Ireland and the Southern Border counties, since the first programme was launched in 1995. The total value of the programme, including Irish and UK matching funds, will be in the region of €270 million. The programme will focus on four key priorities: shared education, children and young people, shared spaces and services, and building positive relations at local level. This is very much to be welcomed and I hope significant progress in building closer relationships and friendships between the two communities north and south of the Border will result following this investment. Much-needed economic benefits will also flow from this funding. I applaud everybody involved in ensuring this large amount of funding is available for the peace programme 2015.

**Senator Feargal Quinn:** It is always enlightening to listen to Senator Labhrás Ó Murchú speak because he does so with concern and commitment. I have a difficulty, however, in that every time we seek to solve problems in other parts of the world we seem to be saying what they should be doing. I have a difficulty with that and especially in the case of Israel and Palestine. Palestine has continued to state it does not recognise the existence of Israel. It was continually bombing Israel; therefore, it is very difficult to blame Israel for reacting in that way. I am not defending everything it does, but we should be careful to allow a balanced discussion to take place on that basis.

There is one other topic on which I would like the Leader to facilitate a debate. There is a big concern about obesity, although not just in Ireland as it is throughout the western world. In Britain they are now talking about introducing a sugar tax. We should use the carrot rather than the stick. If we are going to solve the problem of young people consuming so many sugary drinks, rather than taxing such beverages we should reduce the VAT on non-sugary drinks. A number of Irish firms produce such products. Sometimes they are water-based, wheat-based, grass-based and fruit-based products which are very healthy. However, we have a 23% VAT rate on them. Rather than automatically saying we are going to increase the price of unhealthy

drinks, we should reduce the tax on healthy drinks. That would give us a much better chance of coaxing and convincing young people, in particular, to look for a healthier way of feeding themselves and avoiding obesity.

**Senator Terry Brennan:** Yesterday in Drogheda the Minister and the Minister of State, Deputies Richard Bruton and Gerald Nash, launched the Action Plan for Jobs: North East/North West 2015-2017 aimed at delivery 10% to 15% employment growth in the region in the coming years. This action plan is part of a new €250 million regional jobs strategy. Since the national Action Plan for Jobs was launched in early 2012 more than 20,000 extra people are at work in the north-east and north-west region. The plan targets employment growth of 10% to 15% over and above today's unemployment levels which, I am glad to say, are reduced to below 9%. The plan covers counties Donegal, Sligo, Leitrim, Cavan, Monaghan and my own county of Louth which we all know suffered greatly during the Troubles which thankfully have come to an end. This is great news for the Border region. I compliment the Minister and Minister of State on launching this action plan for jobs.

I support the call for an urgent debate on the situation in the Middle East, as mentioned by previous speakers. I am a firm believer in dialogue, peace talks and so on and believe the bombs, bullets and shooting down aircraft will solve nothing. The only way is through peaceful means and dialogue. I support the call for an urgent debate in the House.

**Senator Gerard P. Craughwell:** I compliment the Government. I woke this morning and heard more jobs being announced. This is becoming such a frequent event that I almost take it for granted. Credit where credit is due. Then I switch on the radio and listen to the happy clappy economist from Friends First who told us we were going to have a soft landing some years ago and disappeared when the landing hit the wall. I tire of listening to people like him. That is especially the case when I come here today and the Library and Research Service gives me figures of 3,428 homeless adults, 738 homeless families and 1,571 homeless dependants - I assume they are children. I say to the Leader I am not suggesting for one moment that any of us in this room can solve this problem. We had a very interesting debate at the Seanad Public Consultation Committee with representatives of the agriculture sector which was very productive and well worthwhile. I wonder if it would be possible to invite some of the external agencies to the House and try to thrash something out. I do not think any one person has the answer. I do not believe the answer is coming soon. However, I have children who are in the age bracket to buy property or to find homes and I see one of my family who I believe will never see the day when she will own a home. Rents are at such a level, people cannot save money; therefore, they will never be able to get the 20% they need to buy or the get a mortgage to buy a property. I am not sure how we are going to solve this problem. However, watching it happening is very frustrating. Today there is another march from O'Connell Street to Leinster House representing homeless people. I do not know what anyone can do about this. However, it is time for a consultation involving all interested parties. Perhaps this is the Chamber in which to do it. I will leave that with the Leader and perhaps he might consider it.

**Senator Jim D'Arcy:** Yesterday I attended the launch of the Action Plan for Jobs: North East/North West 2015-2017 referred to by Senator Terry Brennan. It took place in the Boann Distillery in Drogheda. This distillery is owned by Paddy Cooney and his family who are reviving the time-honoured traditions of distilling. They are creating the finest "honey gold", Irish malt and pot still whiskeys for export all over the world.

**Senator Paul Coghlan:** It sounds lovely.

**Senator Jim D’Arcy:** They are an example of the type of entrepreneur that is mushrooming in this country. It is export-led. Since 2011, the numbers on the live register have dropped by 4,333 in County Louth, by 734 in Ardee, by 2,263 in Drogheda-----

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

**Senator Jim D’Arcy:** -----and by 1,336 in Dundalk, a drop of 10% this year alone. To answer Senator Gerard P. Craughwell, about whom I think a great deal-----

**Senator Paul Coghlan:** Think of the malt whiskey at the same time.

**Senator Jim D’Arcy:** The Minister, Deputy Richard Bruton, and the Minister of State, Deputy Gerald Nash, are the great unsung heroes of the Government because-----

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

**Senator Jim D’Arcy:** Yes, I really do. By creating these jobs, we are able to reduce taxes, improve benefits and sustain the economy. That is how we solve the problems. I would like the Minister to come in to talk about the strategy-----

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

**Senator Jim D’Arcy:** -----and particularly about Springboard.

**Senator Paul Coghlan:** Did the Senator get to taste it?

**Senator Jim D’Arcy:** Yes, last week. We were invited up.

**Senator Paul Coghlan:** Very nice.

**Senator Rónán Mullen:** I am very glad Senator Lorraine Higgins brought up the issue of education. I call for a debate sooner rather than later, with the Minister for Education and Skills giving an account of the stewardship of the Department of Education and Skills. We have had media item after media item about parents allegedly being told to baptise their children in order to get into Catholic schools, without any evidence of this ever happening actually being produced. It would be wrong for parents to engage in this. It would be unfair on them, their children, the school and the community that provided the school. What is going on is that the Department of Education and Skills has failed continuously over the years to ensure schools have adequate places. I happen to know that Christian schools want to provide an education for all who want to be in that school. Why, therefore, should they be blamed when the Department has not provided them with the facilities they need? They cannot simply magic up an extension on the spot. I heard last week from a parent who sent me a very eloquent message about her frustration that she could not get her children into a secondary school in east Galway. About 100 children got a letter to say there was no room for them. She said she wanted a Catholic education for her children. She appreciated this product, but she was not in the parish. She was not complaining about the criteria because there have to be criteria, but she certainly was complaining about the abject failure of the Department. We must not let those who are against denominational education and their friends in the media let the Department hide behind this scare issue about baptism when, in fact, it is its failure to provide places for children, whatever kind of education they want, that is at fault.

I was saddened by Senators David Norris and Ivana Bacik’s comments on the abortion rul-

ing in the North of Ireland. What we are seeing is the corruption of law, the corruption of the human rights community deciding that some vulnerable human beings are outside the pale for human protection. The lack of consistency was also interesting. Senator Ivana Bacik wants open season, in accordance with the law, on unborn children, while Senator David Norris wants it to be okay to contract with vulnerable women for the purchase of their bodies for sex. In each case there is a failure to see the full picture. One must be consistent when one talks about human rights and human dignity. In that regard, we can take a leaf out of Senator Labhrás Ó Murchú's book today. He set the tone for that need to intervene in the world in a way that never does harm but that seeks to deliver peace, reconciliation, justice and, above all, the protection of the most vulnerable.

**Senator Paul Bradford:** I have listened with interest to the comments on the jobs strategy for the north west and north east, which was announced yesterday. I am not sure about the number of jobs that will be created, but I certainly hope it will help retain two jobs in the Seanad.

**Senator Paul Coghlan:** The Senator's party saw a big drop also.

**Senator Paul Bradford:** I very much agree with the comments of Senator Feargal Quinn on the conflict in the Middle East. Perhaps it is time for a substantial debate on the matter. It appears that any time we talk about the politics and the conflict of the Middle East in the House we automatically revert to a position in which Israel is seen as being at the core of all problems. We need to be balanced in our view of that part of the world. We need to recognise that the state and the people of Israel have for generations been the victims of the most appalling campaign against them. We need to reflect on this. Obviously, the two-state solution, which I think everybody in this House would support, seems to have faded from the political scene and there needs to be an international engagement to get it back on track. I fully respect the right of the state of Palestine to exist, but I also respect the right of the State of Israel to exist. It is on record that there are not only groupings but entire political establishments in the Middle East that want to wipe the state of Israel off the map and we should not bow to that.

I concur with what Senator Rónán Mullen stated about earlier comments on the abortion legislation proposals from Northern Ireland. The Leader has wisely accepted that we should have a more substantive debate in the early part of next year. Language is something I want to mention. Language is not only powerful; it is a very strong weapon. When we say the easy phrase "fatal foetal abnormality," we are talking about babies who have a life-limiting or life-threatening condition. They are human beings. At least one grouping representing parents who had such babies who might have lived for one day, a week or a month attempted to make its views known to the Oireachtas Joint Committee on Health and Children two years ago, but it was not allowed to do so. We need to be sensitive. There are no such babies as babies with fatal foetal abnormalities. There are babies with serious, profound, life-threatening and life-limiting conditions, but they are still human beings.

**Senator James Heffernan:** To follow on from that, I, on the other hand, welcome yesterday's ruling in Northern Ireland. To be honest, it is quite sensible that a medical intervention for the termination of pregnancy in cases of rape, incest or fatal foetal abnormality be allowed. That is right and proper and sensible. That is the position of most right-minded individuals on the island.

On the education issue which has been raised also, I taught in the primary sector and have received most of the sacraments, except a Catholic wedding and the last rites - some will say

they are somewhat related. I also encountered a difficulty because I had trained in England. I taught in a Catholic school in the United Kingdom, where training for the sacraments - First Holy Communion and Confirmation - takes place outside school hours, even though the school upholds its Catholic ethos. That is something that should come into education, especially at primary level, in this country. However, I will agree with Senator Rónán Mullen on one thing: there has been abject failure on behalf of Government to progress the idea of pluralism and reform patronage in the education sector. One need only listen to the president of Mary Immaculate College to know that he speaks very dogmatically with a very strict Roman Catholic dogma. As a republican, I think that in a republic of the people there should be a total separation of the powers of church and state. Such influence on the education system is wrong. I agree with Senator Rónán Mullen that it has been a major failure on the part of the Government and hope this will change in the future.

**Senator Maurice Cummins:** We had many contributions. Unfortunately, many Members who raised points have left the Chamber.

Senators Labhrás Ó Murchú, Ivana Bacik, Paschal Mooney, David Cullinane, Michael Mullins, Feargal Quinn, Terry Brennan and Paul Bradford, among others, spoke about global conflict, in particular the conflict in the Middle East, on which Members had various comments to make and opinions to express. The emphasis should be on jaw-jaw rather than war-war. There is a need for statesmen to come forward to ensure there will be a negotiated settlement in Syria and between Israel and Palestine. The Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, was here recently to discuss these issues. We can ask him to come to the House again, but given that we have an enormous amount of legislation to deal with in the coming weeks, we will take statements on a limited number of topics only.

Senator Ivana Bacik referred to the “RTE Investigates” report on prostitution. Although I did not see the programme, I believe it was very damning. Senator Ivana Bacik invited people to an event in the AV room to discuss the matter.

Senators Ivana Bacik, David Norris and James Heffernan welcomed the decision by the Northern Ireland courts on abortion. Senators Paul Bradford and Rónán Mullen took a very different point of view on it. Many people will have comments to make and opinions to express in the abortion debate. The Taoiseach has indicated that if he is elected, we will have a debate on the issue during the first few months of the next Government and that we will take cognisance of what is discussed at the proposed committee of citizens. There must be extensive discussions between all sides in order that we can reach the proper consensus to deal with this problem which has plagued us for many years.

Senator Ivana Bacik also spoke about the Criminal Law (Sexual Offences) Bill 2015 which will be brought before us in the coming weeks and which will I hope be completed well before Christmas.

Senator Jillian van Turnhout referred to the difficulties encountered by vulnerable people in accessing services. Although the Order Paper indicates that we will take Committee and Remaining Stages of the International Protection Bill on Thursday, in view of the fact that there will be so many Report Stage amendments, it is optimistic to think we can take Committee and Remaining Stages together. We will, therefore, deal only with Committee Stage this week. Some 60 or 70 amendments have been tabled for discussion on Committee Stage and we will discuss them on Report Stage also.

Senator David Norris referred to the Legal Services Regulation Bill. He mentioned amendment No. 42, in particular. I think we are over halfway through the Bill because a number of amendments were grouped at an early stage of the debate. We will see how we get on with it today and whether it can be finished. It is the wish of the Minister after that Bill is finished to take Second Stage of the International Protection Bill 2015; therefore, it could be a late night, but it may not be. We will have to see how things go. As I mentioned, a great deal of legislation is due to be brought before the House in the coming weeks. It looks like we will be meeting five days next week and there is a possibility that we will meet five days the following week also. I am putting Members on notice that this could happen. I cannot understand why such a large number of Bills are being brought forward at the last minute. This has been happening year after year. At meetings in the past couple of months we have been begging draftspeople and others for legislation to deal with in the House.

**Senator Gerard P. Craughwell:** We should teach them a lesson by not ramming Bills through.

**Senator Maurice Cummins:** It seems to be happening all over again. I cannot understand it.

**Senator Paul Coghlan:** Some things never change.

**Senator Maurice Cummins:** It should not happen, but it is more than likely that we will be meeting five days for the next couple of weeks.

Senator Colm Burke spoke about World AIDS Day and outlined the importance of sexual health education in schools.

Senator Paschal Mooney asked about the bankruptcy Bill. He mentioned that the Government had brought the bankruptcy term down from seven years to three. It is proposed to decrease it further to one year. I do not yet have an idea on the scheduling of the Bill, but I hope it will be finished before the Christmas recess.

Senator Lorraine Higgins and several other Senators referred to schools admission policies and the enrolment process in schools. For the reasons outlined, I do not think I will be able to facilitate such a debate before the Christmas recess, but we may get to it early in the new year.

Senator Paul Coghlan welcomed the postponement to 2019 of the property tax revaluation. It has been welcomed by everyone.

Senator David Cullinane spoke about the situation in Syria and the global strategy on terrorism. I emphasise that terrorism must be condemned at every possible opportunity. It is a question of how we deal with and respond to it.

Senator Michael Mullins welcomed the €270 million in EU Structural Funds allocated for peace projects in Northern Ireland. I agree that this funding has been very beneficial during the years.

I note Senator Feargal Quinn's points about Israel and Palestine. He has raised the issue in the House on several occasions. He also spoke about the problem of obesity and suggested that, rather than increasing the price of sugary drinks, we could reduce the level of VAT applied to non-sugary drinks. I do not know how the Minister for Finance would take to that suggestion, but it is certainly something that should be considered.

Senators Terry Brennan and Jim D’Arcy mentioned the launch in Drogheda of the Action Plan for Jobs: North East/North West 2015-2017. Senator Jim D’Arcy informed us that it had taken place at a distillery, of all places. The creation of over 4,000 extra jobs in County Louth means that there has been a similar reduction in the number on the live register. This proves that the Government is doing well from the perspective of job creation and the development of an environment in which jobs can be created.

Senator Gerard P. Craughwell asked about the possibility of the issue of homelessness being considered by the Seanad Public Consultation Committee. While it would certainly be a good topic for the committee to consider, time might be against us. We might look at whether it could be done in the new year. We will have an opportunity to have a debate and a discussion on the issue when the House considers the planning and development Bill that will provide for modular housing.

I note the points made by Senator Rónán Mullen about schools, education and the failures of the Department of Education and Skills. However, more schools and extensions are being built than ever before. The Department is, therefore, living up to its side of the bargain, but we will have that debate in the new year.

Senator Paul Bradford referred to the conflict in the Middle East, while I have dealt with Senator James Heffernan’s points about schools policy.

Order of Business agreed to.

*Sitting suspended at 4.40 p.m. and resumed at 4.45 p.m.*

### **Motor Vehicles (Duties and Licences) Bill 2015: Second Stage**

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

**An Leas-Chathaoirleach:** I welcome the Minister of State, Deputy Ann Phelan.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Ann Phelan):** I am pleased to open the debate on the Motor Vehicles (Duties and Licences) Bill 2015. In the light of the importance of the haulage industry to our export-led growth and to ensure Ireland remains competitive, it was announced in budget 2016 that the rates of commercial motor tax on larger goods vehicles would be reduced. The main purpose of the Bill is to give legislative effect to these reductions. The reductions, which will apply to all goods vehicles with an unladen weight exceeding 4,000 kg, will take effect for vehicle licences with a commencement date of 1 January 2016 or later.

The current structure for goods vehicles has 20 rate bands, ranging from the lowest rate of €92 for electric vehicles to €5,195 annually for the heaviest goods vehicles. As well as the reduction in rates for all goods vehicles, the rate structure is being simplified. From January there will be only five bands of motor tax, ranging from the current level of €92 per annum for electric goods vehicles to a top rate of €900 per annum for all goods vehicles in excess of 12,000 kg. The reductions are tapered from a reduction of €4,295 for the heaviest goods vehicle band to a reduction of €43 annually for vehicles weighing between 4,001 kg and 5,000 kg. There are no changes to the lowest two bands, which remain at €333 and €420, respectively.

The change will benefit the owners of some 29,000 goods vehicles. The higher rates that apply in Ireland by comparison to those in the United Kingdom, with the introduction of road user charging in that jurisdiction, have caused a distortion and led to comparatively higher costs for Irish-based hauliers. The changes provided for in the Bill go some way toward redressing the imbalance.

This is an interim measure pending the replacement of the current basis of taxation for goods vehicles, which is unladen weight. The system is out of line with the basis of taxation in other countries. Replacing it with a fairer system of calculation based on gross design vehicle weight is under consideration.

There are no changes to motor tax rates for any other category of vehicle. The total cost of the reductions is estimated at €43 million annually.

The Bill also contains further amendments to the legislation relating to goods vehicles. On 21 October 2015, a little over a week after the announcement of the budget reductions, a Court of Appeal judgment stated the practice of weighing an articulated vehicle on the basis of the heaviest unladen trailer was not adequately provided for in law and that only the mechanically propelled element of the vehicle - what is commonly referred to as the tractor unit - was liable for motor tax. The judgment further provided that such vehicles, of which there are more than 10,600 in the fleet, fall to be taxed under paragraph 14D of the Schedule to the Finance (Excise Duties) (Vehicles) Act 1952. This is the rate for non-agricultural tractors which attract an annual rate of €333. Prior to the judgment, paragraph 15 of the Schedule in question which contains the rates for goods vehicles applied.

Following receipt of the of the judgment, the necessary technical adjustments to charge motor tax on such vehicles at the tractor rate of €333 have now been made to the national vehicle and driver file. Rigid goods vehicles continue to pay tax at the goods rate and are not impacted by the Court of Appeal judgment. The judgment states that if it is the view of the Oireachtas that the owners of such tractors should pay an excise duty based on the weight of the trailer being hauled by the tractor, new legislation will be required to make that intention clear. On that basis, the Bill in question contains not only provisions to give effect to the rate changes announced in the budget but also provisions to bring articulated goods vehicles back within the scope of paragraph 15 of the 1952 Act, the goods category. This is an equitable approach as it means that all goods vehicles, articulated or not, will be treated in the same way for motor tax purposes.

The Bill is relatively short and contains six sections. Section 1 sets out the definitions contained in the Bill.

Section 2 provides for the new rates for goods vehicles to apply to motor tax dates with a commencement of 1 January 2016 or thereafter. Section 1 of the 1952 Act provides for duties of excise to be charged, levied and paid on mechanically propelled vehicles being used in a public place. Section 3 inserts a new subsection in section 1 of the 1952 Act to provide that, in the case of goods vehicles, a mechanically propelled vehicle means the vehicle inclusive of the additions provided for in the Finance (Excise Duties) (Vehicles) (Amendment) Act 1960. The current additions contained in the 1960 Act refer to a body, a part, a fitting or a receptacle. Later sections will provide for semi-trailers which are the drawn components of articulated trucks and trailers to be included as additions.

Section 4(1) excludes tractor units from the non-agricultural tractor category and provides in paragraph 5 of Part 1 of the Schedule to the 1952 Act, which is the goods category, for the unladen weight of goods vehicles to include the additions provided in the Act of 1960. Section 4(2) provides for the new rates for goods vehicles announced in the budget. Section 4(3) provides for the insertion of relevant definitions in the Schedule to the 1952 Act and deletes a subparagraph that is no longer of relevance.

