

# DÁIL ÉIREANN

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## AN ROGHCHOISTE UM THALMHAÍOCHT, BIA AGUS MUIR

### SELECT COMMITTEE ON AGRICULTURE, FOOD AND THE MARINE

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*Dé Máirt, 25 Feabhra 2014*

*Tuesday, 25 February 2014*

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The Select Committee met at 2 p.m.

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#### MEMBERS PRESENT:

Deputy Richard Boyd Barrett,+	Deputy Martin Heydon,
Deputy Paul J. Connaughton,*	Deputy Anthony Lawlor,+
Deputy Pat Deering,	Deputy Michael McNamara,
Deputy Martin Ferris,	Deputy Éamon Ó Cuív,
Deputy Tom Hayes (Minister of State at the Department of Agriculture, Food and the Marine),	Deputy Willie Penrose,
	Deputy Thomas Pringle.

\* In the absence of Deputy Tom Barry.

+ In the absence of Deputies Thomas Pringle and Martin Heydon, respectively, for part of meeting.

DEPUTY ANDREW DOYLE IN THE CHAIR.

*The select committee met in private session until 2.20 p.m.*

### **Forestry Bill 2013: Committee Stage**

**Chairman:** The purpose of the meeting is to consider Committee Stage of the Forestry Bill 2013. I welcome the Minister of State at the Department of Agriculture, Food and the Marine, Deputy Tom Hayes, and his officials. This is the first time the Minister of State has been present to address the committee. I wish him well in his work.

There is to be a vote called in the Dáil at approximately 5 p.m., after the Order of Business. I propose that we suspend the sitting whenever it is called and hope we will be able to finish by 6.30 p.m. after we resume. Is that agreed? Agreed.

The list of grouped amendments has been circulated to members. I would remind members that on Committee Stage the Bill must be considered section by section and I will start with section 1.

**Deputy Éamon Ó Cuív:** Before we start, one of my amendments, No. 6, has been ruled out of order. I was looking for something we should have got at the beginning, namely a regulatory impact analysis. I tried to deal with that issue by providing for a commencement order and stating that a regulatory impact analysis would be done before commencement of the Act. I do not know how it is a charge on the Exchequer, but it has been ruled as being a charge on the Exchequer to get a regulatory impact analysis.

Can I ask the Minister whether such an analysis is intended because it is one of the deficiencies? This Bill, from A to Z, is about regulation and I would have thought it was a Bill that was ideally suited to a regulatory impact analysis. In fact, that is why regulatory impact analyses were introduced. I wonder could we ask the Minister of State whether it is intended, even at this late stage, to provide us with a regulatory impact analysis of this Bill because it seems a significant deficiency in the debate.

**Chairman:** Could I intervene here for a second? Amendment No. 6, as I understand it, is ruled out of order because it is in conflict with the principle of the Bill as read a Second Time.

**Deputy Éamon Ó Cuív:** How is it so?

**Chairman:** It is in conflict with Standing Order 131(1), which states:

(1) It shall be an instruction of all Committees to which Bills may be committed that they have the power to make such amendments therein as they shall think fit, provided that such amendments be relevant to the provisions of the Bill and are not in conflict with the principle of the Bill as read a second time.

**Deputy Éamon Ó Cuív:** How is it in conflict with the Bill to have a regulatory impact analysis?

**Chairman:** The Bill has already been read once. Maybe the Minister of State wants to detail it, but this regulatory impact assessment should have been done at White Paper stage, before the Bill was read.

**Deputy Éamon Ó Cuív:** There would be nothing to stop the Minister doing one before the

Act were commenced.

**Chairman:** Second Stage of the Bill was passed.

**Deputy Éamon Ó Cuív:** Second Stage is only the principle of the Bill. There is nothing of principle in this. It is only a practical matter that we would have a regulatory impact analysis before we commence the Act.

**Chairman:** I am abiding by Standing Order 131.

**Deputy Éamon Ó Cuív:** Can I ask the general question of the Minister of State? Is it intended, even at this late stage, to give us the regulatory impact analysis and why was it not done? It is amazing. The Bill, A to Z, is all about regulation.

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes):** It has been ruled out of order.

**Deputy Éamon Ó Cuív:** The Minister of State can comment on it.

**Deputy Tom Hayes:** I cannot. It has been ruled out of order by those in charge and that is it.

**Deputy Éamon Ó Cuív:** That does not stop the Minister of State giving a commitment here to do a regulatory impact analysis.

**Chairman:** The problem is the Bill has passed Second Stage and to include a regulatory impact assessment as part of the Bill at this Stage is in conflict with the Bill.

**Deputy Éamon Ó Cuív:** I accept that and I am asking the general question before we start because we are at a considerable disadvantage here in dealing with this Bill. Since regulation is what the Bill, from A to Z, is all about and we do not have the one vital tool we need, which is the regulatory impact of all of this before we start, I do not know whether there is any point in taking part in this debate. That is why these analyses were introduced. I never saw a Bill that was more suited to regulatory impact analysis than this Bill.

**Deputy Tom Hayes:** In this Bill, we want to make it easy and more accessible for persons, be they farmers, Coillte or whoever, to be involved in forestry and also to put it on a statutory footing as something that will be amenable for the sector. We have consulted widely and at length on this Bill, from the farming organisations to everybody involved in the sector, over a long period of time and we have endeavoured to make as many changes as we possibly could in relation to the Bill.

**Deputy Michael McNamara:** It is clear that this is about regulation and the Bill fails to the extent that it is about making it easier for forestry owners. The Bill must strike a balance between protecting the forestry sector and protecting the environment. It is set out in numerous places that it seeks to do that, but it lumps all of the regulatory burden onto private forestry owners. The person who does that is the Minister, who, effectively, owns Coillte. In so far as it lumps all of the regulatory burden onto the private foresters, in my opinion it is unconstitutional. Obviously-----

**Chairman:** Just-----

**Deputy Michael McNamara:** I ask the Chairman to hear me out. He has his own opinion.

An analysis of the regulatory impact of this Bill would be useful at some point because the Bill will have a dramatic and drastic effect on private property owners.

