



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Máirt, 19 Iúil 2016*

*Tuesday, 19 July 2016*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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

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### **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator 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 Health to introduce an independent appeals process under the fair deal scheme to allow a right of appeal to nursing home providers who are unhappy with the fee proposed by the National Treatment Purchase Fund.

I have also received notice from Senator Alice-Mary Higgins of the following matter:

The need for the Minister for Jobs, Enterprise and Innovation to uphold the constitutional requirement to gain Dáil approval for any trade agreement that involves a charge on the State by confirming that she will not agree to or sign up to the invocation of Article 218.5 of the Treaty on the Functioning of the European Union or any provisional application of the comprehensive economic and trade agreement, CETA, prior to seeking such Dáil approval.

I have also received notice from Senator Ivana Bacik of the following matter:

The need for the Minister for Transport, Tourism and Sport to outline the safeguards and mechanisms in place for ensuring good governance policies and procedures are adopted within national sports organisations funded by the Irish Sports Council.

I have also received notice from Senator Robbie Gallagher of the following matter:

The need for the Minister for Communications, Climate Action and Environment to clarify the position on the extremely disappointing decision of Inland Fisheries Ireland to exit trout production operations in Ireland.

I have also received notice from Senator Pádraig Mac Lochlainn of the following matter:

The need for the Minister for Education and Skills to make a statement outlining his Department's plans to provide capital funding for Gaelscoil Cois Feabhail, Moville, County Donegal, following the fire that destroyed the old Moville boys' school designated as the new home of Gaelscoil Cois Feabhail.

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I have also received notice from Senator Paul Coghlan of the following matter:

The need for the Minister of State with responsibility for tourism and sport to outline his plans for the domestic tourism industry in the aftermath of the referendum on UK membership of the European Union.

I have also received notice from Senator Gerard P. Craughwell of the following matter:

The need for the Minister for Public Expenditure and Reform to address issues of unfairness and inequality in the abatement of pensions for public servants who gain employment in another part of the public service having retired from their first career.

I have also received notice from Senator Victor Boyhan of the following matter:

The need for the Minister for Housing, Planning, Community and Local Government to update the House on the proposed cuts to the service of and funding for Sligo county libraries.

I have also received notice from Senator Paudie Coffey of the following matter:

The need for the Minister for Education and Skills to outline the additional investment in laboratory facilities at Waterford Institute of Technology for which he proposes to provide in the Estimates for next year in order that the college will be able to meet the strong demand from the new and extending biopharma companies based in Waterford and the south-east region.

I have also received notice from Senator Niall Ó Donnghaile of the following matter:

The need for the Minister for Housing, Planning, Community and Local Government to update the House on plans, following the call made by the Constitutional Convention and recent public remarks made by Ministers, to extend voting rights in presidential elections to Irish citizens living in the North and the diaspora.

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

The need for the Minister of Transport, Tourism and Sport to update the House on the proposals his Department has in place to deal with the chronic traffic congestion and safety issues at Blake's Corner, Ennistymon, County Clare, given the recent rejection by Transport Infrastructure Ireland of the proposals submitted by Clare County Council.

I have also received notice from Senator Neale Richmond of the following matter:

The need for the Minister for Finance to review the applications process for companies applying for banking licence authorisation.

I have also received notice from Senator Frank Feighan of the following matter:

The need for the Minister for Justice and Equality to look at measures to combat the upsurge in soccer hooliganism in this country, especially in Dublin.

I have also received notice from Senator Kieran O'Donnell of the following matter:

The need for the Minister of State with special responsibility for the Office of Public Works and flood relief to outline the plans he has for the provision of a relocation scheme

for those living and working in flood hit areas.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Colm Burke, Alice-Mary Higgins, Ivana Bacik and Robbie Gallagher and they will be taken now. Senators Mac Pádraig Lochlainn, Paul Coghlan, Gerard P. Craughwell, Victor Boyhan, Paudie Coffey, Niall Ó Donnghaile, Martin Conway, Neale Richmond, Frank Feighan and Kieran O'Donnell may give notice on another day of the matters they wish to raise.

## **Commencement Matters**

### **Nursing Homes Support Scheme**

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

**Senator Colm Burke:** I thank the Minister of State for making time available to deal with this matter which relates to nursing homes. It is a difficulty that has been experienced for quite some time and which applies very much to nursing homes outside Dublin. The moneys which they are entitled to collect under the National Treatment Purchase Fund, NTPF, may be far lower than the cost of providing care for elderly people. When the NTPF set out the amount to be paid, no appeals process was put in place where there was a genuine reason for an increased amount to be paid. The figures were set in stone by the NTPF and no other opportunity is available. It is in this context I raise the matter to see whether a very simple appeals process could be put in place to deal with it. Obviously, I do not want it to open up a situation where everyone could appeal. Certain circumstances would have to be set out for the reasons for an appeal and as to why it was felt the figure fixed by the NTPF was unfair and unreasonable within which to provide a service.

**Minister of State at the Department of Health (Deputy Helen McEntee):** I thank the Senator for raising this issue. The legislation underpinning the nursing home support scheme requires each private nursing home to negotiate and agree a price for long-term residential care services with the National Treatment Purchase Fund, NTPF should it wish to be an approved nursing home for the proposed scheme. The NTPF has statutory independence in the performance of its functions and negotiates with each nursing home on an individual basis. The Department of Health has no role in such individual negotiations.

The NTPF examines the records and accounts of nursing homes as part of the process, with the objective of setting a fair price which delivers value for money to the individual and the State. In negotiating with nursing homes the NTPF has regard to costs reasonably and prudently incurred by the nursing home, evidence of value for money, prices previously charged, the local market price, budgetary constraints and the obligation on the State to use available resources in the most beneficial, effective and efficient manner to improve, promote and protect the health and welfare of the public.

When the nursing home support scheme commenced in 2009, a commitment was made that it would be reviewed after three years. In advance of the review which was subject to an exten-

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sive and structured public consultation process, submissions were sought from groups or bodies which wished to make a contribution. Nursing Homes Ireland made a submission in this regard in which it sought, *inter alia*, an appeals system for nursing home providers, about which the Senator asked. The report on the review which I am sure the Senator has seen was published in 2015 and a number of issues have been identified from more detailed consideration, including a review of pricing mechanisms by the NTPF, with a view to ensuring value for money and economy with the lowest possible administrative costs and burdens for clients and the State; increasing the transparency of the pricing mechanisms in order that existing and potential investors could make as informed a decision as possible; and ensuring adequate residential capacity for those residents with a more complex need.

The pricing review will also include consideration of the appeals mechanism. It is not deemed feasible to address the situation in isolation and it must be considered as part of the totality of the pricing system review which will be completed as soon as possible. The NTPF has alluded to a timeframe of the end of the year, to which I will hold it. In that context, we must be careful about placing too much reliance on an appeals mechanism. The Senator has pointed out that this might not be open to everyone but, in establishing an appeals system, it could become a default option for operators which could displace the main pricing mechanism. It is important to develop a robust system that everyone would understand and deliver fairer outcomes consistently. If we can achieve this, an appeals system would be much less important. If we can get the pricing mechanism right and address some of the issues the Senator and others have raised with me, there would be no need for an appeals mechanism. If new mechanisms are put in place after the review is finalised at the end of the year and we are still seeing the same problems, we can address that issue afterwards. If we allow the review to be finalised, we will see what comes of it. If the Senator wishes to revert to me subsequently, we can deal with the matter then.

**Senator Colm Burke:** I thank the Minister of State. Will the review definitely be completed by the end of the year?

**Deputy Helen McEntee:** The NTPF has stated its hope to have it finished by the end of the year. I will ask it to do so.

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

**An Cathaoirleach:** I thank the Minister of State and the Senator for their brevity.

## Trade Agreements

**Senator Alice-Mary Higgins:** I thank the Cathaoirleach for selecting this issue and the Minister of State for attending to address the many concerns about the proposed comprehensive economic and trade agreement, CETA, between Canada and the European Union. The CETA will apply to an unprecedented number of public contracts, including at local level, which will have implications for the policy space in those contracts or services. The European regulatory council will have a mandate to privilege the least burdensome option in respect of regulation which has the potential to undermine present and future regulations over, for example, environment, employment and employment issues. This concern has been highlighted by ICTU, environmental lobby groups, Trócaire and many health organisations. The CETA was negotiated prior to Brexit and the removal of the United Kingdom's large market from the European Union

could see Canadian beef exports redirected into other countries like ours, which would have a serious economic impact. However, my focus is on the Constitution. Will the Minister of State assure the House that, when he or another member of the Government attends the Council of Ministers meeting in October, the Government will not sign up to the provisional application of the CETA and will instead uphold Article 29.5.2o of the Constitution which reads: “The State shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by Dáil Éireann”?

Let us be clear that the CETA will involve a charge on public funds. It would bring into effect for the first time in Ireland investor-state dispute settlement courts which could allow corporations to sue the State for the potential loss, not only of present profits but of future ones. In other countries where such courts already operate, many of the settlements sought have run into billions in national currency. The ultimate blank cheque, it could speedily deplete the Government’s proposed rainy day fund.

In response to parliamentary questions the Minister has stated such trade agreements are not part of domestic law, which is why separate adjudication arrangements are required. However, any law applied within the State must be tested for compatibility with our laws and to ensure they are not repugnant to the Constitution. Has the Minister spoken to the Attorney General about this? Is the Minister comfortable with a situation where Irish companies would work under Irish domestic law, while international companies would have recourse to a new and different mechanism which would be a particular advantage for them?

The current position held by the European Commission in this regard is somewhat contradictory. In recognition of the political situation, it has agreed to treat the CETA as a mixed agreement that requires the approval of the European Parliament and national parliaments. At the same time, it wants signing and provisional application to go ahead in advance of the securing of political approval from the various parliaments. It has reserved the legal opinion that the European Commission has exclusive competence and stated it will wait to see the outcome of a case being taken in respect of the EU-Singapore deal.

In the circumstances I have outlined, would it not be prudent for other member states and the Irish Government to wait to see the results of that court case which are due next year before any provisional application is signed? This has been recommended by many legal experts, including those from ClientEarth. Given that a court case on the constitutionality of the CETA was recently launched in Germany and in the light of the widespread and growing calls for a case on the overall compatibility of investor-state dispute settlement mechanisms with EU law to be taken to the European Court of Justice, is it not inappropriate to move ahead when so many cases are pending?

This is not a case of trade as usual. The European Commission has marked this as a milestone. It has been suggested that as the most ambitious trade agreement ever, this marks the beginning of a new generation of such agreements. If we are in a new and experimental space, in which we are trying out a new generation of trade agreements, does it not behove us to test them fully against our legal and parliamentary systems? What signal does it send to the EU population, at a time of growing and dangerous disillusionment with the rule of law and politics, if states and EU bodies choose to bypass the legal and parliamentary processes to short-circuit matters in respect of this particular trade agreement?

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Pat**

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**Breen):** I thank the Senator and welcome her contribution. We should have had a debate on these agreements in recent years.

The EU-Canada comprehensive economic and trade agreement, CETA, is a new-generation agreement that will remove over 99% of tariffs between the European Union and Canada. The CETA will significantly improve business opportunities for Irish companies in Canada. With the CETA, Irish companies will receive the best treatment that Canada has ever offered to any trading partner, thereby levelling the playing field on the Canadian market for Irish and other EU companies. By opening markets, the CETA should support growth and jobs and bring further benefits for consumers. It has the potential to keep prices down and to provide consumers with greater choice.

The main benefits of the agreement for Ireland include the opening up of public procurement markets in the Canadian provinces. This will give Irish firms increased access to Canadian public sector purchasing. Ireland will also gain unlimited tariff-free access for most of its important food exports. Of course, we are all conscious of the importance of food exports from Ireland, particularly to Canada. In addition, Ireland successfully campaigned for a low beef import quota from Canada to the European Union, thereby safeguarding our important EU market in this area. Irish firms will also benefit from the recognition of product standards and certification, thereby saving on double-testing on both sides of the Atlantic. This is of particular benefit to smaller companies for which it can be prohibitive to pay twice for the same test. These are some of the benefits of the trade deal with Canada which will provide new market opportunities for Irish firms in many sectors.

In May this year the Council had an exchange of views on the CETA and the process towards signature and provisional application of the CETA. The European Commission and the member states highlighted the high quality of the agreement that had been reached with Canada and expressed a desire to work towards the signature of the agreement at the EU-Canada summit in October. The Commission published its proposals for signature, conclusion and provisional application on 5 July last and they are available on the Commission's register of documents. On 13 May last, at the most recent meeting of the EU Council of Trade Ministers, the Minister, Deputy Mary Mitchell O'Connor, made clear that our approach based on our current assessment of the provisions of the CETA was that we viewed the CETA as a mixed agreement in terms of EU and member state competency. In view of the position taken by Ireland and other member states, the Commission has now decided to submit the CETA to the Council for decision as a mixed agreement. This means that each member state will be required to ratify the agreement under its own procedures. The Oireachtas will be part of the final decision on ratification. It will now be a matter for the Council and the European Parliament to decide on the signature, conclusion and the provisional application of the CETA.

Provisional application is provided for in the EU free trade agreements. This means that those areas where the European Union has full competence may be applied immediately once the agreement comes into force. It is an important mechanism that allow companies and consumers to benefit from a trade agreement at an early stage. Provisional application of the CETA would be without prejudice to national ratification by member states. The provisional application of free trade agreements is standard practice. What is at issue is what should be within the scope of such application. Discussion on this matter continues in the Council. We have argued that only those areas directly within exclusive Commission competence should be covered by the provisional application. As noted, the Commission has already accepted that the CETA is a mixed agreement.

It is in Ireland's interest to see strong progress towards the implementation of the CETA as it will provide opportunities for Irish firms to diversify their export markets further. Total export and import trade between Ireland and Canada is worth €2.5 billion, which is based on 2014 trade results. That is a great deal of trade between the two countries and there are great opportunities to grow it further when the CETA is implemented.

**An Cathaoirleach:** I ask the Senator to be brief. There are eight minutes allocated to discuss each matter and we have taken ten minutes on this one already. I have been asked me why I do not select more Commencement matters, but it is not possible because Members do not stay within the time they are allotted.

**Senator Alice-Mary Higgins:** I stuck to my time earlier.

**An Cathaoirleach:** I will be flexible but within reason.

**Senator Alice-Mary Higgins:** Will the Minister of State address the concern that it is not at the discretion of Ireland to end provisional application if we find it to be incompatible with the Constitution because a qualified majority would be required to end provisional application? Will he also inform the House of the position taken by Ireland's permanent representatives who attended a meeting last Friday to indicate which areas we regard as specific competence of the European Commission and which areas are part of a mixed agreement? What position was taken by Ireland at the negotiations on that last Friday? Moreover, we have trade worth €2.5 billion with Canada; therefore, we already have a very healthy trading relationship. We also have a healthy trading relationship with the United States. This is not a matter of speaking against trade but of examining a new instrument and ensuring it is fully scrutinised. Will the Minister of State also address the rationale for not waiting until the legal concerns at issue have been addressed?

**Deputy Pat Breen:** We cannot be complacent about trade. We face many challenges in exporting. There are also the international challenges with Brexit which the Senator mentioned. Negotiating trade agreements takes a long time, they do not happen overnight. We see what is happening with the transatlantic trade and investment partnership, TTIP.

I will reiterate what is important. I do not have information on what happened at the meeting last Friday, but I am sure we can arrange to get it to the Senator. It is important to make the point that this agreement, when implemented, will open huge opportunities. The Senator made it clear that we have great trade, but we must grow it further. Consider all the Irish people in Canada. There are close relations between the east coast of Canada and Ireland and Canada wishes to do more business with Europe. We should be in a position to avail of that opportunity. It is also important that, if the agreement comes into force, we can tender for public contracts in Canada which we could not do previously. That offers huge opportunities for Irish companies that wish to work overseas.

We must focus on the swift ratification of the CETA. I hope we can sign the agreement before the end of autumn. It will be a positive light for Ireland in the coming months. There are huge opportunities. The European Union and Canada share many common goals and objectives and each party brings with it high environmental and labour standards. The agreement that has been negotiated will strengthen corporate social responsibility, which is also important. A growing market share in other markets is even more important for Ireland than it is for other countries, particularly since the UK referendum, and I look forward to the Dáil giving approval

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to ratify the agreement. Perhaps the jobs, enterprise and innovation committee might discuss the CETA as part of its autumn programme. It is important that the Senator raise the issue in order that the committee might take on that role. It is important to discuss issues in the House, particularly trade agreements. I am not sure that was done in the past, but a debate on trade agreements could form part of the committee's work schedule in the autumn.

I look forward to the Dáil giving approval to ratify the agreement once the EU institutions have completed their procedures.

## **Sports Organisations**

**An Cathaoirleach:** I welcome the Minister of State at the Department of Transport, Tourism and Sport, Deputy Patrick O'Donovan. As it is the first time he has been in the Chamber since I was appointed Cathaoirleach, I wish him well in his brief and hope he will have a long tenure.

**Senator Ivana Bacik:** I join in welcoming the Minister of State and congratulate him on his appointment. I thank him for coming to answer my question and the Cathaoirleach for selecting my Commencement matter which ask the Minister for Transport, Tourism and Sport to outline the safeguards and mechanisms in place to ensure good governance policies and procedures are adopted within national sports organisations funded by the Irish Sports Council. As it turns out, my question is timely, given the news today about Russia and the International Olympic Committee. I am not asking a question about that matter, nor is it about drugs or doping in sport. In fact, it is of a more general nature and was prompted more by the ongoing disclosures about Console and charity regulations. Also, I have met certain individuals who, based on their own experiences, are seriously concerned about the governance of a particular sport in Ireland, namely, tennis. They have raised a number of issues with me. However, in listening to them I felt the issues being raised might be of general concern in terms of sports body governance.

I acknowledge the many thousands of people across Ireland who work in a voluntary capacity and do immense work in sports organisations. At a very low level, I am involved with the FAI in the local schoolgirl soccer league; therefore, I know the work and commitment that goes into volunteering. I do not mean to question people's commitment or the huge goodwill shown by them. There are, however, three issues that are relevant in referring to national sports organisations funded by the Irish Sports Council. Will the Minister of State outline the mechanisms in place to ensure good governance in such organisations? There is accountability for funding. Clearly, different amounts are provided for different sports bodies by the council. Is there a general mechanism in place to ensure accountability? I understand some funding is channelled through another organisation.

In terms of general governance and the rules sports bodies adopt in selecting, for example, competitors to take part in national or regional competitions, does the Irish Sports Council have any role or mechanism in place to ensure transparent and fair procedures are followed?

The most serious issue is that of child protection. Does the Irish Sports Council have a role in ensuring child protection procedures are observed? In the term of the last Government significant legislation dealing with vetting, child protection and the disclosure of abuse was passed. In this regard, how are national procedures implemented? How does the Irish Sport Council ensure national procedures are implemented at local level? Everyone will be aware of

the huge scandal in the sport of swimming. We need to ensure the child protection mechanisms now in place are robust, watertight and being observed by the different sports bodies funded by the Irish Sports Council.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Patrick O'Donovan):** I thank the Cathaoirleach for his kind words of welcome. I also thank Senator Ivana Bacik for her words of congratulations and raising this issue.

As Minister of State with responsibility for tourism and sport, I have been anxious since my appointment to engage with all State agencies and regulatory authorities, including Sport Ireland. The leadership provided by Mr. Kieran Mulvey and Mr. John Treacy is something that has struck me as being very professional. They certainly have a good grasp of what they want to achieve in Sport Ireland. I thank them for the work they have done up to now and also acknowledge the work of the board.

*11 o'clock*

It is vital, as the Senator said, that the highest standards of governance are adhered to across all levels of Irish sport to ensure accountability, fairness and transparency across organisational activities and support the integrity of sport. The implementation of good governance practices in sport has improved significantly in recent years. Sport Ireland and its predecessor, the Irish Sports Council, have played a key role in this improvement. Sport Ireland continues to work closely with the national governing bodies of sport to provide supports and services, with a focus on improving governance within sports bodies. They include support for strategic planning, internal audit and financial management. There is an established procedure in place for Sport Ireland to provide support for any particular governing body that encounters difficulties.

Since my appointment as Minister of State, I have met a significant number of the national governing bodies of sport to get a handle on the stage they are at in the cycle of development, their priorities, the challenges they are facing and where they see themselves going. All of the national governing bodies of sport are keen to see the conclusion of the development of the national sport policy. One of my priorities as Minister of State with responsibility for sport in the coming months is the development of a national sports policy. The policy is on my desk and I am reviewing the draft which will go out for public consultation and be discussed by the Joint Committee on Transport, Tourism and Sport.

In terms of governance, the national sports policy will aim to define consolidated governance principles to underpin the future of Irish sport. I think that is what the Senator alluded to and I agree with her, particularly on what happened in swimming which was a wake-up call. Certainly, the recent revelations in the charities sector are another wake-up call. Sport Ireland has an important role in governance issues for the national governing bodies of sport and ensuring taxpayer's money is used in the most effective way and properly accounted for. However, as the Senator alluded to - we all agree with her - governance and accountability are about more than just financial accountability.

It is important that national governing bodies of sport which are independent entities have some space in decision-making within their own organisations. That covers the Senator's point about the selection of competitors. There has been a great deal of interest recently in the selection of competitors for the Rio Olympic Games, but neither the Department nor Sport Ireland has a role in the selection of individuals. Once the selection criteria are signed off on by the

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national governing bodies of sport at the outset, they are communicated to Sport Ireland and difficulties invariably arise. In the case of every Olympic Games and international meet one will have issues. I was asked recently if I would intervene in an issue to do with the Olympic Games and I had to tell the person in question that I could not do so because the next thing I would have to do was pick the Limerick under-21 team. It is not the role of politicians or Sport Ireland to engage in the running of national governing bodies of sport. However, I agree with the Senator that it is our role to ensure the national governing bodies of sport are accountable financially and in every other way.

The national governing bodies of sport are central to Irish sport and the achievement of sports policy objectives in terms of participation, performance and excellence. It is important to recognise that not one size fits all. National governing bodies of sport can range from small organisations run by a number of volunteers, to which the Senator alluded, to large-scale organisations run by full-time administrators. However, whatever the size of the organisation, sports organisations in receipt of public funds should have appropriate governance structures in place. That brings me back to the point the Senator raised about Console. We have major charity organisations that run a very good ship and by the same token we have small charities that do the same. We have seen organisations at both ends of the spectrum that were in dire need of an intervention at a much earlier stage but which did not happen.

The new national sports policy framework will seek to set out governance procedures for Irish sport, including the roles of the Department of Transport, Tourism and Sport, Sport Ireland, the national governing bodies of sport and all sports bodies in receipt of public money. The policy will consider options to uphold the highest standards of governance in sport. Sport Ireland is continually working to ensure good governance policies and procedures within organisations which are obliged to comply with requirements in that regard. Let me give an example of what is required. Any organisation which applies for funding from Sport Ireland must submit satisfactory projected budgets and operational plans. All national governing bodies of sport are required to provide a mid-year update for Sport Ireland in order to receive their full grant. Sport Ireland is subject to the scrutiny of the Comptroller and Auditor General and can also be examined by the Committee of Public Accounts. In addition, any national governing body of sport in receipt of funding from Sport Ireland may be subject to an audit by Sport Ireland's auditors.

Sport Ireland will continue to support those organisations that are delivering best returns for public investment. It provides a range of supports and services for national governing bodies of sport in ensuring good governance, including board training provision, assistance in marketing and branding, volunteer support and assistance in organisational capacity building. I have seen this at first hand with particular national governing bodies of sport where there are capacity issues.

I encourage Senators and all Deputies to go and see the National Sports Campus, if they have the opportunity. Some of them may already have seen it. It is second to none. It is more than just a sports campus. It regularly provides a set of soft skills for NGBs and this capacity building is important to ensure what the Senator referred to, namely, good governance.

I agree with the Senator on the need to have safeguards and mechanisms in place to ensure good governance policies and procedures. I am satisfied that Sport Ireland is working hard to make sure the improvements in this area continue. I fully expect that, when completed, the national sports policy will lead to further enhancements in good governance. If there is a specific

issue regarding governance, whoever the Senator is referring to can contact my Department. If there is an issue or a concern, whether founded or unfounded, regarding an NGB that is in receipt of taxpayers' money, we have a duty to examine it, if we have learned anything from all the stuff that has gone on during recent years. If the Senator wants to bring a particular issue to my attention, I will have the Department and Sport Ireland examine it.

**An Cathaoirleach:** That was a comprehensive response. We are running out of time.

**Senator Ivana Bacik:** I thank the Minister of State for his very comprehensive response, particularly his last few words when he invited me to make contact with him about any specific issue. I agree with him about the selection of competitors. It is about fair procedures. Clearly, the Department cannot and should not be involved in it. When is the national sports policy likely to be completed? The Minister of State said it would be out for consultation with stakeholders and I am delighted it is at such an advanced stage. Is there a timeline?

**Deputy Patrick O'Donovan:** I hope to have it finished as soon as possible in the early autumn and to roll it out then. I have made some minor amendments to it and it has gone back to the Department. The Department of Health has a health promotion aspect, as does the Department of Education and Skills in terms of physical activity. I have made some minor changes regarding access for people with disabilities. I want to have the maximum amount of consultation, given that it is a framework within which I hope the development of sport will be able to continue as the economy continues to grow. As the Senator said, it is not all about money. Good governance is about ensuring people are treated with respect and are protected. This includes competitors, those working in the environment and those who are seeking to enjoy it. There is a range of issues, including broadcasting and media rights, which I have included in it.

### **Inland Fisheries Ireland**

**Senator Robbie Gallagher:** Cuirim fáilte roimh an Aire Stáit. I welcome the Minister of State and wish him well in his brief.

I raise the issue of the proposed closure of trout production operations in Ireland. There are two such facilities, one in Roscrea and the other in Mullingar. There is no other licensed supplier of fresh brown trout, capable of supplying all the angling fish clubs throughout Ireland. Recent figures produced by the Economic and Social Research Institute estimated that trout angling is worth approximately €800 million to the economy and that the recreational angling sector is responsible for anything up to 10,000 jobs. In my area, Cavan-Monaghan, it is a major aspect of tourism. Many bed and breakfasts are built on it and there is a vitally important cross-Border aspect.

Given the figures and the return to the economy, it is difficult to understand why such a decision would be made. If the decision goes ahead, jobs will be lost and the €800 million we get from the facility will be lost. I have never known an issue to raise the temperature among the angling community as much as this. It is as bitter and potentially divisive as the rod licence issue a number of years ago. There are more than 100,000 anglers, located in every county of Ireland, and they all speak with one voice on the issue.

A consultation process is under way and the closing date for submissions is 9 August. Given that it is alleged that the board of Inland Fisheries Ireland has already made the decision to close

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the facility, one could legitimately ask why there is a consultation process. Perhaps the Minister of State might comment on that issue.

I plead with the Minister of State to ensure this decision does not proceed. I ask him to use his good offices to meet a deputation from the angling community. I assure him anglers are honest and upright in their efforts to ensure a solution is found to the problem and the facility will not be allowed to close. A meeting will be held in Mullingar tonight. If the Minister of State were to give a commitment to meet a deputation of anglers, an outcome could be found that would satisfy all parties.

**Deputy Patrick O'Donovan:** I am speaking on behalf of the Minister of State, Deputy Seán Kyne, who, unfortunately, is unable to attend. I assure the Senator, however, that I will bring the issue he has raised to his attention. I will also ask him to contact the Senator directly to arrange a meeting with him at the earliest possible opportunity.

Inland Fisheries Ireland, IFI, is the agency responsible for the protection, management and conservation of the inland fisheries and sea angling resources. It was formed on 1 July 2010 following the amalgamation of the Central Fisheries Board and seven regional fisheries boards into a single agency. The State has more than 74,000 km of rivers and streams and 128,000 ha of lakes, all of which fall under the jurisdiction of Inland Fisheries Ireland which is also responsible for sea angling out to a 12 mile limit.

Inland Fisheries Ireland has a long history of providing rainbow and brown trout to support the fish stocking requirements of angling stakeholders. Its main fish production unit is located at its fish farm near Roscrea, with a supporting facility which mainly supports the maintenance of brood stock located at Cullion in Mullingar. It also has a small operation at Lough Allua. The proposal for the rationalisation of its fish farm operations is a day-to-day operational matter for the board of IFI. However, IFI advises that, from a structural perspective, the fish farming operation is based on physical structures and facilities designed and built in the 1950s. Since that time, meeting the increasing demands of operational and regulatory requirements from facilities that are dated has become more complex and challenging.

I am advised by the board of Inland Fisheries Ireland that it is IFI's intention to exit fish farming operations in the coming years at current locations, while maintaining one aquaculture facility at Cong, County Mayo which will be used for research and conservation stocking. This site has been identified as having the most potential owing to the quantity and quality of its water supply, which is an important consideration in fish production. Ultimately, the IFI hatchery at Cong is expected to be upgraded to a facility capable of housing modern hatchery and research operations.