Section 5(1) inserts definitions in section 1 of the 1960 Act that are relevant to the amendments being made to that Act. Section 5(2) provides for semi-trailers and trailers to be included as additions in the 1960 Act. Section 5(3) provides for semi-trailers and trailers to be included as additions in the enforcement provisions of the 1960 Act. Section 6 provides for the Short Title.

This is a short Bill with the purpose of giving permanent legal standing to the decreases in motor tax announced in budget 2016. The additional amendments are intended to bring articulated goods vehicles back into the category under which they had been taxed prior to the Court of Appeal judgment. I commend the Bill to the House.

**Senator Sean D. Barrett:** I welcome the Minister of State and the Bill she has brought before us. The judgment was that articulated goods vehicles fell to be taxed at the non-agricultural tractor rate of €333 annually. That might have been how our learned lordships interpreted the law, but the economics of it are that articulated vehicles use lots of roads. They have a high PCU value, whereby one translates the value of a truck into the equivalent number of cars. The laden weight of a truck accounts for all of the non-weather maintenance costs of a motorway. If a motorway were used only by cars, no maintenance would be needed. There is a rational economic case to be made that these trucks should be taxed on foot of these factors.

The explanatory memorandum which the Minister of State has circulated states that according to the judgment, there is no statutory basis for the practice of weighing a vehicle with a trailer. The economic basis is that the weight of the vehicle and trailer is what we must reimburse in our roads budget. This should include the weight of the truck and the weight of the load. There are weighbridges outside most large factories in the country. Regardless of whether there is a statutory basis, people want to know the weight of what goes into the factory and the weight of what comes out. This has a very sound basis in economics. We need to relate this, in turn, to the number of vehicles in use.

The so-called juggernaut problem is redefined, as the number of axles a vehicle has can make a substantial difference to its track cost. A relatively small vehicle with a small number of axles could be doing quite a lot of damage, while a large vehicle with a much larger number of axles could be doing relatively little damage. This must be scientifically worked out. Undoubtedly, what is on the trailer contributes to the road track cost with regard to the PCU value to which I referred and the infrastructure cost. When the trailer is laden this is also part of the bill.

What is being attempted is correct. Not that we foresaw what would be the result of the court case but we brought to the attention of the former Minister of State, Deputy Fergus O'Dowd, that changing the basis of the taxation of heavy goods vehicles should have been on the cards for a while. This is because the issue is not the unladen weight of the vehicle, which has been traditionally used as the basis for the taxation of heavy goods vehicles, but the laden weight per axle and this includes, as the Minister of State said, any trailer. We cannot allow these to go free or to be taxed at a low rate.

The timing is paradoxical, because on the night of the budget when the reductions were announced, many people in the haulage industry were very pleased with what had happened. In restating it in the Bill, the Minister of State will surely have their support. They were very pleased that the gap between their vehicles and vehicles from Northern Ireland was closed by what was done in the budget. Section 4(2) provides for those rates as announced in the budget and this will be welcome.

The Minister of State said the practice of weighing an articulated vehicle with the heaviest unladen trailer was not adequately provided for in law. It is part of the cost and it is very sensible. We want to reward vehicles which do not damage the highway and charge people for the highway cost of having them on those routes. It is important to do this.

We are building up a haulage industry. As the Minister of State said, it was at a disadvantage compared to the Northern Ireland hauliers. Firms which decide not to use hauliers also bear these costs. What the Government is trying to do via the budget would improve the competitiveness of every company in the country because companies would get a better deal either in respect of their in-house fleets or from the people they hire. That is why the measure has been warmly welcomed.

The Minister of State has also said later sections will provide for semi-trailers, which are the drawn components of articulated trucks and trailers, to be included as additions. They add to the cost because of the space they take up and the impact they have on the infrastructure.

I will read through the Bill before Committee Stage but, as matters stand, I am of the view it is the correct response to the High Court decision.

*5 o'clock*

It was correct to implement the budget decision, which was widely welcomed at the time. With the case against the proposed scheme coming soon after the Legislature had gone out of its way to help the sector, it might have been felt that there is no gratitude for doing the right thing in public life. This remedies the issue and it will be welcomed. I compliment the Minister of State on the Bill.

**Senator Cáit Keane:** I welcome the Minister of State. As the previous speaker noted, the legislation has been necessary since budget night to ensure the very welcome reduction in tax on motor vehicles of up to €4,000 for some haulage contractors. It is a heavy reduction that was welcomed on the night by the haulage contractors. The court ruling of 21 October 2015 dealt with the method by which motor tax rates are calculated for articulated vehicles. That was traditionally done by referencing the combined weight of the tractor cab and trailer and the court ruled that the trailers could not be regarded as falling within the definition of the mechanically propelled vehicle. Accordingly, legislation was necessary, as the Minister of State and the previous speaker noted, to comply with the court ruling. Interim adjustments were made by the national vehicle and driver file and put in place by the Department of Transport, Tourism and Sport when this was first noted. Legislation is necessary to both restore the prejudgment definitions and taxation systems for articulated vehicles and also to give effect to the budget changes announced on the night.

As I stated, there were very welcome changes introduced. Every facet of society in the previous five years saw spending cuts imposed and various taxes implemented. Relieving taxes in one area is welcome and we have had a year packed with legislation aimed at addressing long-

established cuts. They had been in place for five years really and people expected something back. This is one action we must take to make it right for the haulage industry and to comply with the court ruling.

As we are discussing vehicle registration, section 4(2) deals with electrically-propelled vehicles. The Bill makes provision for a €92 rate in respect of these vehicles. We will be considering electric cars in future. This week the Conference of Parties, COP 21, is ongoing and we had a climate change Bill in the House week. Only 222 electric cars were sold in Ireland last year. One way of incentivising people to buy electric cars would be to reduce tax further or incentivise the first year of purchase with a tax exemption initiative. In other European countries such as Sweden thousands of electric cars are sold every year. Ireland is really down at the bottom, with only 222 cars sold in 2014 and a very small number the year before. I read that from next year the ESB intends to impose charges in respect of people charging cars in public areas. When one parks one's car in order to do so, a parking charge must also be paid. We must examine such issues if we are serious about promoting electric cars and reducing CO2 emissions.

We do not often get the opportunity to speak about the taxing of cars, etc. One suggestion is to link fuel purchased to tax paid, leading to polluters paying more but the person who leaves the car in the driveway, not adding to CO2 emissions, pays less. People currently pay less for diesel fuel, but we saw what happened with the Volkswagen scandal. Diesel cars have been found to give out more pollutants than petrol cars. By 2010, the design of petrol cars had improved but the on-road emissions from diesel cars can be 20 times higher than lab results indicate, so we were getting false information. Perhaps some of our legislation is based on false legislation elsewhere. This is a matter which we should consider. Some other European countries and the European Commission have noted that the dieselisation of a nation's car fleet leads to costs in terms of hospitalisations, reduced quality of life, lost time at work and premature death. I know we tax our diesel cars in the same way as petrol cars so it is something to consider, along with the link to a road fuel tax.

We know that gardaí spend time stopping people to inspect tax discs and bringing some of them to court. Those people might emerge from court and go back on the road without paying a fine. There are police and courts costs but many fines are not collected. If tax was linked to fuel, it would streamline the car taxation process, relieving gardaí and the courts from that burden. In addition, there would be 50% fewer cases in the courts, which would also relieve pressure on the court system. The taxation system would also be grounded with an awareness of environmental harm, making a push with transport systems towards greater environmental responsibility. It is something to look consider, although not in the context of this Bill. We are discussing taxation and how to tax cars; the issue will emerge again but this is just to put down a marker. Everybody at COP 21 in Paris is discussing climate change and it would be remiss of me not to say that there should be some changes in this area. I welcome the changes in the Bill that come on foot of the budget and the court case from October.

**An Leas-Chathaoirleach:** Senator David Norris has five minutes.

**Senator David Norris:** I welcome the Minister of State. Five minutes will be quite sufficient.

This legislation comes about partly to comply with a court judgment and it is welcome that there will be a reduction in the tax levied on these vehicles because that will put us on a slightly more level playing field in Ireland in the context of the major transport industry. One

of the complaints of the trucking lobby is that fees must be paid on the Continent for travelling through countries. We have nothing like that here, however; therefore, the field is not level at all. We are at a serious disadvantage compared with the other European countries. When this came in, our negotiators were apparently asleep on the job because they failed completely, for example, to negotiate corridors from Dublin to Donegal. That aspect was left out.

There are various costs here and putting Irish transport companies on a more level playing field by reducing tax is a good step. I will take up another subject that was glanced at by Senator Cáit Keane, although I do not quite know her view on it. It is the question of taxation of private motor cars. I had this argument with a former Deputy, Mr. John Gormley, when he was Minister. In accordance with Green Party policy, it should be the case that the polluter pays. In other words, the motor vehicle is not taxed. Rather, the tax obtains in respect of the petrol or diesel because it is these which pollute the atmosphere. I speak with some feeling on this and might as well declare an interest. I have an old motoring car and it is very lovely. It is a Jaguar XJ6 sports car with a 3.5 litre engine. It cost me €5,000, but I have to pay well over €2,000 in tax for it every year. If I combine that with insurance costs, I almost reach the value of the car before I put it on the road at all. Most of that car tax does not go anywhere near servicing the requirements of road users. It is used by the central Government for other Exchequer purposes. I would very much like to see a situation where the tax on large-engine cars would be reduced in parallel with the value of the car. My car's value is approximately €1,000 or €1,500.

**Senator Cáit Keane:** Perhaps it might soon be taxed as a vintage car.

**Senator David Norris:** No, I am afraid that will be another ten years or so. It will be finished by then or I will be finished. Perhaps I might be using a driverless car at that stage. They are one of those wonderful electric vehicles that can be programmed. I heard on the wireless that Volvo would cover people for accidents, an issue that someone had raised. I think that is pretty good. I would use a driverless car if I was covered for accidents.

There is a lack of logic. There is always a temptation within the Department of Finance to claw in as much money as possible but in a democratic republic we should look for some degree of fairness. In terms of climate change and what is happening in Paris as we speak, we must think in terms of the amount of pollution. I rarely use my car. I drive it down here, which is a mile or so from my house, and I take it to the cathedral on Sunday and then to the club for lunch and that is it - full stop. I make about two forays to County Laois every year and take the car. I will probably give that up fairly soon because I do not understand the new motorways at all. It seems to be a festoon of roundabouts between Maryborough and Mountrath and I have simply not the slightest clue where I am. I miss all the old wonderful landmarks. As I am on this little foray, I note how sad I am that we no longer go around that bend in the road in Tipperary and get that wonderful, dramatic view of the Rock of Cashel. Motorists are deprived by missing out on these glorious aspects of the countryside.

I welcome the Bill, but I wish the Minister of State would take back to the Cabinet a little protest from me to the effect that there is a degree of unfairness in the extraordinarily high rates of tax on old cars. Something should be brought in that does not fix the tax at the moment a large car is bought and keep it there until the vehicle is taken to the scrap yard. It means that old cars will be scrapped and there will be very few of them left. It is a waste. I put these few matters as suggestions to the Minister.

**An Leas-Chathaoirleach:** I thank the Senator for his foray.

**Senator John Kelly:** I welcome the Minister of State. I will be brief.

The Bill is very welcome and it has come as a surprise to the Irish Road Haulage Association. It could not have come at a better time. Hauliers have been on their knees for the longest time due to the spiralling cost of fuel and toll charges, maintenance of vehicles and insurance. I have spoken on their behalf on numerous occasions. The issue was the fact that we were not in line with the tax rates in Northern Ireland and Great Britain. I am glad to say some hauliers will now enjoy savings of up to €4,200 per year. Nobody benefited more in the recent budget.

I agree with Senator David Norris to a large degree in respect of the tax on older vehicles. He is paying €2,000 tax on a car worth €1,000. I was involved in a Commencement debate earlier on a similar matter - the spiralling cost of car insurance. I gave two examples, one of a man aged 73 with a little Ford Fiesta worth €1,000 whose insurance is €880 and another of a young lad with a 2002 Audi worth €2,000 which he needs to go to college and for which the insurance company billed him this year for €2,648, or €648 more than the value of the actual car.

I welcome the Bill. It will certainly improve the cost of doing business in Ireland.

**Senator Terry Brennan:** I welcome the Minister of State. The Motor Vehicles (Duties and Licences) Bill 2015 is required for two main reasons - first, to give full effect to changes to motor tax rates applying to commercial goods vehicles announced in the recent budget and, second, to deal with issues raised in a Court of Appeal judgment which deemed the taxing of articulated vehicles to be without a proper legal basis. The changes announced in the budget apply to all commercial goods vehicles and will reduce the rate of motor tax for approximately 28,000 vehicles in Ireland. The reductions are tapered from a reduction of €4,295 for the heaviest goods vehicle band to a reduction of €43 per annum for vehicles weighing between 4,001 kg and 5,000 kg. The rate structure is also being simplified and will comprise of five bands of motor tax ranging from €92 for electric goods vehicles up to €900 annually for vehicles weighing over 12,000 kg. Have we considered what the tax on driverless cars in future will be? Will we even be around when that happens?

There were no changes to motor tax rates for any other type of vehicle. The changes announced in the budget were given temporary effect by way of a financial resolution on budget night. The resolution would expire after four months if legislation were not introduced. A Court of Appeal judgment on 21 October 2015 in *DPP v. Perennial Freight* questioned the method by which motor tax rates were calculated for articulated vehicles. This has traditionally been done by referencing a combined weight of the tractor, cab and trailer but the court ruled that trailers cannot be regarded as falling within the definition of “mechanically-propelled vehicles”. Accordingly, such vehicles now fall to be treated at the haulage tractor rate and the annual rate is €333. As the ruling is that no articulated vehicles fall within the goods vehicle category, these vehicles cannot have the new rates applied to them from January as only rigid trucks can now be taxed as goods vehicles. Amending legislation is required to exclude the vehicles from the haulage tractor category to allow them to be classified under the goods category.

I welcome the news for Irish road hauliers. I live on the Border and I know there are many businesses that have vehicles which traverse it on a daily basis. Those businesses could not compete with their Northern counterparts or hauliers from Great Britain who were coming in and receiving jobs local people could not compete for due to tax reasons. The hauliers campaigned vigorously for many years and the Government listened to them. They are now more competitive with their Northern Ireland compatriots and with Great Britain. All hauliers should

welcome the Bill. I encourage the implementation of the legislation as soon as possible.

**Senator Feargal Quinn:** The Minister of State is very welcome. The Bill is very technical and necessary. I take the opportunity to raise a couple of issues on the overall tax system for vehicles as a whole. We must ask why gardaí are even monitoring whether people pay their motor tax. In reality, checkpoints are a leftover from the 1920s and they are rarely seen in other European countries anymore. This is partly due to our experience during the Troubles I believe. Surely, toll roads and CCTV can be used to monitor tax compliance. Why do we need to use vital Garda resources to monitor tax, which is a civil matter? Do people think gardaí signed up to stand at the side of the road to check tax discs on car windscreens? I think not. The United Kingdom has done away with tax discs completely after 93 years. They had tax discs for 93 years but last year they did away with them and moved to an electronic system, which is much more sensible. Rather than the visual check the tax disc made possible, the UK authorities now use number plate recognition cameras to see if a vehicle has been taxed. Since the system was introduced, the UK authorities have raised 50% more cases against untaxed cars. It is clear that a Garda at a checkpoint is not able to check as many cars as a camera on a motorway. Our system appears and is antiquated. Is it possible to look at ways to modernise it? All of this should be done online now. The availability of technology means there is little reason for tax discs to be sent in the post. More importantly, gardaí should not have to physically stand at the side of the road to check tax matters. It should be possible for such checks to be done by means of automated cameras, as is the case in other EU countries. We need to think about freeing up Garda resources to tackle rural crime, which is a big problem. We are making expensive tax collectors of gardaí by making them stand at the side of the road.

I would like to go beyond that. We should look at collecting tax in a much more efficient manner. In most countries, there is either motor tax or toll roads but not both. I think it is nonsensical that for some reason we have both motor tax and toll roads. Why do we need a massive system of motor tax administration that involves motor tax offices, Garda monitoring, sending out tax discs, court appearances, filling out forms in Garda stations and so on? There has to be a better way.

I am impressed by the system used in Switzerland, to take one example. I did not know until I discovered it recently that there are no toll roads in that country. Anyone who wants to use a Swiss motorway must buy a *vignette*, or sticker, which costs approximately €40 a year and can be purchased at any petrol station. All foreign visitors to Switzerland must purchase one also. Fines of approximately €200 are imposed in cases of non-compliance. If we have foreign cars using the roads, surely they should pay €40 based on the Swiss model. Such a contribution would bring more money into our coffers and help to reduce costs for Irish motorists. Does the Minister of State have any views on this? Could the Government undertake a cost-benefit analysis of such a system of fair usage? I do not expect that to be done tomorrow, but I believe it should be possible for such an analysis to be done. The very idea of toll roads is a dated one. Like the turnpikes of the 19th century, some of the modern-day tolls merely serve to slow people on their journeys. We should consider the Swiss model.

The Revenue Commissioners collect income tax, the universal social charge, capital gains tax and corporation tax. Local authorities collect commercial rates, business improvement tax, district taxes and levies and the non-principal private residence tax. The motor taxation office collects motor tax. An Post collects television and dog licence fees. I am not sure whether the dog licence is still around. I cannot believe it is worthwhile. The Private Residential Tenancies Board collects the residential landlord tax. In France, for example, rates are collected with elec-

tricity bills. In addition, people who do not have television sets must opt out of the licensing system rather than opting in. Perhaps we should examine the French system, because it seems to be much more efficient. This matter needs much more discussion. There is so much potential. I have mentioned some innovative ideas in the area of motor tax and taxation in general. It is possible for us as a nation to take care of them. If we were to do so, I think we would benefit from it as a whole.

**An Leas-Chathaoirleach:** I remind the House that we are scheduled to complete all Stages of the Bill by 5.45 p.m.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Ann Phelan):** I will be very brief. I thank all the Senators who contributed to the debate. I will respond to the most pertinent of the wide-ranging and interesting contributions made, which give rise to much thought.

I assure Senator Sean D. Barrett that it is recognised that unladen weight is not a satisfactory basis for motor tax. It is open to manipulation and it is out of line with the basis of taxation of commercial vehicles in other countries, which is generally based on gross design vehicle weight. The Minister for Transport, Tourism and Sport has established an interdepartmental working group to consider issues relating to the Irish haulage industry. In addition to the reduction in motor tax that has just been announced, the haulage industry is seeking a change in the basis of taxation from unladen to gross design vehicle weight and the introduction of road user charging. The group issued a consultation paper late last year to canvass the views of hauliers and other stakeholders on the options for reform of the commercial vehicle motor tax regime. Following consideration of these submissions, the group is to furnish a report containing recommendations on the future structure of commercial tax to the Ministers for Transport, Tourism and Sport, Finance, and the Environment, Community and Local Government. Any changes to the current structure will be considered in that context. It will be necessary to make amendments to primary legislation and technical modifications to the national vehicle and driver file. The likely date for implementation is from January 2018. The working group is also considering the feasibility of establishing and operating a road user charging system here. Given the technological requirements required to underpin a charging system, its introduction is a medium-term to long-term objective.

I note the comments made about electric vehicles. In budget 2013, a new band of €120 was introduced for electric vehicles with zero emissions. The rate for pre-2008 electric vehicles was reduced at the same time from €157 to €120.

I also note what was said about the polluter pays principle. There are no plans to replace the current system of motor tax with an additional tax on motor fuel. Motor tax receipts for 2014 were in the order of €1.159 billion. Maintenance of the tax base would require an increase in fuel excise rates of at least 20 cent per litre, which would have direct negative impacts on the rate of inflation and on economic competitiveness. Goods vehicles and other high-usage and high-mileage vehicles such as public service vehicles and buses would have higher costs under a pay-as-you-drive system. There would be other distributional effects, including on those with longer distances to commute. A significant increase in fuel duty would lead to an increase in cross-Border fuel purchasing, which would further depress the tax base and require a compensatory adjustment, either through further increases in fuel prices or elsewhere in the tax system, to make up the shortfall. The potential for an increase in fuel laundering is also clear. The benefits of a fuel-based tax would have to be weighed against these issues and many others before

the change that has been proposed could be contemplated. In recognition of the lower average motor tax that is paid in respect of vehicles taxed on the basis of carbon dioxide emissions by comparison with pre-2008 vehicles, differential increases have been applied in recent budgets with a view to rebalancing the tax base while retaining the environmental incentive to purchase more environmentally friendly vehicles. The percentage increase in motor tax for passenger vehicles taxed on engine capacity was 7.5% in budgets of 2012 and 2013. This compares with average increases of 25.5% in budget 2012 and 19.8% in budget 2013 for vehicles taxed on the basis of carbon dioxide emissions. Any future changes to motor tax rates will be considered in the context of future budgets.