The Bill does not even mention Coillte, which is the elephant in the room. If Coillte is to be ignored, I do not know why this Bill is being brought to committee at this stage because we all know that Coillte is what needs to be addressed here. When nothing is happening with Coillte, it is bizarre that the Bill is being brought to committee at this stage.

**Chairman:** Why would Deputy McNamara refer to Coillte as distinct from any other forest owner or producer? Why would he distinguish between Coillte and anybody else?

**Deputy Michael McNamara:** There are no other players in the market.

**Chairman:** What has that got to do with it?

**Deputy Michael McNamara:** I will argue it section by section, as the Chairman stated.

**Chairman:** The decision of the Chair is final on what is ruled in and out of order, but I would make one point. I will not allow a general discussion on the principles of the Bill. We are here on Committee Stage. That was for Second Stage. The Bill, if amended, according to what happens on the other side of Committee Stage-----

**Deputy Michael McNamara:** Or, one would hope, future amendments.

**Chairman:** Yes. The Bill, as amended before it becomes an Act, if it becomes an Act, may have a different impact on the sector, as the Deputy outlined, which is probably the difference between the Bill that was presented on Second Stage and the Bill, as amended, on Committee and Report Stages. There may be a difference and I would ask that Deputy McNamara hold fire on that. That is not to do with the general principle of regulatory impact assessment.

If members are willing, let us move on and go through the Bill. We will take it section by section.

**Deputy Éamon Ó Cuív:** Can the Minister of State clarify for us that the idea of a regulatory impact assessment is to enable us, and no doubt the Minister, assess the probable impact of his initial proposals and whether they add unduly to the regulatory burden? We have no independent assessment of what this Bill is likely to do. There has been considerable concern raised with us about the regulatory impact of this and a vital cog in the wheel is missing. At this stage, it is my view that it is unfair that we are debating a Bill all about regulation without that basic tool of analysis that has been promised in all of the reform of the Oireachtas and it has been making our job difficult.

**Deputy Tom Hayes:** In an effort to be helpful in response to amendment No. 6, the Forestry Bill has already been subjected to a regulatory impact analysis process and the outcome of that process has been published. Any further regulatory analysis can be completed where necessary in the context of the regulation that will follow the passage of this Bill.

**Deputy Éamon Ó Cuív:** The Minister of State is undertaking that there are regulations being brought in-----

**Chairman:** There is an amendment tabled further on about the regulations which will be dealt with, but the Bill states that regulations will be laid before the relevant committee.

The Deputies' points are noted. I ask Deputy McNamara to hold judgment on it until we see the Bill as it is shaped after this and the next process.

**Deputy Michael McNamara:** I will not be casting judgment on it but I fear, as it stands, somebody else will be.

Section 1 agreed to.

## SECTION 2

**Chairman:** Amendments Nos. 1 and 19 are related and will be discussed together.

**Deputy Thomas Pringle:** I move amendment No. 1:

In page 6, between lines 3 and 4, to insert the following:

““ancient woodlands” means those woodlands which have had continuous tree cover since 1650 or before and which are most likely to have arisen naturally and to be descended from Ireland’s original forests;”.

I also wish to move amendment No. 19.

**Chairman:** No, just amendment No. 1 at the moment. Does the Deputy wish to add to it?

**Deputy Thomas Pringle:** Deputy Boyd Barrett wishes to speak on the amendment, if the committee is agreeable.

**Deputy Richard Boyd Barrett:** Are amendments Nos. 1 and 19 grouped?

**Chairman:** Yes. Amendments Nos. 1 and 19 are to be discussed together.

**Deputy Richard Boyd Barrett:** The purpose of these amendments is to insert prioritisation of the protection of ancient woodlands into the Bill. Section 2 pertains to definitions, and obviously it is necessary to define “ancient woodlands”. Later on, amendment No. 19 relates to a section containing a list of responsibilities for the Minister regarding what he or she should prioritise. It proposes that the issue of prioritising the protection of ancient woodlands must be spelled out specifically because a matter of major concern for quite a number of people has been that the ancient woodlands have not been protected but in fact have been devastated over a long time. The protection of the ancient woodlands is very important from an environmental and a biodiversity perspective. Moreover, from a heritage point of view and in so far as people are attracted to this country for activities such as tourism, it is precisely because of that ancient woodland heritage, much of which has been devastated. As we have failed to protect it, it is important to include such protections in a new forestry Bill and that it be a specific priority for the Minister to protect ancient woodlands. Obviously, one must first know what they are, and consequently they must be defined at the beginning of the Bill. This proposal is fairly self-evident and I hope the Minister of State will support it.

**Deputy Tom Hayes:** A wide range of economic, environmental and social benefits are provided by native woodlands in terms of both the rich and varied habitats for a diverse range of native flora and fauna and their important recreational and landscape functions. The Department, through its native woodland scheme, has offered and continues to offer opportunities to protect, enhance and expand Ireland’s native woodland resources and their associated biodiversity. Provisions for the continuation of such support are made in section 5(n). The origins

of a number of our native woodlands can be traced back to the 1650s, as they are recorded in old maps prepared as part of the Down Survey, which was undertaken between 1655 and 1657. Identification of native woodland relies on a number of sources, which include the identification of key plant indicators and reference to other later mapping databases, such as the first edition Ordnance Survey maps prepared in the early 1840s. Indeed, as part of the native woodland scheme, the 1840s maps are used as one of the eligible criteria for determining the likelihood of a wood being of native origin. Many of these woods are native woodland in character and although they cannot be dated precisely to the 1650s, they should not be excluded from the general definition of ancient woodlands. Consequently, I take the view there is no need to include a specific definition of native woodlands in the Bill that is based solely on age criteria. Although 1650 is a useful cut-off date in the assessment of ancient woodland, it should not be prescribed in legislation.