Inland Fisheries Ireland also announced that it was always intended that the phase-out plan would include consultation with the affected stakeholders, to whom the Senator referred. The former Minister of State wrote to the chairperson of Inland Fisheries Ireland noting that it was IFI's intention to consult those affected prior to any action being taken and that a report on the consultation would be made to the Department. The Minister of State recently met the board of Inland Fisheries Ireland to reinforce the requirement that a full report be made to the Department. IFI has written to the affected stakeholders advising that the farms are operating as normal in 2016 and that a consultation process will take place to develop the cessation plan.

It is important to clarify that the decisions of the board were not prescriptive as regards a

timeline or particular option as to how IFI would exit commercial production. Inland Fisheries Ireland has reported to the Department that existing facilities are dated and in need of significant capital investment. In addition, the regulatory climate in which IFI operates has become increasingly complex in terms of fish husbandry, with all of its associated disease, aquaculture and discharge requirements but also in terms of other environmental legislation under which Inland Fisheries Ireland operates such as the water framework and habitats directives.

Inland Fisheries Ireland has emphasised that the board decided to strategically exit from the production of rainbow and brown trout on a number of grounds. IFI fish farms have operated at a significant loss in the past five years and while the agency has made significant efforts to reduce costs and increase efficiency in aquaculture operations, it has not been able to bridge the gap between costs and revenue. The IFI board has been required, therefore, to focus its resources on core functions across all divisional areas.

Inland Fisheries Ireland commissioned an expert review of its production capabilities, operational processes, facility design and technologies, as well as operational costs, in an effort to identify challenges and constraints in production processes and to propose practicable solutions to enhance productivity and performance. The review identified some major challenges, including those relating to environmental risks, the physical fish farm infrastructure and the current system for farm management. The fish farm near Roscrea has an issue with the level of water supply available. The current fish farm operations are subsidised by wider IFI resources because the price of fish for sale does not reflect the real cost of production. On balance, and having given due consideration to these factors, the board decided to exit freshwater aquaculture operations and has instructed the executive of IFI to develop a plan to facilitate exiting this business while making efforts to ensure continuity of supply and trout for stocking for anglers.

All permanent IFI aquaculture staff at facilities at Roscrea, Cullion and Lough Allua will retain their employment within IFI and every effort will be made to ensure smooth redeployment to other areas of the organisation. The board has already confirmed that no jobs will be lost and that all staff have roles within the organisation. IFI has confirmed that it wishes to inconvenience stakeholders as little as possible and that it firmly believes it will be possible to implement the decision with minimal or no disruption to stakeholders.

Given these considerations, IFI has announced the commencement of a public consultation process with stakeholders and individuals affected by the decision to exit freshwater trout production, with a particular focus on the potential impact of the decision and possible measures that could mitigate this impact. As the Senator said, the submission period is open until 5 p.m. on 19 August and submissions may be made online.

**Senator Robbie Gallagher:** I thank the Minister of State for his response. I have a couple of issues to raise. I have spoken about the benefit to the economy each year to the tune of €800 million and the fact that so many jobs depend on the sector. It seems strange - I am no expert in this matter - that a decision would be made by IFI to close a facility and that it would seek submissions after the event. I understand the report mentioned by the Minister of State was produced by a Canadian firm. It made a number of recommendations, none of which included the closure of any facility. The decision seems strange in that regard. At a time when one can see the benefit to the economy and the jobs for which the sector is responsible, IFI should be given more funding rather than having its funding cut. What figures are we talking about in this regard?

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I plead with the Minister of State to postpone this decision, as did his predecessor, the current Minister of State with responsibility for the diaspora and overseas development aid, Deputy Joe McHugh. I ask that a meeting be organised for the delegation from the angling community to address this issue and find a solution for all concerned.

**An Cathaoirleach:** The Minister of State, Deputy Patrick O'Donovan, is not a line Minister. He has committed to asking the Minister of State, Deputy Seán Kyne, to contact the Senator directly. Perhaps that might be done today, if possible, in order to make progress on the matter.

**Deputy Patrick O'Donovan:** I appreciate the Senator's concerns. I come from a part of the country where angling is very important. I will bring the issues he has raised to the attention of the Minister of State, Deputy Seán Kyne, and ask him to contact the Senator directly today.

*Sitting suspended at 11.20 a.m. and resumed at 11.35 a.m.*

### Order of Business

**Senator Jerry Buttimer:** The Order of Business is No. 1, motion re arrangement for speaking time on the Order of Business, to be taken without debate at the conclusion of the Order of Business; No. 2, motion re Standing Order 57, to be taken without debate at the conclusion of No. 1; No. 3, Paternity Leave and Benefit Bill 2016 - Committee and Remaining Stages, to be taken at the conclusion of No. 2 and conclude not later than 1.45 p.m.; No. 4, Commission of Investigation (Irish Bank Resolution Corporation) Bill 2016 - Second Stage, to be taken at the conclusion of No. 3 and conclude not later than 3.30 p.m., with the contributions of group spokespersons not to exceed eight minutes each and those of all other Senators not to exceed five minutes each and the Minister to be given five minutes in which to reply; No. 5, motion re Legal Services Regulatory Authority, to be taken at the conclusion of No. 4 and conclude within 45 minutes, with the time allocated to group spokespersons and all other Senators not to exceed five minutes each and the Minister to be given five minutes in which to reply; No. 6, motion re European Union Agency for Law Enforcement Training, CEPOL, to be taken at the conclusion of No. 5 and conclude within 45 minutes, with the time allocated to group spokespersons and all other Senators not to exceed five minutes each and the Minister to be given five minutes in which to reply; and No. 22, Private Members' business, non-Government motion No. 3 re tax and social welfare codes, to be taken at 5 p.m., with the time allocated for the debate not to exceed two hours.

**Senator Mark Daly:** As a country, we have failed in the area of child protection and the victims of child abuse. Unfortunately, we continue to fail them. Louise O'Keeffe is an extraordinary woman. She took the State to the High Court and the Supreme Court and failed, despite massive pressure being brought to bear on her that she would be destroyed financially because all legal costs would be sought by the State. She then took the State to the European Court of Human Rights, ECHR, and won. We owe her a huge debt. The ECHR stated the State should have been aware of the risk of child abuse in schools and that it was obliged to protect children. A total of 210 others did not get as far as the ECHR. When Louise O'Keeffe failed in both the High Court and the Supreme Court, they were bullied and threatened with financial ruin by the State if they pursued their cases. In a recent judgment a High Court judge said those who had withdrawn their cases were no longer entitled to compensation. The State is now indicating that, in addition, proof must have been shown by the people looking for compensation that a prior complaint had been made, which is an impossible burden for anyone to try to achieve.

Nine months after the European Court of Human Rights judgment, the Taoiseach invited Louise O’Keeffe to Government Buildings to discuss the issue with her. She did not ask for anything for herself but that the other victims would be looked after. We can see now what is happening. The only remedy open to those victims is a political remedy. I ask the Leader - the Fianna Fáil group is proposing this - that Louise O’Keeffe be brought into the House in the autumn as a representative of those victims of child abuse to talk to us about what we should and must do for the victims. The State continues to fail them and, unfortunately, continues to abuse them.

I raise a second point about the Taoiseach’s comments at the MacGill summer school that the European Union needed to prepare for the prospect of Northern Ireland rejoining the Republic. I believe the issue is not that the European Union needs to prepare but that we need to prepare. There is no plan to achieve Articles 2 and 3 of the Constitution. The reason is not now an issue of culture or religion; it is economic. The economic argument that we can put forward as to why Northern Ireland should rejoin the Republic is borne out in the UN development index which measures health, education and income. The Republic ranks sixth in the world on the index, equal to Germany, and just above Canada and the United States. The United Kingdom is 14th, while Northern Ireland, as a region, is 44th and going to go below 50th and join Romania and Kazakhstan.

The issue is how we get from where we are today to where we want to be. I do not agree with this idea of a referendum sooner rather than later. The issue is how one makes a convincing argument. We should never ask anyone to vote for a worse future; we must ask them to vote for a better future. I think that, together, we would have a better future. A recent report by the Oireachtas employment committee stated an all-island economy would be a boost to everybody, in particular in the areas of education and farming, as well as on other issues. I ask the Leader to organise this House, whether through the petitions committee or the Cathaoirleach, in order that we could start bringing in the experts to discuss the issue. It is not that the European Union needs prepare but that we need to prepare.

**Senator Rose Conway-Walsh:** I very much welcome the Taoiseach’s remarks in the past couple of days about a referendum on Irish unity. For years, we in Sinn Féin have wanted a full conversation and discussion of what it would mean to have the reunification of the island. We are pleased that this is happening and, obviously, will do everything to continue to lead it.

I welcome the initiative taken by the National Council for Curriculum and Assessment to include computer coding as part of the national school curriculum. Of course, it is 20 years late but better late than never. I have direct, on-the-ground experience of organising coding and programming workshops in County Mayo for a number of years as co-ordinator of Iorras Le Chéile community development project. We ran an initiative whereby more than 50 children between the ages of eight and 13 years gathered every Saturday to learn computer coding and programming with a local programmer and computer expert. The speed of learning and the depth of interest shown by the children of those ages was remarkable. However, like many similar projects throughout the country, the funding was slashed and we could no longer continue.

The idea behind the project was that we would encourage a cohort of young people to go on to follow computer science and develop their coding and programming skills. This measure, in a remote rural area of the western seaboard, was an attempt to provide young people with the skills that would enable them to live and work in their own communities while, at the same time, working for companies based in Tokyo, New York and other major economic hubs

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throughout the world. It was also an attempt to prepare for opportunities presented by the transatlantic fibre-optic cable. I am calling on the Minister for Education and Skills, Deputy Richard Bruton, to follow through on his intention to include coding and programming in the curriculum as a matter of urgency. This cannot be done, however, without a commitment of multi-annual funding, including that for computer hardware, connectivity and tuition. It should also be done in full consultation with national school teachers and boards of management. In the interim, as a gesture of his intent, I call on the Minister to provide funding for projects similar to that run in Belmullet on the western seaboard which could then be amalgamated in local national schools.

I have been a long-time admirer of Louise O’Keeffe. She is a brilliant woman and an example of how individuals can overcome adversity and the absolute weight of Governments and institutions in order to get recognition. It is very much welcome that she will come to the House to lead us and guide us on what needs to be done.

**Senator John Dolan:** As it does around this time every year, Social Justice Ireland launched its budget briefing document - Budget Choices 2017 - yesterday. I draw attention to one particular matter relating to disability. Social Justice Ireland has a practical proposal in its document in respect of the cost of the disability allowance. It is a well known fact that people with disabilities have extra but ordinary day-to-day living costs. The proposal is for a €20 per week allowance to begin the redress and compensation in this regard. There is no doubt that there are three things we can always say about people with disabilities. First, their incomes will drop and if it is not already the case, they and their families will go into poverty. Second, there is a loss of expectation for employment, activity and housing. There is also a loss of hope brought about by these circumstances. This is a practical measure and I call on the Leader to invite the Minister for Social Protection to the House to discuss the matter. This could put some valuable money into the hands of every person with a disability in every corner and parish of the country.

The programme for Government refers to a request for an Oireachtas all-party committee to develop a single long-term vision or plan for health care in the coming ten years. We have the Dáil committee sitting. When he was here, the Minister for Health expressed his interest in having participation by Members of this House. He noted the varying expertise and understanding of Members across the House. It is important that the flavour of expertise this House could bring to bear be represented on that committee in order to assist it, although I recognise that useful and serious work has already been done by the Members of the Dáil on the committee.

If possible, it would be timely in the autumn for the Tánaiste and Minister for Justice and Equality to come to the House to outline her strong commitment to and the measures that have been taken to ensure the ratification of the UN Convention on the Rights of Persons with Disabilities and the timelines associated therewith. This is something about which I am paranoid and, therefore, I would be grateful if the Tánaiste could come and assist us in this matter.

**Senator Kevin Humphreys:** I give notice to the Leader that I intend to propose an amendment to the Order of Business to have the Taoiseach come to the House, particularly if he cannot provide some positive news on the date and time of such a visit.

Since this new Seanad began meeting, we have been listening to references to new politics. We have also heard them in the Dáil. In every debate people refer to new politics. As yet, however, no one has been able to provide a definition of new politics or explain the theory of the language that underlies it. I am reminded of the use of terms such as “going forward” in the past. Everything was going forward but nothing was ever delivered. The latter is something

we remember from the period when Brian Cowen was Taoiseach. The language to which I refer is now being used all the time. In the light of new politics, we are not going to have a vote on the eighth amendment. In the light of new politics, we will adjourn for one year a decision on the school admissions Bill. In the light of new politics, we will delay bringing forward legislation on workers' rights. The phrase "new politics" is starting to become a dirty one because very little delivery is discernible and everything is kicked down the road. There is an onus on the Taoiseach to come into the House to explain exactly what he means by "new politics" or whether it is simply a gesture, with no theory or clear understanding as to exactly what he means by the term. I worry it is language without a plan. We heard the same thing in respect of the summer school, when he spoke about a referendum on unification, where it was words with no plan. Everybody is in favour of unification, but a plan must be put in place. Everybody is in favour of new politics, but one must understand what it is, what the theory is and how pragmatically new politics can be delivered in this House. Almost a month has passed since I requested that the Taoiseach come into the House. Unless the Leader has positive news in this regard, I intend to table an amendment to amend the Order of Business calling for the Taoiseach to come to the House today.

**An Cathaoirleach:** Does the Senator intend to propose the amendment? He must propose it now as he cannot decide to do so subsequent to the Leader's answer.

**Senator Kevin Humphreys:** I propose the amendment now that the Taoiseach be called to the House.

**An Cathaoirleach:** For what purpose?

**Senator Kevin Humphreys:** For the purpose of having him explain and define what he means by the term "new politics" in the context of the programme for Government.

**An Cathaoirleach:** It has been proposed.

**Senator Maria Byrne:** I wish to raise two matters, the first of which is the closure of Lowcostholidays. While it seems fine that people are being refunded, there are two elements in this regard. While there are those who booked their all-in package of flight and hotel accommodation, those who booked their own hotel accommodation are not entitled to anything. The legislation was enacted back in 1983, but it contains nothing to cover those who booked their accommodation directly through any of those companies. I ask the Leader to raise this matter with the relevant Minister because it must be reviewed. More than 15,000 people in Ireland have been affected by the Lowcostholidays fiasco, but more than half of them will not be entitled to anything because they booked their accommodation directly through online companies.

The second matter pertains to the threat of ash dieback disease which affects the making of hurleys. Everyone in Ireland is familiar with hurling, as all counties are involved in it, and it is great to see so many children and young people out playing it. It has been recorded that this disease has been discovered in trees in 19 counties in Ireland. It can be spread by someone walking through the forest or can be transmitted through the air. I ask the Leader to raise the matter with the Minister for Agriculture, Food and the Marine because it affects us all.

**Senator Robbie Gallagher:** I ask the Leader to bring the following matter to the attention of the Minister for Education and Skills. It was announced yesterday that coding was to be introduced in schools, which I certainly welcome as being positive news. However, I am concerned that it will raise expectations that may take some time to fulfil. The National Coun-

cil for Curriculum and Assessment will need time to develop a curriculum and will devise a means of integrating it with the existing subject areas. There was some talk about mathematics being the subject to carry this new coding subject, but I have my concerns about it. As a child who struggles with mathematics might automatically turn away from coding, this issue must be considered. One hears a lot about curriculum overload and no doubt it will be raised by teachers. Teachers themselves will also require training and there is a major issue in respect of IT infrastructure in schools because without the fundraising of local parents, we would be in dire straits in that regard. Despite the best intentions and ambitions of the schools and the pupils, teachers cannot achieve their aims because of lack of broadband connectivity and the desperate state of hardware in their schools. Only last month, schools received their USB data devices for each teacher, containing information on the new language curriculum for junior infants up to second class. The USB keys were accompanied by a letter stating the Department of Education and Skills was sending them by post because teachers could not download them via the Internet. This clearly demonstrates some of the issues we face with new digital skills. We certainly do not want to be left behind in terms of computer science literacy. They are key issues and key skills for the future. We must focus on rolling out coding across the education system without delay. There is much work to be done and some realism needs to be brought to it also. There are many issues that need to be addressed if this is going to be a success. Certainly, we all want it to be a success.

**Senator Máire Devine:** With Senator John Dolan, I raise the issue of the budget choices launched by Social Justice Ireland yesterday. It is hoped the report will be studied, listened to and acted on in all the deliberations as the Government prepare for budget 2017. Ireland faces major challenges. There are challenges that have been constant such as poverty, inequality and homelessness, but others will emerge and are emerging as a result of the Brexit vote. Social Justice Ireland is committed to a just society and recognises the need to invest in public services. The current investment is far below what is required for infrastructure and services if it is to be close to the EU average. For example, in the years of the downturn, the devastation wreaked across Europe led to cuts of 15% but across Ireland, the absolute devastation wreaked led to cuts of 39%. I have spoken to Social Justice Ireland and focus particularly on health care and disability services. My own area of Dublin South Central is above the national average in terms of the number of people with disabilities. Cutbacks from 2008 to 2014 are most adversely affecting people on low incomes. There are long waiting lists, increasing prescription charges, a change to the threshold on the drug repayment scheme and so on. I have listened to and support the proposals outlined in Social Justice Ireland's document. I would like to see the provision of additional support for older people to live at home and additional support services to meet the demographic pressures that are coming and will be more to the fore in the years to come. An additional €30 million has been suggested for disability services and €42 million has been suggested to improve mental health services and progress the implementation of A Vision for Change. I urge the relevant Minister and the Department of Health to consider Social Justice Ireland's prudent and independent proposals when drawing up budget 2017, with the overriding guiding principle of delivering a prosperous, cohesive and just society.

**Senator Ray Butler:** We talked this morning about child protection and child services. I raise the issue of the HSE dentist system for schools. I am sure many Senators here have had parents contact them, as I have, to discuss children with serious dental problems. They are assessed and placed on waiting lists for at least five to six years. From 2005 to 2010, things were going well with the Celtic tiger and people could borrow money from their local credit union or the banks to pay for braces and all the rest. We are talking about approximately €4,000 to

€5,000 for a set of braces for a young child and follow-on services. That cannot be done anymore. There has been no investment since 2009. Services have been closed. We have ended up with nearly a decade of underfunding in this system. As things get better, I call for the provision of funding in this area. I ask the Minister for Health, Deputy Simon Harris, to look at this issue as we approach budget time. These waiting lists cannot go on. There has been a decade of underfunding and we really need the system to come up to scratch. Young people and schoolchildren are suffering because of this issue.

**Senator Ivana Bacik:** I call on the Leader to arrange a debate when we return in September on foreign policy concerns in the light of the recent atrocity in Nice and the attempted coup in Turkey, details of which are only emerging.

*12 o'clock*

Everyone will agree that it is a matter of deep concern to see not only that a coup attempt got so far but also to see the repercussions and that President Erdoğan has now arrested and detained nearly 20,000 people. There is talk at a high level in the Turkish Government, it appears, of bringing back the death penalty. It is a matter of real concern for all of us across Europe and, in particular, other member states of the Council of Europe to see another member state speaking about a return of the death penalty. I would like to have the Minister for Foreign Affairs and Trade back in the House in September to debate matters of foreign policy, to debate, in particular, matters of security concerning the threat of international terrorism and the local threat we saw manifest even today in the news of the attack on a train in Germany. It would be useful to have that debate. At the same time, I ask for a debate with the Minister for Justice and Equality in order that she can update us on the position as regards the resettlement programme for Syrian refugees. I expressed concern last week that there had been so many delays in the resettlement of refugees here. It would be good to hear from the Minister precisely when the resettlement would take place.

I also second the motion proposed by Senator Kevin Humphreys.

**Senator Diarmuid Wilson:** I support Senator Mark Daly's call for Louise O'Keeffe to be invited to address the House. I will certainly be supporting any such request that comes before the Committee on Procedure and Privileges.

I also support Senator Kevin Humphreys in his call for the Taoiseach to come to the House. The Taoiseach should be obliged to come to this House at least three times a year to address us on various issues. In addition to what the Senator has outlined in his request, I would like the Taoiseach who is Minister for Defence to outline his policy on that Department.

**Senator Colm Burke:** I propose an amendment to the Order of Business that No. 15 be taken before No. 1. I am looking for consent to publish a Bill on missing persons.

Following on from what Senator John Dolan said about the Committee on the Future of Healthcare, the Leader and I met the Chairman of the committee and the matter needs to be progressed. I understand it has had four or five meetings. There are no Senators on it. Full clarification should be given as to whether it is a joint Oireachtas committee or a select committee and whether Senators are going to be excluded. It needs to be clarified before we break for the summer. I am not too sure what procedure we can adopt in this matter, but we should come to a conclusion, one way or the other, and it is wrong if Senators are being excluded from this very important issue. We are talking about a ten-year vision for health care for the country and here

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60 Members of the Oireachtas are not going to be participating. Will the Leader come back to us, perhaps tomorrow morning, to see what further progress can be made to bring the matter to a head? It should not be left without clear answers when we break at the end of this week.

**Senator Niall Ó Donnghaile:** Go raibh míle maith agat, a Cheann Comhairle, nó a Chathairligh. Bhí mé sa Teach mícheart ansin - gabh mo leithscéal.

I want to expand on and ask the Leader about some of what my group leader, Senator Rose Conway-Walsh, outlined in terms of the Taoiseach's remarks at the MacGill Summer School at the weekend. The remarks were very welcome. They were very positive and progressive in terms of what they could do for the people of the island. They followed on similar remarks made by the leader of the Fianna Fáil Party at the weekend. Particularly in this year, given that in the last few weeks and months we all stood at gravesides and monuments the length and breadth of the country, we should all be persuaders for Irish unity. I use that term in a very considered manner. We cannot operate in silos in respect of this very important matter. It is very encouraging to hear a broader consensus come to the fore on this issue of such importance. I want to expand on, reiterate and support the remarks by Senators Mark Daly and Kevin Humphreys about the need for the plan to be considered, nuanced and informed. There is deep concern in the North, particularly among the 56% of people who voted to remain, that we will be marooned with a Government that is austerity-driven in its ideology and which has punished ordinary citizens in the North in the past couple of years. We could invite the authors of the report modelling Irish unification to address this House and its Members. This is a comprehensive study carried out by very highly regarded economists from North America and Europe who have identified that in the first eight years of reunification there could be a €35.6 billion boost to all-island GDP. That is just in the first eight years. As someone who is in danger of being marooned with that London economy, that is very hopeful to me. Mar fhocal scoir, it is vital that we get the Taoiseach to come to the House. We are in the midst of considering these issues. It is a live matter that is affecting us all. It is important that we hear from the Taoiseach on that national dialogue. We have heard contributions on the need for a forum. Call it what one may, that is a very legitimate, important and practical call to make and the Taoiseach seems to be up for it. Everyone in this and the Lower House is up for it. Civic society, business, agriculture, the trade union movement and broader life in Ireland are all up for it. I hope the Leader can encourage the Taoiseach to come to the House to discuss the issue.

**Senator Paul Coghlan:** The Brexit vote could be the beginning of the end for the United Kingdom. Given Scotland's determination to remain in the European Union, an independent Scotland remains on the cards and I believe they will not be deterred. We are fortunate that the new Secretary of State for Northern Ireland, Mr. Brokenshire, has set his face against the hard Border between Dundalk and Derry. If we remain in a situation where the majority of people in Northern Ireland wish to remain part of the European Union, I believe very firmly that the Taoiseach was right to refer to the possibility of triggering the clause in the Good Friday Agreement where a Border poll could be taken, in due course. I accept that first we must await the outcome of Britain's exit negotiations. We have a vital interest in them, for many reasons. There will be further developments over the summer. Will the Leader arrange a debate on this issue in early course when we return in the autumn?

**Senator Aidan Davitt:** Something caught my eye yesterday and some of the other Senators have touched on it today. We are aware that we have an horrific record in relation to refugees, an issue we have debated on numerous occasions. I have witnessed this at first hand in Athlone and again in Mosney. I could only describe them as detention centres. I was concerned yester-

day to read that the Minister for Justice and Equality, Deputy Frances Fitzgerald, had been talking of deportation and other measures in relation to extremist sympathisers. She said she would make no apologies, on limited intelligence, which was not enough to bring a case to extradite. I know that a strong hand is needed with people who break the law. There is no doubt about that and no stronger supporter of that principle than me. However, I am concerned that the Minister would turn into a judge and jury. I would like her to clarify the Government's position. Perhaps she was misquoted, but I would be concerned if everything I read was correct.

**Senator Frank Feighan:** I second Senator Colm Burke's amendment to the Order of Business.

I agree with Senator Niall Ó Donnghaile in his remarks about the Taoiseach's comments on a united Ireland. I think he used the word "unity", which I very much welcome. From my work in the last ten years at the British-Irish Parliamentary Assembly and the Joint Oireachtas Committee on the Implementation of the Good Friday Agreement, I know that the idea of a united Ireland brings hope to many of us but to others it brings pain and fear. We need to come up with a new term such as unity, one Ireland or Ireland together. It is a term that should be inclusive. We need a debate because with Brexit, this is an interesting time. Previously, I have mentioned Ireland participating in, associating with or rejoining the Commonwealth. All of these should be in the ether because they all bring a future for the island of Ireland. I would like to see the people of Ireland and all traditions and all sides unite.

We saw what happened at the European championships, with Republic of Ireland and Northern Ireland supporters, with many others, behaving and bringing great joy. Yesterday in *The Irish Times*, a leading garda called for soccer banning orders. He is very worried about the level of violence at League of Ireland soccer matches. I raised this issue nine or ten years ago, when I saw Setanta Cup matches being played. I felt there could be a deterrent. There has been some violence but, thankfully, 99.5% of the games have been great. I have always felt this issue needs to be tackled. It is becoming more weaponised. There is now category A violence and a soccer match with a crowd of fewer than 5,000 people has the same number of security staff and gardaí as would be at an all-Ireland football final. Something is wrong and this needs to be dealt with. Last night I watched a local derby between Shamrock Rovers and Bohemians. I do not believe there were 4,000 or 5,000 people at the match, but one could see the number of gardaí who were present. It is not just in Dublin but also around the country. We need to bring in the relevant Minister and ask for football offences legislation and perhaps stadium banning orders. We need to give the Garda and football clubs all the protection we can.

**Senator Paul Gavan:** I refer to the ongoing crisis at University Hospital Limerick. This morning 32 patients are languishing on trolleys. Over a five-day period last week, we had 149 patients languishing on trolleys. When one walks into the emergency department, one will more than likely meet a sign stating there will be an eight-hour wait before seeing a doctor. Last week one man in the emergency department was asked to stand where his wife's trolley was while his wife was wheeled away for tests to keep the corridor clear for the trolley on its return. That is how ludicrous and awful the situation is. On the Friday night of the week before last, I drove my neighbour to the hospital. She got into a ward the following Wednesday night. It took five days of languishing in a corridor before someone who was extremely sick managed to get access to a ward. Members of SIPTU and the INMO have had enough and, quite rightly, are now balloting their members for industrial action, not because they want more money but because they are absolutely disgusted by the lack of action. The most ludicrous point of all this is when the unions speak to management, the local hospital management agrees with them that

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they need more staff, but there is a moratorium. We have a ludicrous situation where everyone agrees that the place is in crisis but nothing is being done. We know that the roots of the crisis lie with Fianna Fáil which closed emergency departments in Nenagh and Ennis without making adequate provision for enough resources in Dooradoyle in Limerick. We had five years of a Fine Gael and Labour Party Government, at the end of which things were worse than they ever were before. It is a litany of failure on behalf of all of the major political parties. It needs action and I ask the Minister for Health to come to the House as a matter of urgency to debate the issue. I know from my neighbours and friends that people in Limerick have had enough. People are frightened to have their relatives go into hospital. Imagine that - imagine being in fear of seeing one's loved ones going into hospital, but that is the reality in Limerick. It is at crisis level and I ask the Leader to ask the Minister for Health to come to the House urgently to discuss the issue.

**Senator Catherine Noone:** I am sure some Senators have heard of the new video game Pokémon GO. It is relatively new to me. It is sweeping the mobile gaming market in the United States and apparently has overtaken Twitter in the popularity stakes in some cases. What is different about this app is that contrary to most video games which encourage a sedentary lifestyle, this inspires teens to get out of the house and walk. The augmented reality game mixes the real world with the colourful world of Pokémon, bringing the creatures into towns and streets. Apparently this is having a ripple effect on health in the United States. It may be the novelty factor, but Pokémon GO seems to motivate young people, even those who have not been active for some time. There are cases in the United States of previously inactive people getting out and walking for miles to try to increase their Pokémon stash. Of course, there is a concern about young people not paying enough attention to safety, but I believe safety measures could be implemented. Pokémon GO is only available in the United States, Australia, New Zealand and Germany. As I have stressed in the House on numerous occasions, *ad nauseam*, Ireland is on course to become one of the fattest nations in the world by 2030 and we should do everything we can to remedy this trend. As such, in the upcoming budget, the Government, of which my party is a member, should support video gaming companies to a greater degree when they come up with innovative ways to get people moving. This may sound funny - I do not know an awful lot about video gaming as it was a friend of mine who brought the matter to my attention - but Ireland is already very fertile ground for gaming, from we make a lot of money. We speak about new politics. We should have innovative ways to deal with the problems we have. I hope the Government will be forward thinking when it comes to something like this in the upcoming budget.