I note Senator Feargal Quinn's comments about the abolition of tax discs. Enforcement of motor tax, insurance and roadworthiness obligations and the instruments used to facilitate enforcement measures, including the application of number plate recognition technology, are matters for An Garda Síochána. Any change in the requirement to display on vehicle windscreens the discs mentioned by the Senator would need to be considered in the context of the application of number plate technology by An Garda Síochána generally in order to ensure adequate enforcement levels are maintained. The abolition of the paper tax disc in the United Kingdom since the beginning of October 2014 was enabled by greater use of automatic number plate recognition in that jurisdiction, which allows the authorities there to pursue the non-payment of tax. There are no plans currently to implement a similar proposal here. I will pass on the issues raised by the Senator to the Minister for Transport, Tourism and Sport.

I put it to Senator Feargal Quinn that it should be taken into account that the number of toll points in Ireland is quite limited and they are largely concentrated in the east. That would bring its own issues also.

I think I have addressed most of the issues raised. I thank Senators for their co-operation.

Question put and agreed to.

### **Motor Vehicles (Duties and Licences) Bill 2015: Committee and Remaining Stages**

Sections 1 to 6, inclusive, agreed to.

Title agreed to.

Bill reported without amendment, received for final consideration and passed.

### **Motor Vehicles (Duties and Licences) Bill 2015: Motion for Earlier Signature**

**Senator Maurice Cummins:** I move:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Motor Vehicles (Duties and Licences) Bill 2015 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to him.

Question put and agreed to.

### Legal Services Regulation Bill 2011: Report Stage (Resumed)

**An Cathaoirleach:** I welcome the Minister.

Government amendment No. 42:

In page 37, line 38, to delete “2011” and substitute “2015”.

Amendment agreed to.

Government amendment No. 43:

In page 38, in paragraph (b)(ii) of the section 37 inserted by amendment 40 at Committee Stage in the Seanad, to delete “practitioner,” and substitute “practitioner, or”.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 44 to 48, inclusive, are related and may be discussed together.

Government amendment No. 44:

In page 38, in the section 38 inserted by amendment 41 at Committee Stage in the Seanad, to insert the following new subsection after subsection (1):

“(2) Subject to *subsection (4)*, an inspector may use reasonable force, if necessary, to enter any place referred to in *subsection (1)(a)*, to exercise his or her powers under this section.”.

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** Senators will recall that we inserted a new Part into the Bill relating to the powers of the authority to inspect premises and dwellings. The amendments in this group make some minor adjustments to these powers.

Amendment No. 44 has been tabled on the advice of the Attorney General to ensure that an inspector may use reasonable force to enter a place in the exercise of his or her functions under this section. Amendment No. 45 involves the insertion of the word “deletes” into the phrase “destroys, defaces or conceals.” The intention is to ensure a person who deletes or otherwise tampers with evidence is committing an offence and is subject to the penalties outlined in the section. This is needed, in particular, for material held on a computer.

**Senator David Norris:** Will the Minister give a definition of “reasonable force”? One sees on television all the time drug enforcement people, particularly in the United Kingdom, using battering rams to whack down the doors of private houses. I assume this practice is not entirely unknown in this jurisdiction. How much physical force is regarded as appropriate or legal?

I would have thought the word “destroys” would also cover “deletes,” but I presume this is a nod in the direction of the computerised world in which, so regrettably, we are forced to live.

**Senator Ivana Bacik:** Senator David Norris rightly raises a point on reasonable force. The issue has occupied or exercised the courts. It is a phrase that is well used throughout criminal

justice legislation in respect of offences and the powers of the Garda. There is well established jurisprudence on how it is defined. It is determined on a case by case basis in terms of what is reasonable in the circumstances. I do not believe a more specific definition could or should be placed in legislation.

**Deputy Frances Fitzgerald:** The work we have done on this section strengthens the provisions in the original Bill. It is based on the legislation concerning search warrants and money laundering.

Amendment agreed to.

Government amendment No. 45:

In page 38, in subsection (1)(b) of the section 41 inserted by amendment 44 at Committee Stage in the Seanad, to delete “destroys, defaces or conceals” and substitute “deletes, destroys, defaces or conceals”.

Amendment agreed to.

Government amendment No. 46:

In page 38, in subsection (2) of the section 42 inserted by amendment 45 at Committee Stage in the Seanad, to delete “of that section” and substitute “of that paragraph”.

Amendment agreed to.

Government amendment No. 47:

In page 38, in subsection (4) of the section 42 inserted by amendment 45 at Committee Stage in the Seanad, to delete “*subsection (3) of section 42*” and substitute “*subsection (4) of section 42*”.

Amendment agreed to.

Government amendment No. 48:

In page 38, in subsection (6) of the section 42 inserted by amendment 45 at Committee Stage in the Seanad, to delete “*subsection (3) of section 44*” and substitute “*subsection (4) of section 42*”.

Amendment agreed to.

Government amendment No. 49:

In page 38, line 18, to delete “Solicitors Acts 1954 to 2013” and substitute “*Solicitors Acts 1954 to 2015*”.

**Senator David Norris:** I wish to ask a question out of curiosity. The difference seems to be simply that one phrase is in italics. Is there any legal force to a phrase being in italics?

**Senator Ivana Bacik:** There is a difference, because the amendment changes the reference from the Solicitors Acts up to 2013 to the Solicitors Acts up to 2015. It is not a question of italics but the difference in year.

**Senator David Norris:** Then why the italics? Why is it different?

**An Cathaoirleach:** It is in italics in the first Bill.

**Senator David Norris:** I see. Therefore, it is following the Bill it is amending. Is that correct?

**An Cathaoirleach:** Yes.

Amendment agreed to.

Government amendment No. 50:

In page 38, to delete lines 21 to 34, and in page 39, to delete lines 1 to 24.

**Deputy Frances Fitzgerald:** This is to deal with something in the original Bill, but there is a different situation now. It deletes the provisions relating to the ability of the authority to make regulations about interest on client moneys. This is being done to reflect the fact that the Law Society of Ireland will perform this role as part of its retained functions for the financial and compensation fund spheres. Until such time as barristers can hold client money, the authority will not need to exercise this power in its own right. This power is not relevant or necessary for the functioning of the new authority at this point. Obviously, regulations in this area made by the Law Society will be subject to approval by the new regulatory authority.

I discussed this question at the beginning of Committee Stage. I made the point that we do not want the Government to be liable for any of these issues. A clear decision was made by the previous Minister in respect of the complex issues relating to the compensation fund. The fund has been handled by solicitors up to now, and it will continue to be handled by them.

**Senator David Norris:** It is quite a big move because it involves the deletion of an entire section dealing with the requirement for a legal practitioner to hold separate accounts and so on. I am not going to fight this because it is obviously a hopeless battle, and we battled the other day. I was glad to see this reflected in a report on “The Week in Politics”. It was rather gratifying to see the Seanad included in the discussions on a major Act.

Will the Minister comment on whether this is one of the areas in which the Bar Council of Ireland exerted pressure on the Department to alter matters? That is concerning. The former Minister, Deputy Alan Shatter, a worthy predecessor to the current Minister, had an article in *The Irish Times* in which he said 85% of the Bill that he had envisaged had gone through but that 15% had not, which he very much regretted. It very much seems as though the Bar Council has exerted considerable pressure and has had a considerable impact on this legislation. I know that the Minister will be required politically to massage this, but it is a fact.

**Senator Martin Conway:** Not at all.

**Senator David Norris:** I beg the Senator’s pardon.

**An Cathaoirleach:** Senator David Norris to continue, without interruption.

**Senator David Norris:** As I am getting a little hard of hearing, I wish those who wish to interrupt - something I always welcome - would take note of my hard-of-hearing status and shout out the interruptions. I would be grateful for this as I always enjoy them. Perhaps I might come back to that. That is all I wanted to say.

I am interested to know whether this is one of the areas in which the Bar Council exerted pressure on the Government to alter the Bill. Can the Minister give me a reading on this? I do not normally wait, but I will on this occasion because I am going to ask a question, if that is all right with the Cathaoirleach.

**An Cathaoirleach:** Does the Senator mean on other sections or other amendments?

**Senator David Norris:** No. I would just like to ask if there is a substitution involved? Do we have another form of words to cover this or is it a simple deletion, getting rid of it and that is it? If it is just a deletion, it is a little worrying because it governs the idea of opening and maintaining a separate deposit account for the benefit of the client for the holding of money received from the client. Accountability for clients' money is very important. I know that we have distinguished leaders of the Bar here. This is one of the areas where there are always rows and always trouble and it is an area where, regrettably, there is sometimes fraud in the legal profession; therefore, one would need to keep an eye on this if this entire section is going to be got rid of. It is about 50 lines, which is not an insignificant amount. It looks after the safeguarding and the well-being of a client's money. I would be interested in what the Minister has to say to reassure the House that the interests of the client are still very much being protected. I see the Minister nodding. I am sure she can be satisfied on this issue. Is this the result of Bar Council lobbying and is there a substitution?

**Deputy Frances Fitzgerald:** This is a decision that was taken before I took over dealing with the Bill. The decision on the compensation fund was taken by the previous Minister and he took that decision for very good reasons. When the Bill was published originally, some of the detail of the work had clearly not been done. I have had a huge amount of detailed work to do in regard to the filling out of the various provisions of the Bill. The majority of the amendments I have tabled today have to do with the fact we now have an independent inspection and disciplinary oversight from the regulatory authority, and they also deal with the transitional issues, with the new disciplinary tribunal body and with various other issues on which none of the detailed work had been done. That is what I have been doing primarily.

On the point raised by the Senator, this is not about the Bar Council but about the Law Society of Ireland. It is about the compensation because barristers do not hold clients' moneys. The decision was taken that the compensation fund, in all its complexity, which has been handled by the Law Society of Ireland for many decades would continue to be handled by it and that the State would not be liable in any way for that type of compensation should it arise. What we are doing is protective of the State. The key point is that the legal services regulatory authority, LSRA, still has complete oversight. There is a new independent regulatory authority which has oversight. There is also provision for people to sit on the committee. I will deal with that section later. This was a decision that was taken at an earlier point in the development of the Bill. I think it is an appropriate decision. If one were to move the compensation fund with all its complexities, involvement and management, one would be talking about a different sort of body. We are talking about an oversight body that has approximately 40 staff. If one were to move everything that is currently handled by the Law Society of Ireland and the Bar Council, one would be talking about a different body taking over all that detailed work and the liability issues that arise. The purpose of section 50 is to take out what was in the original published Bill. However, there has been a journey in relation to it since. The reason it is being left with the Law Society of Ireland is well founded. There is still the independent regulation in terms of financial activities, standards and monitoring of the various complex issues that can arise in regard to compensation.

In regard to the Senator's point about the Bar Council and comments that have been made about it, I have explained that I was given very strong advice on this issue and the constitutional difficulties that would arise due to forcing membership on a particular body. That is the reality of the advice I was given and the Government has decided it wants to see the legal services regulatory authority established rather than being tied up in potential constitutional issues that would undermine the whole legislation.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 51 to 55, inclusive, are related and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 51:

In page 39, in the section 38 inserted by amendment 47 at Committee Stage in the Seanad, to delete subsection (2) and substitute the following:

“(2) A legal practitioner who provides legal services as a partner or employee of a legal partnership, a multi-disciplinary practice or a limited liability partnership shall be taken to comply with *subsection (1)* where at the time of provision of such services by the legal practitioner there is in place a policy of professional indemnity insurance in respect of that partnership or practice concerned which—

(a) in the case of a partnership or practice which is comprised of practising barristers only, complies with regulations made under *section 39* in respect of such partnership or practice,

(b) in the case of partnership or practice which is comprised of practising solicitors only, complies with regulations made under section 26 of the Act of 1994 relating to practising solicitors in such partnerships or practices, or

(c) in the case of a partnership or practice which is comprised of both practising barristers and practising solicitors—

(i) complies with regulations made under section 26 of the Act of 1994 relating to practising solicitors in such partnerships or practices, and

(ii) complies with regulations made under *section 39* in respect of practising barristers in such partnerships or practices.”.

**Deputy Frances Fitzgerald:** This is the section where I accept the amendment proposed by Senator Sean D. Barrett to change the language from “may” to “shall” in regard to the new regulatory authority's discretion to make regulations requiring legal practitioners to main professional indemnity insurance. That is in amendment No. 54. Government amendment No. 51 makes additional provision to the section. It does this to make clear that all configurations of a legal partnership between barristers or solicitors must be compliant with the Bill and have the requisite professional indemnity insurance in place. The amendment arises because it is necessary to cater separately for legal partnerships which consist of solicitors and barristers and those which contain barristers only. We are accepting the Senator's amendment.

**Senator Sean D. Barrett:** I welcome the Minister and thank her for accepting my amendment No. 54. We have compulsory insurance to drive a car. I agree with the Minister that

indemnity insurance in this case seems eminently sensible. That is the reason for the word “shall”. The new authority should draw up the regulations to implement it. Again, I thank the Minister.

**Senator David Norris:** I also welcome the acceptance of Senator Sean D. Barrett’s amendment because the word “may” is far too weak. This is a question about legal professional indemnity and without that the client might be exposed to damage. That is very good and I am glad the Minister has accepted it.

With regard to amendment No. 51, this is window dressing because I do not see much prospect of partnerships between solicitors and barristers because, as I understand it - perhaps I am wrong and the Minister will correct me if I am - if a barrister enters into an agreement for a legal practice of some kind with a solicitor, he or she will be exiled from the Law Library and that is quite a severe penalty. To include things that speculate about practices where solicitors and barristers will happily combine together in a legal practice is to a certain extent a bit of pie in the sky if they are going to be subject to this sanction from the Bar Council. If this is correct, and I am speaking from memory of newspaper articles, it is a rather nasty form of bullying that the Bar Council should seek to disadvantage a member of its profession who sets up a professional relationship with a solicitor.

**Deputy Frances Fitzgerald:** The Bill provides for legal partnerships. That is the reality. The Bill also has a strong section providing that no professional body can take any action that would interfere with the setting up of a partnership and cannot do anything that would be considered to be an interference with the setting up of such a practice. There are 100 barristers operating outside of the Bar Council. There is also a provision in the Bill to provide that if a barrister is employed by a charity NGO, a homeless group or by any of the advocacy groups, that person can represent those bodies in court. All these are new provisions aimed at giving people opportunities to be involved in different ways. All that is in the Bill. I have mentioned the constitutional advice I received about the Bar Council.

**Senator David Norris:** Will the Minister confirm the potential exiling of barristers from the Law Library? Is that a fact or a possibility that might happen?

**Deputy Frances Fitzgerald:** That is a description used by the Senator. The Bill provides a situation where no professional body can take action that would be seen to interfere with the setting up of a partnership. The Bar Council has its rules and I have taken constitutional advice regarding forcing membership onto it.

Amendment agreed to.

Government amendment No. 52:

In page 39, in the section inserted by amendment 48, in subsection (2), to delete “each professional body” and substitute “professional bodies”.

Amendment agreed to.

Government amendment No. 53:

In page 39, in the section inserted by amendment 48, in subsection (7), to delete “as appears to the Authority” and substitute “as appear to the Authority”.

Amendment agreed to.

**Senator Sean D. Barrett:** I move amendment No. 54:

In page 39, line 26, to delete “may” and substitute “shall”.

**Senator David Norris:** I second the amendment.

Amendment agreed to.

Government amendment No. 55:

In page 41, line 16, to delete “*section 38*” and substitute “*section 39* or section 26 of the Act of 1994, as the case may be”.

Amendment agreed to.

Government amendment No. 56:

In page 41, in subsection (1) of the section 41 inserted by amendment 51 at Committee Stage in the Seanad, to delete “An act” and substitute “For the purposes of this Act, an act”.

Amendment agreed to.

Government amendment No. 57:

In page 41, in subsection (1)(c) of the section 41 inserted by amendment 51 at Committee Stage in the Seanad, to delete “practice of law” and substitute “provision of legal services”.

Amendment agreed to.

Government amendment No. 58:

In page 41, in subsection (1)(i) of the section 41 inserted by amendment 51 at Committee Stage in the Seanad, to delete “(within the meaning of those terms under *Part 8*)” after “multidisciplinary practice”.

Amendment agreed to.

Government amendment No. 59:

In page 41, in subsection (1)(i) of the section 41 inserted by amendment 51 at Committee Stage in the Seanad, to insert “(within the meaning of *Part 8*)” after “managing legal practitioner”.

Amendment agreed to.

Government amendment No. 60:

In page 41, in the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to delete subsection (1) and to insert the following:

“(1) A client of a legal practitioner, or person acting on behalf of such a client, may make a complaint to the Authority in respect of a legal practitioner where the client

considers that—

(a) the legal services provided to the client by the legal practitioner were or are of an

inadequate standard, or

(b) an amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive.

(2) A person may make a complaint to the Authority in respect of a legal practitioner

where the person considers that an act or omission of the legal practitioner constitutes

misconduct.”.

Amendment agreed to.

Government amendment No. 61:

In page 41, in subsection (2) of the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to delete “to which *subsection (1)* applies”.

**Deputy Frances Fitzgerald:** This series of amendments Nos. 61 to 65 are discussed separately and are relevant to the numbering of the various paragraphs and subsections.

Amendment agreed to.

Government amendment No. 62:

In page 41, in subsection (3) of the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to delete “*subsection (1)*” and substitute “*subsection (2)*”.

Amendment agreed to.

Government amendment No. 63:

In page 41, in subsection (4) of the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to delete “*subsection (5)*” and substitute “*subsection (6)*”.

Amendment agreed to.

Government amendment No. 64:

In page 41, in subsection (4) of the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to delete “*subsection (1)*” and substitute “*subsection (2)*”.

Amendment agreed to.

Government amendment No. 65:

In page 41, in subsection (5) of the section 42 inserted by amendment 52 at Committee

Stage in the Seanad, to delete “*subsection (4)*” and substitute “*subsection (5)*”.

Amendment agreed to.

**An Cathaoirleach:** Amendment Nos. 66 to 72, inclusive, 78, 83 to 85, inclusive, 104, 106, 108, 111, 114, 117 and 215 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 66:

In page 41, in subsection (5)(a) of the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to insert “the opinion of the Law Society is that” before “the act”.

**Senator Sean D. Barrett:** What will be the effect of inserting “the opinion of the Law Society”? There are 105 amendments on pages 8 to 28 of the amendments list which all relate to page 41 of the Bill. This is confusing.

**Senator David Norris:** I presume I can speak after the Minister?

**An Cathaoirleach:** The Senator can speak only once.

**Senator David Norris:** I can speak once, just after the Minister has spoken?

**An Cathaoirleach:** The Senator must speak before the Minister.

**Senator David Norris:** There should be a fair amount of latitude in these matters when there are so many amendments scattered throughout the Bill and one has to root around looking to find them. I would like to know what the opinion of the Law Society of Ireland was on this matter that has been so persuasive with the Minister. Page 41 of the Bill is amended on a spectacular number of occasions. Some are just technical amendments. According to my colleague, Senator Sean D. Barrett, page 41 of the Bill is amended 105 times. That is absolutely astonishing. It is no wonder we are at sea; at least I am at sea, I am not suggesting the Minister is at sea.

If a Member has not spoken then it would be no harm, even on Report Stage, for a Member seeking to be informed by the Minister’s contribution to be allowed to speak after the Minister - if he or she reserves the position and decides to not speak until after the Minister and taking into account that the Member can still only speak once. It would seem good parliamentary practice to allow a Member who decides to hold his or her fire, to make use of the information the Minister has contributed to the House in making an informed comment, especially when there are so many amendments joined together by leave of the House.

**An Cathaoirleach:** The Chair usually facilitates Members to a great degree.

**Senator David Norris:** Therefore, the Chair could have allowed me to speak after the Minister. You miserable git.

**Deputy Frances Fitzgerald:** These amendments are included to ensure a smooth transition to the new regulatory authority in regard to these issues and for clarity and consistency for the handover. Many amendments are improvements in the drafting. There are a lot of improvements in the drafting. The core of the amendments is to make crystal clear that all new complaints will go to the new authority after enactment. The amendments also place a three-year limit on the complaints about inadequate service but there will be no time limit on complaints about professional misconduct by a solicitor or a barrister.

With regard to the point raised by Senator SEan D. Barrett, the amendment is because they will be dealing with the solicitors' accounts regulations and will have to come to a view in relation to the particular issue. It is they who will come to that view and that is why we have inserted the wording "in the opinion of the Law Society" as they are the people who will be dealing with this, coming to a view as to the irregularity or not. This would always be subject, as the Law Society of Ireland and the Bar Council will be, to the independent regulation of the legal services regulatory authority.

**Senator David Norris:** I ask the Minister if it would have been more sensible to delete the whole of page 41 of the Bill and introduce a new page 41 to save the trouble of dealing with this myriad of amendments.