I also remind the Deputy that primary responsibility for the management of Ireland's nature and conservation responsibilities under national and European law is vested in the Minister for Arts, Heritage and the Gaeltacht. This includes the designation and protection of special areas of conservation, SACs, special protection areas and natural heritage areas. There is also statutory provision under regulation 24 of the European Communities (Birds and Natural Habitats) Regulations 2011, which allows the Minister to enter into a management agreement with any owner, lessee or occupier of a European site or other land of major importance for wild flora and fauna, including small woods. I take the view that the matter is sufficiently addressed elsewhere and there is no need to replicate a similar provision in this Bill. Therefore, I do not accept amendments Nos. 1 and 19.

**Deputy Richard Boyd Barrett:** The Minister of State and I must agree to disagree. He may have a point about the date and whether it is a little too prescriptive. I take his point that there are woodlands dating from after the 1650 period that could be included. While I would be open to considering that suggestion, I will return with this amendment on Report Stage. This is a forestry Bill, and the fact that some issues may be under the remit of the Department of Arts, Heritage and the Gaeltacht is not a reason for not including them in a Bill that deals specifically with forestry. In the context of a Bill that is meant to be fully comprehensive and achieve the sort of balance to which Deputy McNamara referred earlier - between the need to prioritise the protection of the environment and heritage on one side and the need to develop forestry as an industry on the other - not so doing makes little sense to me. It is of critical importance that we place specific obligations on the Minister to protect ancient woodlands, because they have been devastated. There is no argument about that and the State has failed to protect them for lengthy periods. While I acknowledge that the situation has improved somewhat, the best way to ensure there is a change in that regard and to ensure such protection is to include it in a forestry Bill. Consequently, while I will not call a vote on this amendment now, I will come back to it on Report Stage.

**Deputy Michael McNamara:** I completely take the Minister of State's point. This Bill is about encouraging farmers to grow forests and to make sure they grow a crop, can harvest that crop and can take the profits therefrom, just like farmers in any other sector. I believe the Minister of State and I, as well as the majority of people, are in agreement that this should be facilitated to the greatest extent possible. However, as for comparing the crop grown by farmers who plant, harvest and grow that crop with a wood, I live in east County Clare, which was completely afforested up to the 1850s. The destruction of which Deputy Boyd Barrett spoke happened at the time of the Industrial Revolution and, consequently, there is very little that can be done about it now. However, small pockets of that ancient woodland remain and to compare

those pockets of ancient woodland and those ancient oaks that are hundreds of years old with the Sitka spruce and the other commercial forests that are also grown in large quantities in east County Clare does not make a huge amount of sense from an environmental perspective. A greater degree of protection is required for those ancient forests than is the case for the farmers who are growing wood commercially as an agricultural venture. Before Report Stage, the Minister of State might ascertain whether it is possible to differentiate between the two to ensure the least interference possible with those who are growing a crop to harvest as a commercial venture, as well as to protect habitats, as required under the habitats directive, in the case of those who happen to own a piece of land containing trees that are hundreds of years old.

**Deputy Tom Hayes:** I do not wish to postpone everything until Report Stage. Ultimately, responsibility for it lies with the Minister for Arts, Heritage and the Gaeltacht and the various bodies that are in charge of it. They have responsibility for it.

**Deputy Michael McNamara:** Then allow the Minister to-----

**Deputy Tom Hayes:** I do not wish to duplicate. The Forestry Bill pertains to forestry and its purpose is to help more people to become involved in planting forests on land that has been left idle and to make it easy for them. One of the biggest issues about which people have spoken to me over the six months since I took this job has been how difficult it was to get into forestry. This Bill is about making it amenable for people to plant land that is under-used right around the country, which could be beneficial, particularly in rural areas. Much of it is in County Clare. That is the point. The Government wishes to avoid duplication with the other Department and that is the point that is being made.

**Deputy Michael McNamara:** As for stating it is the responsibility of one Minister, ultimately it is the responsibility of the State to protect its environment and to encourage forestry. That is, it has the responsibility to do both. As for nitpicking by stating this is the responsibility of one Minister and that is the responsibility of another, I note members are in committee to bring forward legislation that works and not just for today or tomorrow. The legislation members are seeking to repeal here is from 1946. If this Bill is to last for 90 years, will there be a Minister for Agriculture, Food and the Marine or a Minister for Arts, Heritage and the Gaeltacht? Ministers change every couple of years, or rather the contours of Departments change.

**Deputy Thomas Pringle:** I take it from what the Minister of State said that it is more desirable for the Department of Arts, Heritage and the Gaeltacht to designate ancient woodlands as SACs and thus protect them that way. Surely a Forestry Bill should protect such forests, without having to go through the whole process of the SAC designation, everything that entails and the negative connotations in that regard among farmers and rural communities. This Forestry Bill could protect those forests which are of interest. Is it conceivable that somebody could apply for a felling licence for an ancient established forest, proposing to replace it with a Sitka spruce or an evergreen forest, which would be acceptable under this legislation, if the forest had not been designated as an SAC? I do not think that is what any of us intend in this regard. It is important to protect forests also.

**Chairman:** I think the question is whether the felling licence allows for control over-----

**Deputy Michael McNamara:** There is a second issue. If one sowed a crop of Sitka spruce ten years ago, got planning permission and engaged with the forestry service, one can be refused a licence. It is something to which we will come later but even if one engages with planning and does everything right, one can be refused a felling licence with no compensation.

**Chairman:** We will deal with that later on.

**Deputy Michael McNamara:** It is related to this issue. One could be refused a felling licence without any compensation in the same way somebody could be refused a felling licence in respect of a forest that is 400 years old without compensation. They are two very different entities and we need to separate a commercial crop from ancient woodland.