**An Cathaoirleach:** Perhaps the Senator might recommend that Pokémon GO reach out to older people like me.

**Senator Catherine Noone:** You are all welcome to play.

**Senator James Reilly:** I welcome the news that we will have coding classes in primary schools. It is a very progressive move. There is also a proposal in the programme for Government for an ICT course to be on the leaving certificate curriculum. Plans are afoot to develop a coding curriculum and I call for it to be expedited. Already St. Joseph's secondary school in Rush has a coding class. Although it is not on any curriculum, more than 30 children, mainly girls, have taken it up. There is huge appetite and interest in it and I ask that it be expedited.

I echo Senator Colm Burke's concerns about the Committee on the Future of Healthcare regarding health services in the coming years and the effective exclusion of this House, one of the two Houses of the Oireachtas, from involvement in the process. It is a dangerous precedent

to exclude a House of the Oireachtas. I ask the Leader to call in the Chairman of the committee to explain her position to the Seanad and to do so as quickly as possible.

Many improvements have been made and as improvements continue to be made in services and with the progressive changes we have brought about in child care, paternity leave, marriage equality law, the children's rights referendum, as well as the ongoing improvements in the economy and the employment rate, the idea of a Border poll will become more and more attractive as we try to achieve our goal of making this country and island the best place in the world in which to raise a family, grow up and grow old with dignity. I have no doubt that we can achieve this goal if we continue to work together with our brothers and sisters north of the Border. The old adage will be proved to be true, as we do this, that we have nothing to fear but fear itself.

**Senator Michelle Mulherin:** I refer to the newly formed boundary commission which has been established in the light of the recent census results to look at the boundaries of Dáil constituencies. I understand it is envisioned that an additional Deputy will be required to match the increase in population. The commission was established by the Minister, Deputy Simon Coveney. The method used for arriving at the number and locations of Deputies is too crude at one Deputy per a maximum population of 30,000 citizens. This is not fair in certain constituencies and is leading to a democratic deficit. The geographical size of County Mayo, my constituency, is greater than all of Dublin's constituencies put together, yet we only have four Deputies. In Dublin North-Central, the quota is approximately 6,000, but it is 10,000 in County Mayo. This is repeated throughout the country. It is unfair and shows an ignorance of the time and requirements involved in representing people who live in dispersed rural communities. These factors are recognised in other jurisdictions. Under the system in the US Congress, for example, smaller states have the same number of representatives as larger states, regardless of population. There must be some equality or balance. Populations in rural areas are declining. The eight seats removed during the previous Dáil were from the western seaboard. The number of councillors has also decreased, yet the same areas must be covered and they are seeing the least amount of economic growth. There is a democratic deficit. We have poorer infrastructure and so on. The new commission is a way to address all of these issues. There is an issue with the Constitution, but giving proper democratic representation to every citizen as opposed to just those living in large urban centres is fundamental. Will the Leader speak to the Minister and ask that this serious issue be addressed?

**An Cathaoirleach:** The Senator's point is made.

**Senator Ned O'Sullivan:** One of the advantages of getting old is that one qualifies for free travel. I look forward to collecting my free travel pass next November. Free travel is available to everyone and a legacy of Charlie Haughey who was far-thinking on the issue. It has been brought to my attention that people who carry an Irish passport but do not reside in the country permanently do not qualify for the free travel pass. In particular, I have in mind members of religious orders who are working in the Third World, including Africa. When they return home on holiday, usually just once every three years, and try to catch up with family and go on retreat to their convents or chapels, they do not qualify. Of all people who should get some clap on the back from the State, it is these unsung heroes who do tremendous work abroad. When they return to Ireland, they should be considered for inclusion in the free travel scheme. Any emigrant over the age of 66 years who returns to the country for a break should be able to avail of this bounty. It is not means tested, with people entitled to it who are well able to afford stretch limousines if they want to. Why not extend the free travel scheme to specific persons on their return to the country? I ask the Leader to raise the matter with the Minister for Transport, Tour-

ism and Sport.

**Senator Paddy Burke:** By far the largest portion of tourists who visit Ireland come from Great Britain. What plans will the Department of Transport, Tourism and Sport and Fáilte Ireland put in place to counteract the weakening in the value of sterling in recent months? Regional airports such as in Knock, Kerry, Shannon, Waterford and Donegal, benefit from flights from the United Kingdom. This is particularly so in the case of Knock, with direct flights into the west from Scotland and England. The weakening of sterling will have a major effect on the number of tourists coming from the United Kingdom. What plans are being put in place to ensure we will continue getting the same great numbers from the United Kingdom instead of being at a disadvantage? Perhaps the House should debate the matter at an early stage. The tourism season will be well over when we return. Will the Leader bring this matter to the attention of the Minister and ask him to notify the House or us individually of what steps are being taken?

**Senator Neale Richmond:** Like many Senators in the wake of the Brexit referendum, I have been inundated with inquiries from Irish people abroad and many people living in Northern Ireland about the application process for Irish passports and trying to guarantee their EU rights. Much of this issue has been addressed. I commend the Minister for Foreign Affairs, Deputy Charles Flanagan, for accelerating the process and allocating more staff to meet demand, but I have also received a number of inquiries from British people who have been living in Ireland for many years and who believe their status is threatened by the United Kingdom's possible withdrawal from the European Union in the next two and a half years. Many of them have been living in Ireland for some time, are married to Irish citizens and entitled to apply for Irish citizenship, but they are finding the costs prohibitive. We have one of the costliest citizenship application processes in the European Union. Will the Leader invite the Tánaiste to come to the House to discuss whether she will review the process in view of the fact that the more than 300,000 British citizens living in Ireland have found themselves in a different situation?

**An Cathaoirleach:** I call Senator Martin Conway who should be brief, le do thoil.

**Senator Martin Conway:** I appreciate that. Will the Leader arrange for a debate early in the autumn on the National Ambulance Service? I do not know what protocols are in place governing the service or its relationship with the fire brigade. There are many anecdotes of ambulances having to travel hundreds of miles to respond to crises. Recently, an ambulance attending an emergency at the Cliffs of Moher was dispatched from Nenagh. That does not make sense. Whatever the national emergency protocols are, they are not working. Travelling from Nenagh to the Cliffs of Moher to attend an emergency is not acceptable. There must be a review. Ambulances must remain in their counties and deal with the emergencies therein. The ambulance was dispatched from Nenagh because none was available in County Clare at the time. I am aware of the challenges facing the paramedics and the ambulance service's lack of resources, but this issue must be addressed as a priority. Some €500 million extra is being made available to the health budget this year. I am sure that this amount will increase in 2017. We must have a root and branch review of the National Ambulance Service.

**Senator Jerry Buttimer:** I thank the 25 Senators who raised matters on the Order of Business. The main theme was Brexit. Senators Mark Daly, Rose Conway-Walsh, Niall Ó Donnghaile, Paul Coghlan, Frank Feighan, Neale Richmond and Paddy Burke raised matters relating to it and referred to the Taoiseach's remarks yesterday in Glenties. It is important that the House have a timely debate on the role of Senators in the country's future post-Brexit, Irish

reunification and the matters raised by the Taoiseach. His remarks were interesting in that he re-articulated his belief that there was a need for an all-Ireland forum to consider how to progress North-South relations. Those of us who are constitutional republicans welcome the fact that many others have followed us down the road to where we are today. It is important that the dialogue be given an all-Ireland context. I welcome the Taoiseach's remarks in that context. I remind the House that he has already met Chancellor Merkel and is meeting President Hollande on Thursday. He is also attending a meeting of the British-Irish Council in Cardiff this week. In addition, as leader of the Government, he is making the changes within the Department of the Taoiseach that he outlined last night. The Government intends to establish a new Cabinet sub-committee on Brexit which will be chaired by the Taoiseach. An integrated approach will be taken within the Department of the Taoiseach under the Secretary General of that Department. The Government will strengthen staffing in other key Departments to deal with the issue of Brexit. It is important for Members of this House to play a role in the future of the country on an all-Ireland basis. As many Senators have articulated, this issue needs to be addressed because it is very important for the economy, industries such as tourism and agriculture and the movement of people.

Senators Mark Daly and Diarmuid Wilson spoke about Louise O'Keeffe, whom we all admire and to whom we all owe a debt of gratitude. The Committee on Procedure and Privileges discusses and makes decisions on who to invite to the Seanad. I have no difficulty with anybody coming into the Chamber, but it is not my decision to make. It is important for Senator Mark Daly to recognise that the last Government created the Department of Children and Youth Affairs, which meant that for the first time, there was a Cabinet Minister with responsibility for children. It also enacted the Children First national guidance to protect the welfare of children, held a referendum on children's rights and established Tusla as a dedicated national child and family agency. It introduced a plethora of legislation, including the Child Care (Amendment) Act 2015, the Children First Act 2015, the Children (Amendment) Act 2015 and the Children and Family Relationships Act 2015. None of us wants to go down the road of what happened in the past. We all take the protection and security of children seriously. That is what the previous Government did and the Government will do likewise. It is important that we continue our work; we cannot become complacent. We need to resource child protection agencies and see a greater partnership between the HSE and Tusla at all levels. All Departments need to work together in a seamless way to protect children.

Senator John Dolan referred to the cost of paying disability allowance, which is a very important issue. He has made a good case in comparing the costs incurred by people with a disability who receive the allowance with those incurred by able-bodied people. It is clear that higher costs are incurred by people with a disability. The Senator, in his role with the Disability Federation of Ireland, has been a strong campaigner and advocate for changes to be made to the disability allowance regime to assist those who have to incur higher costs. It is an ongoing issue. I agree with the Senator that the Departments of Health and Social Protection need to adopt a more joined-up approach. I will certainly be happy to facilitate a debate on the matter in the House.

Senators Colm Burke, John Dolan and James Reilly spoke about the meeting of the committee on future health strategy which is under way. It is disappointing that the composition of the committee is not in keeping with the programme for Government, but it is not an Oireachtas committee. Senator Colm Burke and I met the Chairman and the clerk to the committee last week and the outcome of the meeting was disappointing from our perspective. There is a reluc-

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tance to appoint Members of this House to the committee. As Leader of the Seanad and a former Chairman of the Joint Committee on Health and Children, I do not see any reason Senators should be precluded from membership of this forum. I do not know why the terms of reference governing the composition of the committee cannot be changed, even at this stage. I will not say at this “late” stage because the committee is still agreeing its overall work scheme. The exclusion from a full participatory role in the committee of 60 Members of the Oireachtas is wrong. It has been outlined to us that our views will be sought in the form of a submission, but we will not be asked to participate. This is not new politics - it is bad politics. It is exclusionary rather than inclusive politics. I received a response when I wrote to the clerk to the committee on behalf of all of us which I can forward to Members after the Order of Business.

Senators Kevin Humphreys and Diarmuid Wilson referred to the request made by Senator Kevin Humphreys to bring the Taoiseach to the House. I assure the Senator that the Taoiseach is willing to come to the House not because he wants the Taoiseach to come but because the Taoiseach wants to do so. The Taoiseach is more than happy to attend and speak in the Upper House. It is my intention that the date in question will be 29 September. There will be a debate on a range of issues, including the post-Brexit environment, Ireland’s place in Europe, Ireland’s relationship with the United Kingdom following Brexit, the programme for Government and the impending budget to be announced in October. There is no need to divide the House on the issue because the Taoiseach has agreed to come. I share Senator Diarmuid Wilson’s view that it is important for the leader of the Government to come to the House at least once in each term. Other Taoisigh have been missing in action in the Seanad. I am happy that we will have the Taoiseach in the House on 29 September. I hope that will satisfy the Senators who have made proposals in that respect.

Senators Rose Conway-Walsh and James Reilly raised the issue of coding. The Minister for Education and Skills, Deputy Richard Bruton, has written to the National Council for Curriculum and Assessment to ask it to consider the introduction of the teaching of coding in primary schools. As a schoolteacher, this would be a brilliant act, especially in the light of the way the country has moved in terms of career development. It would be extraordinary to see it happen. Senator Rose Conway-Walsh referred to the success of Coder Dojo, which is an example of the benefits of teaching coding to young people. It changes their perspective and also gives them a balanced approach to education. I hope we can have a debate on the matter. We will support this movement in any way we can.

Senator Maria Byrne spoke about a company, LowCostHolidays, that has gone out of business. We will take up this very important and serious issue with the Minister in question. The bonding system that applies to travel companies needs to be changed. We need to address the issue of bed banks, especially in terms of how they can get and charge for them.

Senator Robbie Gallagher raised the issues of coding and broadband connectivity.

Senators Máire Devine and John Dolan highlighted the publication yesterday by Social Justice Ireland of a very interesting read. I hope the Ministers for Social Protection and Finance will consider the document as part of the Government’s approach to the budget to be announced in October. The Minister for Social Protection, Deputy Leo Varadkar, was here last week, but we might invite him back in advance of the announcement of the budget.

Senator Ray Butler spoke about the dental scheme. I hope the Ministers, Deputies Simon Harris, Leo Varadkar and Michael Noonan, can form a plan on dental care for young people.

The removal of the PRSI scheme for young people, in particular, was one of the big mistakes made in the last two Dáileanna and Seanaid. The effects can be seen in the cost of dental work, the waiting times for orthodontic treatment and the bad state of repair of the nation's dental health.

Senator Ivana Bacik called for a debate with the Minister for Justice and Equality, Deputy Frances Fitzgerald, on the issue of Syrian refugees. As the Senator knows, the Minister is committed to taking in more refugees. She has established a task force on refugee protection. I would be happy to have her come to the House.

I agree with Senator Ivana Bacik that any regime or government that contemplates using the death penalty should not be supported. I certainly hope the Minister for Foreign Affairs and Trade will take up the issue on our behalf. Proposing to use the death penalty sends the wrong message and is the wrong thing to do.

I will be happy to accept Senator Colm Burke's amendment to the Order of Business on the missing persons Bill.

Senator Aidan Davitt also raised the issue of refugees. I agree with him that there is a need to have an integration policy. I do not think the Minister, Deputy Frances Fitzgerald, said or meant what the Senator might have thought she had said. Her policy on refugees has been one of positivity. She has been strong on the issue of national security and protecting the Border. I will be happy to pass on the Senator's remarks and invite the Minister to come to the House after the summer recess.

Senator Frank Feighan spoke about soccer hooliganism, which is a worry. I hope we will see the FAI working with all sports organisations to eliminate all forms of discriminatory behaviour in sports grounds.

I will note Senator Paul Gavan's remarks about University Hospital Limerick and ask the Minister for Health to liaise with him on the matter.

Senator Catherine Noone raised the issue of Pokémon GO. I certainly hope none of us will walk into the table or walls here. We note that Pokémon GO is an app. The Senator is right when she says we must promote the gaming industry, which is a fertile ground for us. We did this successfully when the Minister, Deputy Richard Bruton, was responsible for job creation. Blizzard Entertainment in my city of Cork is promoting gaming and employing people.

**Senator Niall Ó Donnghaile:** Are there some in the Chamber?

**Senator Jerry Buttimer:** I hope not, but if there are, I hope they are not moving towards me.

Senator Michelle Mulherin referred to the constituency boundaries commission. It is an independent group chaired by Mr. Justice Haughton. Members who have issues with the commission should communicate directly with it. I will, however, be happy to invite the relevant Minister to come to the House to debate the matter which we will debate when the Bill is brought before the House.

Senator Ned O'Sullivan raised an important point about the free travel pass for people who were Irish citizens but who no longer lived here. He mentioned, in particular, missionaries abroad. I will be happy to arrange a debate on the matter.

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Senator Paddy Burke referred to tourism and Brexit. I will be happy to invite the Minister of State, Deputy Patrick O'Donovan, or the Minister, Deputy Shane Ross, to come to the House to debate the matter.

Senator Neale Richmond raised the issue of passports and the cost of admission to citizenship. I will be happy to invite the Minister for Justice and Equality, Deputy Frances Fitzgerald, to come to the House to discuss it.

Senator Martin Conway raised the important issue of the ambulance service. There has been a lengthy debate on its role and importance. Changes have been made and there has been investment in the service, but the Senator raised an important point to which we can refer in the autumn.

**An Cathaoirleach:** Senator Kevin Humphreys has proposed an amendment to the Order of Business: "That the Taoiseach be invited to come to the House to discuss new politics and the programme for Government." Is the amendment being pressed?

**Senator Kevin Humphreys:** The Leader has given a commitment that the Taoiseach will come to the House on 29 September. Undoubtedly, it was due to me pressing the matter for the past four weeks. One can count on two fingers the number of times the Taoiseach has come to the House in the past five years.

**An Cathaoirleach:** We do not wish to reopen the debate.

**Senator Kevin Humphreys:** I thank Senator Diarmuid Wilson for his support. I support his suggestion that the Taoiseach schedule three visits to this House every year. That might solve Fine Gael's problem with the Taoiseach's exit. If he had to come to the House three times every year, he might resolve that issue.

**An Cathaoirleach:** We will not reopen the debate on it.

**Senator Kevin Humphreys:** I withdraw the amendment.

**An Cathaoirleach:** Senator Colm Burke has proposed an amendment to the Order of Business: "That No. 15, Civil Law (Missing Persons) Bill 2016 - First Stage, be taken before No. 1." I understand the Leader is prepared to accept the amendment. Is it agreed to? Agreed.

Order of Business, as amended, agreed to.

### **Civil Law (Missing Persons) Bill 2016: First Stage**

**Senator Colm Burke:** I move:

That leave be granted to introduce a Bill entitled an Act to provide for the effects in civil law of persons who are missing, including arrangements for interim management of the missing person's property, and to provide for the civil status of the missing person where the circumstances of their absence leads to a presumption of death; and to provide for related matters.

**Senator Gabrielle McFadden:** I second the proposal.

Question put and agreed to.

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

**Senator Colm Burke:** Next Tuesday.

**An Cathaoirleach:** Is that agreed? Agreed.

Second Stage ordered for Tuesday, 26 July 2016.

### **Order of Business: Motion**

**Senator Jerry Buttimer:** I move:

That the Leader of the House be called to reply to the Order of Business no later than 55 minutes after the proposal of the Order of Business; that the contribution of each group leader shall not exceed three minutes; the contribution of every other Senator shall not exceed two minutes; and the reply of the Leader of the House shall not exceed ten minutes.

Question put and agreed to.

### **Standing Order 57: Motion**

**Senator Jerry Buttimer:** I move:

That Standing Order 57 be amended by the addition of the following paragraph:

(2) On the recommendation of the Committee on Procedure and Privileges and with the leave of the House, representatives and persons in public and civic life may attend and be heard in the Seanad.

Question put and agreed to.

### **Paternity Leave and Benefit Bill 2016: Committee and Remaining Stages**

Sections 1 to 37, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank Senators for their support for and contributions to the Bill the last day and for supporting it today. I emphasise its importance in the context of the commitment of the Government and

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all Members to give children the best possible start in life and further equality and recognise the different types of family in Ireland.

Two issues arose. Senator Maria Byrne asked if it was proposed to include in the Bill a provision to allow a father to take time off to accompany the partner or surrogate mother to antenatal appointments, as is the case in the United Kingdom. The Bill will not provide for time off to accompany an expectant mother to antenatal appointments. The objective of the Bill was always to meet the Government's commitment in the last budget to provide for two weeks' paternity leave and benefit. Changes to existing family leave legislation would be well outside the scope of the Bill and would have required Government decisions for which there was simply no time, if the deadline of September was to be met. The proposed family leave Bill which the Government has approved and is being drafted will address all existing family leave legislation such as parental leave, carer's leave, maternity leave and adoptive leave and consolidate the legislation in one Act.

The Senator also asked if the individual taking paternity leave could be someone other than the biological father. I am very happy to be able to confirm that this is the case. The Bill creates an entitlement to paternity leave for a relevant parent who, in addition to being the father of the child, is also defined as the spouse, civil partner or cohabitant, as the case may be, of the mother of the child and, in the case of a child who is being adopted, the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter, or a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of Part 2 of that Act. I hope my answer will satisfy the Senator.

I thank all Senators for their contributions the last day, their co-operation and constructive comments. I also thank the officials from both Departments who have worked very hard to bring the Bill to where it is today. This is groundbreaking legislation and we want to continue this equality work.

**An Leas-Chathaoirleach:** I thank the Minister of State.

**Senator Diarmuid Wilson:** On behalf of the Fianna Fáil Party, I welcome the passing of the Bill. It is long overdue and we look forward to its speedy implementation.

**Senator Martin Conway:** I welcome the Minister of State and thank him for his successful stewardship of this important and ground-breaking legislation that will lead to the incremental equalisation of all citizens. That is what we are all here to achieve and some day we will have a society where everybody is equal. This legislation empowers the fathers of young children and ensures both parents will play an equal role in the upbringing of children. Senator Tim Lombard has notified us that he will become the father of twins in a few weeks' time. I am not sure how paternity leave works for Members of the Oireachtas, but I am sure he will take some leave.

I thank Senators Diarmuid Wilson, Niall Ó Donnghaile and Lorraine Clifford-Lee for their co-operation on the Bill. When something is the right thing to do, it is great when this House comes together and supports it because, ultimately, everyone is in politics to do the right thing. We do not always agree on what is the right thing to do in this House. There has been a precedent - certainly for the five years prior to this legislation - that when something is fundamentally the right thing to do, this House usually comes together and sends a clear message that

this is what Seanad Éireann believes in, wants and would like to happen in the future. I hope we will see the terms and conditions of this Bill used by fathers. I also hope that men will be supported by companies and that bosses will encourage them not to be afraid to look for this leave because the traditional ways could easily kick in and prevent people from availing of this leave. I sincerely hope society has matured sufficiently that this will cost more than €20 million because I hope a lot more people will take advantage of this leave. Perhaps the terms and conditions might be extended and improved in the years to come. It is a good day for dads and expectant dads.

**Senator Niall Ó Donnghaile:** I commend the Minister of State and the Bill. I wish the legislation every success. We have had a positive and an informative series of contributions on it. It is progress and a step forward and I hope the provision will be utilised. This is a cross-cutting Bill. At its heart are the rights of a particular child to have time with and the benefit of having his or her father for the developmental stage which is a critical period in the life of a child, as research has shown. The legislation also enshrines the rights of the father in question. It is important that we send a clear message from this Chamber, as this Bill progresses, to employers that at the heart of this legislation are the rights and entitlements of the worker and that regardless of one's position, one has the right afforded to him to spend time with his child.

Again, I welcome this positive legislation. In terms of my previous contribution and without taking anything away from the Minister of State, his officials or the work that has been done on this legislation, I believe we can do more. I take heart from the fact the Minister of State has acknowledged this. Go n-éirí leis an reachtaíocht seo agus go n-éirí an t-ádh leis an Aire Stáit ar an ábhar seo.

**Senator Alice-Mary Higgins:** On behalf of the Civil Engagement group, I commend the Minister of State and the Bill which is excellent. It is particularly gratifying as this is an area in which I worked previously with the National Women's Council of Ireland, in my former role campaigning with Start Strong and ICTU in trying to drive this forward. There was positive engagement by the Government on the issue. We had very constructive engagement.

The Bill is an important step forward in valuing care, recognising care as the lifeblood of society and addressing the balance of care between parents to recognise the role of fathers and other partners in caring and the relationship with their children, on which the legislation places a real, symbolic and concrete value.

I commend some of the choices made. It is excellent that paternity leave is a stand-alone right and separate from maternity leave. It is a right that will be held by fathers and partners. That was the right decision. I also commend the fact that the legislation extends to people in same-sex partnerships and same-sex marriages, which is very important.

I have a small concern, but it is one we can address constructively in the future. Paternity leave can be taken at quite a late stage. I am concerned about that, given that the original purpose of the legislation was for paternity leave to be taken concurrently with maternity leave in order to allow parents to simultaneously bond with their new child and spend time caring for their child. We must monitor that it does not become the case that paternity leave is always taken subsequently. I know that is a capacity within the Bill, but I believe that function rightly belongs to paid parental leave. I have no doubt that the Minister of State will drive forward progress on paid parental leave as the next step in that recognition of care within society.

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I urge positive engagement by all parties within society with the Bill. I urge employers to engage constructively and positively to see this as a way of valuing their employees and recognising them as whole people with full lives. I also urge that we have an awareness campaign to ensure people avail of paternity leave. Perhaps the Minister of State might speak to the Department of Social Protection and other Departments about an awareness campaign.

I commend the Bill. It is a symbolic and important step forward. We are happy to support the legislation.

**Senator Ivana Bacik:** I welcome the Minister of State. On behalf of the Labour Party group, I welcome the passage of this historic Bill. It was an initiative of the previous Government and first proposed by the then Tánaiste and Minister for Social Protection, Deputy Joan Burton.

*1 o'clock*

We have all been united in our support. It is long overdue, but it is good to see its speedy passage through the Seanad and we all look forward to its speedy implementation. I know that it requires a commencement order, but we can anticipate that it will be put in place swiftly to enable prospective fathers to avail of a new entitlement without further delay.

This is an important Bill in terms of gender equality. It will be the first time we will see specific recognition of fathers in the workplace, which is progressive. Significantly, it is also progressive that it applies to same sex married as well as opposite sex married couples, which is welcome. It is very important for women because it means that child care will no longer be seen as primarily or exclusively a women's issue. Perhaps most importantly, as the Minister of State said, it is also significant for children's rights because it will ensure all children will get the best possible start in life by ensuring their fathers will have rights and entitlements to leave at the time of their birth. I know that many prospective fathers are eagerly anticipating implementation of the legislation, as I know we all are.

Question put and agreed to.

### **Commission of Investigation (Irish Bank Resolution Corporation) Bill 2016: Second Stage**

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

**Minister of State at the Department of Justice and Equality (Deputy David Stanton) (Deputy David Stanton):** As Members of the House are aware, the Bill is being brought forward to give additional powers to the commission of investigation into the Irish Bank Resolution Corporation. These provisions are necessary, given the nature of the investigation involved, to ensure the commission can effectively perform its functions. I am presenting the Bill on behalf of the Tánaiste and Minister for Justice and Equality who has responsibility for the Commissions of Investigation Act 2004, under which the IBRC commission of investigation was established. I reiterate that the Government shares with the rest of the House a desire to ensure there will be an effective, efficient and timely investigation into the issues of significant public concern which have been raised in relation to IBRC. This shared determination across the Oireachtas has underpinned the extensive consultation at all stages with the Opposition,

initially by the Minister for Finance and subsequently by the Taoiseach.

Before I outline the provisions of the Bill, I would like to set out the background to the commission of investigation and also mention some of the issues raised in the determinations and interim reports of the commission which have given rise to the provisions being considered.

The commission of investigation into certain transactions conducted by the Irish Bank Resolution Corporation was established in June 2015 following the approval of a draft order by both Houses of the Oireachtas. The commission is charged with investigating matters which are considered by the Government and affirmed by the Houses to be of significant public concern in respect of IBRC and making any report required under the Commissions of Investigation Act 2004 on its investigation. In accordance with its terms of reference, the commission is required to investigate certain transactions, activities and management decisions which occurred at IBRC between 21 January 2009, being the date of nationalisation of IBRC, and 7 February 2013, being the date of appointment of the special liquidators to IBRC, and which either resulted in a capital loss to IBRC of at least €10 million during that period, whether by consequence of a single transaction or a series of transactions relating to the same borrower or entities controlled by the same borrower, or are specifically identified by the commission as giving rise or likely to give rise to potential public concern about the ultimate returns to the taxpayer.

In November 2015 the sole member of the commission submitted an interim report. The report sets out in detail the substantial work undertaken by the commission up to that point and the outcome of the interaction between it and the special liquidators, the Department of Finance, the directors of IBRC, the Central Bank of Ireland and the Irish Stock Exchange. It is evident from the interactions, as detailed in the report, that a number of significant issues arose in the course of the commission's work, in particular issues regarding the ability of the commission to obtain and admit certain information and documents into evidence. In the light of these concerns, the Taoiseach engaged with the leaders and representatives of the Opposition. On behalf of the Taoiseach and the Tánaiste, I thank those Members for their observations and contributions during that consultation process, on foot of which a legislative solution was proposed. It was agreed, again with members of the Opposition, to further consult the sole member of the commission on the proposed legislative response. Following these consultations, the Taoiseach and the Opposition agreed on 2 June to proceed with the drafting of urgent legislation - the Bill before the House - to address the matters raised by the commission.