**Deputy Frances Fitzgerald:** It is a complex Bill and it has had a long run of amendments since it was published. It does engage complex legal and constitutional issues and it covers a very wide span; the inspection, the complaints, the new business models, the new office of the legal costs adjudicator, the charter, and powers for the new authority and the levy which the authority can impose. There has been much involvement and work by the drafters. These amendments are to improve the Bill and to allow for clarity, consistency and a smoother transitional phase. The core rationale is to make it clear that all new complaints will go to the new authority after enactment.

**Senator David Norris:** The Minister has not answered my question about whether having a new page 41 would be a good idea.

**Deputy Frances Fitzgerald:** I have not. I am recommending these amendments.

**Senator David Norris:** Senator SEan D. Barrett has yet to speak on amendment No. 66.

**An Cathaoirleach:** We are on amendment No. 66. It is a group of amendments. The Minister spoke to amendment No. 66. The group includes amendments Nos. 66 to 72, inclusive, 78, 83 to 85, inclusive, 104,106,108,111,114,117 and 215. They are being discussed together.

**Senator Sean D. Barrett:** Amendment No. 66 seeks to insert "the opinion of the Law Society". It refers to page 41, subsection (5)(a). I cannot find subsection (5)(a) in the Bill. I do not know where a reference to the opinion of the Law Society of Ireland is to be inserted.

**Deputy Frances Fitzgerald:** It was inserted by amendment No. 52 on Committee Stage.

**Senator David Norris:** Therefore, it is not in the version we have, I presume?

**Deputy Frances Fitzgerald:** It was inserted on Committee Stage.

**Senator Sean D. Barrett:** I cannot see where the opinion of the Law Society of Ireland would fit in. Section 42 is quite short. It is extremely confusing.

**Senator David Norris:** It is very confusing. On a point of order, some of these amendments would be better taken out of the general discussion and discussed separately in order to give us time to reread the Bill and inform ourselves. However, that will not happen.

**Deputy Frances Fitzgerald:** I discussed that issue on Committee Stage. I have explained why it would be a decision arrived at by the Law Society of Ireland. The phrase "the opinion of the Law Society" has been used because it will regulate the solicitors' accounts regulations.

**Senator Trevor Ó Clochartaigh:** I have held my counsel until now. I have listened very closely to the debate. It appears to me that the debate is becoming a little shambolic because of the number of amendments to Committee Stage amendments, etc. I am concerned that we and the Government may make some grave mistakes in the Bill because we are amending parts of it that we cannot see in front of us.

I call on the Minister to suspend the debate on the Bill. Committee Stage amendments should be incorporated into a new Bill, which should be published properly in order that we could then debate the Report Stage amendments properly and consider them in the context of the amendments the Government wants to make to ensure it does not make mistakes. Even at this late stage, amendments on Report Stage are still coming into our inboxes. It is an absolute shambles, to be quite honest. I am afraid that we will make a major mistake. Rushing the Bill in this manner is absolutely diabolical.

**Deputy Frances Fitzgerald:** I have said it is a complex Bill. These are a series of amendments which are very much drafting improvements. There is no change whatsoever in the policy issue we discussed on Committee Stage. In fact, these are detailed amendments to improve the Bill from a drafting point of view, the drafter having taken a further look at the overall section. As I said, the purpose of the amendments is to provide clarity and consistency.

The key policy point is that there will be independent access. All new complaints will go to the new authority after the enactment of the Bill. This is a major change. In future, all complaints about legal services, rather than going to a committee within the Law Society of Ireland, which has operated under legislation to date, or the Bar Council, which provided an annual report on its activities, will go to an independent body. I ask Senators to reflect on that key policy point. I appreciate that there are a lot of amendments, but they are to improve the drafting of the Bill, for the purposes of consistency and clarity and to ensure a smooth transition from those committees to the new legal services regulatory authority.

**Senator David Norris:** I wish to make a point of order. I sympathise with the Minister's difficulty; this is a complex Bill. It has been rendered more complex by amendments, amendments on Report Stage, proposed amendments and all the rest. There are 23 pages of amendments to one page of the Bill. That is astonishing. How can 23 pages of amendments be squeezed onto one page? The mind just boggles. It is daft. Surely it would be better to reconstitute the relevant page and leave the original version in the Bill as passed by the Dáil and present a revised version to Seanad Éireann? That would seem to be the sensible thing to do. I cannot get over the fact that there are 23 pages of amendments to one page of the Bill.

**Deputy Frances Fitzgerald:** There are asterisks, footnotes and various other things, as the Senator will see when he reads the amendments.

**Senator David Norris:** There are a lot of asterisks in 23 pages.

**Deputy Frances Fitzgerald:** An amendment can take up that much room and there are many technical amendments.

Amendment put:

The Seanad divided: Tá, 18; Níl, 6.	
Tá	Níl

Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	Ó Murchú, Labhrás.
Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	Power, Averil.
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

**Senator David Norris:** On a point of order, Members on both sides find the proceedings chaotic, disorientating and very difficult to follow given that we are presented with an unclean text. The Bill we have before us does not contain the Committee Stage amendments that have already been made. Would the Minister be prepared to suspend the debate and produce a copy of the Bill with the Committee Stage amendments included in it in order that we can see where we are? We have just examined an important amendment which adds the words “the opinion of the Law Society” regarding a matter of fact, namely, whether there has been a breach of regulations. It is not a matter of opinion but a matter of fact. We have just allowed a fact to be overwhelmed by an opinion of a professional body, and it is worrying. The Members on this side will not be particularly co-operative and will call a number of votes to reflect the disquiet throughout the House. Although the Government side is inhibited from making these points, in discussions during the division we found there is considerable concern on that side. Every December, Bills are rammed through because we must get them done before Christmas. This is why we are sitting five days next week and the week after. It is not good parliamentary practice and does not treat the Seanad with the respect it is due.

**Senator Averil Power:** How could it possibly be in order for us to discuss amendments without having the Bill as passed on Committee Stage? It is very confusing.

**An Cathaoirleach:** It is perfectly in order and is a normal procedure, although we probably never had this volume of amendments before.

**Senator Averil Power:** Although I have the list of amendments, we are working from the Bill as passed by Dáil Éireann, not the Bill as passed on Committee Stage in the Seanad.

**An Cathaoirleach:** Second Stage took place.

**Senator Averil Power:** To my knowledge, this is the first time we have been in this situation, even with other rushed legislation.

**An Cathaoirleach:** A list of the Committee Stage amendments has been made available.

**Senator David Norris:** We do not have a copy of the Bill, as amended.

**Senator Averil Power:** This is very important legislation.

**An Cathaoirleach:** Although the amendments are not included in the Bill, they are available.

**Senator David Norris:** They should be included in the Bill.

**An Cathaoirleach:** They never are in the Seanad.

Government amendment No. 67:

In page 41, in subsection (6) of the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to delete “under *subsection (1)*”.

Amendment put:

The Seanad divided: Tá, 18; Níl, 6.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	Ó Murchú, Labhrás.
Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	Power, Averil.
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 68:

In page 41, in subsection (6) of the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to delete “, or deemed under this Part to have been made, or referred under *section 43*”.

Amendment put:

The Seanad divided: Tá, 18; Níl, 5.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O'Donovan, Denis.
Comiskey, Michael.	Power, Averil.
Conway, Martin.	
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 69:

In page 41, in the section 42 inserted by amendment 52 at Committee Stage in the Seanad, to insert after subsection (8) the following:

“(9) A complaint shall be made in writing and in accordance with this Part and regulations under section 46.

(10) This section is subject to section 49.”.”.

Amendment put and declared carried.

Government amendment No. 70:

In page 41, in the section 43 inserted by amendment 53 at Committee Stage in the Se-anad, to delete subsections (1) and (2) and insert the following:

“(1) The Bar Council or the Honorable Society of King’s Inns shall refer to the Au-thority a complaint that is made to the body concerned—

(a) by a client, or a person acting on behalf of such a client, of a barrister, and

(b) in respect of an act or omission of the barrister to which *subsection (1) or (2) of section 42* applies, that occurred on or after that date on which this subsection comes into operation.

(2) The Law Society shall refer to the Authority a complaint that is made to it—

(a) by a client, or a person acting on behalf of such a client, of a solicitor, and

(b) in respect of an act or omission of the solicitor to which *subsection (1) or (2) of section 42* applies, on or after the date on which this subsection comes into opera-tion.

(3) Where a complaint is referred to the Society under *subsection (1) or (2)*, the Authority shall invite the person who made the complaint to make a complaint under *section 42*.”.

Amendment agreed to.

Government amendment No. 71:

In page 41, in the section 44 inserted by amendment 54 at Committee Stage in the Se-anad, to delete “and ending 2 months after the complaint is determined under this Part shall be disregarded.” and insert the following:

“or, where the complaint is made on the invitation of the Authority under *section 43(3)*, on the making of the complaint referred to in *subsection (1) or (2) of section 43*, and ending—

(a) on the date on which the complaint is withdrawn by the complainant, or

(b) where the complaint is not withdrawn by the complainant, on the date that is 2 months after the date on which complaint is determined under this Part,

shall be disregarded.”.

Amendment agreed to.

Government amendment No. 72:

In page 41, in the section 45 inserted by amendment 55 at Committee Stage in the Se-anad, to insert the following new subsection:

“(2) The Authority shall notify the complainant and the legal practitioner concerned where it decides under *subsection (1)* to continue or proceed to deal with a complaint.”.

Amendment put:

The Seanad divided: Tá, 18; Níl, 5.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O'Donovan, Denis.
Comiskey, Michael.	Power, Averil.
Conway, Martin.	
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 73:

In page 41, in the section 47 inserted by amendment 57 at Committee Stage in the Seanad, to delete “The Authority may, with the consent of the” and substitute “The Authority may, with the approval of the Minister given with the consent of the”.

Amendment declared carried.

Government amendment No. 74:

In page 41, in subsection (1) of the section 48 inserted by amendment 58 at Committee Stage in the Seanad, to delete “under section 49”.

**Deputy Frances Fitzgerald:** Amendments Nos. 74 to 77, inclusive, provide simply for the changes in numbering of the sections.

**An Cathaoirleach:** It was not agreed to discuss them together.

**Deputy Frances Fitzgerald:** That is right. As there are some extra sections in the Bill, particularly dealing with complaints and disciplinary issues which we inserted in Part 5, there is a change in the numbering of sections. This is simply a change in the numbering.

Amendment put:

The Seanad divided: Tá, 16; Níl, 5.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O'Donovan, Denis.
Comiskey, Michael.	Power, Averil.
Conway, Martin.	
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 75:

In page 41, in subsection (5) of the section 48 inserted by amendment 58 at Committee Stage in the Seanad, to insert “, in accordance with *section 49*,” after “shall”.

**Deputy Frances Fitzgerald:** As I have said, many of the amendments being introduced are technical amendments required because of the change and the new insertions in the Bill. That has led to a renumbering of the amendments. Obviously, when one inserts a new section, all the numbers on the other sections have to be changed. This is one of a series of amendments reflecting the change to the number of the section we are dealing with. It is normal with any Bill where there are insertions as there was regarding the disciplinary procedures. This has meant there is a change in the section numbers. This amendment changes the numbering of the section.

*8 o'clock*

Obviously, once one inserts a new section, all the numbers on the other sections have to be changed. This is one of a series of amendments where it is literally just reflecting the change that has been brought about to the number of the section we are dealing with. It is a normal thing that would happen in any Bill one would discuss in the Seanad or the Dáil where there are insertions into the Bill, as there was on disciplinary procedures. It has meant that there is a change in the way the sections are numbered and this is a change to the numbering of the section.

**Senator David Norris:** I would like to request a little information of a technical nature from the Minister. I accept completely the renumbering and all the rest of it. In the normal course of events we would just let this legislation slide through, but we are not prepared to do that. I seek clarification on the following. I noticed that hash marks were included in the amendment which says: “inserted by amendment 58# .... in accordance with section 49##”. In some cases there are up to four or five hash marks inserted. Does a hash mark indicate the number of times an amendment has been amended? What is the purpose of a hash mark in this instance?

**Deputy Frances Fitzgerald:** The Bills Office put a hash mark in as an aid to Senators following the Bill and there is a reference. That is all that it is in the Bill.

**Senator David Norris:** What does the reference mean?

**Deputy Frances Fitzgerald:** It is a reference to a change.

**Senator Michael Comiskey:** A slight new change. It is a rehash.

**Deputy Frances Fitzgerald:** Yes, that is all.

**Senator David Norris:** Why is there one hash sign on some of them, two on another, three on another and four on another?

**Deputy Frances Fitzgerald:** They are simply footnotes that reference difference sections. The first hash refers to the first section that is being changed and the second hash refers to the second change. It is just to differentiate the amendments being made. The Bills Office did so to make it clearer what was happening with these amendments.

I will make a point which might be helpful to the discussion about the various changes in the Bill. The Senator commented on the number of amendments relating to one page. That was a reference point for a large number of amendments that were made by the House on Committee Stage on the subject of complaints. It is a virtual page number to allow for the insertion of the various amendments that had been made but it was not changing any of those amendments. It was literally just providing a place where those amendments were to be inserted into the Bill that had been agreed on Committee Stage.

A huge number of the amendments I am bringing forward are to do with the drafters. It was always going to be necessary at this point in the Bill to look at the overall development of the Bill and the kind of changes made and see how it all stood together. Many of the changes in these amendments are genuine, as Senators will see when they look at the amendments. We are not bringing in any policy changes. The policy discussion we have had, both on Second Stage and on Committee Stage, is very much the drafters looking over the Bill as a whole. I appreciate that there are many amendments. The drafters have looked over them and effectively made the technical changes and the minor corrections that are needed for the Bill to flow as a whole. I apologise that there are so many of them, but it is very much the drafters looking at the Bill as a whole and making the various changes. I accept that it is a complex and large Bill with many amendments. These ones we are discussing at this point are very much the technical ones about the numbering changes where one puts the amendments in and so forth.

I have detailed notes which I am happy to share on some of the other amendments that have to do with inserting monitoring elements, for example, which we will deal with in the Bill at a later stage, and some of the other key points about transitions and the kind of periods of transi-

tion we are putting into the Bill when we move from the Bar Council and the Law Society of Ireland to the LSRA. I hope I have been helpful.

**Senator David Norris:** Yes. May I elucidate a little more? Am I right in thinking that four hash marks means an amendment has been through four transitional stages?

**Deputy Frances Fitzgerald:** No. It just means it is the fourth point referenced. It is the fourth amendment being referenced on a particular page. It is just a note on the fourth. There is just one hash mark for the first one. The Bill Office has done this in terms of being helpful in relation to the Bill.

**Senator David Norris:** It is not a bit helpful. It is not at all helpful.

**Senator Sean D. Barrett:** The amendment reads: “In page 41, in subsection (5) of the section 48 inserted by amendment 58 at Committee Stage in the Seanad, to insert “, in accordance with section 49,” after “shall”. In section 48 there are six uses of the word “shall”. Therefore, we should have the legislation printed up again incorporating all those amendments because it is very difficult to keep track.

**Senator David Norris:** Which “shall” is it?

**Senator Sean D. Barrett:** Yes.

**An Cathaoirleach:** Is amendment No. 75 agreed to?

**Senator Sean D. Barrett:** Not agreed.

Amendment put:

The Seanad divided: Tá, 14; Níl, 6.	
Tá	Níl
Burke, Colm.	Barrett, Sean D.
Coghlan, Eamonn.	Norris, David.
Comiskey, Michael.	Ó Clochartaigh, Trevor.
Conway, Martin.	O'Donovan, Denis.
Cummins, Maurice.	O'Sullivan, Ned.
Higgins, Lorraine.	Power, Averil.
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 76:

In page 41, in subsection (5)(c) of the section 48 inserted by amendment 58 at Committee Stage in the Seanad, to delete “*section 49(5)*” and substitute “*section 49(6)*”.

**Deputy Frances Fitzgerald:** Like many subsequent amendments, as there is a new line inserted, this is effectively saying where the authority makes a determination referred to in subsection (4). As one can see from page 22 of the Committee amendments, the Report Stage amendment is literally changing 4(b) to 5(b). Some of these are the result of a new line being inserted and the reference changes. It is one of the many technical changes because there are changes in the composition of the Bill with new sections inserted, there is a change in the reference. Instead of 4(b) it reads 5(b). It is a numerical change reflecting an extra sentence.

Amendment agreed to.

Government amendment No. 77:

In page 41, in subsection (7) of the section 48 inserted by amendment 58 at Committee Stage in the Seanad, to delete “*subsection (4)(b)*” and substitute “*subsection (5)(b)*”.

**Deputy Frances Fitzgerald:** This is a numerical change to the ordering as I have explained. This is another amendment we agreed to take separately. It is the numbering of the sections reflecting the changes.

Amendment agreed to.

Government amendment No. 78:

In page 41, in the section 49 inserted by amendment 59 at Committee Stage in the Seanad, to insert the following new subsection (1):

“(1) This section applies to a preliminary review conducted under *section 48* by the Authority to determine whether or not a complaint is admissible.”.

Amendment agreed to.

Government amendment No. 79:

In page 41, in subsection (1) of the section 49 inserted by amendment 59 at Committee Stage in the Seanad, to delete “under this Part”.

Amendment put:

The Seanad divided: Tá, 15; Níl, 6.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.

Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	O'Sullivan, Ned.
Cummins, Maurice.	Power, Averil.
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 80:

In page 41, in subsection (2) of the section 49 inserted by amendment 59 at Committee Stage in the Seanad, to delete “under this Part”.

Amendment agreed to.

Government amendment No. 81:

In page 41, in subsection (3) of the section 49 inserted by amendment 59 at Committee Stage in the Seanad, to delete “under this Part”.

Amendment agreed to. Government amendment No. 82:

In page 41, in subsection (4) of the section 49 inserted by amendment 59 at Committee Stage in the Seanad, to delete “under this Part”.

Amendment agreed to.

Government amendment No. 83:

In page 41, in the section 49 inserted by amendment 59 at Committee Stage in the Seanad, after subsection (5) to insert the following new subsections:

“(6) The Authority shall determine a complaint under *section 42(1)* to be inadmissible where it is satisfied that the complaint was made more than 3 years after the later of the following:

(a) the date on which the legal services concerned were provided or the bill of costs concerned was issued, or

(b) the date on which the client first became aware, or ought reasonably to have become aware, that it would be reasonable to consider that *paragraph (a)* or *(b)* of

*section 42(1)* applied in respect of the legal practitioner concerned.

(7) In reckoning any period of time for the purposes of the limitation period under *subsection (6)*, the period between the date of receipt of a complaint by the body referred to in *subsection (1) or (2) of section 43* and the making, on invitation by the Authority under *section 43(3)*, of a complaint under *section 42* in respect of

the act or omission concerned, shall be disregarded.

(8) Where the Authority does not determine a complaint to be inadmissible under this section, it shall determine the complaint to be admissible.”.

Amendment agreed to.

Government amendment No. 84:

In page 41, in subsection (3)(b) of the section 50 inserted by amendment 60 at Committee Stage in the Seanad, to delete “and the Authority, provide the Authority” and substitute “and the Authority, the Complaints Committee or the Disciplinary Tribunal, as the case may be, provide the Authority, Complaints Committee or Disciplinary Tribunal”.

Amendment agreed to.

Government amendment No. 85:

In page 41, in the section 51 inserted by amendment 61 at Committee Stage in the Seanad, to delete subsection (1) and substitute the following:

“(1) Where the Authority determines under *section 48* that a complaint to which *section 42(1)(a)* applies is admissible, or where a complaint is remitted to it under *section 53*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.”.

**An Cathaoirleach:** Is the amendment agreed to?

**Senator David Norris:** No.

Amendment put:

The Seanad divided: Tá, 17; Níl, 6.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O’Donovan, Denis.
Comiskey, Michael.	O’Sullivan, Ned.
Conway, Martin.	Power, Averil.
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	

Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 86:

In page 41, in subsection (2)(a) of the section 51 inserted by amendment 61 at Committee Stage in the Seanad, to delete “it” and substitute “the matter”.

**An Cathaoirleach:** This amendment was discussed with amendment No. 5. Is it agreed to?

**Senator David Norris:** No. I just want to say-----

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

**Senator David Norris:** All right. We will leave it.

Amendment put and declared carried.

Government amendment No. 87:

In page 41, in subsection (7) of the section 51 inserted by amendment 61 at Committee Stage in the Seanad, to delete “the person aggrieved” and substitute “, he or she”.

**An Cathaoirleach:** This amendment was discussed with amendment No. 5. Is it agreed to?

**Senator David Norris:** No. On a point of order, this amendment seems to be redundant. The original line states: “Where the client or the legal practitioner is aggrieved by a direction made by the Authority under subsection (6) or its failure to make such a direction the person aggrieved”. It is being changed to “he or she”, but that has precisely the same meaning. What is the point in changing it?