**Deputy Tom Hayes:** My understanding is that we will deal with this in section 11 on the protection of the environment.

**Chairman:** The Minister of State made the point that we will deal with this later on. How stands amendment No. 1?

**Deputy Richard Boyd Barrett:** I want to table it again on Report Stage.

**Chairman:** If it is not pushed to a vote today and lost, the Deputy can do so.

**Deputy Richard Boyd Barrett:** It can be pressed and then withdrawn. Is that the procedure?

**Deputy Michael McNamara:** Once anything is raised on Committee Stage, it can be subject of an amendment on Report Stage.

**Chairman:** It can be pressed but if it is put to a vote and defeated, it cannot be tabled again.

**Deputy Michael McNamara:** If one presses an amendment, one has to call for a vote.

**Deputy Richard Boyd Barrett:** No.

**Chairman:** The procedure here is that I run the meeting. Is that okay? How stands amendment No. 1?

**Deputy Richard Boyd Barrett:** I will press it.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 2 and 91 are related and will be discussed together.

**Deputy Éamon Ó Cuív:** I move amendment No. 2:

In page 6, line 4, after “means a” to insert “suitably competent”.

The Bill states that an authorised officer means a person authorised under this Act to be an authorised officer for the purpose of the relevant statutory provisions. I propose that it read: “an authorised officer means a suitably competent person” authorised under this Act to be an authorised officer for the purpose of the relevant statutory provisions. It is very important that only competent people are appointed as authorised officers. There should be some measure in the Bill to ensure a person is competent and that one cannot appoint authorised officers willy-nilly. Under the Bill authorised officers have quite a bit of power, so it is very important that a competent person is made an authorised officer rather than just anybody.

**Deputy Martin Ferris:** My amendment No. 91 proposes to insert words “competent in the area of forestry regulation” after the word “officers”.

**Deputy Tom Hayes:** Authorised officers who are appointed will be suitably trained and



qualified to act in a professional manner in respect of the duties undertaken under this Bill. Defining a suitably competent person for the purpose of the Bill would be difficult and could serve to exclude a range of professionals and skilled people who may not have recognised qualifications in forestry but whose expertise may be required for a particular purpose, for example, a civil engineer who may be needed for road construction. It is the responsibility of the Minister to ensure only competent people are appointed as authorised officers, so I cannot accept amendment No. 2 or No. 91 for those reasons.

**Deputy Éamon Ó Cuív:** What the Minister of State seems to be saying is that it must be a suitable and competent person but that he will not put that in the Bill. I would have expected that a civil engineer required for civil engineering purposes was a suitably competent person. What I am trying to ensure is that people who are not suitably competent cannot be given the jobs. For example, if there was a civil engineering job, somebody who was not a civil engineer could not be given the job because he or she would not be suitably competent. It seems the Minister of State made a great case in favour of my amendment.

**Deputy Martin Ferris:** I concur with Deputy Ó Cuív. A suitable person must be competent and it should be included in the Bill. It requires the insertion of that word to ensure such a person gets the job.

**Deputy Tom Hayes:** I understand where the Deputies are coming from, but if one rules out a civil engineer for roads-----

**Deputy Éamon Ó Cuív:** Does the Minister of State not think a civil engineer for roads is suitably competent?

**Deputy Tom Hayes:** Maybe we will look at it for Report Stage.

**Deputy Éamon Ó Cuív:** I will withdraw the amendment on the basis that I can resubmit it on Report Stage.

Amendment, by leave, withdrawn.

**Deputy Martin Ferris:** I move amendment No. 3:

In page 6, line 25, to delete “0.1 hectare” and substitute “0.5 hectares and five metres in height”.

I am conscious of the United Nations Food and Agriculture Organisation definition of forest area, which is “land spanning more than 0.5 hectares with trees higher than 5 metres”. The Bill states 0.1 hectares but the advice I have been given is that it should be 0.5 hectares. The FAO also refers to tree cover of more than 20%, but I omitted that. The definition of “land spanning more than 0.5 hectares with trees higher than 5 metres” is a far better one and should be included in the Bill.

**Deputy Tom Hayes:** I am not in a position to accept this amendment. For international reporting requirements, Ireland has used the definition in the text of the Bill. We are committed to using the same forestry definition for reporting to the UN Framework Convention on Climate Change. The FAO definition may use 0.5 hectares but countries reporting to the FAO can use their own definitions, with Ireland having opted to use a 0.1 hectare threshold. Changing the definition would mean that all carbon stocks previously reported to the UNFCCC would have to be revised, as well as estimates provided for the EC in respect of projected levels of carbon

sinks. This would also impact on Ireland's reputation and credibility, particularly at a time when it and the European Union are in negotiations with other parties on the post-2020 climate change framework, and would involve substantial additional costs.

Afforestation schemes have provided grant aid since the early 1990s for broadleaf plantations at the threshold of 0.1 hectares. In addition, many important woodlands along rivers and valleys are small in size and upward movement in the threshold could result in their being deforested where there was no replanting.

**Deputy Martin Ferris:** I do not know if that is true. Does the Minister of State have figures for these woodlands? We are either part of the FAO or we are not. If the FAO's definition is 0.5 hectares, I cannot understand why we should try to be different. I understand the argument the Minister of State is making on carbon credits, but I would like to know how accurate his figures are. What percentage of woodlands are 0.1 hectares?

**Deputy Tom Hayes:** It is important that it be beneficial for the country. If we were to change the threshold, the country would lose out and it would not be beneficial. The carbon credits are accrued and we count them. These are the figures with which I am presented. These are the facts.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 4, 5 and 9 are related and will be discussed together.

**Deputy Thomas Pringle:** I move amendment No. 4:

In page 7, between lines 31 and 32, to insert the following:

“ “Rio Forest Principles” means the “Forest Principles” adopted at The United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992;”.