As I said, the first interim report of the commission from November 2015 outlined a number of significant issues which had arisen in the course of the commission's work, including its view that the issue of confidentiality precluded it from admitting certain documents into evidence; its view that the issue of legal professional privilege precluded it from admitting certain documents into evidence; its view that a duty of professional secrecy under section 118 of the Companies Act 1990 precluded it from receiving certain documents held by the Irish Stock Exchange; and the need to address matters relating to potential conflicts of interest and the management of the workload of the commission. These are all issues which are being addressed, to the greatest extent possible, in the Bill. As I said, there has been close consultation with the commission in the development of these provisions. The approach adopted in the Bill is to introduce bespoke legislation which effectively applies the Commissions of Investigation Act 2004 with specific provisions relating to the IBRC commission of investigation.

The Bill contains nine sections, of which sections 2 to 4, inclusive, 6 and 7 provide for additional powers to be assigned to the IBRC commission of investigation which were identified as

lacking under the Commissions of Investigation Act 2004 and consequently impeded the commission in performing its functions under the Act. The investigation into the transactions and other acts undertaken by IBRC during the specified period is of a nature which warrants these additional powers being given to the commission. Therefore, all of the provisions of the Bill provide for the IBRC commission of investigation solely and do not extend or in any way alter the application of the 2004 Act to other commissions of investigation, ongoing or otherwise. Sections 5 and 8 make provision to assist the management of the workload of the commission and ensure potential conflicts of interest are avoided.

Section 2 addresses certain powers of the commission. Subsection (1) confirms that the commission may make such orders and determinations and give such directions as are necessary for the performance of its functions. For that purpose the commission shall have all such powers, rights and privileges as are vested in the High Court or a judge of that court. The need for such an amendment is set out in the determinations published by the commission - for instance, sections 7.90 to 7.94 of determination 1. A similar provision is also available to tribunals of inquiry under the Tribunals of Inquiry (Evidence) Act 1921, as amended. One issue which arose during consultations and the drafting of the Bill is the extent to which this would draw the commission closer to the tribunals of inquiry model. However, the commission format remains distinct in terms of its regular review and reporting back to the Government.

Subsection (2) addresses the finding of the commission of investigation set out in its determinations and chapter 6 of the first interim report to the effect that the commission lacked the necessary statutory powers under the Commissions of Investigation Act 2004 to engage in a balancing of interests which may trigger the public interest exception to what is otherwise a duty of confidentiality. This arose as the relevant section of the 2004 Act - section 21 - expressly stated nothing in that Act “shall compel any person to disclose information or documents over which a duty of confidentiality is asserted and found by the Commission to apply”. Subsection (2), therefore, confirms that the commission may admit documents in relation to which a duty of confidentiality is claimed.

Subsection (2)(b) refers to Article 27 of the EU market abuse regulation. Article 27 provides for the non-disclosure, on grounds of professional secrecy, of information received pursuant to that regulation. This would apply to information received by the Irish Stock Exchange and is similar to the obligation in respect of professional secrecy under section 118 of the Companies Act 1990 and which is to be disapplied in respect of the disclosure of information by the Irish Stock Exchange under section 7 of the Bill. The sole member of the commission has confirmed that there may be circumstances where he may request information which may fall under the provisions of the EU regulation. Again, I reiterate that these provisions are introduced solely for the purpose of this investigation and the particular circumstances identified by the commission. Without the introduction of these provisions, the commission is clear that its ability to carry out its work would be severely limited.

A definition of “document” is introduced in section 2(3) so as to include tapes, discs and sound recordings, as well as written material. Again, this is to ensure the commission will have access to all information needed to effectively conduct the investigation.

Sections 3 and 4 are introduced to ensure the commission may seek the directions of the High Court or refer any question of law to that court on the performance of its functions. It is clear from the determinations published by the commission that it had considered seeking the directions of the courts on certain matters but that the 2004 Act does not provide any mecha-

nism for a commission to seek such directions. Sections 3 and 4 make the necessary provisions.

Section 5 is an important section and addresses two concerns identified by the commission. The first relates to the efficient management of the workload of the commission. As the House is aware, one aspect of the terms of reference for this commission is the investigation of transactions during the relevant period which involved capital losses to IBRC of more than €10 million. As noted in the interim report, 38 such transactions have been identified by the special liquidators to IBRC. Effectively, this would involve up to 38 investigations. I understand it has been agreed in consultation with the Opposition that the terms of reference for the commission will be amended so as to adopt a modular approach to these investigations. However, in the light of the potential for a large number of investigations, the commission has recommended - it certainly appears prudent - the appointment of additional members to it. While the appointment of more than one member to the commission is possible under the 2004 Act, the Act does not permit those members to operate in divisions or panels; rather, the members operate together as a single commission. Therefore, this section of the Bill proposes that where an additional member or members are appointed to the commission, they operate in divisions and, importantly, that the report and findings of any single division be a report and findings of the commission as a whole.

While it is not intended to appoint an additional member at this stage, this provision recognises and responds to the range of transactions potentially to be investigated by the commission. Permitting it to sit in divisions will also mean that the concerns identified by it in its first interim report about a possible conflict of interest between a member of the commission in relation to any particular transaction can be avoided by allowing that transaction to be investigated without the involvement of that member, should the need arise.

Section 6 addresses the disclosure of information by the special liquidators to IBRC to the commission of investigation. Determination 1 of the commission addresses the assertions of a duty of confidentiality and legal professional privilege which have been asserted by the special liquidators and which the commission has found to apply. The issues regarding the duty of confidentiality have been addressed through section 2 of the Bill, about which I have spoken. However, in its determination, the commission further found that it had no power under the 2004 Act to admit into evidence documents over which a claim of legal professional privilege was asserted and found to apply. While it is understood that the special liquidators offered a limited waiver of legal privilege for certain transactions to the commission, nonetheless the commission considered that it could not proceed further or admit into evidence such documents.

It is clear from the commission's decision on legal advice privilege set out in determination 1 that the commission was only seeking to obtain those documents that the directors of IBRC had received in the past, which relate to legal advice they may have received on the write-offs of certain loans by IBRC and are the subject of the current investigation. While the special liquidators were willing to disclose the documents to the commission for the purpose of the investigation, they did not consent to the documents being provided for any third party, although the special liquidators agreed to consider waiving privilege on a case by case basis. The inability to forward such documents to the former directors of IBRC would, in the view of the commission, deprive them of their right to fair procedures and respond to the commission in a meaningful way.

Section 6 addresses the concerns raised by the commission. First, subsection (1) introduces a general requirement on the special liquidators to comply with all directions by the commis-

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sion under the 2004 Act. With respect to the assertion of legal privilege by the special liquidators in respect of documents previously received by the directors of IBRC, subsection (2) will amend the Irish Bank Resolution Corporation Act 2013 to insert a new provision into section 9 of that Act.

Section 9 provides for the Minister for Finance to issue instructions and directions to the special liquidators and the new subsection (2A) to be inserted by the Bill will provide that the Minister may, for the purpose of enabling the commission of investigation to perform its functions, give a direction to the special liquidator to do or refrain from doing a specified act. This may include a direction from the Minister to the special liquidators to waive legal professional privilege. There is no obligation on the Minister to issue such a direction and it will only arise where the commission requests the Minister to do so and informs the Minister, in writing, that the direction is necessary to enable the commission to perform its functions and it is in the public interest to do so. The basis for issuing such a direction would be the connection to the purposes of the IBRC Act, as set out under section 3 of that Act and which, I remind the House, include “to protect the interests of the taxpayer”.

Section 7 will disapply section 118 of the Companies Act 1990 to enable the Irish Stock Exchange to provide confidential information for the IBRC commission which may admit it into evidence. Determination 3 of the commission, published in April, concluded that certain documents sought from the Stock Exchange were confidential pursuant to section 118 which provides for professional secrecy in respect of documents obtained by the Stock Exchange in pursuance of its functions under Part V of the 1990 Act in relation to insider dealing. As this is effectively a statutory duty of confidentiality, section 7 of the Bill will disapply it in respect of the disclosure of information to the commission.

In terms of the substantive provisions of the Bill, section 8 will amend the Commissions of Investigation Act 2004 but only in so far as it applies to the IBRC commission of investigation. Paragraph (a) amends the definition of “document” under the 2004 Act in order that it replicates the definition under section 2 of this Bill. Paragraph (b) amends section 34 of the 2004 Act, again only in so far as it applies to the IBRC commission.

Under section 34, a draft of any report by a commission of investigation must be distributed, in advance of submission to the specified Minister, to any person who is identified or identifiable in that report. The provision in section 8(b) will limit the distribution of the report to persons in respect of whom there is an adverse finding. This has been specifically requested by the commission to reduce the level of distribution which would otherwise be required on the basis that there is a strong likelihood of many persons being identified in the report but in respect of whom there would be no adverse finding.

Section 9 deals with the commencement of the legislation. Senators will agree that although this is not a long Bill, it will provide significant additional powers for the commission of investigation into IBRC. Given the conclusions and recommendations reached by the commission in the determinations and interim reports published to date and following consultation with the Opposition and the commission of investigation during the drafting of the Bill, all of these provisions are proposed to ensure the task set by the House in June 2015 will be conducted as effectively as possible.

I remind Senators that the very significant public concerns about certain transactions carried out by IBRC which were recognised and acknowledged by this House must be addressed in a

comprehensive manner.

I would like to return to a matter I mentioned mentioned. Given the number of transactions undertaken by IBRC which have been identified and involve losses of greater than €10 million, I know that amended terms of reference are being brought forward which propose a modular approach to the investigation with a focus in the first phase on the Siteserv transaction, being an issue of significant public concern raised in the House. This is a pragmatic approach which will allow the commission to focus its efforts in the first phase. A draft order with the revised terms of reference will be brought before the Houses later this week for approval. I also understand that, as requested by the commission under section 6(6) of the 2004 Act, the Taoiseach has recently agreed to extend the timeframe for the commission until the end of October 2016. This will allow the commission to continue its preparatory work while the legislation is being enacted and the terms of reference amended as I have outlined.

I thank the leaders and members of the Opposition for their contributions in reaching a solution to the issues raised by the commission which would, if unresolved, undermine the ability of the commission to reach findings in the investigations involved. I look forward to hearing the contributions of Members.

**Senator Diarmuid Wilson:** I welcome the Minister of State. The Fianna Fáil Party supports the Bill which implements a series of specific legislative recommendations made by the commission of investigation into IBRC. As the Minister of State indicated, the commission has encountered issues with legal and professional confidentiality which have impeded the completion of its work. The Bill explicitly addresses these barriers and will enable the commission to issue a report by the already delayed October 2016 deadline.

The commission of investigation into IBRC was established in July 2015 following continuous calls by Fianna Fáil and other Opposition parties to uncover suspect actions surrounding the sale of Siteserv. The commission encountered fundamental legal barriers to successfully completing its work. Issues around legal privilege, professional secrecy, confidentiality and conflicts of interests were highlighted by the commission. As I stated, the Bill explicitly and solely addresses these issues which should have been addressed when the commission of investigation was established, rather than during its work.

The Government initially vigorously resisted establishing a commission of investigation but retreated in the face of concerted public and political opposition. Fianna Fáil stated from the outset that the use of the Commission of Investigation Act 2004 would be necessary on account of a number of dubious activities around the Siteserv sale. The Government's haphazard reaction was to grudgingly establish separate inquiries before finally conceding that it was necessary to use the Commission of Investigation Act.

It is important to briefly outline the reasons for the establishment of a commission of investigation into IBRC. Siteserv was sold by IBRC to a Denis O'Brien owned company at a loss to the State of €119 million. This loss was further reflected in other sales by IBRC. The commission must question and address the following questions arising from the Siteserv transaction. Why was there a surge in share dealing activity in Siteserv prior to its sale? Why were shareholders in Siteserv paid €5 million for an effectively insolvent company? Why were other bidders apparently excluded from the sale process? Was the Department of Finance kept fully informed of the sale process and what actions did departmental officials take on foot of concerns expressed about that process? Why did the Minister for Finance, Deputy Michael Noonan, not

provide vital information in response to parliamentary questions tabled in the Dáil? This series of questions needs to be fully investigated and answered by the commission of investigation. I wish the Bill a speedy passage through the House because it is important that the commission of investigation report without further delay.

**Senator Michael McDowell:** I support the Bill because the Cregan commission needs all necessary powers to discharge its functions. On the confidentiality issue raised by section 21 of the legislation which I put before the Houses as Minister for Justice, Equality and Law Reform, it has always been a mystery in my mind as to when an amendment was made to the section extending the confidentiality rule to virtually every transaction before a commission. I have never been able to solve this mystery and still ponder why it is the case.

As Senator Diarmuid Wilson stated, the commission of investigation arises mainly from the Siteserv controversy. It is notable that on 25 April 2015 the former chairman of IBRC stated the board had rejected a Department of Finance proposal to appoint a senior civil servant to the board on the basis that such an appointment would be unsuitable. In the same article in *The Irish Times*, the former chairman stated a Mr. Woodhouse had been kept out of discussions on Siteserv because he had personally handled Denis O'Brien's relationship with IBRC. He stated a different executive in IBRC, Mr. Tom Hunersen, had handled the Siteserv transaction. This is worrying because three years earlier a posting appeared on the *broadsheet.ie* website suggesting Mr. Aynsley, Mr. Hunersen and Mr. O'Brien were socialising together at the time when the transaction in case was taking place. It is also worrying that Mr. O'Brien was reported in 2014 by *The Irish Times* as having made a major investment in a Massachusetts-based IT firm in which Mr. Hunersen was one of the moving parties. The former chairman of the IBRC claimed Mr. Woodhouse had stepped aside from this transaction. He seems to have re-emerged recently in the context of the story in *The Irish Times* that many Members of this House read last week. Again, the question arises as to whether there is a connection between him and Mr. O'Brien.

A more fundamental question arises as to who is organising the campaign of intelligence-gathering of Mr. Hollingsworth, the so-called journalist engaged in coming to Members of this House, among others, and passing himself off as one seeking to identify the source of leaks about Mr. O'Brien's dealings with IBRC. These are very serious issues.

This matter is particularly relevant because, according to the story in *The Irish Times*, a major British security firm was the recipient of the material collected by Mr. Hollingsworth in Dublin. We heard later, according to evidence given in the High Court, that a USB key appeared on the desk of Mr. O'Brien and that he, for the first time, discovered the material that Mr. Hollingsworth was privy to in Dublin.

The use of an English security firm in this respect is not a new phenomenon in Ireland. We should remember also that there was elaborate industrial espionage and surveillance in the context of the takeover of the Independent News & Media group at the time between the O'Reilly interests and the O'Brien interests, if I may use that term. In that case, newspaper reports indicated that 11 operatives operating from a Dublin hotel were engaged in fairly extensive surveillance of the then managing director of Independent News & Media and that it was eventually determined that an English espionage firm or intelligence-gathering firm called Esoteric lay behind that. Surprisingly, Independent News & Media, which later came under the control of Mr. O'Brien, largely speaking, has been unable to work out who commissioned that investigation.

I am also worried in another respect. It was reported in the media that Irish Water had con-

cluded an extensive contract with a company in the Isle of Man chaired by Mr. Leslie Buckley and in which Mr. Denis O'Brien was a large investor. He is described in its publicity material as a leading Irish entrepreneur. The function of that company is to advise Irish Water against the hacking of its sites. It appears the main business of this company in the Isle of Man, which is owned by Mr. O'Brien and chaired by Mr. Buckley, an associate of Mr. O'Brien, concerns computer security and countermeasures against computer hacking. Although no particular figure was put on the computer security services of Irish Water, it is interesting that it was suggested in the media at the time that, over five years, €1.2 million was spent on this kind of activity on the part of Irish Water. One must bear in mind also that at least one of the newspapers controlled by Mr. O'Brien has, since the emergence of the dispute about water charges and the legislation we considered in this House some days ago, run a fairly heavy campaign, with many editorials and articles, on the subject of Irish Water. This is a serious matter.

I will finish on two points. Last week in a different context, although Mr. O'Brien had a walk-on part in it, the Ceann Comhairle, as Chairman of Dáil Éireann, publicly queried whether it would be necessary to introduce a system of fines to strengthen the powers of the Chair to prevent the abuse of Dáil privilege. This House has its own Standing Orders, its independence and its own Committee on Procedure and Privileges. As a member of that committee, I do not believe Members of this House are disposed to abusing their privilege at all, nor do I believe the use of financial penalties to preserve the privacy of important people the Irish political and economic environment should be permitted by this House. I do not believe we should go down that road. It is for the other House to make up its own mind on fines for its Members.

We must remember that these Houses are the defendants in a court action brought by Mr. O'Brien. He has sued the institutions of the State. He has also sued individual Members of these Houses on occasion and threatened to do so on many more occasions. Free speech is very important. As far as I am concerned, the Cregan commission is dealing with just one set of issues, the activities of the IBRC, only some of which involve Mr. O'Brien or companies connected with him. However, there are other major issues to be borne in mind arising from the Moriarty report which found Mr. O'Brien had indirectly channelled the guts of €1 million to former Minister, Deputy Michael Lowry, after the awarding of a telecommunications licence to him. It found that elaborate efforts to deceive the Moriarty tribunal had been made, including the falsification of letters to cover up the involvement of the relevant parties. I wish all speed and every success to the Cregan commission.

I welcome this legislation. Members have an obligation to be fair but not to be entirely impartial. It is important, however, that these issues be dealt with in a process that is fair and impartial and, above all, has the means of establishing the truth because the people do deserve to know the truth.

**Senator Martin Conway:** I, too, welcome the Bill. The points made by the Cathaoirleach when speaking on behalf of the Fianna Fáil group were pertinent. It is a pity that this legislation is necessary and that it was not dealt with in the first instance. When justice is delayed, the lapse of time is a serious issue. We have lost time, but I hope the commission will be focused. I agree with the modular approach; it is appropriate. At least we can get answers on specifics as opposed to a myriad of issues and we will not have to wait a very long time to get answers.

Senator Michael McDowell made comments about the Ceann Comhairle. When travelling to County Clare on Friday evening, I watched the interview with the Ceann Comhairle. To be fair, the question that was put to him on Foynes was a leading one. However, I had expressed

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concern that if we were to go down that road, it would be perceived to be protecting the powerful and wealthy in society. It is not appropriate but, as has been said, it is up to the other House to conduct its own affairs. I hope this House would never succumb to that type of - to put it in simple terms - penal, schoolteacher-like approach. The Members of this House who exposed the Siteserv issue and other matters have done the State enormous service. It was incredible to see the lengths to which Mr. O'Brien went to silence them. It beggars belief that the Houses of the Oireachtas are being sued by any individual. I noted with interest and followed very closely the O'Reilly-O'Brien debacle at Independent News & Media and learned a great deal about the covert investigations run out of hotels in Dublin. I did not know that went on, although it does not surprise me. Given that the Houses of the Oireachtas have been sued, nothing surprises me any longer. There is a great deal that is rotten in the corporate world in this country and we, as parliamentarians, have a duty to ensure it is rooted out.

When the IBRC liquidation happened, I thought we were looking at an avalanche. The operation was so big that it was probably very difficult to control, especially when the country was in the position of disposing of assets to reduce its debt and exposure. We did not hold our nerve as we should have done. We see now how things have improved. Any schoolchild will tell us that there are peaks and troughs in economics. We were in a very depressed trough at the time, but matters were always going to improve. The people went through a great deal of hardship to ensure the country was brought to a better position. It was a great pity that IBRC, under the direction of the Department of Finance and others, felt it necessary to offload billions of euro worth of assets, not just at home but abroad also. We panicked and should have held our nerve, but that is only my view. Had we held our nerve and done things in a more controlled fashion, we might not be in this situation now and the commission of investigation might not have been necessary. We are where we are, however, and the Bill is very important. It is vital that it be passed as quickly as possible. If it needs to be amended still further on the suggestion of the commission of investigation that it needs more powers, we should not be found wanting in amending it accordingly.

I thank the Minister of State for providing an overview of the Bill. It is very positive that there was engagement with the Opposition. That is new politics in reality. This morning, a Senator asked for a definition of "new politics" and this is a clear one. A year ago, there would not have been what my briefing note refers to as "extensive consultation" with Opposition parties. The Opposition would have been given a courteous and short briefing, but there would not have been extensive discussions and negotiations. That epitomises new politics and the Bill, when enacted, will be all the better for it. It will facilitate getting to the root of at least some of the problems caused as a result of the liquidation of IBRC and what followed.

**Senator Rose Conway-Walsh:** This is a last-ditch attempt to salvage a commission of investigation the Government never wanted. It remains open to debate whether it was by design or by flaw that the commission was so badly set up in the first instance. Nevertheless, I hope that what comes out of the Bill and the new terms of reference is a commission of investigation that can do its job.

IBRC is a zombie institution comprising the completely discredited Anglo Irish Bank and Irish Nationwide Building Society which have cost the people €64 billion and became an excuse for Fianna Fáil and then Fine Gael-Labour Party Government to undermine the rights and hollow out the public services of the people. These institutions were the worst of the worst and represent a black stain on Ireland's reputation. They are a reminder of how the political class failed us. We should remember that, in February 2013, a decision was taken in the middle of

the night to liquidate IBRC. The debt was not wound down, of course, and our children will be paying it off for a long time to come. My son who is 14 years old will be 54 by the time the burden of debt is lifted. The cost of servicing the debt is €7 billion a year. That is €7 billion that could be spent on health, education, job creation and infrastructure.

The biggest issue with the Bill is that anything that happened after the liquidation date is still out of bounds, despite the many questions that have been raised about what has happened since. Despite involving billions of euro belonging to Irish citizens, the process is still completely opaque. When Deputy Pearse Doherty started to ask the Minister for Finance about write-downs at IBRC, the latter did not take it very seriously. It took a great deal of work and cajoling to get him to accept that there was a problem in the first instance. Then the Taoiseach appointed the Comptroller and Auditor General to examine the issue. Eventually, we got a commission of investigation. As we know now, it was set up with little thought regarding the legal obstacles involved. The interim report last November highlighted the biggest issues, including confidentiality and problems relating to the timeline. As such, we are here again trying to put Humpty Dumpty together. It is interesting that Fianna Fáil is supporting the Bill but not the NAMA investigation. At least, that was last week's position. I am not sure what is the position this week.

The country cannot stand still because the lawyers of one of the bank's clients are of the view that he has the power to stop any investigation he chooses. There is always a danger of litigation but that is not a valid reason to stop looking out for the public interest. The people remember that these allegations were sparked by certain individuals getting away with sweetheart deals. They believed what they heard because it made sense. They know there are small cliques with enormous power operating in the country and that these play by their own rules. The corruption and cronyism did not, of course, end with Tom Gilmartin's experiences with Fianna Fáil. The Government continued to preside over the very corruption, cronyism and greed which are the root cause of our inability to provide for citizens. These are not victimless crimes. Very few politicians, bankers or businessmen will ever go to prison no matter what they do, but the public insists that we do our best to find the truth.

Nobody was surprised that the special liquidators kicked up a fuss when the commission came sniffing around. KPMG is the wrong company for this job because it is part of the protected elite and has so many fingers in pies in the State that it could never carry out the work effectively. One of the problems is that the previous Government appointed the fox to guard the henhouse. KPMG was the auditor at Irish Nationwide Building Society, which is one chunk of IBRC. It has an interest in the liquidation that goes beyond what it is paid to do. Its interest is not that of the people. The new power given to the Minister to direct the special liquidators is at the core of the Bill and is long overdue. The Minister should not be hesitant to use the powers, as necessary.

The terms of reference encompass a modular approach. The Siteserv transaction must be the focus of the first module. It is the reason we have a commission of investigation and where the public interest is most focused. After that, it is clearly logical to home in on the largest transactions. The notion of a more general area of investigation being added to the first module should not distract from the Siteserv issue. The extension of the deadline for report will be moved but it is important to send a clear signal that only in exceptional circumstances will a further extension be considered. If there are discrete modules, interim reports should be published as they are completed. Any increase in the budget must be justified and implemented tightly.

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We support the Bill in the hope it can salvage the mess that was caused by Fianna Fáil and made by Fine Gael. It only considers half the picture because it stops at the point of liquidation. The most important issue now is to get to the truth about Siteserv. That is where our focus and that of the commission should be firmly fixed. Members should imagine all the money that could be saved if only those who consider themselves to be untouchable told the truth. We must make them tell the truth and I hope the Bill helps with that process.

**Senator Ivana Bacik:** I welcome the Minister of State. We had the pleasure of his company for the debate on the Paternity Leave and Benefit Bill also.

On behalf of the Labour Party, I support the Bill and wish the Cregan commission every success on its fact-finding mission into the details of the potential losses at IBRC. The Bill helps the commission to investigate losses incurred by IBRC and, accordingly, the State and the taxpayer between January 2009 and February 2013. Everyone will be aware of the legal obstacles faced by the commission during this work and they were identified at the time of the writing the first interim report to the Taoiseach on 12 November 2015. The commission made clear that, in its view, certain legislative changes would be required to overcome legal difficulties in respect of matters, including bank and customer confidentiality, legal professional privilege and so forth, which the Minister of State outlined. Workload management is also an issue and it is an important component of the legislation. Access to documents and information is an issue but capacity of the commission to do this work is also an issue.

This is a bespoke Bill, as the Minister of State said. It is not designed to amend the Commissions of Investigation Act 2004 generally but rather to provide for specific amendments to enable this commission to fulfil its task effectively and efficiently. It has become clear from the two interim reports produced by the commission in November 2015 and April this year that additional time will be needed. The Minister of State has said its work will extend to the end of October next. Unfortunately, that has been a feature of commissions of investigation during the years. Inevitably, terms of reference are drafted too broadly and as commissions embark on their work, the timeframes become too tight. However, the commission of investigation model is a better, more cost-effective and efficient model than that relating to tribunals of inquiry. I pay tribute to Senator Michael McDowell who, as Minister for Justice, Equality and Law Reform, introduced this model as a clear improvement on what had become the hugely cumbersome and costly tribunal process.

While the costs of running the commission are not insignificant, they come nowhere near the cost to the State of the write-offs under investigation by it. Others have referred to the write-offs of IBRC loans in respect of Siteserv, which cost more than €100 million. However, in total, there were a number of transactions in the period covered with write-offs greater than €100 million. Clearly, the work of the commission will be invaluable in establishing the facts of these transactions. I looked into the issue of the estimated cost of the commission and the latest approximation I have is from the second interim report. Up to April 2016, the cost was estimated to be approximately €600,000 to cover salaries, legal bills, rent, etc., which is relatively low compared to the amounts under investigation.

As Members of both Houses have indicated, the work of the commission was due in no small part to the extensive work done by Deputy Catherine Murphy. She took on significant work trying to establish the facts and raise concerns about the Siteserv transaction, to which others have referred. A good deal of litigation is ongoing, not least the litigation against these Houses being taken by Mr. Denis O'Brien. Those who read the two-page spread on this in last

Saturday's edition of *The Irish Times* will be conscious that these are highly complex matters. In a nutshell, the commission is being asked to investigate potential irregularities and flaws in transactions that may have cost the State and, therefore, the taxpayer millions of euro. All of us will support the need for the commission to establish the facts around these transactions in an effective and timely manner.

I refer to the issue of the workload management of the commission. Section 5 will enable the commission to operate in divisions. That has become an issue because the commission will need the facility to appointment an additional member or members, if necessary, to work in divisions. Conflict of interest is also an issue. The Minister of State identified that the commission, in its first interim report, pointed out that where there is a conflict of interest involving a member of the commission in respect of a transaction, that transaction could be investigated by another member if divisions were permitted, which is important.

The revised terms of reference deal with workload management. A motion has been tabled referring to a Government order clarifying and amending the original terms of reference. It is sensible that a modular approach would be adopted and that the commission would initially be asked to report on the single identified transaction only, on which most public attention has been focused, namely, that relating to Siteserv which was raised in the Oireachtas. It makes sense to revise the terms of reference in this regard to assist the commission to ensure its workload is manageable and does not become unduly cumbersome, given the breadth of the original terms of reference and the number of transactions it was intended to cover. I am happy to support the Bill.

**Senator Jerry Buttimer:** In welcoming the Minister of State, I must point out that it is important that the issue before us, a matter of public concern, be addressed and investigated. Anomalies and irregularities in transactions that potentially cost the taxpayer must be investigated. The Government's approach to this has been transparent, notwithstanding the fact that Deputy Catherine Murphy brought the issue to the floor of the Dáil. The interim report called for different changes and we should all consider them.

Mr. Justice Cregan deserves our support in his work. It is important that we receive the report in a timely manner. The last thing people want is an ambling process whereby the work of the commission will continue beyond the timeframe. I am not sure if the Minister of State outlined the date by which the commission must report and apologise if he did. A timeframe is crucial and it should be adhered to. Equally, it is clear, not only from the debate in the Oireachtas but also from media commentary, that it is important that the full facts be obtained. In whatever guise or form the truth comes out, it is important that we have clarity and that the investigation bring certainty.