**Deputy Frances Fitzgerald:** It is like some of the other amendments in that it is a technical drafting change. That is what I have said about many of these amendments.

**Senator David Norris:** What is the difference between “the person aggrieved” and-----

**Deputy Frances Fitzgerald:** It is a drafting recommendation to insert “he or she” as opposed to “the person aggrieved”.

**Senator David Norris:** Grammatically, it has exactly the same meaning and impact.

**Deputy Frances Fitzgerald:** As with the previous two amendments on which we voted, many of these effectively replace “it” with “the matter”. In another, we deleted “in this Part”.

Using this language instead of the other is a straightforward recommendation from the draftsman to improve the flow of the Bill. Many of the amendments are extremely technical. One could argue about them all.

**Senator David Norris:** I am sorry, but they are not technical because they mean exactly the same thing. There is no technical difference between one and the other.

**Senator Catherine Noone:** Why make a big deal out of it then?

**Deputy Frances Fitzgerald:** All I can say is I am advised by the draftspersons who have been working on the Bill that it is a better formulation.

**Senator David Norris:** And the draftsman is W. Shakespeare, I presume?

**Senator Catherine Noone:** Come on. This is getting-----

**Senator David Norris:** Ridiculous. There is a sense of style here. Someone believes it is worthwhile wasting the time of the Seanad on a matter of style. It is complete nonsense.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 88, 90, 92 to 100, inclusive, 113 and 118 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 88:

In page 41, in subsection (7) of the section 51 inserted by amendment 61 at Committee Stage in the Seanad, to delete “the Review Committee” and substitute “a Review Committee”.

**Deputy Frances Fitzgerald:** These are mainly refinements to the new section 51 inserted on Committee Stage to deal with the informal resolution of inadequate services. The substantive amendment in this group provides that an appeal of the outcome of a complaint of inadequate services or excessive costs shall be via a review committee to the High Court.

Amendment No. 88 replaces subsection (1). The intention is that the authority will, in every case where the matter at hand relates to inadequate services or where the review committee has remitted a complaint to the authority, invite the parties to seek to resolve the matter by informal means. The subsection removes the requirement that the authority should form an opinion as to whether the matter is suitable for resolution by informal means, which it was felt was too subjective.

Amendments Nos. 90 to 101 and 113 to 118 relate to the resolution and review of the complaints sections. The intention behind the amendments being proposed is to make clear how procedures regarding the resolution of complaints will operate and to better define the role of the review committee. Amendment No. 90 makes a change to one of the options available to the new review committee to be established under section 53 of the Bill, as inserted by amendment No. 63 of the Committee Stage amendments. The option that the review committee had, that is, to find that a complaint was not well founded, is being replaced by an option to remit the complaint to the committee with such direction as the review committee considers appropriate. It provides that a remittance can be for a complaint against either inadequate service or excessive costs.

Amendment No. 92 inserts an important new section into the Bill which will enable a party to appeal to the High Court against a decision of the review committee. Subsection (1) provides that the party, within 21 days of a notification from the review committee, may appeal to the High Court for an order to rescind or vary the determination of the review committee. Subsection (2) makes it clear, however, that if no such appeal is made within the 21 days, the determination of the review committee is absolutely binding on the parties. Subsection (3) gives the authority the right to have an appeal dismissed if it considers that the appeal has only been made to delay the conclusion of the complaint. Subsection (4) provides that a failure by a legal practitioner to comply with the determination of the review committee will constitute an offence under the Act.

Amendment No. 93 proposes a new subsection which makes it clear that where there is an admissible complaint which, if proven, would constitute misconduct, the authority should invite the complainant and legal practitioner to make efforts to resolve the matter promptly and in line with guidelines published by the authority.

Amendment No. 94 proposes to replace section 56, which was inserted on Committee Stage, with a different wording, although the thrust of the section remains the same - that agreement by a legal practitioner to participate in attempts to resolve an issue is not an admission of liability. We had some discussion on this on Committee Stage and I think these amendments were welcomed.

Amendment No. 101 relates to the procedures that the authority must carry out in dealing with complaints. I have decided that there needs to be a clear statement that a complaint about an act or omission which could constitute misconduct, if not resolved by informal means, will be passed to the complaints committee for consideration.

Amendment No. 113 involves the deletion of subsection 14. This is about improving the case management of complaints. Under subsection 14, the divisional committee could refer a case back to the authority to see if it could be resolved by informal means. Having looked at it again, we believe cases that reach the divisional committee have already been through the process; therefore, we are not referring them back to the authority.

Amendment No. 118 makes it clear that an appeal by a legal practitioner against a determination of a divisional committee will be to the High Court and not to the disciplinary tribunal. The disciplinary tribunal will have a specific function to investigate certain complaints involving alleged misconduct on the part of legal practitioners. I am providing that an appeal by a legal practitioner against a determination made or a direction issued by a divisional committee will be by way of application to the High Court.

We also have a subsection that states that in certain circumstances the authority may also appeal to the High Court against determinations or directions of the divisional committee. The authority may also appeal against a decision by the divisional committee not to refer a complaint to the disciplinary tribunal. Subsection (3) outlines the orders that the High Court may make on receipt of an appeal under this section. Effectively, these are refinements to the resolution of inadequate services. The substantive amendment in this group provides that an appeal on the outcome of a complaint about inadequate services or excessive costs shall be by way of the review committee to the High Court. It outlines the various stages that complaints of inadequate service or excessive costs go through within the body and how the authority becomes involved.

**Senator David Norris:** I welcome the Minister's very detailed explanation of these amendments. I am interested, however, in her remark that the view of the authority is too subjective. Despite the fact that the Minister provided for the wording that refers to the view of one of the legal bodies - I cannot remember which - she said before that it was too subjective, yet here it is now popping up. I am sorry; I will clarify that. The Minister put in the wording that refers to the authority forming a view of something, yet now she is saying it is too subjective; therefore, there is a conflict.

I welcome the option of appealing to the High Court the determination of the review committee. I think that is a good thing. The Minister referred to the fact that during Second Stage, or during an earlier debate on this Bill, we commended the provision that an apology would not constitute an admission of liability. The tendency of the Bill is to urge the parties towards reconciliation and so on without actually resorting to court procedures, but such recourse to these proceedings to try to reach an accommodation shall not be taken as admission of liability. That is good because it frees up the system and encourages people to take a course of moderation and to try to sort things out without recourse to the law, which can be extremely expensive.

I have a query about one of the amendments, but by and large they are good. They are fairly substantive amendments dealing with big matters that need a certain amount of thought.

**Deputy Frances Fitzgerald:** I will deal with the point made by Senator David Norris in respect of forming an opinion. The authority in this instance would be referring the matter for informal resolution; therefore, we do not want it to prejudge the matter. Thus, we are removing the section that refers to the authority forming an opinion.

I think the Senator is correct about the question of liability. We discussed this in the context of the pre-action protocols for medical negligence also, where we have provided for a similar wording in order that an apology is not seen as an admission of liability.

Amendment agreed to.

Government amendment No. 89:

In page 41, to delete the section 52 inserted by amendment 62 at Committee Stage in the Seanad and substitute the following:

**“Authority to facilitate resolution of complaints made under this Part relating to excessive costs**

**52.** (1) Where the Authority determines under *section 48* that a complaint to which *section 42(1)(b)* applies is admissible, or where a complaint is remitted to it under *section 53*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.

(2) Where the client and the legal practitioner agree to the Authority's invitation under *subsection (1)*, and request the Authority to do so, the Authority shall facilitate the resolution of the matter—

(a) by offering its assistance in resolving the matter in an informal manner, or

(b) by identifying to the legal practitioner and the client other persons who are willing to assist in resolving the matter in an informal manner.

(3) Where the Authority, having allowed the client and the legal practitioner a reasonable period to resolve the matter the subject of the complaint in an informal manner, considers that an agreement or resolution between the parties in relation to the complaint is unlikely to be reached in that manner, it may give notice in writing to the client and the legal practitioner (and, where appropriate, any other person involved in attempting to resolve the dispute) that it proposes to determine the complaint in accordance with this section.

(4) Where *subsection (3)* applies, the Authority shall not determine the complaint concerned earlier than 30 days after the giving of notice under that subsection.

(5) Where—

(a) the client or the legal practitioner does not accept the Authority's invitation under *subsection (1)*,

(b) the client or the legal practitioner, having attempted to resolve the matter in an informal manner, confirms to the Authority that he or she does not wish to continue to make such an attempt, or

(c) the Authority decides under *subsection (3)* to exercise its power to determine the complaint under this section,

the Authority shall thereafter invite the client and the legal practitioner to furnish to it, within such reasonable period as is specified by the Authority, a statement setting out their respective positions in relation to the matter the subject of the complaint.

(6) The Authority shall consider any statement furnished to it pursuant to *subsection (5)* and, where it considers that the amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive, and that it is, having regard to all the circumstances concerned, appropriate to do so, may direct the legal practitioner to do one or more of the following:

(a) refund without delay, either wholly or in part as directed, any amount already paid by or on behalf of the client in respect of the practitioner's costs in connection with the bill of costs;

(b) waive, whether wholly or in part as directed, the right to recover those costs.

(7) Where the client or legal practitioner is aggrieved by a direction made by the Authority under *subsection (6)* or its failure to make a direction, he or she may by notice in writing given not more than 30 days after the Authority has notified the parties to the complaint of its decision under *subsection (6)* seek a review by a Review Committee established under *section 53* of the direction or the failure.

(8) Where a bill of costs which has been the subject of complaint under *section 42(1)* (b) has subsequently been adjudicated, then—

(a) where the Authority has given a direction under *subsection (6)*, the direction shall cease to have effect, or

(b) where the Authority has not given a direction under *subsection (6)*, it shall not proceed to investigate such a complaint or otherwise apply the provisions of this section.

(9) Where the Authority has notified a legal practitioner under *section 48(6)* that a complaint under *section 42(1)(b)* in respect of a bill of costs issued by the legal practitioner is admissible, the legal practitioner shall not—

(a) issue or cause to be issued civil proceedings (whether on his own behalf or on behalf of any other person or persons), or

(b) if already issued, proceed further with civil proceedings, in respect of the amount (or any part thereof) of a bill of costs without the written consent of the Authority before the Authority has determined the matter under *subsection (6)* unless, on application by that legal practitioner, on notice to the Authority, a Court orders otherwise.

(10) Where pursuant to this section a dispute regarding a bill of costs between the client and the legal practitioner is resolved, the client shall not thereafter be entitled to seek adjudication of the bill of costs under *Part 10* unless such adjudication forms part of the resolution.

(11) The determination under this section of a complaint shall be without prejudice to any legal right of the client.”.

Amendment agreed to.

Government amendment No. 90:

In page 41, in subsection (5)(b) of the section 53 inserted by amendment 63 at Committee Stage in the Seanad, to delete “finding that the complaint is not well founded” and substitute “remitting the complaint to the Authority, with such directions as the Review Committee considers appropriate or necessary, to be dealt with again under section 51 or 52, as the case may be”.

Amendment agreed to.

Government amendment No. 91:

In page 41, in subsection (5)(c) of the section 53 inserted by amendment 63 at Committee Stage in the Seanad, to insert “or section 52(6), as the case may be” after “section 51(6)”.

**Deputy Frances Fitzgerald:** Amendment No. 91 is one of the technical changes relating to the numbering of the amendment.

Amendment agreed to.

Government amendment No. 92:

In page 41, between lines 22 and 23, to insert the following:

**“Appeal to High Court from determination of Review Committee**

**54.** (1) Where a Review Committee determines a review under *section 53*, the client

or the legal practitioner concerned may, within a period of 21 days of the notification of such determination or direction to him or her, apply to the High Court for an order directing the Review Committee to rescind or to vary such determination and on hearing such application the Court may make such order as it thinks fit.

(2) Where no application under *subsection (1)* is made within the period specified in that subsection, the determination of the Review Committee shall become absolutely binding on the client and legal practitioner immediately upon the expiration of such period.

(3) Where an application has been made by a legal practitioner under *subsection (1)*, the Authority may apply to the High Court and the Court may dismiss the application of the legal practitioner if it is satisfied that such application has no merits and has been made purely for the purposes of delay.

(4) Where a legal practitioner, in respect of whom a determination of the Review Committee is binding, without reasonable excuse refuses, neglects or otherwise fails to comply with such determination, he or she shall be guilty of an offence and be liable on summary conviction thereof to a Class B fine.”.

Amendment agreed to.

Government amendment No. 93:

In page 41, in the section 54 inserted by amendment 64 at Committee Stage in the Seanad, to delete subsection (1) and to insert the following:

“(1) Where the Authority decides under section 48 that a complaint under *section 42(2)* is admissible, and that the act or omission of the legal practitioner to which the complaint relates, if the complaint were substantiated, would constitute misconduct within the meaning of *section 41(1)(b)*, it shall invite the complainant and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in a prompt manner in accordance with guidelines published by the Authority pursuant to *section 57*.”.

Amendment agreed to.

Government amendment No. 94:

In page 41, to delete the section 56 inserted by amendment 66 at Committee Stage in the Seanad and substitute the following:

“**56.** An agreement by a legal practitioner who is the subject of a complaint to attempt to resolve the complaint in the manner referred to in *section 51, 52 or 54* shall not be taken as an admission of any allegation of an act or omission by the legal practitioner to which *paragraph (a) or (b) of section 42(1)*, or of misconduct insofar as such misconduct consists of an act or omission of the legal practitioner that the legal services provided by the practitioner were, to a substantial degree, of an inadequate standard.”.

Amendment agreed to.

Government amendment No. 95:

1 December 2015

In page 41, in the section inserted by amendment 67 at Committee Stage in the Seanad, to delete “mediation or”.

Amendment agreed to.

Government amendment No. 96:

In page 41, in paragraph (a) of the section 57 inserted by amendment 67 at Committee Stage in the Seanad, to delete “mediation or”.

Amendment agreed to.

Government amendment No. 97:

In page 41, in paragraph (c) of the section 57 inserted by amendment 67 at Committee Stage in the Seanad, to insert “Authority, the” before “complainant,”.

Amendment agreed to.

Government amendment No. 98:

In page 41, in paragraph (c) of the section 57 inserted by amendment 67 at Committee Stage in the Seanad, to insert “, where applicable,” after “concerned and”.

Amendment agreed to.

Government amendment No. 99:

In page 41, in paragraph (c) of the section 57 inserted by amendment 67 at Committee Stage in the Seanad, to delete “mediation or”.

Amendment agreed to.

Government amendment No. 100:

In page 41, in paragraph (d) of the section 57 inserted by amendment 67 at Committee Stage in the Seanad, to delete “mediation or”.

Amendment agreed to.

*9 o'clock*

Government amendment No. 101:

In page 41, to delete the section 58 inserted by amendment 68 at Committee Stage in the Seanad and substitute the following:

**“Authority to refer complaints relating to misconduct to Complaints Committee**

**58.** The Authority shall refer a complaint under *section 42(2)* to the Complaints Committee where the client and legal practitioner concerned do not succeed in resolving a matter in accordance with *section 54*.”.Amendment agreed to.

Government amendment No. 102:

In page 41, in subsection (1) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete “it” and substitute “the Complaints Committee”.

Amendment agreed to.

Government amendment No. 103:

In page 41, in subsection (2) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete “When referring a complaint to a Divisional Committee the Authority shall furnish to the Divisional Committee” and substitute “Where the Authority refers a complaint to the Complaints Committee, the Authority shall furnish to the Divisional Committee concerned”.

Amendment agreed to.

Government amendment No. 104:

In page 41, in the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete subsection (3) and substitute the following:

“(3) On receipt of the documents referred to in *subsection (2)*, the Divisional Committee shall—

(a) request the legal practitioner to whom the complaint relates to furnish to the Divisional Committee, within such reasonable period as is specified by the Divisional Committee, his or her response to the complaint, and

(b) unless the legal practitioner has already been furnished with the documents concerned, furnish a copy of the documents referred to in *subsection (2)* to him or her.”.

Amendment agreed to.

Government amendment No. 105:

In page 41, in subsection (5) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete “Chapter” and substitute “Part”.

Amendment agreed to.

Government amendment No. 106:

In page 41, in subsection (6)(a) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to insert “the complainant and the legal practitioner,” after “Authority,”.

Amendment agreed to.

Government amendment No. 107:

In page 41, in subsection (6)(c) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete “may” and substitute “may,”.

Amendment agreed to.

Government amendment No. 108:

In page 41, in the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to insert the following after subsection (6)(c)(ii):

“(iii) require that information requested under *subparagraph (ii)* be verified by affidavit or otherwise;”.

Amendment agreed to.

Government amendment No. 109:

In page 41, in subsection (9)(c) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete “explanation” and substitute “response”.

Amendment agreed to.

Government amendment No. 110:

In page 41, in subsection (9)(d) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete “*subsection (3)*” and substitute “*subsection (4)*”.

Amendment agreed to.

Government amendment No. 111:

In page 41, in subsection (11)(b) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to insert “and, where it does so, shall notify the Authority, the complainant and the legal practitioner concerned of the fact” after “withdrawn”.

Amendment agreed to.

Government amendment No. 112:

In page 41, in subsection (13)(c) of the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to insert “referred to it” after “complaints”.

Amendment agreed to.

Government amendment No. 113:

In page 41, in the section 60 inserted by amendment 70 at Committee Stage in the Seanad, to delete subsection (14).

Amendment agreed to.

Government amendment No. 114:

In page 41, in subsection (1)(a) of the section 61 inserted by amendment 71 at Committee Stage in the Seanad, to delete “issue” and substitute “subject to *subsection (9)*, issue”.

Amendment agreed to.

Government amendment No. 115:

In page 41, in subsection (6)(b) of the section 61 inserted by amendment 71 at Committee Stage in the Seanad, to delete “by” and substitute “of”.

Amendment agreed to.

Government amendment No. 116:

In page 41, in subsection (6)(b) of the section 61 inserted by amendment 71 at Committee Stage in the Seanad, to insert “, in accordance with *Part 10*” after “impose”.

Amendment agreed to.

Government amendment No. 117:

In page 41, in the section 61 inserted by amendment 71 at Committee Stage in the Seanad, to insert the following new subsection:

“(9) In issuing a direction specified in paragraph (c)(ii), (g), (h) or (i) of subsection (5), the Divisional Committee shall have regard to the means of the legal practitioner concerned.

(10) The Divisional Committee shall notify the Authority of its determination under *subsection (1)*.”.

Amendment agreed to.

Government amendment No. 118:

In page 41, in the section inserted by amendment 72 at Committee Stage in the Seanad, to delete section 62 and substitute the following:

**“Appeal of determination of Divisional Committee**

**62.** (1) Where the Divisional Committee issues a direction under *section 61(1)(a)* to a legal practitioner, the legal practitioner may, within a period of 21 days of the date of such issue, appeal to the High Court against either or both of the following:

- (a) the determination of the Divisional Committee under *section 61(1)*, or
- (b) the direction.

(2) The Authority may, within a period of 21 days of the notification under *section 61(9)* of the determination of the Divisional Committee under *section 61(1)*, appeal to the High Court against one or more than one of the following:

- (a) where a direction is issued under *section 61(1)(a)*—
  - (i) the determination of the Divisional Committee under *section 61(1)*, or
  - (ii) the direction;
- (b) a failure of the Divisional Committee to make an application under *section 61(7)*.

(3) The High Court, on an application under *subsection (1)* or (2), may—

(a) in an appeal to which *subsection (1)(a)* or *(2)(a)(i)* applies—

(i) confirm the determination of the Divisional Committee under *section 61(1)*, or

(ii) set aside the determination of the Divisional Committee under *section 61(1)*,

and

(b) in an appeal to which *subsection (1)(b)* or *(2)(a)(ii)* of *section 62* applies, may—

(i) confirm the direction concerned,

(ii) set aside the direction, or

(iii) set aside the direction and impose another sanction that the Divisional Committee could have imposed under *section 61(1)*,

and

(c) in an appeal to which *subsection (2)(b)* applies, affirm or set aside the decision of the Divisional Committee not to make an application under *section 61(7)*.”.

Amendment agreed to.

Government amendment No. 119:

In page 41, in the section 63 inserted by amendment 73 at Committee Stage in the Seanad, in subsection (2)(d)(iv), to insert “the Complaints Committee made a determination under *section 61(1)*, and where” after “where”.

Amendment agreed to.

Government amendment No. 120:

In page 41, in subsection (6) of the section 65 inserted by amendment 75 at Committee Stage in the Seanad, to insert “hearing the inquiry” after “Tribunal”.

Amendment agreed to.

Government amendment No. 121:

In page 41, in subsection (7) of the section 65 inserted by amendment 75 at Committee Stage in the Seanad, to insert “hearing the inquiry” after “Tribunal”.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 122 to 140, inclusive, are related and may be discussed together.