I will defer to my colleague.

**Deputy Richard Boyd Barrett:** Given that reference has been made to the United Nations and the need to be in line with its priorities, I am sure the Minister of State will accept the amendment because that is what we are trying to do. The Rio de Janeiro summit in 1992 was a turning point in environmental politics by asserting the vital importance of the environment in general. The forest principles were the most comprehensive statement on the need to protect and develop a sustainable forestry model for the future of humanity, societies and indigenous cultures all over the world. They spelled out at every level the manifold importance of forestry and forest culture, what was sustainable forest management and what its priorities should be. It is logical that this be set out in the definitions section. If we are committed to sustainable forest management, we should work with the definitions set out at the Rio summit, which are comprehensive. They cover all bases, including economic, social, environmental, cultural, heritage and climate change imperatives, the need to balance them to inform our forestry policy, and forest management. I cannot see an argument against the amendments.

The definitions, as drafted, touch on these issues. My amendment lifts the wording from principle 2B of the Rio forest principles and should be included. All of the amendments relate to the issue of sustainable forest management which needs to be provided for in the definitions section. That speaks for itself, although sustainable forest management is not always what we

have done. However, I acknowledge we are all committed to it. That needs to be set out and defined.

**Deputy Tom Hayes:** I cannot agree to the amendments. The “Rio forest principles” is the informal name given to the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests 1992, a document produced as an annex to the report of the United Nations Conference on Environment and Development, UNCED, also known as the Earth Summit, which took place in Rio de Janeiro in June 1992. It is a non-legally binding document that makes several recommendations for conservation and the sustainable development of forestry.

The Government is committed to the advancement of sustainable development in Ireland, as evidenced by the publication by my colleague, the Minister for the Environment, Community and Local Government, in June 2012 of *Our Sustainable Future: A Framework for Sustainable Development for Ireland*. As the Minister explained at the Rio+20 conference, this framework is based on a joined-up, whole-of-government approach to firmly embedding sustainable development principles in policy formulation and decision-making across all sectors. It sets out a pragmatic set of measures designed to improve quality of life for current and future generations, with clear responsibilities and timelines set out in an implementation plan. It includes a commitment to continued support for the sustainable development of the forestry and forest products sectors.

Ireland is a signatory country to the Forest Europe process and the Government is an active participant in the ongoing intergovernmental negotiating committee, INC, to develop a legally binding agreement on forests in Europe. The negotiating parties in this process have concluded that should final agreement be reached, there will be a clear reference in the preamble to non-legally binding instruments on all types of forest and the four global objectives on forests, an instrument which builds on and makes reference to the Rio declaration on the environment and development and the Rio forest principles. Given this, there is no need to include a specific reference to the Rio forest principles in the Bill.

With regard to including a definition of “sustainable forest management”, SFM, as defined in the Rio forest principles, there is no universally agreed definition. Sustainable forest management is not a fixed concept. The definition will invariably evolve over time to reflect the changing values of society. The most widely intergovernmentally agreed language on SFM is represented in the non-legally binding instrument on all types of forest of the United Nations Forum on Forests, UNFF, which reiterates the definition in the Rio forest principles. However, in Europe the most widely accepted definition of SFM is that developed by the Forest Europe process which has since been adopted by the FAO. It defines sustainable forest management, SFM, as “the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems”. Ireland is a signatory to the Forest Europe process and has already integrated its definition of SFM in our national forest standards.

Discussions are under way in the Forest Europe process on the criteria and the quantitative and qualitative indicators used to promote sustainable forest management and to facilitate the evaluation of progress towards attaining same. The outcome will also have a bearing on any future evolution of the definition.

The Government is an active participant in the ongoing intergovernmental negotiation committee on developing a legally binding agreement for forests in Europe. The negotiating parties have concluded that, should a final agreement be reached, the Forest Europe definition will apply to all signatory states. Consequently, there is no need to include another definition, or indeed any, of SFM in the Bill.

**Deputy Richard Boyd Barrett:** I will agree to disagree with the Minister of State on this matter. The Rio declaration may not be binding legally, but we signed up to it. I see no reason not to commit to its wording in a Bill that is supposedly setting out to develop forestry on a sustainable basis. Nothing the Minister of State has mentioned tells me why the proposed wording, which was taken from the Rio forest principles, is difficult for us to accept. It is vital that the concept of SFM be included in a forestry Bill. Were it not included, I would be concerned.

Deputy McNamara rightly pointed out that there was a balance. We all know that. The balance can be skewed in all directions by commercial, environmental, heritage and ecological imperatives. SFM is the concept that attempts to strike that balance. It recognises the economic value, imperative and potential, but states that these can only be developed sustainably if we recognise that it is not just a short-term matter, but is also about links to our heritage, biodiversity, climate change and social and cultural issues. Rio's declaration is the most comprehensive statement in this regard. As such, I do not know why one would second-guess or have a problem with it or why it would be inappropriate for inclusion in this Bill as an informing spine to forest policy. I will press this amendment and table it again on Report Stage.

**Deputy Tom Hayes:** At the risk of repeating myself, I do not want there to be duplication in the Bill. That is not what we set out to do. As there are no international agreements, it is better that we comply with our national standards wherever possible. This is the most important aspect.

**Deputy Richard Boyd Barrett:** I will not prolong this debate unnecessarily, but our national standards are not great and major questions surround them, to put it mildly. People from all perspectives who are observing the forestry sector would agree that this Bill should facilitate an improvement, given that we have not done as well as we should have in many respects. This is not to say that there has not been a significant improvement or good measures have not been taken, but major questions and problems remains and there is a considerable unrealised potential. For this reason, I am pressing the amendment.

**Deputy Tom Hayes:** If I replied, I would only be repeating what I have already stated.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 5:

In page 7, between lines 31 and 32, to insert the following:

“ “sustainable forest management” means the management of forests following the definition of sustainable forest management as set out in the 1992 Rio Forest Principles.”.