The Minister of State referred to the need "to ensure that the commission can effectively perform its functions." In public life, there is a notion in some quarters that responsibility and duty to the taxpayer is a careless reference. It is not; it should be what we do. Those of us who are legislators or public representatives and those of us who are charged with managing any aspect of life, be it the health system, education, justice or whatever, have an obligation and duty to represent the taxpayer in everything we do.

The first interim report makes for interesting reading. It calls for legislative change, which we all accept. Senator Ivana Bacik mentioned the terms of reference. I am coming in a round-about way to where I want to get. We all welcome the Commissions of Investigation Act mod-

el. Those of us who were not Members of the Oireachtas when we had the tribunal of inquiry model remember every day there was media reporting and people made their names through impersonating the people before the tribunal and good luck to them. However, let us consider the cost and time.

That brings me to the point I really wanted to speak about today. I will be very careful not to stray into any matters before the courts. I refer to the powers we give to Oireachtas committees. I accept the people have voted on the matter; I have no issue with the people being sovereign and they make the decision. It is how we, as Members of the Oireachtas, carry out our business in terms of the committee system. I refer, in particular, to the role of the Committee of Public Accounts. I was formerly the Chairman of the Oireachtas Joint Committee on Health and Children. The Minister of State, Deputy David Stanton, was a very fine Chairman of the Oireachtas Joint Committee on Justice, Defence and Equality. If the Committee of Public Accounts seizes on an issue, everybody else has to walk away and cannot touch the matter, cannot debate the matter, cannot call in witnesses and cannot carry out any work related to it.

I wish to make a broader linked point. We need to look at how that rule is interpreted. The Minister of State in his remarks said the commission of investigation had to have its legislative powers changed. I believe - I have no skin in the game other than being a parliamentarian now - that if we are to charge Members of the Oireachtas with being the taxpayers' representatives or the citizens' representatives, then how they carry out their duties requires us, as Members of the Oireachtas, to change how we do our business. I may incur the wrath of some people.

Senator Ivana Bacik referred to divisions in section 5 in terms of how they do their business. Similarly for the Houses of the Oireachtas committee system, we must find a mechanism whereby different committees can work together. The proof of this was when the Minister of State and I held joint meetings of the Joint Committees on Health and Children and Justice, Defence and Equality on certain matters. I do not believe the Committee of Public Accounts is the only committee that has the capacity or should have the autonomy to do work on an issue; there should be a joint approach with different committees.

I thank the Minister of State for bringing the Bill before the House. I hope the other powers that be will pay notice to what I said. I do not say that out of malice. I want to see the committee system which was a very effective voice in the last Parliament continue. That means that we must change how we do our business. The role of the Committee of Public Accounts needs to be reviewed in the context of seizing matters to the preclusion of other committees.

**Acting Chairman (Senator Joe O'Reilly):** I was extra indulgent with the Senator who is Leader of the Seanad, as I want to ensure quality answers to my questions tomorrow and on subsequent days.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank the Senators who contributed to the debate. As I said, the Government wants an effective, efficient and timely investigation into the issues of significant public concern which have arisen relating to certain transactions conducted by IBRC.

I acknowledge the very substantial preparatory work carried out by the sole member of the commission to date and which is set out in the interim reports and determinations published to date. The sole member of the commission acknowledges the significant task facing the commission in his reports. The Bill's provisions seek, to the greatest possible extent, to facilitate

the commission in conducting its work, to ensure the information and documents sought by the commission will be made available to it and to provide for a more efficient management of the workload where possible.

Senator Diarmuid Wilson suggested the difficulties addressed by the Bill should have been dealt with at the time of the establishment of the commission. The issues being addressed only came to light during the preparatory work of the commission. They are set out in detail in determination 1 published in November 2015. Following that determination by the commission, the Government immediately engaged in consultation with the Opposition to address the problems identified by the commission.

I welcome Senator Michael McDowell's support for the Bill. He also raised a number of concerns which highlight the need for the investigation.

I acknowledge Senator Martin Conway's support for the Bill. I assure him and all Members of the House that the provisions of the Bill fully address the commission's concerns and that there has been extensive consultation with the sole member in developing these provisions. The commission also confirms in the second interim report that while the special liquidators initially claimed legal professional privilege over a number of documents furnished to the commission, the special liquidator subsequently, following a request from the commission, informed the commission that it was willing to waive that privilege in respect of the Siteserv transaction. The commission is satisfied that the issue of privilege in respect of the Siteserv transaction has been resolved.

On the commission's workload, Senator Ivana Bacik is correct that section 5 will address the concerns raised by the commission in its report, including any conflict of interest.

I again thank Members for contributing to the debate and look forward to the passage and enactment of the legislation.

Question put and agreed to.

**Acting Chairman (Senator Joe O'Reilly):** When is it proposed to take Committee Stage?

**Senator Martin Conway:** Tomorrow.

Committee Stage ordered for Wednesday, 20 July 2016.

### **Legal Services Regulatory Authority: Motion**

**Senator Martin Conway:** I move:

That Seanad Éireann, noting that the Government agreed on 13th July 2016 to propose, for the approval of Seanad Éireann, the appointment of the persons concerned to be members of the Legal Services Regulatory Authority, and pursuant to section 9 of the Legal Services Regulation Act 2015, approves the appointment, with effect from the establishment day to be appointed by the Minister for Justice and Equality in accordance with section 7 of that Act, by the Government of the following persons to be members of the Legal Services Regulatory Authority, six of whom shall hold office for a period not exceeding four years from the date of his or her appointment as the Government shall determine and five of whom

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shall hold office for a period of three years from the date of their appointment in accordance with section 10(2) of that Act:

Angela Black, Don Thornhill, Deirdre McHugh, Gerry Whyte, Stephen Fitzpatrick, Dermot Jewell, David Barniville, Joan Crawford, Nicholas Kearns, Geraldine Clarke and James McGuill.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):**

I am speaking on behalf of the Tánaiste and Minister for Justice and Equality who regrets that she cannot be present owing to other official commitments.

I thank the Seanad for giving me the opportunity to make my remarks on this important motion which heralds the coming into being of the new Legal Services Regulatory Authority which was legislated for in the Legal Services Regulation Act 2015. Under the Act, the Government is the appointing authority for the members of the new Legal Services Regulatory Authority. However, these appointments must first be approved by resolutions of both Dáil and Seanad Éireann. At its meeting of 13 July 2016 the Government agreed to propose, for consideration by this House in the motion, the appointment of named persons to be members of the new authority. I am, therefore, seeking the approval of the House for their being nominated under the motion to be appointed by the Government as the members of the new authority. The persons concerned are the nominees of the nominating bodies named in the Act and this is the sole process whereby the names have been selected. I will return to that subject since it is important to note the independence safeguards contained in the particular nominating process in this legislation.

In tandem with consideration of the motion by the House, the Tánaiste has now signed a commencement order in respect of certain provisions of Parts 1 and 2 of the Legal Services Regulation Act 2015, as necessary to support the start-up of the new Legal Services Regulatory authority. Further parts of the Act will be commenced on a phased basis in the autumn as the new authority gets up and running and ready to take over key areas such as inspections, public complaints and the new legal business models. The sequencing of these further commencements is being planned very carefully.

As Senators will appreciate, the establishment of the authority and the assumption by it of regulatory oversight of all legal practitioners in Ireland, including handling of complaints against legal practitioners and the authority's responsibility to oversee the operation and opening up of the legal services market in Ireland, are all major public regulatory steps. Great care will have to be taken to ensure the steps will be correctly executed and that the replacement of existing regulatory regimes will leave no gaps.

*2 o'clock*

Under the motion, it is also being proposed that the relevant appointments shall be with effect from the establishment day of the new regulatory authority which the Tánaiste will fix by order to be 1 October 2016. I understand the Tánaiste will be making the requisite order to that effect shortly under section 7 of the Legal Services Regulation Act. The setting of 1 October 2016 as establishment day will give momentum to the establishment and coming into operation of the new Legal Services Regulatory Authority. It will also provide greater focus in the implementation of the structural reforms now set out in the Legal Services Regulation Act.

In very broad terms, the main levers of this reform are as follows. First, there will be the new and independent Legal Services Regulatory Authority, with responsibility for oversight of both solicitors and barristers. Second, there will be an independent complaints system dealing with legal professional misconduct which will provide a first port of call for the public in making complaints independent of the legal professional bodies. There will also be a new and independent legal practitioners' disciplinary tribunal to adjudicate on serious misconduct in regard to both solicitors and barristers. Third, there will be an enhanced legal costs regime, bolstered by a set of legal costs principles, which also places more extensive obligations on both solicitors and barristers to keep clients informed about the details of their legal costs. Separately, the new office of the legal costs adjudicator will assume the role of the existing Office of the Taxing Master and keep a public register of its legal costs determinations. Fourth, there will be a framework for new legal business models. These will include the early introduction of legal partnerships between barristers and solicitors, or between barristers, limited liability partnerships for solicitors and public consultations on other business alternatives such as multidisciplinary practices.

To underpin the independence of the new Legal Services Regulatory Authority, the members of the authority are nominated to the Government by ten nominating bodies specified in section 9 of the 2015 Act. These bodies have been purposely set in the legislation to represent a balance between the interests of lawyers and those of consumers and other stakeholders in the regulation of legal services and of legal costs. Membership is also staggered by the drawing of lots at the first meeting of the authority as a result of which there will be some four-year members and some three-year members. This ensures the continuity of expertise and functions of the new regulatory authority.

The authority is to consist of 11 members, of whom a majority, that is to say, six members, including the chairperson, are to be lay persons nominated by the six prescribed non-legal bodies. The remaining five members are nominated by the prescribed legal bodies. Each prescribed body, with the exception of the Law Society of Ireland which nominates two members, has nominated one person for appointment as member of the new authority. In the case of all of the bodies except the Law Society of Ireland, each body was also required to nominate a substitute nominee of the opposite gender to their primary nominee in order to facilitate gender balance - the authority must have no fewer than four members who are women and no fewer than four members who are men. The Law Society of Ireland has two nominees, reflecting the fact that solicitors outnumber barristers being regulated under the 2015 Act by four to one, with some 8,000 practising solicitors as compared with some 2,000 practising barristers.

The key requirement of the Legal Services Regulation Act is that the nominees must have knowledge and expertise in specified areas, for example, in the provision of legal services, competition, legal training and education, dealing with complaints against members of regulated professions, the needs of consumers of legal services, business and commercial matters and professional standards regulation. The nominees and their nominating bodies are as follows: Angela Black, Citizens Information Board; Don Thornhill, Higher Education Authority; Deirdre McHugh, Competition and Consumer Protection Commission; Gerry Whyte, Irish Human Rights and Equality Commission; Stephen Fitzpatrick, Institute of Legal Costs Accountants; Dermot Jewell, Consumers Association of Ireland; David Barniville, Bar of Ireland; Joan Crawford, Legal Aid Board; Nicholas Kearns SC, Honourable Society of King's Inns; and Geraldine Clarke and James MacGuill, Law Society of Ireland.

The Government also agreed at its meeting of 13 July 2016 to appoint one of the nominees

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under the motion, Dr. Don Thornhill, to be chairperson of the new authority. The power is given to the Government under the 2015 Act to make that appointment, but this is, of course, subject to the candidate having been first approved as a member of the authority by a motion of both Houses. Among his many achievements as a holder of senior public offices, Dr. Thornhill has led the National Competitiveness Council in its campaign to cut legal costs for consumers and enterprise. He is a respected public figure and will bring much experience, knowledge and clout to the role of chair. As such, he should provide the inaugural authority with the direction and vision needed to be a successful and highly regarded independent regulator that will enjoy the confidence of the public for the years to come.

I believe Senators will agree that the nomination and appointment procedures for the regulatory authority which include seeking the necessary approval under the motion have great integrity by way of protecting the interests of all stakeholders concerned, with the independence of lawyers in the discharge of their duties to their clients and the courts. It is a model that was introduced by Government amendment in direct response to independence concerns that were raised in 2011 at the time of initial publication of the Legal Services Regulation Bill. The approval of this House for appointment of the persons being nominated to be members of the new authority under the motion would be a key moment in the history of the legal services and legal costs regimes. By the same token, such approval would also enable the new members of the authority to hit the ground running, independently recruit their chief executive and thereby spearhead the coming into operation of the new Legal Services Regulatory Authority. I commend the motion to the Seanad for its considered agreement.

**Senator Catherine Ardagh:** I thank the Minister of State for addressing the House. I have an interest in legal services legislation as I am a solicitor in a small solicitors' practice with two practitioners and three support staff. I cautiously welcome the motion as I think it will give the public and legal practitioners more certainty and confidence when dealing with each other and with professional bodies.

The Act intends to bring transparency and end the system of self-regulation which applied in the past to both the Bar of Ireland and the Law Society of Ireland. Most professions today, including auctioneering and the Garda, are succumbing to the idea of being regulated by an authority. For example, the Garda Commissioner came before the Policing Authority recently and the regulatory authority for auctioneers was set up in order to protect both auctioneers and the public. In that light, I very much welcome the idea of moving away from self-regulation in the legal profession in order that the process of how solicitors and barristers work is more transparent and the public have more confidence in what happens with their work.

I understand the cost of setting up this authority will be €1 million but that ultimately it will be self-financing. As I outlined, I am a sole practitioner. There are many costs involved in being a sole practitioner and it is not some big gravy train, as some of the big firms might be. We are a small business and we struggle every month with rates, accommodation and staffing. This authority will mean another fee and, given the Law Society of Ireland will still be in place, this will double up on professional subscriptions. Therefore, I would like to ensure this cost is not just put onto the bills for the public at the end of the day and transferred down in that way. It is a point the Minister of State should be mindful of when the authority is set up.

I welcome the idea of limited liability partnerships. This will give more protection to practitioners than to the public because it will give practitioners a corporate personality, meaning they will not be sued. As a result, their neck is not on the line and they can hide behind the veil

of corporate responsibility. I believe this will increase investment in legal professions and will ultimately increase the standard of legal services, all of which will be passed on to the public.

On the composition of the authority, it is welcome that the board will mostly comprise lay people because, as a result, the public interest will be at the forefront of the authority's day-to-day running. Most importantly, I am glad that the complaints mechanism will be put to the fore of the authority in order that complaints will be dealt with expediently and professionally, which will be to the benefit of both the public and the members who are being complained of.

I was a barrister and then transferred to work as a solicitor, which is a very difficult and costly transition. I hope the Act will get rid of any barrier in order that practitioners can be both barristers and solicitors and the transfer will not be a big issue. To take a European perspective, the Continent has lawyers without any difference between barristers and solicitors. While I do not know how my colleagues in the Law Library will like it, I think it is to be welcomed.

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**Senator Niall Ó Donnghaile:** As the Minister of State has put in a long slog in the House today, he will be glad to hear I will probably not use all of my speaking time.

There was some concern in my party about the delay in producing the text of the motion. As the appointments process has been ongoing since January, I am not sure why that was the case. I wanted to have that concern logged. Regardless, we welcome the motion and are supportive of the Legal Services Regulatory Authority getting off the ground as efficiently and effectively as possible.

Sinn Féin is going to reserve judgment for the moment on whether the Act and the new regulatory body will be effective in lowering costs for persons accessing the legal system. The responsibility will be on the Legal Services Regulatory Authority to demonstrate its independence from the legal profession, a point touched on by the previous speaker. In order to show that it is effective, we suggest the Oireachtas justice committee invite members of the authority to appear before it at a later stage to discuss their work. I hope this is something they would be willing to do as part of regular engagement and interaction and to bring feedback to Members of both Houses through the committee. It will, of course, be two years before they report back formally; therefore, such a move might be an opportunity for them to come to the committee to sustain that engagement with the Parliament.

We are hopeful too that the new authority will address matters of codes of conduct, admission requirements to the legal professions, conflicts of interest and the long-standing need to address the barriers to public interest litigation within this jurisdiction, as the Minister of State is aware. I need not tell anyone in the Chamber that conflicts of interest are a major issue for the public when it comes to major firms. This problem has generated a series of confidence issues among the broader public. I do not think I need to go into particular cases because people will be well aware of them.

While the motion is a step in the right direction, it is clear that real changes to the legal profession will take at least another decade. That is why I would like to emphasise the importance

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of engagement with the Parliament. I appreciate this will not be done through the Minister of State, but I imagine he will consider lending his support and bringing whatever influence he can to bear to ensure authority members are engaging with us regularly and that we have a positive oversight role. This does not mean veering into interference but rather that we have an opportunity, on behalf of the people we represent, who have long-standing and understandable concerns, to ensure this body will operate as effectively as it can.

**Senator Ivana Bacik:** I welcome the Minister of State and this important motion to approve the establishment of the Legal Services Regulatory Authority. I should declare my interest as someone who was for many years a practising barrister and still is an external examiner for the King's Inns. Also, I know many of the nominees to the authority personally, with several of whom I have worked.

As the Minister of State and colleagues will be well aware, we had a long debate around this legislation over a protracted time. The Minister of State was the chairman of the justice committee on which I served. We had hearings on this legislation also. I feel a strange sense of *déjà vu* in returning to look at the make-up of the authority. However, it is welcome it has reached this stage. Many of us thought we might never get to this point. I say as much as a strong supporter of reform of the legal profession.

Senator Catherine Ardagh spoke about the potential for a merged profession. It is welcome that the Bill allows the exploration of that along with the exploration of other important reforms like the opening up of professional legal education to other bodies beyond the Law Society of Ireland and King's Inns. These are important future reforms envisaged in the Act.

I looked back over the Second Stage debate on the Legal Services Regulation Bill held in the House on 13 May 2015. At the time, I pointed out in respect of the independent Legal Services Regulatory Authority two key positive components which, I believe, are reflected in the make-up of the members that we see listed before us today. First, the Act provides for a lay majority on the authority. That is immensely important and is part of an increased momentum or culture around regulation of professions. Regulatory oversight of all professions now requires far greater input from lay persons, which I very much welcome. Second, we have a gender balance on the authority. I note that four of the 11 names are women; this represents 36%. It is a far better figure than the corresponding figure for Members of the Oireachtas.

It is clear from any reading of the Act and to anyone who is familiar with it that a key component of the new regime of oversight of the legal professions is the authority. This body is essential. As the Minister of State noted, the authority has a range of functions which are central to the carrying out of the new regime under the Act. Essentially, the authority will assume regulatory oversight of all legal practitioners in Ireland. It will handle complaints against legal practitioners. It will oversee the operation and opening up of the legal services market as well as the issues to which I have referred - remarkably important issues for the future of the legal professions - in other words, the issue of merger and the issue of legal training.

We require a robust and an effective independent authority to carry out these functions effectively. I am glad to see from the names before us that we have people who are of immense integrity and who will be well able to carry out their functions very well. It is also worth welcoming the appointment of Dr. Don Thornhill who, as the Minister of State said, has now been appointed as the chairperson of the authority. It is welcome that the establishment day has now been set as 1 October this year. All of these developments are welcome.

Will the Minister of State indicate whether there is any timeframe for the recruitment of a chief executive? Clearly, that is another important component to ensure this new authority gets up and running and hits the ground running. It has several important functions. There are several times set out in the Bill within which the authority must look at issues around future regulation of the professions. It is important that the establishment day has been set, members have been appointed and that we have a chairperson. All of these are welcome announcements but we need to know when we are likely to see a chief executive appointed in order that the authority can really begin its work properly. We all wish the authority the best for the future in the performance of its important functions.

**Senator Martin Conway:** Like everyone in the House, I welcome this development. I remember when the last Oireachtas started in 2011 the Minister at the time, former Deputy Alan Shatter, proposed the controversial Legal Services Regulation Bill. It was amended and watered down and evolved into what was brought over the line towards the autumn of the last Administration. Some of us would have preferred to see the initial proposals of Mr. Shatter get over the line but, obviously, many vested interests lobbied somewhat successfully to have elements of the Bill changed. However, whatever way we look at it, it is a positive development that we now have legal services legislation.

It is even more positive that we have the Legal Services Regulatory Authority because the legal profession was the one profession that was self-regulating for far too long. The people should have taken this issue by the scruff of the neck a long time ago but they did not. Thankfully, as a result of the last Administration, we are in a position to support the appointment of a fine team under an exceptionally fine chairperson, Dr. Thornhill, who will take the reins of the Legal Services Regulatory Authority. I have no doubt the authority will have singular credibility because of the calibre of the people proposed by the various stakeholders and nominating bodies. They have been approved by the Cabinet and recommended to the Houses of the Oireachtas for final approval.

It is a great day for the legal profession. It baffled me why the legal profession was so afraid of regulation and why it lobbied so powerfully and intensively on this issue. Who is afraid of regulation? No one should be afraid of regulation. Many other sectors in the country are regulated. Some of them are not as regulated as they should have been. Unfortunately, we had a culture of light touch regulation in the country and we have seen where that got us. However, the legal profession was not regulated at all. It regulated itself, which was bizarre. I do not think that happens anywhere else in the world. After much toing and froing and much lobbying we have now an Act, over which we can stand. I have often said it in the House and I will say it again: all the legislation we bring through the House can evolve, change and be amended. We will see how it works. If the Legal Services Regulatory Authority comes back to us and states it needs more powers, we should not be found wanting in giving it more powers and amending the Legal Services Regulation Act.

It was an absolute privilege to have been a member of the justice committee for five years when the Minister of State, Deputy David Stanton, was the Chairman of the committee. We produced some very fine reports and work on the Act. One issue that the Minister of State will recall discussing in the committee was the whole question of e-conveyancing. Various people came before the committee and gave evidence on the benefits of e-conveyancing. Not alone would it save a substantial amount of money for the clients who are buying and selling property, it would also save a huge amount of time. We would have a situation where, instead of it taking a month to six weeks to process a house because of documentation going from one stakeholder

to another, it would be done in a week. E-conveyancing is the way forward. Many other industries in this country are now managed effectively by ICT. There is absolutely no reason the law industry cannot embrace the very latest in ICT. I believe the Government should look at making a once-off payment available to facilitate the establishment and roll-out of e-conveyancing. Perhaps the Minister of State is not in a position to comment on that matter now and I am not expecting him to because it is somewhat off script.

What we have in terms of the Legal Services Regulatory Authority is the beginning of a long process of reforming the legal profession. I hope we will see a situation where the ordinary and decent people of this country engage in legal services in a much more competitive environment and no longer have to endure exorbitant costs. Whether it be the simple transaction of buying a house, getting legal counsel or opinion, or a more protracted and lengthy court case, hopefully the people of Ireland will get more value for money.

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

**Senator Martin Conway:** I know that the Cathaoirleach has a certain interest in this area also and I am sure he agrees with my sentiments.

**An Cathaoirleach:** That will not change the time restrictions.

**Senator Niall Ó Donnghaile:** “A” for effort.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank Senators for their contributions to our discussion of the motion. It is a motion which, with a similar motion that will be put before the Dáil for its consideration on Thursday, can enable the formal appointment of the 11 nominated members of the new Legal Services Regulatory Authority. The immediate working objective is to obtain the required approval of the appointment of the nominated members by the two Houses in order that they can set about the early recruitment of their own chief executive.

I note that Senator Ivana Bacik and others questioned the issue of the appointment of the chief executive. The chief executive will be appointed by the authority, not by the Government. The authority is independent and the Government has nothing at all to do with that. We will offer job specifications and other supports to the authority. Obviously, we would be anxious to get it moving as quickly as possible in order that we can have the appointment as quickly as possible following the establishment day and that there will not be any delay. Any supports required will be made available.

Administrative provisions are being made in support of the public recruitment by the new authority for suitable and qualified persons for that post. A start-up support team is also being established and a suitable premises identified from which the new authority can commence its operations. These are the initial steps that will enable the members and the chief executive of the new regulatory authority to oversee and drive the establishment of the new legal services regulatory regime and shape it in the discharge of its powers and functions. It is planned at the stage we are now entering of setting up the new regulatory authority that it will include the phased commencement of parts of the Act such as those dealing with legal costs, the new office of the legal costs adjudicator, the role of practicing barristers and pre-action protocols.

I would like to highlight a few elements of the new legal costs transparency obligations of the 2015 Act. These will apply to both solicitors and barristers in charging clients for their

services. For example, all legal practitioners will be obliged to provide much more detailed information on legal costs from the outset of their dealings with clients. This will be in the form of a notice written in clear language which must be provided when a legal practitioner takes instructions. A cooling-off period is to be allowed for the consideration of costs by the client. When there are any significant developments in a case which give rise to further costs, the client must be duly updated and given the option of whether to go ahead with further proceedings. An aggrieved client will also have the option of applying for the adjudication of disputed legal costs by the reformed and modernised office of the legal costs adjudicators, which is currently known as the Taxing Master's office. The Act sets out, for the first time in legislation, a series of legal costs principles in support of the cost adjudication process. There will be a publicly accessible register of determinations regarding the outcomes and reasons for decisions of the legal costs adjudicators.

Following the establishment of the authority, its appointment of a chief executive and the initial commencement of parts of the Act along the lines I have just mentioned, the key provisions centred around Part 16 on the new public complaints procedures, professional conduct procedures, disciplinary procedures and the appointment of the new legal practitioners disciplinary tribunal will be commenced. The managed roll-out and commencement of these functions is planned for the autumn. This is being done in order to allow adequate time and preparation to ensure their effectiveness and success as crucial components of the new regulatory framework.

Let us not lose sight of the fact that this new complaints framework will be a regulatory watershed. Members of the public who are aggrieved at the services they have received from a legal practitioner, whether a barrister or a solicitor, will now make their complaints to the independent Legal Services Regulatory Authority. They will no longer do so through the legal professional bodies as they do at present.

Senator Martin Conway spoke about a watering down of the Act. I remind the House that the Act, when fully commenced, will provide as a matter of law that barristers and solicitors may practice through the new business model set out in the Act. That is important to note.

The new legal practitioners discipline tribunal, established under the 2015 Act, will deal with matters of serious misconduct relating to solicitors and barristers. This single independent tribunal will, in time, replace the respective and separately operating conduct tribunals that deal with barristers and solicitors. The 2015 Act also sets out a clear path to new legal partnerships, business models involving barrister-barrister partnerships and barrister-solicitor partnerships which will allow for such partnerships to open for business in competition with the more traditional lawyer structures, which will remain a practicing option.

I emphasise that the new regulatory authority will not stand still as a regulator. Under the Legal Services Regulation Act, it will conduct a programme of work consistent with its mandate. For example, it will be carrying out public consultations and reporting with further legislative recommendations over its first four years in office.

Senator Niall Ó Donnghaile spoke about the Act being kept under review. Specific provisions have been made for the conduct of periodic reviews of the operation of the Legal Services Regulation Act, the first of which is to take place 18 months after the establishment of the new regulatory authority. These periodic reviews of the Act will occur in addition to the normal annual strategic and business planning obligations of the new authority. The Competition and

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Consumer Protection Commission will be a part of this new exercise.

Senator Niall Ó Donnghaile also made some points about the justice committee. I thank Members for their comments about my stewardship of it in the past. I am sure the committee will also be able to engage with members of this authority, as it does with many others. It is probably one of the busiest committees in the Oireachtas, as I am sure the Senator will find out.

Under the Legal Services Regulation Act, a programme of work can be conducted consistent with its mandate. As I said, it will carry out public consultations and report on further legislative recommendations over its first four years in office. These will be in areas such as removing the existing client money and direct access restrictions relating to barristers, examining entry and training requirements for the legal professions, the possible unification of the two legal professions and the opening of the legal services market to multidisciplinary practices. Senator Catherine Ardagh commented on some of these issues.

In support of the planned and managed commencement of the relevant Parts of the section of the 2015 Act proposed, as I have outlined, between now and the end this year, an allocation of €1 million has been made available under the justice Vote for 2016 as set-up support for the new regulatory authority. Any funding advance from this allocation will be provided on a recoverable basis. Once in operation, the new regulatory regime will be self-funding by means of a levy on the regulated legal professions under the terms set out in Part 7 of the 2015 Act. Again, I note what Senator Catherine Ardagh said on that matter about the costs for small businesses.

As I said in my opening remarks, the Tánaiste has signed a commencement order in respect of certain provisions in Parts 1 and 2 of the Legal Services Regulation Act 2015 as necessary to support the start of the new regulatory authority. She will also very soon by order appoint 1 October 2016 to be the establishment day for the new Legal Services Regulatory Authority.

Senators' consideration of the motion has been a third key in the opening up of a new era in the regulation of legal services and of legal costs in the State. I thank the Cathaoirleach and Members for their time, support and consideration of these matters.

Question put and agreed to.

**Senator Martin Conway:** I propose that we suspend the sitting for ten minutes to give the Minister of State a quick break.