Government amendment No. 122:

In page 41, in the section 66 inserted by amendment 76 at Committee Stage in the Se-

anad, to delete subsection (1) and substitute the following:

“(1) The person appointed as chairperson of the Disciplinary Tribunal shall, where the person is a legal practitioner, have practised as a barrister or solicitor for not less than 10 years.”.

**Deputy Frances Fitzgerald:** On Committee Stage, we introduced a number of new sections dealing with the establishment and operation of the legal practitioners disciplinary tribunal. This group of amendments relates to those sections and have been tabled to provide greater clarity in respect of the tribunal. Amendment No. 122 is no longer necessary, given that we are repeating the qualifications that were to be expected. There is no need to repeat them here.

**Senator David Norris:** Does this mean the Minister is not moving amendment No. 122?

**Deputy Frances Fitzgerald:** I am moving it.

**Senator David Norris:** If it is not needed, why is the Minister moving it?

**Deputy Frances Fitzgerald:** I will go into the details. Amendment No. 122 is a drafting amendment to eliminate repetition of qualifications for lay membership of the disciplinary tribunal. The purpose of the amendment is to replace subsection (1) of section 66 which was inserted on Seanad Committee Stage by amendment No. 76. The subsection (1) which was inserted includes paragraphs (a) and (b). Paragraph (a) carried over the reference to the requirement for ten years practice which was in the published Bill, and my intention is to retain it. However paragraph (b) referred to the types of knowledge and expertise which a person must have if he or she is to be appointed a lay chairperson of the disciplinary tribunal. Since these elements of knowledge and expertise are already set down in Section 65(3) of the Bill, inserted on Committee Stage, as requirements for lay membership of the tribunal, there is no need for them to be repeated here. The effect of the amendment proposed is thus to delete paragraph (b) of subsection (1) of section 66, thereby removing the repetition. I am keeping one part and taking out one other part.

Amendments Nos. 123 and 125 are consequential amendments arising from the substitution of a new section 62 under amendment No. 118. Amendment No. 124 substitutes a new subsection (1) within the section dealing with the property of a limited liability partnership regarding the enforcement against it of any debt, obligation or liability. It is a drafting amendment to ensure there is no ambiguity as to the access to the property of the partnership to meet the debts of the partnership.

Amendments Nos. 126 to 129, inclusive, 134 and 139 are technical drafting amendments designed to clarify the meaning of the provisions concerned. Amendment No. 130 is a consequential amendment arising from the substitution of the new section 62, which provides for appeals to the High Court. Amendments Nos. 131 and 132 are consequential amendments arising from the deletion of the subsection (8) in amendment No. 130. Amendments Nos. 135 and 136 have been tabled to change the terminology of the sanctions in the Bill and bring them in line with those already in place in the Solicitors Acts.

Amendment No. 137 has been inserted to make it clear that the sanction to be imposed under subsection (1)(l) will apply only where the misconduct consists of a breach of the solicitors accounts regulations. This is in line with the sanctions already in place under the Solicitors Acts. Amendment No. 138 inserts a new sanction into the Bill regarding practising barristers.

The amendment allows the disciplinary tribunal to direct the authority to impose restrictions on the practice of a barrister. Amendment No. 133 is a consequential, tidy up amendment arising from amendments Nos. 137 and 138.

Regarding amendment No. 140, the intent behind the new subsections is to ensure the aggregate amount of fines which can be imposed on a legal practitioner is €15,000 and that the means of the legal practitioner must be taken into account. I have based this on legal advice from the Attorney General. If we do not take a legal practitioner's means into account, a fine could be open to challenge in the courts.

The amendments relate to the operation of the legal practitioners disciplinary tribunal and will give greater clarity to the work of the tribunal.

**Senator Trevor Ó Clochartaigh:** The Minister mentioned the word "clarity". Everything about the Bill is unclear. It is like asking an artist to paint a picture with a blindfold on. The amendments are all very confusing. The fact that amendment No. 122 is to delete an amendment the Minister made on Committee Stage adds credence to the argument that the farce should be stopped and the Bill suspended until a copy of the Bill with the Committee Stage amendments inserted is supplied in order to give us a better picture of what it looks like. If the Bill is passed in this manner, it will be full of holes and contradictions and will lead to problems that will require further amendment, perhaps by the next Government. It is ridiculous that the Minister is continuing in this manner.

**Senator David Norris:** I agree with the Senator and said something similar recently. Amendment No. 135 states, "In page 41, in subsection (1)(a) of the section 72 inserted by amendment 82 at Committee Stage in the Seanad, to delete "a reprimand" and substitute "an advice"." It refers to the section which states:

Where, pursuant to the holding of an inquiry under section 71, the Disciplinary Tribunal makes a determination under section 71(9) that there has been misconduct on the part of a legal practitioner and determines that the issue of sanction should be dealt with pursuant to this subsection, the Disciplinary Tribunal may make an order imposing one or more of the following sanctions on the legal practitioner...

The first option listed is "a reprimand". The amendment will remove this and substitute the term "an advice". What is advice? It sounds like a very neutral and meaningless term to use. What does it mean to give an advice to somebody? Does one advise a person that he or she is behaving badly? A reprimand is clear. It means that a person has done something wrong and is receiving a smack on the wrist.

I do not understand why we need to take out the term "reprimand" and put in the term "an advice".

Further down, the reverse of that is included in paragraph (c), where the term "caution" is to be removed and the term "essential" inserted. Something that is mild is to be removed and replaced with something that is fairly strong. It looks to me as if the left hand does not know what the right hand is doing. Paragraph (a) removes a lot of the point and neutralises it, but in paragraph (c) the big guns are brought in.

I agree with Senator Trevor Ó Clochartaigh. I wish to God that somebody would give instruction in plain English. During the debate on the Assisted Decision-Making (Capacity)

Bill, I referred to a group of people with mental disabilities. They said one of the things they wanted was for legislation to be written in a way that they could understand. I am not sure it is completely beyond the wit of man to make things more comprehensible. Amendment No. 138 states, “[W]here the legal practitioner is a practising barrister, a direction to the chief executive of the Authority directing him or her to impose a specified restriction or condition on the legal practitioner in respect of his or her practice as a barrister.” I am not quite sure what that means. Does that mean that the barrister cannot deal with particular kinds of cases? Does it mean that he or she can give advice but cannot appear in court? What are the restrictions and what do they consist of? What does the term “condition” mean? Does it mean a barrister can only do such and such if he or she had previously satisfied some requirements?

This is fairly vague. I do not know what a “specified restriction” is. It would be useful to have examples of them or a limited number to give us an idea of what is contemplated by the Bill. The same applies to the term “condition”. I do not really follow what is meant by a condition. Obviously, the meaning of the word etymologically is that one can only do something if such and such applies or under certain circumstances. It is not at all clear what is intended. I would be very grateful if the Minister could elucidate.

**Deputy Frances Fitzgerald:** There is a history in terms of how issues have been dealt with by the Law Society of Ireland or the Bar Council and various approaches have been taken. In the Bill we are introducing some new models of dealing with complaints. For example, there will be a new disciplinary tribunal. We are also making sure the LRSA has an oversight role. In section 135 we are moving from reprimand and advice, admonishment and censure. This is very much to align the language of sanctions being used for solicitors and barristers, under traditional terminology, in the Bill. It is taking account of the previous practice and language used in dealing with complaints.

**Senator David Norris:** This is not the sort of thing that should be introduced on Report Stage. If we are discussing traditional language-----

**Deputy Frances Fitzgerald:** Traditional terminology.

**Senator David Norris:** -----that should have been known long before we got to Report Stage. That seems to be obvious and logical, if we are talking about tradition and traditional language. That is very basic stuff. It should not come in on Report Stage. This is bad draftsmanship; about which there is no doubt. It is rather an insult to the Seanad to present material of this kind to the House. Let the record show that the Minister was nodding. I do not know whether she is agreeing with me.

**Senator Martin Conway:** The overall thrust and ethos of what is being achieved has not changed at all. With the passing of Committee Stage, perhaps the language has evolved somewhat to make it seem more reflective and powerful. We have come a long way on this journey and Report Stage is what it should be, namely, reporting and ensuring the Bill is properly and effectively bedded down.

**Senator David Norris:** That is a good try but a bit weak.

Amendment put:

The Seanad divided: Tá, 15; Níl, 5.	
Tá	Níl
Brennan, Terry.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	O'Sullivan, Ned.
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Aideen Hayden and Pat O'Neill; Níl, Senators Sean D. Barrett and David Norris.

Amendment declared carried.

Government amendment No. 123:

In page 41, in the section 67 inserted by amendment 77 at Committee Stage in the Seanad, to delete paragraphs (b) and (c).

Amendment agreed to.

Government amendment No. 124:

In page 41, in subsection (1) of the section 68 inserted by amendment 78 at Committee Stage in the Seanad, to delete “, (b), or (c)”.

Amendment agreed to.

Government amendment No. 125:

In page 41, in subsection (2) of the section 68 inserted by amendment 78 at Committee Stage in the Seanad, to delete “*paragraph (d)*” and substitute “*paragraph (b)*”.

Amendment agreed to.

Government amendment No. 126:

In page 41, in subsection (2) of the section 70 inserted by amendment 80 at Committee Stage in the Seanad, to delete “concerned” where it secondly occurs.

Amendment agreed to.

Government amendment No. 127:

In page 41, in subsection (3) of the section 70 inserted by amendment 80 at Committee Stage in the Seanad, to delete “may” where it secondly occurs.

Amendment agreed to.

Government amendment No. 128:

In page 41, in subsection (6) of the section inserted by amendment 80 at Committee Stage in the Seanad, to delete “referred to in *subsection (4)*” and substitute “of the making of the order”.

Amendment agreed to.

Government amendment No. 129:

In page 41, in subsection (1) of the section 71 inserted by amendment 81 at Committee Stage in the Seanad, to delete “respondent”.

Amendment agreed to.

Government amendment No. 130:

In page 41, in the section 71 inserted by amendment 81 at Committee Stage in the Seanad, to delete subsection (8).

Amendment agreed to.

Government amendment No. 131:

In page 41, in subsection (9) of the section 71 inserted by amendment 81 at Committee Stage in the Seanad, to delete “(other than an inquiry to which *subsection (8)* applies),”.

Amendment agreed to.

Government amendment No. 132:

In page 41, in subsection (10) of the section 71 inserted by amendment 81 at Committee Stage in the Seanad, to delete “or (9)”.

Amendment agreed to.

Government amendment No. 133:

In page 41, in subsection (10)(c) of the section 71 inserted by amendment 81 at Committee Stage in the Seanad, to delete “or, as the case may be, imposed pursuant to *section 72(1)* or recommended under *section 72(2)*”.

Amendment agreed to.

Government amendment No. 134:

In page 41, in subsection (1) of the section 72 inserted by amendment 82 at Committee Stage in the Seanad, to delete “may make and order” and substitute “may, subject to subsec-

tions (3) and (4), make an order”.

Amendment agreed to.

Government amendment No. 135:

In page 41, in subsection (1)(a) of the section 72 inserted by amendment 82 at Committee Stage in the Seanad, to delete “a reprimand” and substitute “an advice”.

Amendment put:

The Seanad divided: Tá, 15; Níl, 4.	
Tá	Níl
Brennan, Terry.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Comiskey, Michael.	O’Donovan, Denis.
Conway, Martin.	
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O’Neill, Pat.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Aideen Hayden and Pat O’Neill; Níl, Senators Sean D. Barrett and David Norris.

Amendment declared carried.

Government amendment No. 136:

In page 41, in subsection (1)(c) of the section 72 inserted by amendment 82 at Committee Stage in the Seanad, to delete “a caution” and substitute “a censure”.

Amendment put and declared carried.

Government amendment No. 137:

In page 41, in the section 72 inserted by amendment 82 at Committee Stage in the Seanad, to delete subsection (1)(l) and substitute the following:

“(l) where the legal practitioner is a practising solicitor, and the misconduct concerned consists of a breach of the Solicitors Accounts Regulations, a direction that he or she pay a sum not exceeding €15,000 to the Compensation Fund;”.

**An Cathaoirleach:** Is the amendment agreed to?

**Senator Sean D. Barrett:** No.

**Senator David Norris:** No. Senator Sean D. Barrett wants to contribute.

**An Cathaoirleach:** The amendment has already been discussed. Senator Sean D. Barrett may make a brief contribution.

**Senator Sean D. Barrett:** On the €15,000 penalty, we have seen headlines to the effect that top Irish law firms earn €250 million in fees and that the figure for revenue per lawyer is €850,000 and €950,000 for revenue by partner. We are not serious about proposing a fine of €15,000 as a deterrent for such people. The Bill states that in making an order the tribunal shall have regard to the means of the legal practitioner concerned. These are millionaires. We should have regard to their means and impose a fine greater than €15,000.

**Deputy Frances Fitzgerald:** The legal advice I have is that this is the highest amount that can be imposed outside a court setting. If the various issues we are discussing are dealt with in court, there is the potential for different amounts, but this is the highest amount outside that setting that can be put into the legislation in regard to the tribunal.

Amendment put:

The Seanad divided: Tá, 16; Níl, 4.	
Tá	Níl
Brennan, Terry.	Barrett, Sean D.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O'Donovan, Denis.
Comiskey, Michael.	
Conway, Martin.	
Cummins, Maurice.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 138:

In page 41, in the section 72 inserted by amendment 82 at Committee Stage in the Seanad, to insert the following new paragraph:

“(m) where the legal practitioner is a practising barrister, a direction to the chief executive of the Authority directing him or her to impose a specified restriction or condition on the legal practitioner in respect of his or her practice as a barrister.”.

Amendment put and declared carried.

Government amendment No. 139:

In page 41, in subsection (2) of the section 72 inserted by amendment 82 at Committee Stage in the Seanad, to delete “Chapter” and substitute “Part”.

**Senator David Norris:** From where did the word “Chapter” come in the first place? This is another example of very sloppy draftsmanship.

**An Cathaoirleach:** It was inserted on Committee Stage.

**Senator David Norris:** The word “Chapter” is not appropriately used. It obviously should be “Part” as that is the language of legislation. We have unearthed another example of poor draftsmanship.

**Deputy Frances Fitzgerald:** Parts are divided into Chapters when they are very long in the Bill.

Amendment put and declared carried.

Government amendment No. 140:

In page 41, in the section 72 inserted by amendment 82, after subsection (2) to insert the following:

“(3) Where the Disciplinary Tribunal under *subsection (1)* makes an order imposing one or more of the sanctions specified in *paragraphs (g), (i), (j) or (l)* of that subsection, the aggregate amount of the sums to be paid by the legal practitioner under the order concerned shall not exceed €15,000.

(4) In making an order referred to in *subsection (3)*, the Disciplinary Tribunal shall have regard to the means of the legal practitioner concerned.”.

Amendment put and declared carried.

Government amendment No. 140a:

In page 41, in subsection (2) of the section 73 inserted by amendment 83 at Committee Stage in the Seanad, to delete “Where the Disciplinary Tribunal makes a determination under *section 71(9)* sue of sanction under *section 72(1)*, an appeal may be brought to the High Court—” and substitute “Where the Disciplinary Tribunal makes a determination under *section 71(9)* that the act or omission concerned constitutes misconduct and deals with the issue of sanction under *section 72(1)*, an appeal may be brought to the High Court—”.

**Senator David Norris:** Can we hear the Minister on this amendment?

**Deputy Frances Fitzgerald:** Amendment No. 140*a*, from the third additional list, fixes an error that went into the Bill on Committee Stage in the Seanad in the new section 73(2). The amendment is of no policy consequence at all but rectifies an error in wording.

**Senator David Norris:** Will the Minister explain what the error was?

**Deputy Frances Fitzgerald:** A number of words were missing, namely, “that the act or omission concerned constitutes misconduct and deals with the issue of sanction under section 72”. It goes on to state “an appeal may be brought to the High Court”. This amendment inserts those words.

**Senator David Norris:** I thought it might have been something to do with the phrase “sue of sanction”. The original is garbage. It is inexplicable and incapable of being comprehended by the human intellect. It states, “In page 41, in subsection ... to delete “Where the Disciplinary Tribunal makes a determination under section 71(9) sue of sanction...”. What is “sue of sanction”? Is it “sue” as in “A Boy Named Sue”? What kind of sanction is referred to? What is the meaning of “*under section 71(9)##*”?

**An Cathaoirleach:** That is unparliamentary language.

**Senator David Norris:** I am trying to represent the sound of the asterisks. I compliment the final drafter, whoever he or she is, because the substitute text is comparatively easy to understand. There is no sue of sanction at all. It states “Where the Disciplinary Tribunal makes a determination under section 71(9) that the act or omission concerned constitutes misconduct and deals with the issue of sanction under section 72(1), an appeal may be brought to the High Court”. That is perfectly clear and obvious. Well done to whoever created this, but this is the 14,000th list of amendments.

**Senator Trevor Ó Clochartaigh:** I am concerned that we are getting additional amendments on Report Stage because mistakes or omissions have been spotted on Committee Stage.

*10 o'clock*

If we continue with this charade of amendments, I am concerned that a similar situation will arise when the Bill is passed. We will have to go back and have a look because omissions and mistakes will have been made because we are not working on the composite version of the Bill. It is an absolutely ridiculous situation. Again, I call on the Minister to withdraw the Bill. I ask her to give us a full copy of the Bill that includes the Committee Stage amendments so that we can read it properly and thus ensure no omissions or mistakes are made.

**Deputy Frances Fitzgerald:** The amendment should have read “issue”; therefore, it was a simple typo that was made at a point along the way. As I say, it is substituted now and I have read my note. Under section 71(9), the act or omission concerned constitutes misconduct and deals with the issue of sanction under section 72. The Senator is right when he said that it did not make sense. It was a typo.

Amendment put and declared carried.

**An Cathaoirleach:** Amendments Nos. 141 to 156, inclusive, are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 141:

In page 41, in subsection (1) of the section 75 inserted by amendment 85 at Committee Stage in the Seanad, to delete “consideration” and substitute “recommendation”.

**Deputy Frances Fitzgerald:** Amendment No. 141 is being tabled by the Government to correct a wrong word used in subsection (1) of the section 75 that we agreed to insert into the Bill under amendment No. 85. The word “consideration” was used when, in fact, the word “recommendation” should have been used and that is being rectified.

There are a number of references in the amendments to legal practitioners who are to be informed in the event of a striking off of a barrister and listing additional directions which may be issued by the High Court having considered a matter referred to it by the Legal Practitioners Disciplinary Tribunal.

Amendments Nos. 142 and 143 involve the deletion of the term “legal practitioners”. Amendment No. 144 inserts the words “legal practitioner” before the word “solicitor.” It is a drafting amendment to ensure the person referred to is a legal practitioner, as well as being a solicitor.

The purpose of amendment No. 145 is to include the Chief Justice as a person who is required to be notified of a decision of the High Court to direct the removal of the name of a barrister from the new authority’s roll of practising barristers.

The purpose of amendment No. 146 is to include three new sanctions which may be imposed on a legal practitioner by the High Court, following an application to it on foot of a complaints process. These new sanctions are to direct the practitioner to take specific action at his or her own expense in the interest of the complainant, to pay a sum of money as restitution to an aggrieved party and to pay the costs of the disciplinary tribunal’s inquiry into his or her misconduct. These sanctions were, in fact, available to the disciplinary tribunal under the amendments made on Committee Stage. However, on the advice of the Attorney General, the power to impose these additional financial sanctions has been transferred to the High Court which will act on the application of the disciplinary tribunal.

Amendment No. 147 is a drafting amendment which makes a decision or order and simply adds the words “decision or” before the word “order.”

Amendment No. 148 is an order to ensure any decision or order of the High Court relating to a solicitor is furnished to the Registrar of Solicitors. In other words, it must be referred to the Law Society of Ireland. This is in order to ensure the registrar has notice and may take whatever action is required in relation to that solicitor.

Amendment No. 149 is a straightforward drafting amendment which replaces the word “its” with the word “the.”

Amendments Nos. 150 to 153, inclusive, are a composite of drafting amendments in order that the lead-in refers to a decision of the High Court rather than an order. The amendments ensure the word “under” does not have to be repeated in each of the three following subsections.

The purpose of amendment No. 154 is to change the reference to a finding of misconduct of the High Court in order that it covers any decision of the High Court under the relevant section, not just a finding of misconduct.

The purpose of amendment No. 155 is to replace the reference to a determination by the disciplinary tribunal in that subsection with a reference to a direction, determination or order as comprehended to the new subsection which is being inserted by amendment No. 156. The purpose, overall, is to ensure the power of the new authority to apply to the High Court, in section 80, is to enforce compliance by a legal practitioner with a direction, determination or order of the authority of a review committee, of a divisional committee such as the complaints committee, or of the disciplinary tribunal, as the case may be.

The purpose of amendment No. 156 is to set out the bodies and entities whose directions, determinations or orders are covered by the High Court enforcement power contained in the revised section 81, inserted by amendment No. 155.