Amendment put and declared lost.

Section 2 agreed to.

Sections 3 and 4 agreed to.

SECTION 5

**Chairman:** Amendment No. 6 has been ruled out of order.

Amendment No. 6 not moved.

**Chairman:** Amendment No. 7 is in the names of Deputies Ferris and Ó Cuív and is related to amendment No. 14 and they may be discussed together.

**Deputy Martin Ferris:** I move amendment No. 7:

In page 8, line 11, after “afforestation” to insert “and timber production”.

The primary reason for any private forest ownership is timber production. There is a difference between afforestation and timber production. I ask that this amendment be included to promote afforestation and timber production, as it clarifies the situation.

**Deputy Éamon Ó Cuív:** If only afforestation is mentioned, we run the risk of missing an important element that is required in the balance, namely, our need to produce timber. Many timber mills depend on timber production. While we need to achieve a balance in terms of native broad leaves, for example, sycamore, spruce and so on, it is important, under the functions being given to the Minister, that it be clearly stated as a basic principle that he should have an obligation to ensure enough timber is available to meet demand. Timber production would be in addition to, not in substitution for, afforestation, which is a desirable initiative on its own. There should be a balance.

**Deputy Tom Hayes:** In section 5, the functions of the Minister, both general and specific, are set out in some detail. The general functions include a range of promotional responsibilities relating to forestry, including increased afforestation, good forest practice that maintains the biological diversity of forests, the promotion of knowledge and awareness of forestry through education and training, and the development and marketing of a quality-based processing sector. The Minister’s general functions also include the regulation and monitoring of forest operations to ensure forests are properly managed and protected from harmful pests, diseases and invasive species.

The list is extensive but it was indicated to my Department in a series of meetings with various stakeholders that there was no mention of timber production in the text and the purpose of amendment No. 14, affecting paragraph (*k*), is to reflect this important aspect of forestry development. The insertion of the word “production” in paragraph (*k*) is a restatement of the commitment to the production of timber and addresses the amendment proposed by Deputies Ferris and Ó Cuív.

**Deputy Martin Ferris:** I will be pressing the amendment but I will leave my comments at that. We will return to it on Report Stage.

**Deputy Éamon Ó Cuív:** I have a question. If a court of law examined these aims, does the order count for anything? In other words, the terms in the Bill are “to promote the production and use of timber” at paragraph (*k*), whereas paragraph (*a*) refers to the promotion of afforestation. We would include “afforestation and the production of timber”. If the term is at the top of the list does it have more legal weight than if it is in the position of paragraph (*k*)? Could somebody argue that the contents of paragraph (*a*) are more important than those in paragraph (*k*)? Is there a precedent indicating that paragraph (*k*) is as important as paragraph (*a*)?

**Deputy Tom Hayes:** My understanding is they are all equally important. “No” is the answer.

**Deputy Éamon Ó Cuív:** The legal advice is to that effect.

**Deputy Tom Hayes:** That is the advice we have.

**Deputy Éamon Ó Cuív:** The paragraphs have equal weight.

**Deputy Tom Hayes:** Yes.

**Deputy Éamon Ó Cuív:** On that basis I withdraw the amendment.

Amendment, by leave, withdrawn.

**Chairman:** Amendment No. 8 is out of order as it involves a potential charge on the Exchequer. Deputy Pringle should have received that note.

**Deputy Thomas Pringle:** Yes. I know I cannot speak to the amendment but I would like to comment when the section is being discussed.

**Chairman:** We have quite a few amendments to go through yet before we discuss section 5. Amendment No. 8 not moved.

**Deputy Thomas Pringle:** I move amendment No. 9:

In page 8, delete lines 12 to 16, to insert the following:

“(b) to promote sustainable forest management as set out in the 1992 Rio Forest Principles, forest resources and forest lands should be sustainably managed to meet the social, economic, ecological, cultural and spiritual needs of present and future generations. These needs are for forest products and services, such as wood and wood products, water, food, fodder, medicine, fuel, shelter, employment, recreation, habitats for wildlife, landscape diversity, carbon sinks and reservoirs, and for other forest products;”.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 10 and 11 are related and may be discussed together by agreement.

**Deputy Éamon Ó Cuív:** I move amendment No. 10:

In page 8, between lines 16 and 17, to insert the following:

“(c) to promote research and development in the forestry section;”.

I have seen amendment No. 11. I do not know why my amendment refers specifically to research and development but I accept the Minister of State’s amendment includes the term “promote research in forestry and related matters;”. I accept the Minister of State’s amendment and I am pleased to see it included.

**Deputy Thomas Pringle:** I note the Minister of State’s amendment would insert a paragraph (g). If it does not matter where the paragraphs are in the pecking order, why would it be put in that position?

**Deputy Tom Hayes:** That is where the Parliamentary Counsel put it.

**Deputy Thomas Pringle:** This relates to the last amendment and whether there is a priority according to where the subsection is located. Why would it not be inserted as paragraph (n)?

**Deputy Tom Hayes:** There is no reason given. I am not the draftsman. What difference does it make?

**Deputy Thomas Pringle:** That is what I am asking. Does it make any difference?

**Chairman:** Is amendment No. 10 being pressed?

**Deputy Éamon Ó Cuív:** No.

Amendment, by leave, withdrawn.

**Deputy Tom Hayes:** I move amendment No. 11:

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

“(g) to promote research in forestry and related matters;”.

Amendment agreed to.

**Deputy Thomas Pringle:** I move amendment No. 12:

In page 8, line 25, after “against” to insert “the harmful effects of pollution including airborne pollution and”.