**An Cathaoirleach:** Is that agreed? Agreed.

*Sitting suspended at 2.30 p.m. and resumed at 2.40 p.m.*

### **European Union Agency for Law Enforcement Training: Motion**

**An Cathaoirleach:** Cuirim fáilte roimh an Aire Stáit.

**Senator Martin Conway:** I move:

That Seanad Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to accept the following measure:

Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council Decision 2005/681/JHA,

a copy of which was laid before Seanad Éireann on 13th April 2016.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):**

I am very pleased to return to the House - it seems as though I have been here all day - to present the motion. It gives me an opportunity to describe the service provided by CEPOL and highlight the benefit it brings to An Garda Síochána.

As Senators are aware, CEPOL is the European police college which was established in 2005. It brings together senior police officers from across the European Union and aims to encourage cross-border co-operation in the fight against crime and the maintenance of public security and law and order through training and exchange programmes and the sharing of research and best practice.

Since 2005, An Garda Síochána has played an important part in CEPOL EU training by organising courses at the Garda College for participants from EU member states to attend. These include training programmes on language development, human rights, community policing, confiscation of assets and counterfeit medicines. The expertise of members of An Garda Síochána has proved beneficial to CEPOL through their involvement in training programmes in other member states on a wide variety of policing topics, including issues relating to management, public order and crowd management, Schengen, counterfeit goods, organised crime and drugs. In more recent times, CEPOL has provided training programmes to address emerging policing and security issues such as fundamentalism and immigration. As a result, CEPOL has been successful in terms of developing the talents of An Garda Síochána and its ability to network and co-operate with other European counterparts. As we can see from the almost daily terrorist attacks which have begun to define the world in which we live, terrorism and organised crime are emerging and constantly changing form and means. The sharing of good practice, prevention techniques and the use of modern tools to address these threats are vital in our efforts to protect citizens and combat crime.

The new regulation which replaced the 2005 Council decision was introduced to enhance CEPOL's operational mandate and reform its governance in line with general principles laid down in the Lisbon treaty. The general aim of the regulation is to improve EU security through the implementation by CEPOL of a new training approach for EU law enforcement officers consistent with evolving priorities for operational law enforcement co-operation. Moreover, the regulation has widened the target group of law enforcement officials that CEPOL should serve, as well as expanding its research function and association with relevant bodies. The regulation was drafted on the basis of the European Commission's communication on the law enforcement training scheme, LETS. LETS aims to make the European Union's response to common security challenges more effective, to raise the standard of policing across the European Union and stimulate the development of a common law enforcement culture as a means of enhancing mutual trust and co-operation. In that regard, the regulation identifies and addresses gaps in existing law enforcement training on cross-border matters by supporting and, where appropriate, co-ordinating the delivery of training by European and national centres of excellence. The regulation provides CEPOL with the appropriate legal mandate and necessary resources to

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implement the training effort envisaged in the communication.

In addition, the scope of CEPOL's mandate is broadened in order that it can support, develop, deliver and co-ordinate learning activities for law enforcement officials of all ranks, not only police officers of senior rank as was the case under the old CEPOL decision, as well as to officers of customs and other relevant services dealing with cross-border issues. This means that if we opt in, our Customs officials will also be able to benefit from the training provided.

Perhaps equally as valuable, the regulation ensures the agency remains network-based, bringing together the network of training institutes of the member states for law enforcement officials and liaising with a single national unit in each member state. This, as I am sure Senators will appreciate, will allow An Garda Síochána to continue to build networks of counterparts in other EU jurisdictions which can be used for other operational intelligence sharing outside of the CEPOL framework. Furthermore, the core objectives of CEPOL were updated and clarified in order that the agency may improve awareness and knowledge of international and European Union instruments, the institutions, agencies and bodies of the European Union. It will now also encourage the development of regional or bilateral co-operation among member states and address specific criminal or policing thematic areas where training at EU level can add value in addition to the national level.

The regulation expands and provides clarity on the role of CEPOL and improves governance in the management, accountability and procedures for the CEPOL secretariat and the member states involved in police training. For all these reasons, I hope Senators can agree that Ireland's implementation of the regulation will be of tremendous value to An Garda Síochána and the Customs service. It will also send a clear message that Ireland continues to support CEPOL and values the service it provides. The regulation came into effect on 1 July 2016 and Ireland is now no longer involved in the college because we have yet to signal our desire to participate.

Senators will be mindful of the importance of training for our law enforcement agencies. The Garda Inspectorate, in its report of 2007 on the future of policing in Ireland, indicated that historically police services have dedicated substantial resources to recruit training but did not invest appropriately in the long-term professional development of personnel. The recently published Garda modernisation and renewal programme for the period 2016 to 2021 identifies training and development as a key requirement in developing a modern, efficient police service. It stresses that training is critical to the success of the modernisation programme. CEPOL can continue to provide a valuable service in that regard.

I strongly believe continued participation in CEPOL will be of huge benefit to An Garda Síochána and the Customs service at no cost to the Exchequer. For all of these reasons I invite Senators to support the motion before them which will allow Ireland to opt in to the new CEPOL regulation. By doing so, we will allow our police force to continue to benefit from the invaluable training provided by CEPOL and learn from and engage with other European partners to assist in the fight against crime.

**Senator Diarmuid Wilson:** I welcome the Minister of State back to the House and thank him for his contribution.

CEPOL is an EU agency dedicated to providing training and learning opportunities to law enforcement officers on issues vital to the security of the European Union. Its main activities are providing education courses and organising seminars and conferences in that regard. From

speaking to a senior member of An Garda Síochána last night, I know that the organisation is a very active contributor to the agency and is keen to continue to benefit from participation of CEPOL as a full member. I understand that on this occasion it will have representation on the agency's management board. It is very keen to ensure continued participation as a full member because it has benefited greatly from it since its inception in 2005. In accordance with the provisions of Article 4 of Protocol No. 21 to the Treaty on European Union and the Treaty on the Functioning of the European Union, Ireland needs to notify the Council and the Commission that it wishes to accept the measures as described in the regulation. This requires completion of the implementation of the CEPOL regulation. Our function, if we agree, is to pass this legislation to ensure An Garda Síochána continues to be a full member of this very worthy organisation.

**Senator Niall Ó Donnghaile:** Gabhaim buíochas leis an Aire Stáit as ucht a bheith anseo linn arís. I do not need to reiterate, because the Minister of State knows better than most, the scope of the crime and criminality with which we deal in an increasingly globalised world. Anything that seeks to enhance, refine, professionalise and improve policing services throughout the European Union is to be welcomed. From our perspective, it is well known that Sinn Féin has its criticisms of the European Union and the subversion of sovereignty, but co-operation is welcome and, I contest, necessary in that regard to counter some of what we have seen manifesting on the streets of this city. We discussed it at length during the Minister of State's previous appearances before us. Anything that assists the Garda in this instance is to be welcomed and encouraged. It has been Sinn Féin's position to support international co-operation on justice matters within a sovereign framework that ensures human rights compliance. That is the key component in this issue.

As I listened to the Minister of State and read over my notes, I wondered whether any thought had been given to the impact of Brexit on co-operation between the Garda and the PSNI? We are in uncharted waters and I do not mean to veer off from the content of the motion, but this matter is critical. We know that cross-Border co-operation works particularly well when dealing with issues of human and drug trafficking. Many issues may arise for us as the Brexit decision across the water takes shape and begins to be implemented. To be valid, EU harmonisation or co-operation measures on justice or training for those engaged in the administration of justice should have as their objective the increased protection of human rights. Does the Minister of State believe that is the case in this instance? I ask this question in the light of the reasons I have outlined previously. I do not need to rehearse them.

Within a human rights-based framework, Sinn Féin supports international co-operation on justice matters where it is necessary to fight crime, in particular child protection concerns and the cross-border trafficking of drugs, weapons and humans. I support this endeavour and hope we, as legislators, including the Government, will continue to have oversight of broader policing matters and final decisions and will not concede any ground to unelected officials or quangos at EU level.

I appreciate that I may be catching the Minister of State unaware, but perhaps he will make reference to the issue of Brexit and express how he believes it will impact on participation in CEPOL.

**Senator Ivana Bacik:** I welcome the Minister of State to discuss this issue. He pointed out that he had been in the Chamber for an extensive time today. Those of us who have been Senators for some years will know that there is typically a flurry of justice legislation in the House

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every July and December. Justice spokespersons tend to spend long periods in the Chamber. It may be the new politics, but today certainly seems to be less contentious than usual. Consensus has broken out all over in terms of these justice measures.

**Senator Martin Conway:** We have a good Minister of State. That is the reason.

**Senator Ivana Bacik:** A new Minister of State and new politics.

**Senator Niall Ó Donnghaile:** And new Senators.

**Senator Ivana Bacik:** That is perhaps the most important part.

**Senator Paul Coghlan:** A good mix.

**Senator Ivana Bacik:** On a more serious note, I am happy on behalf of the Labour Party group to support the motion on accepting the CEPOL measure. The Minister of State outlined its import. Sadly, almost daily terrorist attacks are beginning to define the world. The atrocity in Nice was mentioned on the Order of Business. I condemn the perpetrator of those awful killings and express my sympathy to the victims who remain in hospital and the families of the deceased, some of whom were children. It was an appalling attack.

In times of such atrocities, it is important that we be able to see the co-ordination across Europe of good policing networks, policing that can respond to a transnational terrorism threat and security and crime concerns in compliance with fundamental human rights and civil liberties. It is important that the key principles underpinning the European agenda on security include that compliance. For example, it is right to condemn the attempted coup in Turkey, but also the disproportionate response of the Erdogan Government. Many of us would be concerned by the calls by members of the Turkish Government to bring back the death penalty. It would be at odds with the European agenda on security, the European conception of fundamental rights and membership of the Council of Europe and the European Union which requires the abolition of the death penalty. Compliance with fundamental rights, transparency, accountability and democratic control of policing are important, as they give citizens confidence in policing and law enforcement generally. This is an important framework within which to consider the CEPOL regulation.

In recent months, there have been significant concerns in the United States about how its policing operates, perceptions around racial bias and so on. That underlines the importance of having proper governance of and accountability for policing. I am glad that we have a policing authority in this jurisdiction. Long overdue, it was a missing element of the major reforms of 2005.

For all of the reasons I have cited, I support this measure. It underlines the benefits of training and development which were identified in the Garda modernisation and renewal programme for the period 2016 to 2021 as key requirements for developing a modern and efficient police service. As a former Chairman of the justice committee, the Minister of State will recall our hearings with the Garda Inspectorate regarding its reporting on flaws and inadequacies in policing, many of which stemmed from poor training practices, little oversight of newly recruited gardaí, etc. We are all aware of the importance of training and development.

I have a question about something that the Minister of State said. As the regulation entered into force on 1 July, Ireland is no longer involved in the college because we have yet to signal

our desire to participate. We are coming to the table late with this motion, given that today is 19 July. The measure has been lapsed for the past two weeks. Will the Minister of State clarify the position? If the motion is passed by both Houses, we will be back in the college, so to speak, and can continue our co-operation. I believe the Minister of State is confirming this. I just wanted to check. I remember from the justice committee the imperative of agreeing EU motions before particular deadlines. Why have we come late to this one, given its importance?

**An Cathaoirleach:** Before calling Senator Martin Conway, I welcome a group of sisters to the Visitors Gallery, one of whom I understand is over 100 years old. It is a great honour to have someone here who has served for all of her life. I hope the sisters enjoy their visit to the House. They are more than welcome. I must confess that one of them is a sister of mine. It is a conflict of interest.

**Senator Martin Conway:** I welcome the good lady at her wonderful age and the Cathaoirleach's own sister.

This is an important motion. As we know, crime no longer has borders. With the development of technology and elaborate webs of communication, criminals now operate in multiple jurisdictions across the world. I welcome the motion. It is appropriate that we participate in this process. That there has been a lapse is a pity, but, to be fair, we are still in the early stages of a new Government that took a protracted period to be put together. I do not doubt that, once we re-engage with the process, we will do so fully and bring the Garda's wonderful skills to the fore, particularly in mediation, diplomacy and so forth. Specialist gardaí will benefit significantly from the exchange of knowledge and the development of an international skill base that will equip them in what is a new world order. Consider what we have seen in the past week alone in terrorist attacks.

*3 o'clock*

There is an absolute need for as many resources as possible to be provided for CEPOL which has to work. International knowledge needs to be developed to deal with and profile crime and the people involved in it. I have no doubt that this approach will be a success, but it will not succeed without the active engagement of all countries and policing authorities. Equally, it will not succeed unless the proper financial resources are made available.

I am delighted that the Garda College in Templemore reopened approximately three years ago. I would like to think it will never close again. Similarly, I hope our involvement in CEPOL will never cease. I suggest not only that we become active participants in all of its programmes, but also that we become leaders. We have the capability and the human resources within the structures of the police force to ensure this can happen. Given that An Garda Síochána is primarily unarmed, it has achieved remarkable success. We all like to see crime figures going down. We all regret it when they are going up. When one examines the figures in an international context, however, it is clear that An Garda Síochána, as a primarily unarmed security force, does a wonderful job.

I would like the Minister of State to comment on British involvement in CEPOL in the light of the new narrative emerging in Britain's relationship with the European Union. How does this new dynamic affect CEPOL? It is extremely important, particularly from an Irish perspective, for England to have an absolute unity of purpose, engagement and involvement in this project. I would be worried if it were to be affected in any way by the upcoming Brexit negotiations. I

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am not sure of the extent to which Britain is involved in CEPOL. Perhaps the Minister of State might enlighten me in that regard.

Education and upskilling happen in many sectors. Members of An Garda Síochána who have been in the force for a number of years should have an opportunity to benefit from upskilling opportunities. I encourage the Garda Commissioner to look at increasing the number of upskilling programmes. We all know from the justice committee and other forums that the Garda's ICT facilities are not fit for purpose. The Minister of State might tell us at some stage how the roll-out of the advanced ICT programme within the Garda - I cannot remember its name - is progressing. I would not expect him to have that information to hand. While the PULSE system was absolutely groundbreaking at the time of its inception, it is probably not fit for purpose now.

**Senator Jerry Buttimer:** As Leader of the House, I acknowledge the presence in the Visitors Gallery of Sr. Maureen. I congratulate her on being 100 years young and wish her a happy and enjoyable day.

It is a tough task to follow Senator Martin Conway because everything he said was apt and important. I am thinking particularly of what he said about the reopening of the Garda College in Templemore, the best way to learn from the Garda's participation in activities of this nature and the efforts to improve the skill set of the valued members of our important police force. There is no doubt that we are living in turbulent times. I refer, for example, to the fallout from the Brexit vote, the attacks in Baghdad, the attack on the airport in Istanbul, the shootings of police officers in America, the prevalence of gun crime and the attack in Nice. The world and the European Union should be craving peace and security. Instead, we face huge challenges as we strive to protect and preserve law and order. When I was a student at Maynooth college, Professor Ronan Drury used to say, "The world is not half settled." That comes to mind today. In this world, when we should be talking about solidarity and security, we are under threat.

The motion before the House gives us an important opportunity to build and develop co-operation across Europe with our law enforcement officials. I want to look at what we are trying to achieve. We are trying to eradicate conflict at a time when the threat of conventional and unconventional terrorism seems to be growing. That is why the motion is so important. On a daily basis we hear stories of ordinary people being killed or injured by supposedly ordinary people who do not have links with any terrorist organisation but who have resources that would put some of the other armed leaders in the world to shame. We must move the world in which we live and co-exist towards one in which security is built and - this is the key phrase - co-operation developed.

I would like to refer to what is at the fundamental heart of CEPOL. It is about encouraging cross-border co-operation, fighting crime, protecting and providing security, enhancing the public security of all citizens across the European Union, facilitating intercountry co-operation and, as Senator Martin Conway rightly said, sharing ideas and research. In this new modern world it is critical that we consider how best to engage with and help our law enforcement officials to train and be a pillar and bastion of security. It is worth mentioning another important point in this context. The motion is not just about law enforcement officials; it is also about extending these structures of co-operation, training and development to Customs officials. The Leas-Chathaoirleach and I live in coastal areas. County Cork is on the coast. While the threat of terrorism in our localities may be limited, there is a need for Customs officials to develop links with law enforcement officials and work in tandem with them. For that reason, I am glad

that the motion mentions Customs officials.

I was struck by Senator Martin Conway's remarks about specialist gardaí who have demonstrably brought a significant amount of knowledge and information to bear across the world and who would benefit from training and development. Senator Ivana Bacik mentioned the fundamental principles of human rights that relate to law and order and decency. One cannot have a state stating it intends to impose the death penalty on citizens who were involved in a coup, regardless of how right or wrong it was. We all accept that the coup in question was not right. We are trying to build an emerging consensus for co-operation across Europe in how we handle law and order and security issues.

I welcome the motion. It is important that we equip the men and women of An Garda Síochána who have shown across the world that they, as Irish people, are able to perform in and bring life to many difficult situations. I thank the Minister of State for bringing the motion before the House. It is important that we allow for this type of activity which enables gardaí to learn from their counterparts in other states as part of their training in the Garda College in Templemore. I am glad that this is going to be done. Equally, I am glad that my party reopened the college. As Senator Martin Conway said, it is to be hoped we never see it closed again.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank Senators for their considered views, support for the motion and questions on the issues raised.

Senator Diarmuid Wilson was very supportive of the motion and CEPOL, for which I thank him.

Senator Niall Ó Donnghaile raised a number of issues, including Brexit, which was also mentioned by Senator Martin Conway and others. Obviously, its impact is not yet known. We will be quite anxious for cross-Border co-operation between the PSNI and An Garda Síochána to continue. This will not be determined until negotiations start after the United Kingdom triggers the necessary mechanism. Again, as the Senator said, it is an area unknown to us, but the Government is anxious for the co-operation to be maintained. As is known, it is very good at present. The Senator mentioned important issues such as human trafficking, drugs and so forth. Other Senators, including Senator Martin Conway, mentioned the fact that crime did not respect borders. It is important, therefore, that we have co-operation.

I emphasise that CEPOL is not a harmonisation instrument. There will be no sharing of operational information. There is no transfer of sovereignty or powers in any way. It relates to training and learning opportunities in order that members of An Garda Síochána can benefit and learn from the expertise of police services in other jurisdictions and *vice versa*. We also have information to impart. We have a very good police service which is improving all the time. As mentioned by Senator Ivana Bacik and others, there is a great deal of oversight of An Garda Síochána by the newly established Policing Authority, the Garda Inspectorate, the Garda Síochána Ombudsman Commission, GSOC, and the excellent justice committee that is being formed. In addition to this oversight, there is a lot of support for An Garda Síochána.

I join Senator Ivana Bacik in referring to the tragedy that took place in Nice and conveying our sympathy to the people who have been bereaved, as well as to those who suffered and are still suffering. As Senator Martin Conway said, the nature of these activities is changing all the time and police services across Europe must keep up to date with what might happen.

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Senator Martin Conway referred to the ICT programme. Additional funding has been provided by the Government and the programme is being rolled out. It is referenced in the modernisation and renewal programme of An Garda Síochána, on which we will be happy to provide further information for the Senator, if required.

Senator Ivana Bacik mentioned the delay. Obviously, many things were delayed until the Government was formed. Many issues could not be progressed. We are now progressing this matter with the support of Senators and will progress it further in the future.

Senators Ivana Bacik and Niall Ó Donnghaile mentioned human rights. Both Senators were right to stress their importance. In the past few weeks I attended the Fundamental Rights Forum held by the European Union Agency for Fundamental Rights in Vienna on Europe and empowering rights. I also addressed the United Nations General Assembly in New York last week on human rights. We are very conscious of the need to keep this issue at the forefront. I thank both Senators for their comments on this important topic and invite them to continue mentioning it. We must maintain the importance of human rights, continue to develop our understanding of them and learn what they mean when we talk about them.

The European Police College was established in September 2005 and is dedicated to providing training and learning opportunities for law enforcement officers on issues vital to the security of the European Union. It is a cost-effective means of upskilling members of An Garda Síochána and Customs officials in critical policing areas in times of restricted budgets. It provides a diversity of training courses in areas where there might not be a national skills base such as dismantling illicit laboratories, fundamentalism and so forth. It provides a European and international context for the understanding and learning of new crime trends, which are key in an increasingly transnational crime environment. The training courses involve participants from many European jurisdictions which provides opportunities to network and build professional contacts which are invaluable as member states operate in an increasingly transnational context. They also provide opportunities to examine best practice in other European jurisdictions, thus providing a useful resource in policy development at home.

I invite Senators to support the motion in order that we can continue this excellent work at European level.

**An Leas-Chathaoirleach:** I join the Cathaoirleach and other Senators in welcoming Sr. Maureen and her colleagues. I wish them well and hope they thoroughly enjoy their day. I have no doubt that the Cathaoirleach will look after them well.

Question put and agreed to.

*Sitting suspended at 3.15 p.m. and resumed at 5 p.m.*

*5 o'clock*

### **Tax and Social Welfare Codes: Motion**

**Senator Ray Butler:** I move:

That Seanad Éireann:

- commends the Minister for Social Protection for planning to close the gap between

self-employed and PAYE workers;

- calls on the Minister to implement a new social welfare stamp for the self-employed;
- calls on the Minister to introduce the recommendations of the Mangan report;
- calls on the Minister to legislate in this regard and for all other related matters in the context of equality of conditions for self-employed and PAYE workers.

I welcome the Minister and commend him and his predecessors for working to close the gap between self-employed and PAYE workers by increasing the earned income tax credit from €550 to €1,650 for the self-employed and to match the PAYE credit by 2018. The motion before the House calls on the Minister for Social Protection to implement a new stamp for the self-employed and introduce the recommendations of the Mangan report. I speak as a person who suffered because of the economic crash. Like many others who were self-employed, I had been in business for over 24 years and my business suffered through no fault of my own. The economic crash destroyed many lives. It was shocking to see the devastation of and impact on families that had worked hard all their lives when, through no fault of their own, their businesses were gone.

I recall canvassing during the election campaign of 2011 in Kildalkey outside Trim. A gentleman brought me into the front room of his house which he used as his office for his business. He showed me the files of PRSI contributions he had paid for his workers and those for the VAT and tax he had paid to the State. When he needed help for his young family, there was no help available from the State, despite the fact that this man had contributed all his life. It was shocking to see the desperation in that man's eyes and the tears rolling down his face because he could not afford to put food on the table, never mind pay his mortgage. It was harrowing. This happened all over the country. I know personally of self-employed persons who went down a dark road but never came back - I am talking about suicide.

Ireland is the only country in industrialised Europe that does not have social protection for the self-employed. I realise there is no perfect fit to suit everyone when it comes to social protection for the self-employed, but we have to start somewhere. In England the system operates on profits. After a self-employed person pays himself or herself a wage and all the outlays, it kicks in. He or she is exempt for the first £7,000 in profit, but he or she gets an entitlement to social welfare payments. On profit amounts between £7,000 and £20,000 he or she pays £3.30 per week which entitles him or her to social protection payments. On higher profits over £20,000 the rate is 9%. That is only one example of how it is done in another country. Other jurisdictions operate on the basis of voluntary and mandatory contributions.

The Mangan report recommended that we introduce stamp at a rate of 5.5% that would automatically entitle a self-employed person to sick pay or disability pay for nine months. After that, the person would have to be assessed for a longer term payment. I am keen that we should introduce a new stamp - eventually rising to a rate of 5.5% - that would cover sick pay, disability pay and job loss. To introduce such a stamp in this year's budget, we could start off at a rate of 4.5% and then, while seeing how the economy and other factors perform in the coming years, we could plan to increase it to 5.5%. While I am aware it must all be costed, if the rate of universal social charge, USC, decreases by a further 1% in this year's budget, we will never get a better chance to introduce the stamp. I have spoken to many small and medium-sized enterprises, SMEs, of various types in the past six years. I have brought groups before the Oireach-

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tas social welfare committee to speak on this issue and everyone is in favour of some form of protection for the self-employed. While the single self-employed are 100% behind this new stamp, the larger organisation representing businesses is in favour of protection for its members, albeit on a voluntary basis. This cannot work on a voluntary basis but must be mandatory, as nothing works through social protection that is voluntary. While I also understand some self-employed persons have companies or bigger businesses than the single self-employed person, consideration can be given to capping the contributions in order that such persons pay no more or no less than a single self-employed person.

In fairness to the previous Minister, Deputy Joan Burton, she lowered the threshold levels during the crash of the Celtic tiger and 22,000 self-employed persons received social protection benefits. Essentially, such people were obliged to get a letter from their accountants and Revenue stating they had ceased trading. In certain cases, this was not possible because of financial restraints. The aforementioned 22,000 who received social welfare benefits had not been paying contributions for this facility and those who were obliged to pay for this were the PRSI workers. Why should PRSI workers be obliged to pay for the self-employed? Self-employed persons do not need charity; they wish to pay for their own contributions. Members are debating an issue today that should have been sorted out 30 years ago. My father had a small business in Kells and I remember the same issue, which has never been sorted out by whatever Government was in power and nothing has been done by previous Governments. Nearly one quarter of the workforce are self-employed and this figure is growing all the time. These people have no protection if they get sick, experience disability or lose their jobs. The Government asks such persons to start new businesses, create new jobs and give to society. It is now time for the Government to put in place a safety net for them in order that there will be a helping hand to get them back on their feet if something goes wrong.

**Senator Joe O'Reilly:** It is an absolute privilege and duty and I am delighted to second the motion as proposed by Senator Ray Butler. It merits mentioning that since the first day I met him, when he and I were both elected to the Dáil in 2011, he has been talking about, pioneering and bringing forward this issue. He has run with it consistently and should be proud he is now bringing it to a legislative stage. It is a great personal achievement and is something to which all Members aspire in different ways, but he is the one who has done it. He has brought significant legislation to this House, which is a great personal achievement, of which he can be very proud. I wish him well and congratulate him on it, as Members should applaud any colleague who is able to do something like this and does so.

I concur with the remarks of Senator Ray Butler on self-employed persons, based on my anecdotal evidence from clinic work and meeting people during those terrible years. One case really comes to mind clearly but before getting into specifics, I came across many self-employed persons, as identified by the Senator, who were in that dark place and were without income. One family comes to mind and it was a wonderful pleasure to meet the dad recently and to discover things are changing for him. While he is now a directly-employed person, the tide has turned completely. I recall one case in which the business was gone, the wife who had had work in the past had no further work and there were three or four children, one of whom was in a third level college in Dublin. It is a real case and I will not go into it further lest the family be identified, but my point is the Senator's observations were and are real and sadly, will be real again. It is important that when those who have the courage to try to do something on their own initiative fall, there is a cushion in place to support them. It also merits stating they already pay 4% and in a sense, the *de facto* position is they pay 4% for an S stamp for which they get nothing. Lest

there be any misunderstanding about it, it is not as though they are beginning from a position in which they pay nothing for nothing. The starting position is they pay a lot for nothing.

In this Private Members' motion Senator Ray Butler has adapted the Mangan report to a good legislative framework in which he advocates beginning with a payment rate of 4.5%, which is not a significant increase on the existing rate of 4%. Moreover, he advocates introducing graduated changes to the payment rates from then onwards, until the rate of 5.5% is reached, in order that nobody suffers too greatly too quickly in the payment end. The significant point, however, is the new situation will provide an income in the event of someone losing a job. It is important that this be in place because thankfully, not everybody is disabled. Thanks be to God, only a minority go through that challenge, in which they should be supported, but it is important that there be a payment for job loss. It also is important that a disability payment, illness benefit and the other normal social welfare payments be available to them, which I strongly support.

Senator Ray Butler also made an important point in his remarks on the falling rate of USC. The rate has fallen, is falling and will continue to fall, as it is part of the programme for Government to target this reduction in the USC rate at middle and lower incomes in particular. As the rate of USC falls, there will be potential to make this payment, as it would mean almost no change other than the benefits accruing to an employer. This is the sort of message that should be sent, lest there be a scare in respect of this proposal based on a misunderstanding that a new tax - with no outcome - is to be imposed on struggling small enterprises that they will not be in a position to pay. The ability to pay aspect will be covered by the reduction in the rate of USC, while the benefits accruing makes it a measure that is to their advantage. It will not de-incentivise, but, if anything, it should slightly incentivise risk-taking because no one likes to go without a safety net of some form in life. That is why the insurance industry does so well and many people make a good living in insurance because everybody has a level of fear about the future. The fact that people would be covered for sick pay, disability pay and job loss is an incentive to take a risk. One does not take the risk while intending to fall into that category, far from it, but at least in taking the risk, one then has an expectation that a safety net is in place. It might, perhaps, make it easier to look one's children or dependants straight in the face and say one would at least have a job loss payment or the equivalent of the jobseeker's benefit in a doomsday scenario, or get sick pay in the event of illness or the disability payment if required. It is important also that one will be able to say there will be no net increased cost because of the universal social charge.