**Senator David Norris:** The Minister has said the purpose of amendment No. 145 is to include the Chief Justice. That is part of it, but there is a part of it that the Minister did not explain. The earlier part of the amendment reads: “where the legal practitioner is a barrister, that the Authority, in accordance with Part 9”. I refer to the original amendment No. 85 on Committee Stage which proposed section 75(7)(e) should read: “where the legal practitioner is a barrister, that the name of the barrister be struck off the roll of practising barristers and the Honorable Society of King’s Inns informed of the fact”. The original amendment did not mention the authority. That is a crucial difference between it and the substituted amendment which clearly specified that the authority shall do it. The original amendment seeks “that the name of the barrister be struck off” and does not specify. That is a fairly significant amendment.

Amendment No. 146 is a very practical method, in my opinion, of redress.

I am concerned and interested in amendment No. 151 which reads:

In page 41, in subsection (4)(a) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “under”.

The provision refers to where the High Court makes an order and then goes straight into whatever section. I would have thought that the word “under” was required and wonder if the call for its removal is a mistake. The authority is quoted in the section. The amendment does not even make grammatical sense. The original amendment No. 88 reads:

78. (4) Where the High Court makes an order—

(a) under *section 74(3)(b)*,

(b) under *section 74(4)*(other than *section 74(4)(b)*),

(c) under *section 75* (other than *section 75(2)(b)*).

Amendments Nos. 150 to 153, inclusive, seek to get rid of the word “under” which I do not understand. It seems to be common practice to say “under” and quote the section of the Bill coming into force. Getting rid of the word “under” seems very odd to me. Perhaps the Minister might explain.

**Senator Denis O’Donovan:** I have stayed silent on a lot of this. Amendment No. 155 is puzzling. Is it included in this grouping?

**An Cathaoirleach:** Yes.

**Senator Denis O'Donovan:** What is amazing is that the note to the amendment reads, "For the information of Senators, the text proposed to be deleted above was inserted by amendment 90 at Committee Stage in the Seanad". Are we going around in circles? It is confusing, to say the least. We made an amendment to this section a week or ten days ago and now we are deleting it. There is a quagmire of confusion. I do not want to add to the Minister's woes, but that there has been a substantial number of votes is understandable. I have been in the Oireachtas for nearly 20 years and I have never seen a Bill so often amended and re-amended in the same House. I made my comments on Second Stage and I am concerned that the end product, whether we get it next week, this week or whenever, will be a cause for great confusion and be a source of joy and exploration for many lawyers in the Four Courts.

**Deputy Frances Fitzgerald:** Great care has been taken by everyone in the Office of the Parliamentary Counsel and my Department involved in working on the Bill. It is complex and detailed legislation. It was necessary for the drafters to take an overview of the Bill. The new and, in some instances, composite sections have led to quite a few of the changes that I am outlining. It is important that we recommend improvements to the Bill. I am conscious of the large number of amendments, but we are determined to enact a Bill that is fit for purpose. One of the purposes of Report Stage is to consider anything that needs to be clarified, dealt with or amended and ensure consistency. I hope we can continue to work through the amendments.

Regarding Senator David Norris's point on the deletion of subsection (7)(e), the relevant amendment is No. 145 on page 25 of the Report Stage amendments. It reads:

In page 41, in the section 75 inserted by amendment 85 at Committee Stage in the Seanad, to delete subsection (7)(e) and substitute the following:

"(e) where the legal practitioner is a barrister, that the Authority, in accordance with *Part 9*, strike the name of the person off the roll of practising barristers and inform the Chief Justice and the Honorable Society of King's Inns of the fact;".

**Senator David Norris:** The Minister has also inserted the words "the Authority".

**Deputy Frances Fitzgerald:** Yes.

**Senator David Norris:** They were not there before.

**Deputy Frances Fitzgerald:** And the words "the Chief Justice". That is right.

The purpose of amendment No. 155 is to replace the reference to a determination by the tribunal in that subsection with a reference to a direction, determination or order. This is to ensure the power of the new authority to apply to the High Court to enforce compliance by a legal practitioner with a direction, determination or order of the authority.

The drafters have considered this matter. It is a long and detailed Bill. At this point, the drafters are making any recommendation that they see fit.

Senator David Norris raised a point about the words "under this Part". A composite of drafting amendments tidy up section 78(4) in order that the lead in refers to a decision of the High Court rather than an order. As such, the word "under" does not have to be repeated in each of the following subsections. That is the best drafting advice that I have on the use of this word.

**Senator David Norris:** It does not arise in subsection (4) on where the High Court makes

an order. The word “under” is removed right at the beginning and cites the section under which the order is made. Removing it is madness and I have not yet heard an explanation as to why it should not remain.

**Senator Denis O’Donovan:** I am bewildered. I am not making personal or derogatory comments towards the Minister or the draftspersons, but something is wrong and does not sit appropriately with me. To the best of my knowledge on reflection, we agreed to the amendment the week before last like lambs being shepherded by a sheep dog. A couple of weeks later, it looks like we were either stupid or naive. The note reads, “the text proposed to be deleted above was inserted by amendment 90 at Committee Stage in the Seanad”. It was agreed - there was no vote - yet the amendment to which we agreed is now being amended. How can we have trust or faith in a Bill that has major drafting problems? On a point of principle, I must call a vote on this issue for the first time.

**Senator David Norris:** Will the Minister explain the point on the word “under” further?

**Deputy Frances Fitzgerald:** Regarding Senator David Norris’s point on amendment No. 150, the reference is inserted in the top line, or *chapeau*, of the subsection rather than elsewhere. Therefore, it does not have to be repeated in each paragraph.

**Senator David Norris:** Frankly, that is complete nonsense. The order is made “under” a section. It is just daft. Currently, it reads:

Where the High Court makes an order--

(a) under *section 74(3)(b)*,

(b) under *section ...*

These are the sections under which the order is made. It could not be clearer. The Minister is making the Bill worse. This is disastrous and dreadful stuff.

**Deputy Frances Fitzgerald:** Obviously, I have no intention of making the Bill worse and neither does any of the drafting amendments I am introducing. They will improve the Bill, clarify it or allow for greater consistency.

**Senator David Norris:** They will not.

**Deputy Frances Fitzgerald:** My understanding is that they will. The reference is made in the *chapeau* of the subsection so that it will not be repeated three times.

**Senator David Norris:** Of course, it is necessary. Subsection (1) reads, “A copy of every order made by the High Court under section” such and such. Of course it has to be repeated. This is dreadfully bad drafting. It means absolutely nothing new. It is not even in brackets. If it were in brackets, one could make some feeble argument.

**Deputy Frances Fitzgerald:** It will now read:

Where the High Court makes a decision under--

(a) *section 74(3)(b)*,

(b) *section 74(4) ...*

(c) *section 75 ...*

The first line is followed by a list of the sections. That reads as perfectly straightforward.

**Senator David Norris:** No, it does not.

**Deputy Frances Fitzgerald:** I do not understand what the Senator finds difficult about this. It continues, “the Authority shall arrange for the publication of” the nature of the decision, the nature of the misconduct, etc. This is straightforward.

**Senator David Norris:** It is not because the Minister is removing “under”.

**Deputy Frances Fitzgerald:** No. We are inserting the words “a decision under”. Where the High Court-----

**Senator David Norris:** Amendment No. 151 reads, “In page 41, in subsection (4)(a) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “under”.” The Minister is removing the word “under”.

**Deputy Frances Fitzgerald:** No. I am leaving it as “Where the High Court makes a decision under”. The words “a decision under” will replace the words “an order” before listing the sections.

**Senator Paul Coughlan:** Senator David Norris is a master of English, but I think he is confusing himself.

**Deputy Frances Fitzgerald:** It now refers to where the High Court makes “a decision under” the various sections.

**Senator David Norris:** I am totally nonplussed, because the amendment states:

In page 41, in subsection (4)(a) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “under”.

**An Cathaoirleach:** That is amendment No. 151.

**Senator David Norris:** Yes. That is what I am talking about.

**Deputy Frances Fitzgerald:** We are discussing amendment No. 150.

**Senator David Norris:** No, I am referring to amendment No. 151.

**An Cathaoirleach:** We are discussing them all together, including amendments Nos. 150 and 151.

**Deputy Frances Fitzgerald:** My understanding is Senator David Norris is speaking to amendment No. 150 and the phrase relating to where the High Court makes “an order”.

**Senator David Norris:** No. I am talking about amendment No. 151. I am sorry if there is any confusion.

**Deputy Frances Fitzgerald:** Amendment No. 151 is linked with amendment No. 150. There is no need for the word “under” because, as I have been saying to the Senator, the top line now states-----

**Senator David Norris:** Where is the top line? Is the Minister referring to page 40?

**Deputy Frances Fitzgerald:** I am referring to subsection (4) and the reference to where the High Court makes “an order”.

**Senator David Norris:** The High Court makes “an order” and the amendment deletes the word “under”.

**Deputy Frances Fitzgerald:** The Senator is not looking at the first amendment. Amendment No. 150 refers to where the High Court makes a decision “under”. This allows us to eschew the word “under” in each of the subsequent lines. Let us go down through it - I am sorry if I am repeating myself. The reference is to where the High Court makes a decision “under”. At that point we need not refer to where the High Court makes a decision “under” in the following subsections. One follows from the other. Amendment No. 151 follows from the fact that amendment No. 150 incorporates the reference to a decision “under”. We need to consider amendment No. 151 in the light of the reference to where the High Court makes a decision “under”. At that point we no longer need to have the word “under” in each of the subsequent subsections.

Amendment agreed to.

Government amendment No. 142:

In page 41, in subsection (5) of the section 75 inserted by amendment 85 at Committee Stage in the Seanad, to delete “Legal Practitioners”.

Amendment agreed to.

Government amendment No. 143:

In page 41, in subsection (6) of the section 75 inserted by amendment 85 at Committee Stage in the Seanad, to delete “Legal Practitioners”.

**Senator Sean D. Barrett:** Amendments Nos. 142 and 143 propose to delete the words “Legal Practitioners”. I have set out how I feel and why I have made certain remarks as we have gone through the Bill. The amendments will delete the reference to “Legal Practitioners”. I might insert the phrase when we discuss the conveyancing monopoly.

Amendment agreed to.

Government amendment No. 144:

In page 41, in subsection (7)(a) of the section 75 inserted by amendment 85 at Committee Stage in the Seanad, to insert “legal practitioner who is a” after “in the case of a”.

Amendment agreed to.

Government amendment No. 145:

In page 41, in the section 75 inserted by amendment 85 at Committee Stage in the Seanad, to delete subsection (7)(e) and substitute the following:

“(e) where the legal practitioner is a barrister, that the Authority, in accordance with *Part 9*, strike the name of the person off the roll of practising barristers and inform the

Chief Justice and the Honorable Society of King's Inns of the fact;”.

Amendment agreed to.

Government amendment No. 146:

In page 41, in subsection (7) of the section 75 inserted by amendment 85 at Committee Stage in the Seanad, to insert the following between paragraphs (g) and (h):

“(h) that the legal practitioner do one or more than one of the following:

(i) take, at his or her own expense, such other action in the interests of the complainant as the Court may specify;

(ii) pay a sum as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;

(iii) pay the whole or a part of the costs of the Disciplinary Tribunal or of any person making submissions to it or appearing before it, in respect of the inquiry concerned (which costs shall be assessed by a Legal Costs Adjudicator in default of agreement);”.

Amendment agreed to.

Government amendment No. 147:

In page 41, in subsection (1) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to insert “decision or” after “every”.

Amendment agreed to.

Government amendment No. 148:

In page 41, in subsection (1) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to insert “shall be furnished to the registrar of solicitors in the case of an order relating to a practising solicitor,” after “sections 71 and 72”.

Amendment agreed to.

Government amendment No. 149:

In page 41, in subsection (3)(a) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “its” and substitute “the”.

Amendment agreed to.

Government amendment No. 150:

In page 41, in subsection (4) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “an order” and substitute “a decision under”.

Amendment agreed to.

Government amendment No. 151:

*Seanad Éireann*

In page 41, in subsection (4)(a) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “under”.

Amendment agreed to.

Government amendment No. 152:

In page 41, in subsection (4)(b) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “under”.

Amendment agreed to.

Government amendment No. 153:

In page 41, in subsection (4)(c) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “under”.

Amendment agreed to.

Government amendment No. 154:

In page 41, in subsection (4)(c)(i) of the section 78 inserted by amendment 88 at Committee Stage in the Seanad, to delete “finding of misconduct” and substitute “decision”.

Amendment agreed to.

Government amendment No. 155:

In page 41, in the section 80 inserted by amendment 90, to delete subsection (1) and substitute

the following:

“(1) Where, on application by the Authority in circumstances where the matter is not otherwise before the High Court, it is shown that a legal practitioner or any other person has refused, neglected or otherwise failed, without reasonable cause, to comply in whole or in part with a direction, determination or order to which subsection (4) applies, the Court may by order direct the legal practitioner or other person, as the case may be, to comply in whole or in part as may be appropriate, with the direction, determination or order.”.

Amendment put:

The Seanad divided: Tá, 15; Níl, 5.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Norris, David.
Burke, Colm.	Ó Clochartaigh, Trevor.
Coghlan, Eamonn.	O'Donovan, Denis.
Coghlan, Paul.	O'Sullivan, Ned.
Comiskey, Michael.	
Conway, Martin.	

Cummins, Maurice.	
Hayden, Aideen.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
O'Neill, Pat.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Sean D. Barrett and Ned O'Sullivan.

Amendment declared carried.

Government amendment No. 156:

In page 41, in the section 80 inserted by amendment 90, after subsection (3) and to insert the following:

“(4) This subsection applies to the following—

- (a) a direction of the Authority under section 51(6) or 52(6);
- (b) a determination of a Review Committee under section 53(5);
- (c) a direction of a Divisional Committee under section 61(1)(a);
- (d) an order of the Disciplinary Tribunal under section 72(1).”.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 157 and 158 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 157:

In page 41, to delete the section 81 inserted by amendment 91 at Committee Stage in the Seanad and substitute the following:

**“Transitional provisions in relation to solicitors**

**81.** (1) Where, before the date on which this subsection comes into operation, a complaint under section 8 or 9 of the Solicitors (Amendment) Act 1994 has been received by the Law Society, then, notwithstanding the amendment by this Act of the Solicitors Acts 1954 to 2011, the provisions of those Acts shall continue to apply to the complaint as if those amendments had not been made.

(2) Where, on or after the date on which this subsection comes into operation—

- (a) a complaint is made under section 42(1) in respect of a solicitor, and
- (b) the act or omission to which the complaint relates occurred before that date, the complaint shall be dealt with under this Part and this Act shall apply

accordingly.

(3) Where, on or after the date on which this subsection comes into operation—

(a) a complaint is made under section 42(2), in respect of a solicitor, and

(b) the act or omission to which the complaint relates occurred before that date, the complaint shall be dealt with under this Part and this Act shall apply accordingly, subject to the modification that “misconduct” shall, for the purposes of the complaint, be deemed to have the meaning it has under section 3 of the Solicitors (Amendment) Act 1960 as if the amendment of that section by section 158 had not been made.”.

**Deputy Frances Fitzgerald:** The purpose of the proposed amendment No. 157 which inserts a new section 81 into the Bill is to provide for what happens in relation to the handling of complaints concerning solicitors in the changeover from the existing complaints regime operated by the Law Society of Ireland to the new regime to be operated by the legal services regulatory authority, LSRA. These are effectively transitional provisions.

The situation will be as follows. Where the Law Society of Ireland has received a complaint about a solicitor before the commencement of the relevant provisions of this Act then it will process the complaint via its existing mechanisms and applying the provisions of the Solicitors Acts. Where complaints relating to inadequate services or excessive fees are made in relation to a solicitor on or after the date of commencement of this legislation, even though the complaint relates to an act or omission before commencement, it will be dealt with by the LSRA under the new legislation. It is really important that all disciplinary issues and complaints will now be dealt with by the LSRA; therefore, there will be a completely independent authority dealing with disciplinary issues or complaints about solicitors or barristers. That is a central element of this legislation and its importance.

Where a complaint relates to misconduct, as opposed to inadequate service or excessive fees, and it relates to an act or omission of a solicitor before the commencement of this legislation, it will be dealt with by the new authority but using the old definitions of misconduct from the Solicitors Acts. This is to protect against a situation in which a misconduct complaint about a solicitor regarding something that happened before commencement of this Bill would be evaluated against a new definition of misconduct. The new definition cannot be applied retrospectively.

Where a complaint about a solicitor which relates to an act or omission occurring after the commencement of this legislation is received by the authority, it will be processed by the authority under the provisions of Part 5 of this new legislation. When the Bill was first published, we had a Part 5 and Part 6 relating to the handling of disciplinary and complaint issues. They are now all being dealt with under Part 5.

These transitional provisions are complex and rather elaborate, but they are necessary in order to ensure all of the necessary legalities are taken care of. That is critical in any legislative regime that covers the misconduct of professionals. We are talking here about potential misconduct by solicitors and barristers.

The purpose of amendment No. 158 which inserts a new section 82 is to provide for what happens regarding the handling of complaints concerning barristers in the changeover from the

existing complaints regime operated by the Bar Council and partly by the Honourable Society of King's Inns to the new regime, which, as I have said, will be operated fully by the legal services regulatory authority. The transitional provisions concerning barristers are slightly different from those concerning solicitors. This is because complaints regarding solicitors are currently dealt with by the Law Society of Ireland. The process is currently under a statutory regime set out in the Solicitors Acts. Senators will be aware that five Solicitors Acts have been passed to date.

At present, complaints regarding barristers are handled under the rules of the Bar Council and involve the Honourable Society of King's Inns where recommendations are required to be made regarding serious misconduct leading to disbarment of the barrister, which is handled by the benchers of the society under its rules and long-standing common law. To this extent, by contrast with the regime for solicitors, we have no reference point before the commencement of the new Act for a definition of barrister misconduct. The authority, therefore, cannot deal with complaints about barristers' acts or omissions that will have occurred before the commencement of the new Bill. Such complaints will continue to be handled under the existing Bar Council regime, where applicable, and the processes of the Honourable Society of King's Inns, where relevant.

The transitional provisions concerning complaints about barristers will be as follows. Disbarment by the benchers of the Honourable Society of King's Inns in respect of pre-commencement misconduct of a barrister will be required to be notified by the society to the new authority, and the new authority will bring the matter before the High Court. The High Court will, after due process, make an order either striking the name off the authority's roll of practising barristers or imposing another sanction, as appropriate. All other cases, that is, cases regarding a complaint regarding an act or omission of a barrister after the commencement of the legislation, will be dealt with by the new authority.

With regard to both solicitors and barristers, these are necessary transitional provisions. Older cases will be dealt with through the system fairly quickly leading to a situation where everything will be dealt with by the new authority. As I stated, there are different transitional provisions for solicitors and barristers, and that is because, up to now, solicitors have been dealing with these complaints under the Solicitors Acts whereas barristers have been dealing with misconduct internally, thus requiring a slightly different process. However, both processes require new sections to spell out quite clearly the transitional provisions as we move towards the new legal services regulatory authority.

**Senator Denis O'Donovan:** On amendment No. 157, my complaint is not so much on the propriety of the proposal but on another matter. It is very annoying that the amendment states, "In page 41, to delete the section 81 inserted by amendment 91 at Committee Stage in the Seanad and substitute the following". We debated amendment No. 91 at length on Committee Stage and the Minister read a footnote in this regard approximately two weeks ago. We expect that when an amendment is put to us, it is well researched, well meant and well intended.

**An Cathaoirleach:** It is a new section.

**Deputy Frances Fitzgerald:** We are on amendment No. 157.

**Senator Denis O'Donovan:** I accept that, but I am saying it is very frustrating for Senators. We were present here for Committee Stage. There were very few votes, if any, but now we are

being asked to amend what we agreed on Committee Stage, more or less. I object on principle. We have been waiting for this Bill for four years; it was published four years ago. At this late stage, coming up to the Christmas recess, we are dealing with a plethora of amendments that should have been dealt with months ago. I have no problem being here - I will stay here until morning - but it is unfair on the House and the Cathaoirleach. Some of the amendments are technical. I am not questioning the propriety or merit of some of these amendments. We had a long lead-up to this Bill. The amendments we are now dealing with should have been dealt with on Committee Stage. We are amending amendments that were made and deleting some of them. We accepted amendments to the original Bill on Committee Stage. What is occurring is very disconcerting and worrying. If the Bill is brought back again from the Dáil, are we to amend amendments we made twice?

**Deputy Frances Fitzgerald:** Amendment No. 157 is not amending anything agreed to on Committee Stage. It is, in fact, proposing the insertion of a new section, section 81, on the transitional provisions.