**Deputy Richard Boyd Barrett:** The provisions of this amendment are fairly self-evident. As with many of my other amendments I do not see any reason the Minister of State would not accept it. It is an obvious, innocent and innocuous yet very important amendment. It would include “the harmful effects of pollution including airborne pollution” in the list of things against which we must protect forests. Airborne pollution is mentioned specifically as it is sometimes forgotten but forests are adversely impacted by all pollution. It should be an imperative of the Bill to protect against it.

**Deputy Tom Hayes:** The Deputy is correct to highlight the potential harmful effects of airborne pollution on forests and in accordance with the Environmental Protection Agency Act 1992, the EPA is the body with primary responsibility for licensing of large or complex industries with significant pollution potential. Other licences are granted by local authorities and in all cases emissions must be within set limits and not contravene any relevant air quality standard. My Department actively engages with the EPA, local authorities and parent Departments on the issue, as well as other bodies. However, it would not be appropriate for me to seek to replicate their statutory function, so I cannot accept the amendment as proposed. The other authorities already deal with this matter.

**Deputy Richard Boyd Barrett:** I do not accept that explanation. Other bodies may consider environmental pollution, which is fair enough, but this Bill specifically relates to forests and bringing to the fore issues relating to forestry. Perhaps people assessing levels of environmental pollution may consider general problems but they may not be really focused on how to make an impact on forestry. People with more expertise than me have suggested there are quite significant problems that are specifically damaging to forestry that must be examined. It seems logical for the provision to be included, as it does not take away from the roles and responsibili-

ties of anybody else.

In putting together the regulatory and legal framework around forestry, this would be an important issue to consider. Paragraph (f) refers to the promotion of education and training in forestry but that is covered by the Department of Education and Skills in geography classes. The same argument could be made that perhaps such a provision should not be in the Bill. If we proceeded on that basis there would be nothing in it because forestry overlaps with many issues. It is not an adequate response. It is blatantly obvious that the section should include a reference to pollution and airborne pollution because it sets out the priorities for forestry.

**Chairman:** The Deputy has made his point. Does the Minister of State wish to respond?

**Deputy Tom Hayes:** I reiterate what I stated. It is the job of the EPA and local authorities, not the forestry service, to look after the environment. If an environmental issue arose at a forest plantation tomorrow, I have no doubt the Department's forestry service would have to approach the EPA for advice and support. Therefore, it would be wrong to insert a reference to pollution in the Bill when the EPA and local authorities are already doing the job on a statutory basis, as well as the Department of the Environment, Community and Local Government. It is their job to look after the matter and they do so on a statutory basis.

If the provision were included, it would lead to duplication. The Bill is not about duplication. As I have said from the outset, the aim of the legislation is to make it easier for people to invest in forestry and to encourage them. The industry has great potential and has expanded exceptionally well despite experiencing difficulties in recent years. The industry has worked through them and Ireland is exporting timber. The industry is very successful and there is great potential for landowners, large and small, to invest in the sector. We do not want duplication in legislation.

At the risk of repeating myself, we want to make business easier for the people involved in the sector. Many of them are protectors of the environment. Any of them who own land are custodians of the land, protect the land and are quite good at doing so. The agencies will act as their backup so there is no need for us to insert a provision in the Bill.

**Chairman:** We must move on because there are many amendments to be dealt with. Is Deputy Pringle pressing his amendment?

**Deputy Thomas Pringle:** Yes.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 13:

In page 8, line 26, after "species" to insert "in order to maintain their full multiple value".

**Chairman:** Will I call Deputy Boyd Barrett again?

**Deputy Thomas Pringle:** Yes.

**Deputy Richard Boyd Barrett:** The amendment is in line with many of the other amendments. It follows on the same line of thinking so I do not need to elaborate greatly.

I want to deal with the term "multiple value" but first I will spell out one point. We should develop the industry's economic potential, tap into and realise it by encouraging people to go



into the industry. Those are all the things the Government has said we should do. It is critical we are not too narrow in our conception of what doing those things to develop the industry means. If our focus is too narrow, too short-term and too concerned with making the next buck around the corner, we may do irreparable damage to the potential of the industry in the medium and long term. That is why the amendment emphasises and includes the words “multiple values” which refer to all the things that forests provide. We do not want the focus to be too narrow and that is the logic behind many of the amendments we have tabled. We think it is right to spell it out.

We do not know why one third of the trees at Gougane Barra had to be cut down but we would all agree it is bad it happened. Sometimes we do not know why things happen to forests so it is important we keep an eye on these matters, but I will not elaborate further.

**Deputy Tom Hayes:** It is implicit in the existing text in the section that in seeking to ensure forests are protected against harmful pests, diseases and invasive species, the Minister would have regard, as far as is practicable, to the maintenance of their full multiple value. However, this is not something that can be assured in each and every case, for example, where measures required to contain the spread of harmful plant pathogen such as *phytophthora ramorum* may necessitate a curtailment or temporary closure of forests to amenity users. This refers to Gougane Barra. There was no choice but to cut down the trees at Gougane Barra because they were diseased. The simple fact is that disease must be dealt with and that applies to forestry, animals or whatever. Disease must be dealt with in the best possible way to protect the future of the forestry industry. I cannot, therefore, accept the amendment based on that reasoning.

**Deputy Richard Boyd Barrett:** I have already asked the Minister of State for assistance and someone in his Department has said they will forward the documents to me for my perusal, so I cannot comment in great detail about the matter.

There could be things we have done wrong, like the overuse of imported species, for example, rather than using native species, that may have contributed to the spread of disease. I am not saying that is the case but we must be conscious of what we do. As the Minister of State has said, the industry is a moveable feast. We are learning about forestry and its related matters. However, it is important it is spelled out that we have an eye for these things which is the purpose of our amendments. I do not see why the Minister of State has a problem with them. I have made my point. I can table the amendment on Report Stage so there is no need to press it.

Amendment, by leave, withdrawn.

**Deputy Tom Hayes:** I move amendment No. 14:

In page 8, line 33, after “to promote the” to insert “production and”.