It merits repetition that Ireland is one of the few countries in Europe not to have what is proposed. It is part of a civilised, modern society. Some 330,000 self-employed persons will stand to benefit from this pioneering proposal introduced by Senator Ray Butler. This number is expanding all the time. It allows for an important fallback position for them and will increase risk-taking. We certainly do not want people going into bleak spots, as the Senator stated, but we also do not want a burden on the State. By making the payment, one is ultimately providing money to provide a cushion. The State would not be put into a position in which, in the middle of a recession, it would have to provide exceptional welfare payments to many desperate people through the community welfare office, for example.

It is important to acknowledge the good work the former Minister for Social Protection, Deputy Joan Burton, and others in the last Government did in this area, although it was not enough because enough could not be done.

I welcome the legislation. It is providing significant benefits, although it is hoped people

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will not need them. I welcome the incremental introduction of the arrangement and the cushioning from the continuing fall in the universal social charge. It is also welcome that what is proposed brings us into line with the rest of Europe. Above all, it may be creating an incentive to be enterprising and to take a risk. It supports risk-takers. Without risk-takers, we will go nowhere. I do not have to tell the Cathaoirleach that if we do not have risk-takers in the economy, revenue will not accrue. We have to have that special type of person who takes risks. We cannot have them fall into nothingness.

**Senator Catherine Ardagh:** I thank Senators Ray Butler and Joe O'Reilly for bringing the motion before the House. It is very close to my heart as a self-employed individual. I thank the Minister for taking the time to address the House.

I am a solicitor, but, if I did not know better, I would believe I was an agent of the Revenue Commissioners. The taxes I collect include stamp duty, VAT, employer's PRSI, employee's PAYE, my own income tax, the local property tax and the non-principal private residence charge. For all this tax collection, I would get no services from the State if anything were to happen to me. Obviously, as I am now a Senator, my circumstances have changed. However, had I not been elected, I would be in the same position as Senator Ray Butler and would not have any of the supports in question available to me or my family.

In principle, Fianna Fáil supports the motion and has been at the forefront in highlighting that the PRSI system needs to be reformed to extend social welfare benefits to the self-employed. Fianna Fáil published a Bill on this issue and discussed it during Private Members' business in the Dáil in April 2015. We believe the commitment in A Programme for a Partnership Government to introduce an approved PRSI system for the self-employed should be realised in coming budgets. However, while we support the motion in general and have been vocal in our belief social insurance needs to be extended to the self-employed, we do not fully concur with the view in the Mangan report that jobseeker's allowance payments provide adequate cover for self-employed persons, given the risks associated with unemployment and the recommendation that the extension of social insurance to the self-employed to provide cover for long-term illness, ill-health or incapacity should be on a compulsory basis. Instead, Fianna Fáil favours extending the full range of benefits, including jobseeker's benefit, to the self-employed through an opt-in system as opposed to a compulsory system. On a phased and voluntary basis, we propose to extend a full range of social protection payments, including jobseeker's benefit and illness benefit, to self-employed PRSI contributors as part of a commitment to fostering an entrepreneurial culture, in addition to enhancing social solidarity.

Fianna Fáil's proposals are on the basis that the self-employed will be able to opt into the existing class A structure, paying the rate corresponding to their income level. We propose they should be able to continue to make class S payments, as they do. The additional payment would equate to 4% for the self-employed with an income above €356 per week. When a self-employed person is starting off, he or she does not have a massive income. One's income for the first year may be €12,000. Making it compulsory for self-employed people to opt into a system they may not be able to afford is unfair. That is why we favour the opt-in system.

As part of the programme of extending benefits, we propose that limited recognition be given for class S payments made to date by self-employed persons. This should be done in a way that balances the need to assist the self-employed sector with the requirement not to unduly burden the Social Insurance Fund. It is apparent that reform such as this is most needed as it is crucial that we actively encourage entrepreneurship. A major disincentive to potential en-

trepreneurs considering starting a business is the threadbare social safety net. This is an active impediment to undertaking the risk inherent to creating new businesses.

The welfare system should support existing business people and budding entrepreneurs who will lead the way in job creation in their communities. The current arrangement for compulsory social insurance has been in place since 1998. The self-employed pay PRSI at the class S rate of 4%. They are covered for the State contributory pension, the widow's or widower's pension, the surviving civil partner pension, the guardian's payment, the maternity benefit and the adoptive benefit. The schemes to which the self-employed do not have access cover the jobseeker's benefit, illness benefit, partial capacity benefit, invalidity pension, health and safety benefit, carer's benefit, treatment benefit and additional injuries benefit, including the disablement benefit.

As part of Fianna Fáil's Private Members' motion in April 2015, the party sought, on a phased and voluntary basis, to extend the full range of social protection payments, including jobseeker's benefit, illness benefit and invalidity pension, to self-employed PRSI contributors as part of a commitment to fostering an entrepreneurial culture, as well as enhancing social solidarity. The self-employed will be able to opt into the existing class A structure, paying the rate corresponding to their income level. They will continue to make class S payments, as they do. The additional voluntary payment will equate to 4% for the self-employed with income above €356 per week.

Extending social welfare protection to self-employed persons achieves at least two objectives. First, it secures a measure of social justice. Second, it reduces the risk for those entrepreneurs who wish to start up their own business by providing a safety net. This makes perfect sense at a strategic level. Fianna Fáil is committed to building an indigenous sector based on small and medium enterprises. However, we must put in place structural reforms to do so. Providing social welfare support for self-employed persons should be part of that process. We must make Ireland's business environment fit for purpose and as attractive as is feasibly possible. We need to address the issues that make it difficult or too risky for individuals to start a business. We need to create an environment that is conducive and appealing to self-starters, an environment that has the potential to create further jobs and bring money into the economy, towns and villages. Reforming the social welfare system to allow self-employed persons to opt in to the class A structure is a vital step towards making the starting of a business more attractive and less risky to entrepreneurs.

**Senator Pádraig Ó Céidigh:** Cuirim fáilte roimh an Aire. Níl a fhios agam an bhfuil mórán Gaeilge aige; tá seans go bhfuil. He is very welcome. We knew each other in a former world, that of aviation and transport. As far as I am concerned, he did a really good job. What one sees is what one gets, which is very much appreciated.

I very much support the motion of Senators Ray Butler and Joe O'Reilly. Passionately as an entrepreneur and having worked with entrepreneurs for the past 20-odd years, I believe taking some risk out of entrepreneurship is critical. This proposal is one really good step in that direction, as the Senators mentioned. It is not that one wants a fail-safe way to go – far from it – because it is in the nature of entrepreneurs to take risks. Although they want to take risks, they should not be left with absolutely nothing if things go wrong. A man once told me something in that regard that made a lot of sense. He said many entrepreneurs he knew had lost their health, wealth or family. That was true for many in the recent recession, from 2006 to 2011.

One of the things we need to do and which we can do under the Minister's leadership is

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to create a situation that reduces the risks for entrepreneurs, which would get more people involved in the system, more people willing to jump outside their comfort zone and willing to take a risk on it. One of the last things we need is where somebody has their home or whatever - personal guarantees - locked in with regard to bank loans and so on. They will go out on a limb and in this context this is the first move to give some backstop to entrepreneurs and business people, in order that at least they might receive some social welfare payment in the event that they become unemployed, which many people did.

There are over 200,000 SMEs in Ireland. They employ, on average, 7.3 people each. That is over 1.6 million people. There are 2 million people employed in the country altogether. That means that between everything else outside of SMEs, there are about 370,000 people employed. Who is our key resource in terms of employment and in terms of funding the Exchequer? By the number of people these entrepreneurs employ, they generate over 90% of the total income to the Exchequer, between PAYE and PRSI, as well as paying the full whack of corporation tax. They do not get it reduced to 4% or anything like it. Not only that, but they are paying their own PAYE on any salary they take out, over and above the corporation tax. They are working 60, 70, 80 and sometimes more hours a week. I would not like them to do a calculation to see how much they are getting per hour because many of them would be well under €10 per hour.

This is a huge support from the Minister and I greatly appreciate what he has brought to the table. It is a very important day for entrepreneurship in Ireland, not only for existing entrepreneurs but for those who will decide to take off the jacket and try something new. At least there will now be some backstop for them if it does not work out.

I have carried out some research on this issue because it is one about which I am passionate. Just over 90% of SMEs that closed between 2006 and 2011 were in rural Ireland. There is something fundamental about this. Will the Government and the Minister start looking holistically at what can be done? They are the backstop not only to creating but to keeping wealth and employment in rural Ireland. The vast majority of businesses in rural Ireland are not the big companies but the small ones. They employ two to eight people. They are the real heroes of the country. They are the one who, until what Senator Ray Butler has done, have largely been ignored because they have had no voice. I thank him for giving them a voice.

**Senator John O'Mahony:** As I probably will not use the full eight minutes I have been allocated, I will share it.

**Acting Chairman (Senator Kieran O'Donnell):** With whom will the Senator be sharing?

**Senator John O'Mahony:** I do not know who is next. We will see. I might speak for eight minutes.

**Acting Chairman (Senator Kieran O'Donnell):** The Senator might get into a flow.

**Senator John O'Mahony:** I express my support for the motion tabled by Senator Ray Butler. As Senator Joe O'Reilly said, he has been pioneering this issue for many years. As he speaks from his own personal experience, he comes from that angle also.

I remember sitting in halls in the west with over 200 people who were self-employed. As a result of the economic crash, they were left destitute and there was no safety net for them. At that stage, because of the constraints of the crash, it was difficult for the last Government to solve the problems with everything else, but we are now in a different space. I commend the

motion and the Minister for the efforts he is making on the issue and in the area of pensions also. We are in a position where issues need to be tackled and to be planned for.

The main message, on which Senator Pádraig Ó Céidigh touched, is that self-employed persons do not, in the main, run big companies. They are builders, farmers, fishermen, doctors, dentists, electricians, plumbers, mechanics and shopkeepers. They need to be looked after. They are the lifeblood of the economy as much as the big multinational companies. The current stamp paid by this category is, as we all know, 4% of reckonable income and provides cover for contributory widows' and widowers' pensions, the State pension and maternity benefit, but it does not cover unemployment and sick benefit. The big issue at that meeting was that none of them could get jobseeker's benefit either. I know that was adjusted to a certain extent and some would get it because of lowering of thresholds, means testing and all of that, but the advisory group on tax and social welfare examined the options for extensions of cover to the self-employed and found it was warranted in the case of long-term sickness or injuries. It recommended, as has been said here before, an increase of at least 1.5%. I know that ISME came out strongly against it at the time and stated it should be optional. I would not agree with this. In Ireland most things that are optional are not as effective and a way needs to be found to implement it for everybody on an equal footing. We all accept that providing a supportive environment for enterprise and employment is fundamental to full economic recovery in this country. We need risk-takers, but those risk-takers need a safety net.

As we pointed out, it is those who create one or two jobs and the small self-employed who employ a few people who are more likely to be more influential in the regional and rural areas. It is important that the role of entrepreneurs, the self-employed and small family businesses is central to the economy. There is a commitment in the new programme for Government to introduce an approved PRSI scheme for the self-employed. The motion is very timely. There will be a public consultation process soon, I understand. We all accept that change is needed. The *status quo* cannot be left as it is. It is not acceptable. We need an equal playing field for the self-employed. These proposals, if adopted, would be a very good start. As has been pointed out, most countries have a form of this already and it is time we introduced it also.

**Senator Máire Devine:** Gabhaim buíochas leis an gCathaoirleach, the Minister and his colleagues in Fine Gael who are bringing this issue before the Seanad. I have shared their experiences, especially in the sad times, when there were people who had been made unemployed queuing out the door of clinics. We needed to do something to help them, but I felt inadequate in the case of those who were self-employed. I could not do anything and had to watch them spiral, taking hit after hit, and losing their families, homes, businesses and often, tragically, a lot more. It is important that something has been done. I would like to outline our support for the measures proposed. It is not before time for such measures to be brought forward. They will go some way towards providing security and a safety net for self-employed workers across the country. Similarly, I would like to make known our support for the self-employed sector. Just under 20% of those in employment in the economy are self-employed. They drive employment and sustain local economies in every city, town and village. Entrepreneurs are risk-takers who put their heads on the line to try to drive the country forward. While we recognise the importance of transnational companies and foreign direct investment in creating jobs, small and medium indigenous firms are the real drivers of local economies and should be supported and protected because they also provide the potential for the growth of Irish transnational companies.

I hope the motion will resolve the issue that arises in the provision of long-term benefits in cases of sickness or injury. We must have a wider discussion on the improvements we need to

make to assist the self-employed and how the proposed extension of benefits should be funded. The Mangan report, the recommendations of which the motion proposes to implement, suggests PRSI rates for the self-employed be increased to fund the benefits that would be provided. Clarity is required on this issue because the Fine Gael Party is opposed to increasing PRSI rates for the self-employed and has consistently argued that employers need cash to pay wages and create jobs. Senator Ray Butler will probably argue the case for reducing universal social charge, USC, rates. That would be the wrong move as we need revenue for investment.

I note also that the Fine Gael Party manifesto in the previous general election did not refer to self-employed PRSI rates but instead proposed an increase in the tax credit available to the self-employed. Fine Gael seeks to reduce the PRSI rate paid by employers for their employees as a means of funding the proposed increase in the minimum wage. In this regard, I note the proposal by the Low Pay Commission to increase the minimum wage by 10 cent per hour, which is an insult.

The position of the Fianna Fáil Party does not differ significantly from that of the Fine Gael Party, which is not a surprise. Fianna Fáil refers to protecting the self-employed to achieve a measure of social equality. Somewhat different, however, is its suggestion an opt-in clause be introduced for self-employed persons in PRSI class A. This would require an additional PRSI contribution of 4% of income. How many self-employed persons would be willing to pay this additional amount? That needs to be clarified.

Sinn Féin has long called for changes to be made to allow self-employed persons access to more sustained benefits. That said, a serious conversation is required on how these changes would be paid for. PAYE workers currently pay PRSI at a rate of 4%, while their employers pay a further 10.75% on their employees' behalf. We could end up with a scenario in which PAYE workers pay significantly more than self-employed workers for the same benefits. Sinn Féin is more than happy to extend benefits to the self-employed and encourages such an extension, but the self-employed would have to make a contribution towards the cost of doing so. There is no better time to introduce this change because pay rates for the self-employed are increasing much faster than those of employees in the public and private sectors. I stress, however, that no one should be forced into joining any new system at this time. It should be accessed on an opt-in or voluntary basis. I am fully cognisant, for example, that numerous self-employed persons are members of income protection schemes and find these to be adequate to meet their needs.

Where do we go from here? It is a bit rich of Fine Gael to introduce this motion when the party has been in government for more than five years. Despite recognising the failings of the current system, the party has done nothing to address them thus far. I commend the motion, belated as it is, and hope it will be accepted.

The Minister has indicated he plans to close the gap between the self-employed and other workers. The time for planning is long past; self-employed persons need action. Fianna Fáil and Fine Gael are essentially in government together and, combined, the two parties have sufficient numbers to enact legislation without delay. It would not be rocket science to implement the recommendations made in the Mangan report, as provided for in the motion; therefore, why not do so? The cosy agreement in the confidence and supply arrangement includes a commitment to introduce a PRSI scheme for the self-employed and provide a supportive tax regime for entrepreneurs and the self-employed. This begs a question, however, namely, what is the point of using Private Members' time to discuss this issue when the Government and Fianna Fáil can introduce legislation to provide for it? Sinn Féin will certainly support progressive measures to

help the self-employed sector. It may be the case that the motion is nothing more than a toothless public relations exercise aimed at allowing Fine Gael Senators to look good in the eyes of the business community and that nothing definitive will come of it.

**Senator Alice-Mary Higgins:** I commend Senator Ray Butler for tabling the motion. I also welcome the Minister.

A number of positive measures have been proposed in the motion. I note that the programme for Government includes a commitment to close the gap between the earned income credit and the PAYE tax credit. This is a positive proposal, primarily because these are flat tax credits which have the potential to benefit self-employed persons on lower incomes more than others because any increase in the tax credit would make more of a difference to them. It is important to maintain this principle by providing tax credits rather than tax reliefs.

I support the recommendations made in the Mangan report on this issue and it is good that they are being advanced. However, we must also pay attention to the language used in the report. It is important to be a little more rigorous and avoid using language that suggests the self-employed do not get anything. As the Mangan report made clear, while this perception is common, it is not accurate. For example, 20,000 claims for the means-tested jobseeker's allowance were made by self-employed persons between 2009 and 2011, of which 85% were successful. It is important, therefore, that the language used in this debate be accurate and avoid creating an unnecessary divide.

In terms of the concrete measures proposed in the Mangan report, the document is nuanced and thoughtful. For example, it examined the means-tested jobseeker's allowance and found it to be an adequate measure, while also identifying that long-term sickness and injury cases were not adequately served under the current system. The report recommends an increase in contributions to deal with the issues of invalidity, partial capacity and disability payments. I note also that the report identifies 1.5% as the minimum increase in contributions required if self-employed persons are to be allowed to access benefits in the manner proposed. It is important to bear in mind that the report also proposes moving towards increasing the rate of PRSI paid by the self-employed to 5.5%. We must keep on track to reach the 5.5% target and achieving it would mean ensuring we would not stall when it reached 4.5%.

I agree with previous speakers who argued that PRSI rates for the self-employed must be decoupled from the universal social charge. It is important not to mix up the USC and employee contributions by linking the former with any increase in contributions by self-employed persons. We are discussing measures specifically related to PRSI and should focus entirely on that issue.

On payment levels, it is a matter of concern that Ireland has one of the lowest levels of income from PRSI in Europe. The 14.5% PRSI rate for PAYE workers which is split between employees and employers at 4% and 10.75%, respectively, is much higher than the proposed self-employed PRSI contribution of 5.5%. While I support the motion, it is important to bear this differential in mind because we must not hollow out the revenue generated from PRSI. We should also consider other measures or areas to generate increased income from PRSI. Organisations such as TASC have made proposals in this regard and perhaps these might be examined in the future.

I have one other concern which presents an argument both for and against the motion. All

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available evidence shows that the level of bogus self-employment is on the rise. While we have heard about entrepreneurs and risk-takers, there are other workers who have risk thrust on them. For instance, construction workers and lone providers of services for a single employer are frequently in self-employment. Only two weeks ago, the House discussed legislation which included measures to strengthen collective bargaining and the rights of freelance and self-employed workers. I hope the Bill in question will receive Senators' support when it is brought before the House again. That argument about bogus self-employment makes the case that this is extremely necessary because many people can find themselves in very vulnerable positions. It is important that the position be monitored and tracked in order to ensure people do not come under pressure from employers to register as self-employed in order to lower the overall PRSI contributions being made. This is an issue to monitor carefully and I know that Senator Ray Butler is aware of that concern.

We talk about voluntary contributions, an issue which impacts on many of the same people who are affected by these matters. We have seen the huge obstacle of voluntary contributions added to this in that it has become more difficult to make these contributions in recent years. The number of previous contributions that need to have been made has almost doubled to 520. This is an issue that affects the self-employed, but it also strongly affects women, for example, those returning to the workplace. We also see that those who, like me, have moved between self-employed and employee status can find themselves trapped in a self-employed status from where it is difficult to make up those gaps in higher rate contributions that would allow them to have an adequate pension. This issue should be examined in tandem with the others to which I refer by the social protection committee.

The final part of the motion refers to the importance of the equality of conditions for self-employed and PAYE workers. I remind the House of the commitment to gender equality and urge that there be full gender-proofing of these proposals. With reference to gender equality and as we look to the idea of a new social welfare stamp that allows for the contributions of the self-employed, we might also revisit the question of a care credit which, again, is a stamp that would recognise the contribution made by carers in our system. That would be part of an overall reform within the social protection system.

I commend Senator Ray Butler for introducing the motion. I look forward to the issues involved being discussed in more detail at the social protection committee and being progressed.

**Senator Maria Byrne:** I welcome the Minister. I compliment Senator Ray Butler on bringing this very worthwhile motion before the House. Senator Joe O'Reilly referred to the self-employed as being risk-takers which is a very valid term. When we think about it, they are the ones who take risks, who invest their own finances and who start their own companies, which might just have one employee or 30, 50 or even more employees. There is certainly a risk involved. Coming from a self-employed background, I am well aware of the associated issues.

It is welcome that the Minister is willing to take account of all of these points of view and to look at equalisation by 2018 between the PAYE worker and the self-employed. It has been pointed out that there are many categories of self-employed, from the farmer and the electrician to the entrepreneur. It is welcome that there will be supports in place for SMEs and the self-employed.

During the recession many of the self-employed fell on hard times. Many had not even

separated their personal finances from the finances they had invested in their companies, which was a big issue. Under the previous Government, the cap was reduced for jobseeker's allowance, but people still had to prove they were not working a full week, which is from four to seven days. For the self-employed to prove that is very difficult, given that some might work only one day in a particular week and then work three days the following week. The latter means it is difficult to keep control and to prove the actual position. It is important that the protective net provided to PAYE workers is being extended to the self-employed.

A key element of all of this is ensuring self-employed persons are entitled to the same as PAYE workers. This matter has been ongoing since 1986. It is now 2016 and it is good that we are heading towards an end. I see this in a very positive light. The 2011 census showed that there were some 306,000 self-employed persons. I am sure the number has increased since, although I do not know what the most recent census figures indicate in this regard. In 2009 some 16.4% of self-employed persons were at risk of poverty, which was quite high and reflected the fact many could not access payments.

Other small things would mean a lot to those who are self-employed. For example, PAYE workers are entitled to two optical tests every two years and also to dental appointments. Small changes in these areas could make a big difference to the self-employed, especially those who run smaller businesses. The main point is the cohesiveness of the welfare system. It is positive that we are at last giving a leg-up to the self-employed. By giving them that support, it will encourage them and will be a positive in terms of their expanding their businesses which, in turn, will lead to greater job creation.

**Senator Kevin Humphreys:** This is a very interesting debate. To follow up on Senator Alice-Mary Higgins' point, bogus self-employment is increasingly becoming an issue. Hardly a week goes by when I do not meet somebody in the construction industry, the IT sector or the media who is being forced down into bogus self-employment. They are taking all the risks and getting none of the benefits. This is an increasing problem. Such workers need to be protected and I look forward to proposals coming forward to provide such protection. It is the real race to the bottom to force plumbers or bricklayers working on building sites to become self-employed. The same applies to people providing IT services to major firms. This is a way for firms to reduce costs in respect of PRSI, holidays and so on and to put all of that pressure on those I call the bogus self-employed.

I am delighted that we are having this debate. Like those who have spoken, I believe a small enterprise starting off which takes the risk to create work not only for one person but for other members of their families and their communities should be rewarded and assisted at every opportunity. However, we also need to have a very honest conversation in that regard, particularly as to the cost involved. The notion of an opt-in is nonsense. As I believe in social solidarity, whether one can opt in to pay a tax is a non-runner. The strong help the weak. A company that is operating strongly should pay PRSI if there are to be benefits for the self-employed. Those self-employed persons who are in a precarious position will obviously opt in and those doing well will opt out. Where is the social solidarity if that happens? The notion of an opt-in is a total nonsense. If we introduce it, it must be for everybody and everybody must pay. Let us have that truly honest discussion.

Senator Ray Butler referred to a 5% stamp. If that is to be the case, can I have a refund please? May I have my 9% back? For somebody in employment, the PRSI package is 14.75%. Let us be honest. The cost of the benefits for an employee is 14.75%. If someone is to get the

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same benefits by paying 5%, it is a nonsense. Let us have a real discussion on this issue. If people want to opt in to paying PRSI contributions and get all of the benefits, that is the cost.

Senator Alice-Mary Higgins made another good point. There is a constant argument that there is a rural-urban divide or one between the self-employed and employees. It is said the self-employed get nothing. I have met so many self-employed persons who say “I get nothing;” yet when one goes through the benefits, they say they did not realise that, for example, they would receive a pension.

*6 o'clock*

To get a contributory old age pension of €238 per week is a real benefit, but people are not aware that there are benefits for paying that stamp. They conveniently forget that, as Senator Alice-Mary Higgins said, over 20,000 qualified for a means-tested social welfare payment. An employee only receives a social welfare payment for the first nine months for their PRSI payments. Then they go onto the same scheme as the self-employed and there is not a great difference.

If we wish to be honest with people who are risk-takers, let us have that conversation about the benefits they will gain for their contribution and what the true cost is. When I have had that discussion with self-employed persons, they have told me clearly that they are not prepared to pay anything relating to the true cost. If one talks to employees, they say they would far prefer to pay 5% instead of 14.75%. Let us have a true and honest conversation about this issue. People will say the employer's contribution tops up the employee's, but that is part of the employment package and is part of the overall cost of an employee. That is where the overall percentage arises. When we go to public consultation, we should have honest answers. Let us have that type of new politics, to use those much maligned words, where we honestly tell people the cost and the benefit and explain that social solidarity does not work unless everybody pays. There is a real and significant cost for the self-employed if they opt in and I believe they should. In fact, they should be in it. I do not believe it should be an option. In social solidarity most people should try to help weaker members of the community and provide a safety net.

As I travelled around and spoke to people in Dublin Bay South during the last general election campaign I spoke to many people who were self-employed. As soon as I spoke about the real cost of paying for the benefits of PRSI, they immediately said that was not for them and that they preferred to pay the lower cost. However, if one speaks to somebody who has gone through the trauma of losing their business and losing everything, they tend to say, “If I had known that safety net was there, of course I would have paid into it.” Therefore, there are two huge alternatives. Something else I have noticed is that the employers' groups have not been banging down my door with regard to increased payments of PRSI for the self-employed. It appears to have gone over their heads because their members are saying they do not wish to make additional payments.

The sentiment of the motion is correct. There should be a safety net for everybody, but there is a cost. If we wish to do this honestly, we should put it out for public consultation and tell people what the true cost is. I thank the Minister for coming to the House.

**Senator Gerry Horkan:** As much of what I wish to say has been said by other Members, I will not repeat the valid and useful points made. However, there are a number of matters that I hope to highlight for the Minister. I support the motion and thank Senator Ray Butler for

tabling it. He articulated his point very well. In fact, all Members, although they had slightly nuanced positions, are sympathetic to the idea that if one pays into something one should get something and if one does not, one should not.

I am sure that by now the Minister is familiar with all of the rates of PRSI and how they are calculated, although I will not be testing him on that. Having 11 rates is quite complicated and within it there are various credits, tiers and so forth. We must be honest enough to state that PRSI is no longer pay related social insurance at all. It is not pay related social insurance because it is applied to everything, including unearned income, rent, dividends and various other things. We should tell everybody that it is no longer pay related social insurance but income related, or whatever other term one wishes to use, social insurance. It is no longer applied to one's salary cheque or one's earned income from one's main employment or income source. The self-employed pay class S, which is 4%. I take the point the previous Minister in the Department of Social Protection made that the cost is 14.75%, but the employer pays 10.75% of that-----

**Senator Kevin Humphreys:** That is the package.

**Senator Gerry Horkan:** -----and the employee pays at the rate of 4%. A self-employed person earning X amount pays 4% and an employee earning X amount pays 4%. That is what happens to the pay cheque of the employee versus the earnings of the self-employed person. The difference is that the employee paying class A at 4% receives all types of benefit, rightly so, but the self-employed person does not get any of those benefits.

If one looks at the Department's website, *welfare.ie*, to see what one can get under the class S contribution it is virtually nothing, except that one might get a medical card, rent supplement, back to school footwear and clothing allowance, exceptional payments or jobseeker's allowance but not jobseeker's benefit. If somebody is earning €100,000 in a multinational company and made redundant or obliged to leave the employment, he or she will get benefits based on what he or she paid in and what his or her employer paid in. He or she gets it, regardless of what income or assets he or she has or does not have. He or she will be paid for a certain period of time after he or she leaves the job. A self-employed person who has paid at the rate of 4% and, if he or she happened to be prudent, as all Governments advise people to be, and has tucked some money away will be assessed on that money and not receive the benefit because he or she has some money. There is a split in that regard. I ask the Minister to examine the entitlement the under PRSI system.

It is important that we encourage people to work for themselves and create employment for others. One often finds a situation where the self-employed person employs others and they are on better benefits than the self-employed person. If the business goes down, the self-employed person does not get anything like the benefits their employees receive. We must ensure self-employed persons are genuinely sick and not simply deciding to stop working and expecting all of the benefits. That applies equally to employees. Very few people wish to go on jobseeker's payments if they can earn more in their private capacity. The system must make that more attractive and be less of a disincentive for people who are working for themselves or considering working for themselves to opt to do so.

Ultimately, the people who are creating jobs and employees by expanding their business are the people who raise the revenue, with the multinationals and in addition to the other forms of tax we raise. They generate the wealth in this country to allow us to have the decent social wel-

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fare system that the Minister outlined last week. We appear to be discussing this every Tuesday evening with the Minister, as it was statements on social protection this time last week. The Minister needs the income from all of the people creating employment and from the tax, PRSI, universal social charge and so forth from all of their employees to come back into the system to ensure the social solidarity mentioned by other speakers is there for the people who need it.