**Senator Denis O'Donovan:** The amendment states: "In page 41, to delete the section 81 inserted by amendment 91 at Committee Stage in the Seanad and substitute the following". We are repealing the amendment made on Committee Stage. I accept there is a new section but the Minister has introduced-----

**Deputy Frances Fitzgerald:** More detail.

**Senator Denis O'Donovan:** Two weeks ago, amendment No. 91 was accepted on Committee Stage, but we are now deleting what we agreed to in good faith in this House at the time and inserting a new section. If we were to come back here in three weeks, would we be making further changes? There is a lot of uncertainty. This is probably the most significant Bill that has faced the legal profession in my lifetime, yet it is as if we are in a maze. We are unsure of where we are going. We are amending amendments and deleting provisions we agreed to two weeks ago. It is disconcerting and worrying. Are we going to get it right in the end? I am not sure.

**Senator Martin Conway:** I understand from where Senator Denis O'Donovan is coming to a point, but I believe that what has come back in here enhances the legislation and what we agreed on Committee Stage. To be fair to the Minister and her officials, that is what we are all trying to achieve. I acknowledge that it is what Senator Denis O'Donovan is trying to achieve also.

**Senator David Norris:** Report Stage is a late Stage to be enhancing it in this very significant manner.

**Senator Martin Conway:** That is what Report Stage is for.

**Senator David Norris:** Putting that aside, I draw the attention of the House to the fact that, in amendment No. 145, we have substituted "where the legal practitioner is a barrister, that the Authority, in accordance with *Part 9*, strike the name of the person off the roll"? Amendment No. 158, however, states: "Where, on or after the date on which this subsection comes into operation, the Benchers of the Honourable Society of King's Inns disbar a person [...]". In one amendment, we are saying the authority disbars barristers and in another we are giving free rein to the Honourable Society of King's Inns to do the disbaring. Perhaps the Minister might explain this or elucidate on it in some way for me.

**Deputy Frances Fitzgerald:** What I had said on that was that because of the different ways in which solicitors and barristers have done their business up to now, I had to make such provision. Senator Denis O'Donovan, whose point I understand, should note this is why I have had to make an amendment on Report Stage. We had thought we would be in a position to deal with the two professions in a similar way but it was felt, on having sought further legal advice, that I should insert a new section allowing, at the transitional stage, for different means of handling of both. The solicitors previously disbarred members of their profession under statute while the barristers did not. As I stated when going into the details, since disbarment of barristers will have been carried out informally in-house before the commencement of this Bill, we will not really have a reference point regarding how cases will have been dealt with. The recommendation is that before the commencement of this new Bill for a definition of barristers' misconduct - we have no reference point for that definition - the authority thus cannot deal with complaints about barristers acts or omissions which occurred before commencement of the new Bill. Such complaints will have to continue to be handled under the existing Bar Council regime. This refers to old complaints but as soon as they have been dealt with, any new complaints coming in can then be dealt with under the new sections that deal with complaints and will be dealt with by the Legal Services Regulation Authority, LRSA, in the way I have outlined.

Amendment put:

The Seanad divided: Tá, 15; Níl, 6.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Leyden, Terry.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O'Donovan, Denis.
Comiskey, Michael.	O'Sullivan, Ned.
Conway, Martin.	
Cummins, Maurice.	
Hayden, Aideen.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
O'Neill, Pat.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Sean D. Barrett and Ned O'Sullivan.

Amendment declared carried.

*11 o'clock*

Government amendment No. 158:

In page 41, after the section 81 inserted by amendment 91 at Committee Stage in the

Seanad, to insert the following:

**“Transitional provisions in relation to barristers**

**82.** (1) Where, on or after the date on which this subsection comes into operation, the Benchers of the Honorable Society of King’s Inns disbar a person for an act or omission of the person that occurred before that date, the Honorable Society of King’s Inns shall notify the Authority of the disbarment, which notification shall be accompanied by a report of the act or omission concerned.

(2) The Authority, on receipt of a notification and report under *subsection (1)*, shall examine the report and, where it considers that the act or omission of the person constitutes misconduct, shall make an application to the High Court for the making by it of an order under this section.

(3) An application under *subsection (2)* shall be on notice to the person concerned and the Honorable Society of King’s Inns.

(4) The High Court, on an application under *subsection (2)*, having considered the report under *subsection (1)* and given the Authority, the persons concerned and the Honorable Society of King’s Inns an opportunity to appear and to make submissions in connection with the application, decide whether to impose a sanction on the person.

(5) The Court, under this subsection, may by order direct one or more than one of the following:

(a) that the person be restricted as to the type of work which he or she may engage in, for such period as the Court considers appropriate and subject to such terms and conditions as the Court considers appropriate;

(b) that the person be suspended from practice as a barrister for a specified period and subject to such terms and conditions as the Court considers appropriate;

(c) that the Authority, in accordance with *Part 9*, strike the name of the person off the roll of practising barristers and inform the Chief Justice and the Honorable Society of King’s Inns of the fact.”.Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 159 and 267 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 159:

In page 41, after the section 81 inserted by amendment 91 at Committee Stage in the Seanad, to insert the following:

**“Authority may appoint monitor for purposes of section 14C of Act of 1994**

**83.** (1) The Authority may appoint such and so many members of its staff as it thinks fit to perform the functions of a monitor under section 14C of the Act of 1994.

(2) The Authority may, at any time, request a report from a monitor in relation to the performance by him or her of his or her functions referred to in *subsection (1)*.”.

**Deputy Frances Fitzgerald:** This straightforward amendment concerns the appointment of a monitor as an additional legislative safeguard over the retained functions of the Law Society of Ireland in relation to the financial regulation of solicitors, and to the maintenance of the solicitors' compensation fund. The purpose of amendment No. 159 is to amend the Legal Services Regulation Bill to provide the new authority with the power to appoint a member or members of staff to be a monitor for the purposes of attending meetings of relevant committees of the Law Society of Ireland which are dealing with the investigation of solicitors in respect mainly of the solicitors' accounts regulation.

As pointed out to the House, the Law Society of Ireland will retain oversight of solicitors' accounts, financial conduct and associated matters. Part of the oversight role of the new authority in relation to the Law Society of Ireland's retained functions is the presence of the LRSA monitor at committees where decisions are being made regarding the action to be taken in relation to a solicitor.

The role of the monitor will be to attend and observe. It is provided that the authority may request reports from the monitor from time to time in relation to the performance of their functions. The new authority is also empowered under the legislation to make recommendations to the Minister for legislative change. The intention is that any recommendations arising from the monitor's attendance at Law Society of Ireland committee meetings would feed into these recommendations. Therefore, this is to ensure that the LRSA has access to what is happening in those committees, can report back, and can make recommendations based on his or her observations of the Law Society's committee meetings in relation to these matters.

The purpose of amendment No. 267 which dovetails with this amendment is to amend the Solicitors Acts so as to provide in the legislation governing the Law Society of Ireland that an LRSA monitor may attend and observe at any relevant meeting, and oblige the society to inform the authority of the place and time of any such meeting. This makes it clear that we now have an independent authority with the power to send somebody to attend meetings of the Law Society of Ireland at any point in time. Equally, the Law Society of Ireland has to tell the LRSA when and where it is having its meetings.

This inserts a new section 14C into the Solicitors Act 1994, which provides for the presence of a monitor appointed by the LRSA to attend at meetings of Law Society of Ireland committees which have powers or functions of investigating alleged misconduct by a solicitor. It mirrors the power to appoint such a monitor which has been inserted into the Legal Services Regulation Bill by amendment No. 159.

Senators will recall that a key part of the strategy, which involves the retention of certain solicitors' oversight and misconduct issues by the society, is that the operation of these functions will be subject to oversight by the new authority. One of the key components of the oversight is that we have this monitoring arrangement and engagement in a practical way between the LRSA and the committees of the Law Society of Ireland.

**Senator David Norris:** I take it that we are reliant on section 14C of the 1994 Act for a definition of "monitor", because I do not see one at any point in the Bill. Would it not have been useful to put a definition of "monitor" into the early part of the Bill which contains definitions?

**Deputy Frances Fitzgerald:** My understanding is that it is defined in the section by the details of the tasks that the person is actually carrying out.

**Senator Sean D. Barrett:** As we go from local authority to Minister, to practising barrister, there is no definition of “monitor” in the definitions section.

**Senator David Norris:** No and it is not defined in amendment No. 159. It just state “perform the functions of a monitor”, but it does not state what a monitor is. It could be a monitor lizard.

**Senator Sean D. Barrett:** I would be concerned that it is not somebody moving across either from the Bar Council or the Law Library. They seem to have had a particular influence on the Bill, securing posts in the new authority. Who is the monitor and what is he or she supposed to be doing? I think we need a definition.

**Deputy Frances Fitzgerald:** The section provides the new authority, the LRSA, with the power to appoint the member. I do not know what Senator Sean D. Barrett said, but it was something in relation to who that person would be. The authority has the power to appoint a member or members of staff to be a monitor for the purposes of attending the meeting. The new independent authority decides who the monitor is; therefore, it is very much a function of the new authority to put the monitor in place.

**Senator David Norris:** There is no definition of “monitor”.

**Deputy Frances Fitzgerald:** On page 44 of the Report Stage amendments, the definition of “monitor” means “a person appointed by the authority under section 83 of the Legal Services Regulation Act 2015, to perform the functions of a monitor under this section”. That is how it is dealt with.

**Senator David Norris:** Will the Minister give me the page number?

**Deputy Frances Fitzgerald:** It is page 44 of the Report Stage amendments.

**Senator David Norris:** I thank the Minister very much and I am grateful for her guidance.

**Deputy Frances Fitzgerald:** In section 173(3), “committee” means any committee of the society to which the powers or functions of investigating alleged misconduct by a solicitor have been delegated. The monitor is then the person appointed by the authority to perform the functions of the monitor under this section.

**Senator David Norris:** It is still rather weak that there is no definition of “monitor”. There is no definition of “monitor” in the Bill. That is not a definition of a monitor; it is a description of some of the activities.

**Deputy Frances Fitzgerald:** It is a monitor for the purposes of attending meetings, to give feedback from them and to bring back to the authority any matter of relevance that arises at the meetings which may indicate a need for change. That is the job the monitor has to do.

**Senator David Norris:** With respect, this is quite an important point and I am not filibustering on it. The section does not define “monitor”; it states the monitor may attend and observe any meeting. It does not state anything about reporting back. It refers to performing the functions of a monitor under the section. I see nothing about reporting back or the duties of a monitor. It states simply that the monitor will attend and observe and perform the functions of a monitor under the section. The functions are not defined, apart from the reference to observing and attending.

**Deputy Frances Fitzgerald:** It is provided that the authority may request reports from the monitor from time to time in relation to the performance of his or her functions. The authority is also empowered under the legislation to make recommendations to the Minister for legislative change and the intention is that any recommendations arising from the monitor's attendance at Law Society of Ireland committee meetings would feed into these recommendations. If one has a committee and makes a decision that somebody should go along to the meeting to monitor what is happening there, it is obvious and a common practice that the person would come back to the executive and say what has been happening at those meetings. Reports would be requested. There is provision for reports to be made. It is common sense that the person will come back and make recommendations on foot of attendance at the meeting. That is what the authority is empowered to ask the person to provide.

**Senator David Norris:** Does the legislation specify the making of recommendations? I may have missed that.

**Deputy Frances Fitzgerald:** No. The reports would come from the monitor and then it would be up to the LRSA to act on them.

**Senator David Norris:** I am afraid that we are not going to get anywhere with it. It is very vague and lacking in definition.

**Senator Sean D. Barrett:** This was inserted by way of amendment No. 52 on Committee Stage in the Seanad. I cannot find any reference to the monitor in that section either. It has been a long day and it may be that somebody else will find it. We do not define him or her and I do not think we can rely on section 42 as inserted by amendment No. 52 on Committee Stage. The monitor is not mentioned if I have read it correctly.

**Deputy Frances Fitzgerald:** The job of the monitor is to attend and observe. The functions of the monitor are clearest between the two amendments. We do not believe a further definition is needed. The monitor's function is to report where required. Given the normal ways a CEO or board acts where a monitor attends at a committee under his or her control or oversight, I would have thought it is clear they would ask the monitor to provide reports back. If there are issues arising from the reports, I would expect them to act on them. That is normal practice.

**Senator David Norris:** In the definitions section, "chief executive" is defined, "committee" is defined and "complainant" is defined, but the Minister does not define "monitor" anywhere.

**Deputy Frances Fitzgerald:** It is defined. The job is defined.

Amendment put:

The Seanad divided: Tá, 15; Níl, 6.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Leyden, Terry.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O'Donovan, Denis.
Comiskey, Michael.	O'Sullivan, Ned.
Conway, Martin.	

Cummins, Maurice.	
Hayden, Aideen.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
O'Neill, Pat.	
van Turnhout, Jillian.	

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

Amendment declared carried.

**An Cathaoirleach:** Amendment No. 160 has already been discussed with amendment No. 24. Senator Sean D. Barrett has indicated he will not move the amendment as the text he is proposing to amend was deleted on Committee Stage.

**Senator Sean D. Barrett:** I do not recall that.

**An Cathaoirleach:** The Senator cannot move it because the text has been deleted.

**Senator Sean D. Barrett:** I was unaware of that and beg the Cathaoirleach's pardon as it was no discourtesy to him. Page 41 had 38 lines and it has now been amended 105 times. That must be an entry for the *Guinness Book of Records*.

Amendment No. 160 not moved.

Government amendment No. 161:

In page 68, line 33, to delete "for Public Expenditure and Reform".

**Senator Sean D. Barrett:** This gives functions to the Minister-----

**An Cathaoirleach:** The amendment has already been discussed.

**Senator Sean D. Barrett:** It deals with the Minister for Public Expenditure and Reform and the Minister, Deputy Brendan Howlin, was not mentioned in my hearing. Very important functions are being taken away from him. As a person who monitors public expenditure-----

**Senator David Norris:** He is a monitor.

**An Cathaoirleach:** The amendment has already been discussed.

**Senator Sean D. Barrett:** I bow to the Cathaoirleach's experience. I did not hear the Minister, Deputy Brendan Howlin, mentioned once. I do not wish to have him deleted from the Bill. He has important functions in his role in appraising public expenditure.

Amendment put:

The Seanad divided: Tá, 16; Níl, 6.	
Tá	Níl

Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Leyden, Terry.
Burke, Colm.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	O'Donovan, Denis.
Comiskey, Michael.	O'Sullivan, Ned.
Conway, Martin.	
Cummins, Maurice.	
Hayden, Aideen.	
Keane, Cáit.	
Moloney, Marie.	
Mulcahy, Tony.	
Mullins, Michael.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Amendment declared carried.

Government amendment No. 162:

In page 69, to delete lines 25 and 26 and substitute the following:

“(ii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and

(iii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.”.

Amendment agreed to.

Government amendment No. 163:

In page 69, to delete lines 32 and 33 and substitute the following:

“(b) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and

(c) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.”.

Amendment agreed to.

Government amendment No. 164:

In page 70, line 6, to delete “barristers” and substitute “practising barristers”.

Amendment agreed to.

Government amendment No. 165:

In page 70, line 9, to delete “barristers” and substitute “practising barristers”.

Amendment agreed to.

Government amendment No. 166:

In page 70, line 13, to delete “barristers” and substitute “practising barristers”.

Amendment agreed to.

Government amendment No. 167:

In page 70, to delete lines 15 to 21 and substitute the following:

“calculated under *paragraph (b) of subsection (4)*, of those expenses that were incurred by the Authority in the consideration and investigation of complaints in respect of each category of legal practitioner referred to in *subparagraphs (i), (ii) and (iii)* of that paragraph;”.

Amendment agreed to.

Government amendment No. 168:

In page 70, line 23, to delete “barristers” and substitute “practising barristers”.

Amendment agreed to.

Government amendment No. 169:

In page 70, line 25, to delete “the number of barristers” and substitute “the number of practising barristers”.

Amendment agreed to.

Government amendment No. 170:

In page 70, line 26, to delete “barristers” and substitute “practising barristers”.

Amendment put and declared carried.

Debate adjourned.

### **Business of Seanad**

**Senator Maurice Cummins:** I propose an amendment to the Order of Business, “That the debate on Report Stage of the Legal Services Regulation Bill 2011 be adjourned at midnight and that Order for Second Stage and Second Stage of the International Protection Bill 2015 not be taken today.”

**Senator David Norris:** I commend the Leader for this wise action.

**An Cathaoirleach:** Is the proposal to amend the Order of Business agreed to? Agreed.

**Legal Services Regulation Bill 2011: Report Stage (Resumed)**

Government amendment No. 171:

In page 70, line 30, to delete “barristers” and substitute “practising barristers”.

Amendment agreed to.

Government amendment No. 172:

In page 70, line 31, to delete “barristers” and substitute “practising barristers”.

Amendment put and declared carried.

Government amendment No. 173:

In page 70, line 33, to delete “barristers” and substitute “practising barristers”.

Amendment put and declared carried.

Government amendment No. 174:

In page 70, line 37, to delete “barristers” and substitute “practising barristers”.

Amendment put and declared carried.

Government amendment No. 175:

In page 70, to delete lines 40 to 42, and in page 71, to delete lines 1 to 3 and substitute the following:

“consideration of applications brought before the Tribunal that concerned complaints in respect of each category of legal practitioner referred to in *paragraphs (a), (b) and (c)* of that subsection.”.

Amendment agreed to.

Government amendment No. 176:

In page 71, line 9, to delete “barristers” and substitute “practising barristers”.

Amendment agreed to.

Government amendment No. 177:

In page 71, line 12, to delete “barristers” and substitute “practising barristers”.

Amendment put and declared carried.

Government amendment No. 178:

In page 71, to delete lines 21 to 24 and substitute the following:

“*subsection (4)(a)(i)* that was incurred in the consideration and investigation of complaints in respect of each category of legal practitioner referred to in *subparagraphs (i), (ii) and (iii) of paragraph (b) of subsection (4)*,”.

Amendment agreed to.

Government amendment No. 179:

In page 71, to delete lines 29 to 32 and substitute the following:

“brought before it concerning complaints in respect to each category of legal practitioner referred to in *paragraph (a), (b) and (c)* of that subsection.”.

Amendment agreed to.

Government amendment No. 180:

In page 72, lines 2 to 4, to delete all words from and including “The levy” in line 2 down to and including “directs” in line 4 and substitute the following:

“The levy referred to in *subsection (1)* shall be collected and retained by the Authority to be used to meet the costs it incurs in carrying out its functions under this Act”.

Amendment agreed to.

Government amendment No. 181:

In page 72, between lines 21 and 22, to insert the following:

“(14) For the purposes of *subsections (4) and (5)*—

(a) a barrister is not a member of the Law Library at a given time, if, at that time, his or her name is on the roll of practising barristers, where the entry concerned specifies that he or she is not a member of the Law Library, and

(b) a barrister is a member of the Law Library at a given time, if, at that time, his or her name is on the roll of practising barristers, where the entry concerned does not include the specification referred to in *paragraph (a)*.”.

Amendment agreed to.

**Senator Sean D. Barrett:** I move amendment No. 182:

In page 73, to delete lines 10 to 15.

**Senator David Norris:** I second the amendment.

**An Cathaoirleach:** Is the amendment being pressed?

**Senator Sean D. Barrett:** Yes. It relates to an exemption for legal practitioners in full-time service of the State.

**An Cathaoirleach:** The amendment has already been discussed.

**Senator Sean D. Barrett:** As no one has convinced me that such an exemption is worthwhile, I will press the amendment.

Amendment put:

1 December 2015

The Seanad divided: Tá, 5; Níl, 15.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Norris, David.	Brennan, Terry.
Ó Clochartaigh, Trevor.	Burke, Colm.
O'Donovan, Denis.	Coghlan, Paul.
O'Sullivan, Ned.	Comiskey, Michael.
	Conway, Martin.
	Cummins, Maurice.
	Hayden, Aideen.
	Keane, Cáit.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullins, Michael.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.

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

Amendment declared lost.

**Senator Trevor Ó Clochartaigh:** I move amendment No. 183:

In page 74, to delete lines 1 to 15.

**Senator Sean D. Barrett:** I second the amendment.

Amendment put:

The Seanad divided: Tá, 6; Níl, 14.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Norris, David.	Brennan, Terry.
Ó Clochartaigh, Trevor.	Burke, Colm.
O'Donovan, Denis.	Coghlan, Paul.
O'Sullivan, Ned.	Comiskey, Michael.
van Turnhout, Jillian.	Conway, Martin.
	Cummins, Maurice.
	Hayden, Aideen.
	Keane, Cáit.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullins, Michael.
	O'Neill, Pat.

	Sheahan, Tom.
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Tellers: Tá, Senators Sean D. Barrett and Trevor Ó Clochartaigh; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

12 o'clock

Debate adjourned.

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

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

The Seanad adjourned at 12.05 a.m. until 10.30 a.m. on Wednesday, 2 December 201