I commend the motion. Parts of it possibly do not go far enough, but I support its intent. I hope the Minister will take on board some of the points I have raised.

**Senator Kieran O'Donnell:** I welcome the Minister. I commend Senator Ray Butler for putting the motion before the House. It is a topic that has been around since time immemorial and must be dealt with. I will discuss it in a practical way. I was self-employed for many years and, as an accountant, worked with the self employed. They were my bread and butter, my business.

There are anomalies that must be dealt with. The stamps we are discussing are the S stamp for the self-employed and the A stamp for an employee. One can basically boil it down to that. If somebody is on an S stamp, the only benefit for which he or she qualifies is the old age pension. It is not correct to say that if one is on an S stamp, one qualifies for nothing because one qualifies for a contributory old age pension. That is similar to somebody on an A stamp. If one is on an A stamp which means that one is an employee, one qualifies for the contributory old age pension, rightly so. In addition, one qualifies for other social welfare benefits. One is jobseeker's benefit, which means that if one loses one's job one is entitled to receive up to €188 per week, depending on one's family circumstances, for either six or nine months, depending on the level of contributions over a period of time.

Equally, one is entitled to invalidity pension, for which one must be on an A stamp. One can qualify for it if one can never work again. There is a small anomaly. It is called "invalidity pension", but in essence somebody can receive it at a much earlier age. However, one must have stamp A contributions and up to 48 in the previous year. S stamp contributors do not qualify. Equally, one qualifies for disability benefit. With an A stamp, one will qualify for anything that is stamp-related, but with an S stamp, one does not qualify. If we look at it on a basic human level, with an S or an A stamp, one qualifies for the contributory old age pension, which is fine. They involve the same 560 payments over one's lifetime, plus an average of ten payments at a minimum. However, one does not qualify for jobseeker's benefit.

Many small businesses have been incorporated into limited companies for various reasons. In many cases, this is because the level of income is sufficient to warrant becoming a limited company. In this case, a proprietary director with more than 15% of the share capital must make S stamp contributions. There is no employer's PRSI to be paid. Below 15%, one makes A stamp contributions, like everyone else. A company may have two directors, one with 14% of the share capital and the other with 15%, one of whom qualifies for everything with an A stamp, while the other does not. I have come across many people with more than 15% of the share capital of a company who would be willing to make A stamp contributions. There should be a scope decision.

Another category is the self-employed who include someone operating a small business who does not earn sufficient money to justify it becoming a limited company. They can only make S stamp contributions. In a limited company, where someone has an A stamp, the employer's share of PRSI is tax deductible and qualifies for tax relief. If one is self-employed, one

just makes S stamp contributions at the rate of 4%. We have all met people in small businesses which have failed. In many cases, they have spouses or partners and young children. Effectively, they are left with and qualify for nothing. They qualify for jobseeker's allowance, but it is means-tested and takes a considerable period of time to receive in many cases as it involves assessment after assessment.

The Mangan report mentioned disability and incapacity. We need to look at job losses and ensure the payment of jobseeker's benefit for self-employed persons. For an employee, the employer pays at the rate of 10.75% or 8.5%, depending on the level of income, to be able to claim benefits, including jobseeker's benefit and an invalidity pension. There might be a way to create a hybrid with a low rate. The Mangan report mentioned a figure up to 5.5%, but it would only cover disability, incapacity and illness. Perhaps there might be another rate. Perhaps someone who is self-employed might qualify for jobseeker's benefit only for three months.

I find that the biggest problem in the case of people whose business goes is that they have fought for month or years with banks and Revenue to hold onto the business, that they have done everything possible to keep the business going and that by the time it fails they are at the end of the line. They are financially and emotionally wrecked. Suddenly they must go to the local community welfare officer and make a claim for jobseeker's allowance at the local labour exchange. They are put through something which needs to be costed but at which we need to look.

Senator Alice-Mary Higgins made reference to the 20,000 people who qualified for jobseeker's allowance. It is of varying amounts and means-tested. They might be receiving a nominal amount. The devil is always in the detail. Senator Kevin Humphreys also made reference to this issue which has been raised by Deputies since time immemorial and it has always come down to cost. What is the cost of providing for the self-employed? If more than 20,000 self-employed persons were to claim jobseeker's allowance, we would need to look at the net cost of putting in place jobseeker's benefit in some form. Qualification for invalidity pension could also be examined.

I very much welcome the motion tabled by Senator Ray Butler. It is also welcome that the Government is committed in its programme to providing for it, but the devil is in the detail. The Minister may not need to bite it off all in one big chunk; he could do it on an incremental basis, but he should provide for the payment of jobseeker's benefit in some form to the self-employed. I am speaking about people throughout the country who employ one, two or three people.

We must remember that if we want to foster an entrepreneurial culture, we need a person working for Google or a small business somewhere in Limerick to seek to become self-employed, but if they have small children, they cannot afford to take the risk because if the business fails and they have invested in equipment or property, they may not qualify for jobseeker's allowance because of the means test. The system must have a benefit in creating employment and encouraging people to set up as entrepreneurs. It must also have a benefit for people already in the system. If they run into hardship by the time the business fails, they will have gone to the ends of the earth to avoid it happening.

I very much commend the motion and have no doubt that something positive will come of it.

**An Cathaoirleach:** I advise the Minister that there are three more Government speakers and that it is his prerogative to decide when he wishes to speak.

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**Senator James Reilly:** I welcome the Minister. I also welcome the motion and commend Senator Ray Butler for tabling it and Senator Joe O'Reilly for seconding it.

Everybody who has spoken so far has acknowledged that self-employed persons are often entrepreneurs. They are risk-takers and innovators. As Senator Ray Butler stated, they are also the backbone of the economy and communities. They create wealth and employment. This must be taken into consideration when we look at what is being proposed. It is not simply what they would contribute by way of what we are seeking in the making of stamp contributions by self-employed persons, which would rise to be made at a rate of 5.5% over a period and give them some rights which I will discuss, but we must also think about all of the people they employ and all of the wealth and revenue for the taxpayer this would generate. We should not look at the issue in total isolation. A Senator spoke about the figure of 14.5% divided between the employer and employee.

A total of 380,000 self-employed persons make S stamp contributions. What do they get in return? We know that their entitlements include longer-term benefits such as the State pension, widow's, widower's or surviving civil partner contributory pension, as well as a guardian payment, maternity benefit and adoptive benefit. Self-employed contributors will also be able to access the new paternity benefit to be introduced later this year, which measure the Minister of State, Deputy David Stanton, brought through the House earlier today. Benefits to which they are not entitled include, as has been mentioned, jobseeker's benefit, illness benefit, partial incapacity benefit, invalidity pension, health and safety benefit, carer's benefit, treatment benefit and occupational injuries benefits, including disablement benefit.

There is no doubt that this is a huge issue for those who are self-employed. Sadly, I have met many people who lost their businesses during the crash. I am not here to score political points and we know that the economy is now recovering. The point is they really felt let down by the State. They felt that, having employed a people, paid PRSI for their workers and having created wealth enabling tax to be paid, they were left high and dry. It is a real sore point for them.

As a Government, we would like to see entrepreneurs encouraged, as would most Members of this House. They are the risk-takers. We need to send them a strong message that we will support them. I am pleased that under the programme for Government we will seek to introduce a PRSI scheme for the self-employed, address the minimum wage situation and extend dental treatment benefit under the Social Insurance Fund. It is also welcome that we are working towards increasing the earned income tax credit from €5.50 to €16.50 for the self-employed to match that of PAYE workers. As my party's spokesperson for jobs, enterprise and innovation, I know that this lack of support must be addressed if we are to continue our recovery as an economy. It will have to be mandatory, as other speakers said, otherwise, as the Minister well knows, there will be self-selection and those who believe they are not at any risk will opt out and those who believe there may be a risk will opt in and that will certainly skew the fund.

In Fingal, with which the Minister is very familiar, we have the youngest population in Ireland and possibly in the European Union and, according to the last census, we had the fastest growth rate in the country of 8%. I remind Members that the best way out of poverty is a job. The small and medium enterprise sector is creating many more new jobs and it also creates wealth for the country. For instance, we have the Fumbally Exchange in Balbriggan where young entrepreneurs are encouraged to come and set up enterprises. They are supported in small units, with low overheads, to set up and start out on their own and when they get going

they can move on. Bringing in this stamp would greatly help in taking the decision to make that jump.

According to IBEC, the two biggest areas that are probably most vulnerable as a result of Brexit are agribusiness and tourism and both of those fall very much into the small and medium enterprise sector. The people engaged in them are very much innovating, expanding and exploring new ways to add value to a product and creating new products. We need to support them and encourage that and take the pressure off those who are already in that sector, as they face the challenge of exchange rates changing. The bigger companies can hedge against this sort of thing but the small and medium enterprises find it very difficult to do that.

We have been very successful in developing the tourism industry, with which the Minister will be very familiar from his previous ministry and the very successful initiative, The Gathering, and also the very successful initiative taken by the Minister for Finance, Deputy Michael Noonan, in reducing VAT in the sector to 9%. People come here because the country has natural beauty, but the reason they keep coming back is their memories of the people and their kindness, genuineness and sense of fun. We want to continue to encourage innovation with respect to restaurants, cafés, bars, bed and breakfast accommodation, small hotels, artisan food production and many more enterprises. We want to encourage people to go out on their own and ensure they do not feel constrained by the bigger company and the setting. As Senator Kieran O'Donnell pointed out, many people working in multinationals have ideas of their own and set up on their own. I remember that when the Digital company in Galway pulled out, many of its employees set up their own business and were hugely successful. If this measure had been put in place then, it would have been a huge boom to them.

The Minister needs to address this issue, on which he has the support of the Government. Senator Ray Butler's motion is commendable. It will send a very strong message of support to the self-employed and those who are considering becoming self-employed who want to innovate and explore new ways of delivering value. I commend the motion to the House.

**An Cathaoirleach:** There are two further speakers, Senators Tim Lombard and Paddy Burke. I advise Members that we may run out of time. Did Senator Tim Lombard indicate that he wanted to speak?

**Senator Tim Lombard:** I will speak first.

**An Cathaoirleach:** If both Senators have eight minutes, we might-----

**Senator Tim Lombard:** I wish to share my time with Senator Paddy Burke.

**An Cathaoirleach:** Okay, the Senators will have four minutes each.

**Senator Tim Lombard:** Yes or even less time for me. I support this important motion and commend Senator Ray Butler for bringing it before the House.

The subject of the motion has been an issue for many years, particularly among those in the dairy sector and the wider agricultural industry. Farmers would feel exceptionally isolated if anything were to happen to them and they have felt that they have had to pay into a private fund which has become a major burden, particularly with the current situation in the agriculture industry. Senator Ray Butler's proposal will give the people concerned some sense of security. That is what our role is about, trying to improve the people's quality of life in so far as we pos-

sibly can.

This is probably a great day because not alone do we have the Minister in the House, whom I welcome him, but we had the Minister of State, Deputy David Stanton, here earlier bringing forward unique legislation on parental benefits, which is also important. Parental benefits with respect to children will now be recognised for males. That will affect self-employed persons also. We have discussed two issues today that affect the core of our society, people who go out and drive enterprise to ensure we have employment. I am hopeful we can progress this matter. It is an important issue which, with some luck, will be progressed in the next few years.

**An Cathaoirleach:** I remind Members who wish to speak to the motion that I will have to cut the debate short because the Minister has not spoken. I have to refuse Senator Martin Conway.

**Senator Paddy Burke:** I wish to share two of the four minutes I have with Senator Mulherin Mulherin.

**An Cathaoirleach:** Fair enough.

**Senator Gerry Horkan:** She might give one minute to Senator Martin Conway.

**Senator Paddy Burke:** I welcome the Minister. I congratulate Senator Ray Butler on introducing the motion which is very important. As Senator Kevin Humphreys said, we need a debate on the issue. It is not that big of an issue, but it is a very important one. We are having an outstanding debate on it. During the crash a particular group of people, self-employed sole traders, were the hardest hit. They had no come-back and no protection. Many of them found they were not able to get money from anywhere. More than likely they had to pay the two weeks' statutory redundancy payments. The previous Government removed the statutory redundancy clawback for 70% of the two weeks that was allowed, which was introduced in good times but no allowance was made in bad times. Those self-employed sole traders could not liquidate and had no choice but to sell their house and pay the statutory redundancy payments to their employees. The vast majority of them ended up with nothing for themselves and they could not get anything from the State.

I thank the Minister for coming into the House and welcome Senator Ray Butler's proposal. This is a very important issue. There is no protection in the system for the group of people to whom I have referred. It is important that people can set up a business as a sole trader. They do not have the same protection as people who have a company. There are certain conditions laid down in company law and so on which probably make it more difficult for a person to set up a business than to set up as a sole trader. This self-employed stamp is a very important issue. I commend Senator Ray Butler for bringing forward the proposal. As Senator James Reilly said, the self-employed create jobs and provide employment. As this has all been said, I will conclude on that note.

**Senator Michelle Mulherin:** I thank Senator Paddy Burke for sharing his time. I welcome the Minister. Many fine points have been made on this issue and, for the most part, I agree with them. I commend Senator Ray Butler for bringing forward and spearheading this proposal at this juncture. This issue has been talked about for years.

We have approximately 380,000 self-employed. When I meet sole traders in the run-up to an election or during the term of a Government they have a beef with this issue and I can

understand the reason for it. The responsibility they carry has been well articulated, as has the risk they take and when they lose they tend to lose it all. For the most part, we are talking about sole traders who do not have the protection of the corporate veil. They are not big companies but small and medium enterprises. They are the people who make sure all the bills are paid and they may never get paid themselves. When they end up going to the wall, they have nothing. Whereas those in a failed business may be entitled to a means-tested payment, having wound up their business, they then must go through all the loops and the necessary paperwork to get a payment from the Department of Social Protection. However, as they had paid their staff, including making PRSI contributions on their behalf, the staff will receive their social welfare payments. That does not smack of fairness considering the burden of responsibility of employers.

I agree with the point made by Senator Paddy Burke. The downturn in the economy impacted heavily on the retail sector and subcontractors. When they let people go, they made redundancy payments. At first the State reduced its share of the redundancy payment before it ceased the rebate to employers who made such payments. The employers made redundancy payments from his or her own savings and out of his or her own pockets. We must treat people fairly. Workers and employers contribute to the PRSI system. Sometimes the system is skewed in the case of the self-employed sector. Employers are so busy running their businesses and trying to keep everything going, they find they do not have a voice.

I say to the Minister, "Well done." He is making a fine move and it will be remembered by people who find themselves in the very difficult situation of seeking a State payment.

**Senator Colm Burke:** I thank the Minister for being present. I also thank Senator Ray Butler for bringing forward this matter. With the permission of the Chair, I wish speak for four minutes and share my remaining time with Senator Martin Conway.

**An Cathaoirleach:** Senator Martin Conway will have two minutes.

**Senator Colm Burke:** Earlier, speaking on behalf of Sinn Féin, Senator Rose Conway-Walsh said nothing had actually changed. It is important to realise the Social Insurance Fund income and expenditure for 2011 to 2016 showed a deficit of €1.4 billion in 2011, €2.084 billion in 2012 and €1.314 billion in 2013. This year, for the first time in six years, the income will be in excess of expenditure. This is proof of the numbers in employment as more people are contributing to the Social Insurance Fund. The expenditure from the fund is more than €8 billion. If we wish to include the self-employed in the social insurance scheme, we must ensure we have adequate funding to support them. In fairness, the self-employed are prepared to make a contribution. I agree with Senator Kevin Humphreys and other speakers that it must be compulsory. If people have the choice to opt out, the scheme will not work.

I, too, can recount a very sad case of a person who had worked for 40 years and never once received a State benefit, who had a business that could not generate any income and who could only get a payment of €2.50 per week from the Department of Social Protection. He was totally frustrated that he did not qualify for any benefit. That is wrong and it is time we made changes.

I wish to raise another issue, namely, maternity benefit for the self-employed. There is an anomaly in the scheme. If a baby is born before 29 March, the income of the previous year is taken into account in qualifying for maternity benefit. However, if he or she is born after the 29 March, the income for the year in which the baby is born is the relevant period. If the self-

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employed mother has not earned an income of €10,000 by the date the baby is born, she will not be paid the maternity benefit until the end of the year. She will not be paid the benefit while she is on maternity leave. That matter needs to be dealt with. The self-employed become frustrated with the social welfare system at times. I have dealt with this matter on two occasions previously in this House and there has been no movement on it. I ask the Minister to deal with it, now that we are tackling the entitlements of people who are self-employed. I again ask the Minister to look at this issue.

I commend the motion to the House.

**Senator Martin Conway:** I agree with everything that has been said. The self-employed are the unsung heroes of this country, those who have gone out of business and those who managed to survive because they took nothing from their businesses for themselves. I commend Senator Ray Butler for tabling the motion. I have good news for him - we now have a Minister in the Department of Social Protection who lives in the real world and will make it happen. He knows the scenario for the self-employed. He realises the country will become great again because of the entrepreneurs and others who are prepared to take risks and willing to put their necks on the line and work not just during the week but also at weekends in order to create jobs. He realises that when, after all that, a business does not succeed, people need a fallback. We have a Minister who will make that happen. I look forward to it happening.

**Minister for Social Protection (Deputy Leo Varadkar):** I thank Senator Ray Butler, in particular, but I also thank all other Senators for providing this opportunity to discuss the treatment of self-employed citizens under the social insurance and income tax systems. I am encouraged by the fact that so many Senators turned up on a very sunny evening to speak about this very important issue.

This is an issue on which I have been actively engaged since assuming responsibility for the Department of Social Protection. There are, as Senators said, almost 350,000 self-employed people in the State. They are a diverse group and include farmers, fishermen, tradesmen, sole traders, small business owners, professionals, freelancers, barristers and consultants. Some work part-time, others work every hour of the day, including at weekends. Some have other employment, most do not. Some are very wealthy - they are among the wealthiest in society - others, as Senator Ó Pádraig Céidigh pointed out, probably earn less than the minimum wage on an hourly basis.

Underpinning the new partnership Government is the commitment to job creation through, among other actions, the provision of a supportive environment for enterprise and employment. The role of entrepreneurs and the self-employed, in particular, will be central to this ambition. The programme for Government focuses on improving the position of the self-employed and this is not restricted to their access to social insurance. It also recognises the need to bring about equality between the self-employed and PAYE employees by increasing the earned income tax credit available to match that available to employees. This will be phased in over a number of budgets. It started in budget 2016 with the introduction of a €550 tax credit for the self-employed. I know that Senator Máire Devine said there had been a great deal of discussion about the issue. I think the previous Government showed cause by getting the ball rolling in the most recent budget.

Core to the provision of a more supportive environment for the self-employed is the commitment in the new programme to introduce an improved PRSI scheme for them. Compul-

sory social insurance for the self-employed was introduced in 1988. Currently, self-employed persons earning €5,000 or more in a contribution year are liable for PRSI at the class S rate of 4%, subject to a minimum annual payment of €500. This gives the self-employed access to a number of benefits, including: State contributory pension when they retire without a means test; widow's, widower's or surviving civil partner's contributory pension for the spouse or civil partner of a deceased self-employed contributor; maternity benefit - I will certainly look into the issue raised by Senator Colm Burke; adoptive benefit, if they adopt; and guardian's contributory payment. All of these are on the same basis as employees. The self-employed will also gain access to the new paternity benefit being introduced on 1 September. Speaking to self-employed persons during the general election campaign, it seemed that many were not fully aware of their entitlements. I propose an information campaign to resolve the position in that regard. Employees can, in addition to the benefits to which I refer, access social insurance entitlements for long-term and short-term illnesses, unemployment, periods spent caring, work-related injuries and certain treatment. These are not available to the self-employed. Employees pay PRSI at the rate of 4%. Their employers pay an additional contribution of either 8.5% or 10.75%, as Senator Kevin Humphreys explained, in order that the total contribution is between 12.5% and 14.75% per employee under PRSI class A. One of the difficulties of enabling the self-employed to opt into class A, is that they would have to pay a class A contribution, if not the full 14.75% at the very least the employer component of it, which ranges from 8.5% and 10.5%. I am not convinced that many self-employed persons would be willing to pay an additional income levy ranging from 4% to 8%. I am not ruling out an opt-out element, but we would have to consider how many would opt in. There would be no point in doing it if people would not opt in as we would achieve nothing. One could not set the opt-in percentage so low that it would not generate the money needed to pay the benefit in the first instance. Like any opt-in system, it would cost more than a compulsory one. If it was compulsory, one would socialise the cost and spread it across more people, meaning that everyone would pay less.

Self-employed persons do not have access to these benefits. If they become ill or unemployed, they may instead access social assistance payments by establishing eligibility to payments such as disability allowance and jobseeker's allowance. However, they must pass what is often an onerous means test. Access to means-tested jobseeker's benefit payments for the self-employed was examined in the third report of the former advisory group on tax and social welfare which was chaired by Ms Ita Mangan. The group found that the current system of means-tested jobseeker's allowance payments adequately provided cover for self-employed persons for the risks associated with unemployment. I do not agree with this finding. Senator Alice-Mary Higgins was right to point out that 80% of self-employed persons who applied for jobseeker's benefit received it on a means-tested basis, but how many did not apply at all because they knew that there was no point in applying as they would not receive it?

**Senator Martin Conway:** Well said.

**Deputy Leo Varadkar:** How many only received small or nominal payments, as Senators Kieran O'Donnell and Colm Burke mentioned? A self-employed person with a working spouse on a modest income may not meet the means test and, therefore, receives no benefit for any period, whereas an employee on becoming unemployed would have access to non-means-tested jobseeker's benefit for nine months. That seems unfair. The scenario I encountered frequently on the doorstep during the general election was that of a self-employed person who, having lost a job, was not entitled to jobseeker's benefit because he or she had a spouse who was working. I hope I am not being sexist, but the classic example is of a man who worked in construction

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and whose wife or partner was a public servant, perhaps a nurse or in a part-time position. Because they had a second income coming into the house, the person who had been the main breadwinner received nothing as a result. This seems unfair and could be changed. I am sure the reverse also happens - for example, a self-employed small businesswoman with a husband who is working as a garda or something else.

It is difficult to figure out what unemployment means in the context of self-employment. I have been speaking to other Ministers from around Europe to find out what they do in their countries. Senator Kieran O'Donnell pointed to the experience with which we are all familiar, that of a self-employed person with a small business doing everything he or she can to keep it going, often depleting his or her own savings, mortgaging his or her own house and going to the gates of Hell in the hope business will improve. My Swedish counterpart has told me that, because Sweden offered jobseeker's benefits for the self-employed, people are incentivised to close their businesses sooner. One must bear in mind some of the effects any change would have. My Austrian counterpart touched on something which Senator Kieran O'Donnell referenced and is close to my thinking, namely, that we could extend jobseeker's benefit to self-employed persons but not necessarily on the same basis as it is applied to employees. It could be for a shorter period, meaning a lower cost, or it could require self-employed persons to pay into the system for longer than an employee, meaning that a person who has been self-employed and paying for ten or 15 years might receive a benefit that someone who has only been self-employed for a few months would not. We could design it in that way.

I intend to extend over a period the range of benefits the self-employed can access through the social insurance system. I wish to start by providing access to benefits in cases of long-term illness and incapacity, as well as to treatment benefits which Senator Maria Byrne referenced. This would assist a self-employed person who was injured or incapacitated during the course of his or her work, for example, a taxi driver or someone involved in a farm accident. It would provide people with a much stronger safety net to protect them in the event of injury or disablement. To pay for these benefits, the Mangan group recommended that the rate of contribution for class S self-employed persons should be increased by at least 1.5 percentage points, payable on a compulsory basis. The group concluded that "extension on a voluntary basis, through either an "opt in" or "opt out" basis, could lead to the selection of bad risks and would undermine the social solidarity and contributory principles that underline the social insurance system". While I agree with its rationale as to why it should be compulsory, a percentage point increase of 1.5 would be too much, especially if we were to attempt to do it in one budget. In her report Ms Mangan suggested it be phased in over a period.

My Department is examining the cost of financing an extension of benefits, as well as how to phase them in and put in place the practical and administrative arrangements that would be required. The examination includes a survey of a random sample of self-employed persons who rely on class S social insurance benefits. The survey will be carried out by my Department to obtain the views of self-employed persons on which benefits they would want first and the extent to which they would be willing to pay more for them. The results of the survey will help to inform and shape the development of future social insurance policy for the self-employed. Therefore, I encourage any self-employed individual who is invited to take part in the survey to do so.

The cost of extending certain short-term social insurance benefits was considered in the actuarial review of the Social Insurance Fund as at 31 December 2010. Overall, the report found that social insurance benefits offered excellent value for money for those at the lower end of

income distribution, those with shorter contribution histories and the self-employed. Regarding the self-employed specifically, the report found that the effective annual rate of contribution required to provide the full-rate State contributory pension was approximately 15% of national average earnings. This compares favourably with the rate of 4% at which the self-employed currently pay. An incremental increase of 1% in contribution rates would be required if job-seeker's benefit, in addition to the core State pension, was to be provided. The average contribution rate required for payment of the core State contributory pension, plus invalidity pension, was estimated to be in the region of 2%.

The programme for Government's commitments on income tax and PRSI are a clear signal of the Government's determination to cultivate a positive and productive entrepreneurial environment. The extension of social insurance entitlements is a fundamental cornerstone of this. I look forward to providing political leadership on this issue. I welcome the motion and the Seanad's support and interest in it.

**Senator Ray Butler:** I will not delay everyone. This has been a great debate and I thank everyone who contributed to it. I also thank the Minister and I am delighted to hear about what he is doing behind the scenes, which follows on from what Deputy Joan Burton was doing. Senator Martin Conway stated: "Well said." We now have a Minister who is in the real world as regards social protection for the self-employed.

The main issue has always been opting in and opting out. It must be mandatory because it cannot be voluntary. When the Irish Small and Medium Enterprises Association, ISME, presented to the social protection committee previously, Mr. Mark Fielding had conducted a survey of his members, of whom more than 70% were in favour of a new stamp for the self-employed, but the split on whether it should be made voluntary or mandatory was 60:40. We have a bit to do to bring people around to it being mandatory, but it is the only way it would work. I mean no one any disrespect, but when various businesses were allowed to opt out of everything during the Celtic tiger, it was catastrophic. When the crash came, people were not even registered for social welfare payments. They did not exist for the State because they had opted out of certain schemes and of paying taxes and PRSI. It must, therefore, be mandatory and we will never have a better chance to start than now. We are at such a low base in people returning to work. We could build the pot in order that, if there is another crash, we will have something in place for the self-employed.

I agree with Senator Kevin Humphreys on the bogus self-employed. We need legislation in this regard. According to an article I read, €20 million per year was going by the wayside due to unscrupulous employers making people self-employed. I saw the same thing happen in my town of Trim where a lot of people got jobs as couriers and were made self-employed. Unfortunately, when the crash came and they lost their jobs, their families were entitled to nothing. They should have been employed by the company. Employers used this method to escape paying contributions. The same is happening all over the country. We must, therefore, bring forward legislation to tackle the problem.

Definitely, we have to cost everything. I am sure, as I join the Oireachtas Joint Committee on Social Protection again, that we will have a lot of debates on this issue and a lot of these issues will have to be debated. I wish to say to Senator Máire Devine that I never played politics with this issue. I was devastated when I lost my business and, as a result, have never played politics with this issue. I would like her and her party to take back the claim made that my party played politics in this area because I certainly have not done so. I came here six years ago and

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when I started this campaign, a lot of the civil servants whom I met at the Oireachtas Joint Committee on Social Protection looked at me as if I was an alien from outer space because I was a businessman. I mean no disrespect to Members of the Oireachtas, but I believe we do not have enough business people here. I would like more business people to enter politics.

This issue was a hard one for the civil servants to swallow because they were happy with the *status quo*, even though people were suffering through the crash. I am talking about the people who had created jobs, paid into the Exchequer and helped the country to become a great Celtic tiger. However, when the same people needed help when the crash came, there was absolutely nothing for them, only devastation. I know men who were assessed on machinery they had bought during the Celtic tiger, including machines for laying tarmacadam or laying pavements, that were valued at €100,000. As one could not bring such machinery into a bank or have one's family eat it, they were worthless. It was crazy that such machinery was used in assessments.

I am delighted to be here for this debate. We have had a brilliant debate and I thank everybody for expressing his or her views. There is no perfect fit when it comes to social protection and the self-employed. I remember having a huge debate with Mr. Mark Fielding and others about this matter. I threw the following question across the room in the Oireachtas: "Do we leave it the way it is?" Nobody answered me because the answer was we could not. I am delighted that Deputy Leo Varadkar has been appointed Minister for Social Protection and that he will do something about the matter. I thank him very much and everybody else.

Question put and agreed to.

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

**Senator Colm Burke:** At 10.30 a.m. tomorrow.

The Seanad adjourned at 6.55 p.m. until 10.30 a.m. on Wednesday, 20 July 2016.