Amendment agreed to.

**Chairman:** Amendments Nos. 16 to 18, inclusive, are physical alternatives to amendment No. 15. Therefore, amendments Nos. 15 to 18, inclusive, will be discussed together.

**Deputy Thomas Pringle:** I move amendment No. 15:

In page 8, to delete lines 36 to 42 and substitute the following:

“(m) to promote and monitor the protection and enhancement of water quality and water status in all aspects of forestry, so as to ensure that forestry plans, operations and

forest-based activities regulated under this Act are compatible with the requirements of Directive No. 2000/60/EC of the European Parliament and of the Council of 23 October 2000 on water policy;”.

Amendment No. 15 seeks to amend section 5(m) by inserting a reference to water status and a provision that forestry plans should protect water status. The subsection mentions the water framework directive as it talks about water status, maintaining water status and improving the water status of waterways in the country. Therefore, it is important that water status is mentioned in the text because it will give the matter greater standing than simply referring to water quality. One cannot, under the directive, improve and enhance water quality without improving the status of water. Given that the legislation talks extensively about forestry plans, it is important that forestry plans should be measured against the water framework directive. Those are my reasons for tabling the amendment.

**Deputy Tom Hayes:** I propose to take amendments Nos. 15 to 18, inclusive, together.

Although the regulations transposing the water framework directive make greater use of the term “status”, for example “chemical status”, “ecological status” or “quantitative status”, it should not be forgotten that quality is just another English word for status. More important, it is implicit, with the reference to ensuring compatibility with the requirements of the directive, that one of the functions of the Minister will be to ensure his Department plays its part in achieving the objectives of the directive as it pertains to water status. It should be noted that the Department of the Environment, Community and Local Government has the primary responsibility for the economic and policy aspects of the water framework directive. It has delegated the tasks of national co-ordination of all the technical aspects of the directive to the EPA.

I have examined the proposed amendments and do not accept the changes proposed. The provisions in the Bill allow for the monitoring of forestry operations. In addition, the collection of data resulting from felling licences and afforestation are collated nationally and will feed into river basin management plans in compliance with water policy as described.

**Deputy Thomas Pringle:** That is the standard answer we have had so far, that it is the responsibility of someone else and not necessary in legislation. Forestry plans should be referenced in the water framework directive. While it may be the responsibility of the EPA to look at river basin management, the Forestry Bill should reflect the need for forestry plans to recognise the water framework directive and the impact it can have. Forestry can have an impact on waterways. Setback distances have been increased over the years to protect water systems so plans should reflect that. I do not see any problem with having reference to forestry plans in terms of the water framework directive. It would strengthen the environmental aspect of the Bill.

**Deputy Richard Boyd Barrett:** Deputy Pringle has covered much of it. It is a bit worrying that, in response to all of these points, the Government is playing down the need to spell out these matters. It worries me in respect of the emphasis and priorities of the Government when it is drafting this. It is leaning too much in one direction.

**Deputy Tom Hayes:** The Department and the Government are concerned about the environment and want the environment to be looked after at all times. The water framework directive is the responsibility of another Department. It is taken into account when plans are put together.

**Deputy Thomas Pringle:** We have a sad record of being taken to the European courts

for the non-implementation and non-enforcement of directives. It has been discussed many times at this committee. An example is the aquaculture industry and the disaster that led from non-compliance with the habitats directive. The Minister can argue the habitats directive is the responsibility of another Department and can ask why it should be the responsibility of the Department of Agriculture, Food and the Marine. However, it is having a major impact. It is not good enough to say it is the responsibility of the EPA or the local authority and for that to be the reason it is not included in the Forestry Bill. It would provide a defence for the Department if forestry related matters were the subject of a case before the European courts. It would show we were trying to apply the directive rather than saying it was someone else's problem.

**Deputy Tom Hayes:** The reference to the directive is already enshrined in the Bill.

**Deputy Thomas Pringle:** There is no reference to forestry plans.

**Deputy Tom Hayes:** It is in the Bill.

**Deputy Thomas Pringle:** The forestry plans do not have to comply with the directive.

**Deputy Tom Hayes:** That is making it more complicated. The Deputy is making it more awkward and more difficult for people. The Bill is about making it easier for people who want to get into forestry and use the land throughout the country to create jobs in rural Ireland. In my constituency and in Deputy Pringle's constituency hundreds of people are unemployed and they can get jobs through the development that will take place across the food industry and in forestry, through tree planting, tree maintenance, thinning and in the mills. There is export potential and it is good for the country. It is bringing money into the country and the industry is a long-term and sustainable one.

I take the point the Deputy is making about minding the environment but we must remember that the Bill is about trying to make it easier for people to get into forestry. They should use land lying idle in Donegal, Tipperary, Cork and Kerry. It could be used in a profitable way to create jobs for people in rural areas. I would like that to be understood. I understand the amendments and their objectives but the Bill is trying to make it easier and more advantageous for people to get involved in forestry.

**Deputy Thomas Pringle:** I agree with what the Minister of State is saying about trying to get people involved in forestry and making it easier. It is true that the Bill provides for the potential of job creation in rural Ireland. Previously, this country has taken the view of trying to get around environmental constraints to provide jobs. We end up doing nothing and setting everything back instead of doing it right in the first place and ensuring the industry can grow and develop in such a way that we do not end up hauled before the European courts and threatened with judgments. The purpose of the amendment is not to restrict job creation in rural Ireland but to allow people to do it properly.

**Deputy Tom Hayes:** I accept much of what Deputy Pringle says about the environment but we will address the topic in a later section. Protection of the environment is dealt with in section 11 and in Part 3.

**Deputy Richard Boyd Barrett:** I will leave my comment until the end of the section.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 16:

In page 8, line 37, after “quality” to insert “and water status”.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 17:

In page 8, line 37 and 38, to delete “including ensuring” and substitute “so as to ensure”.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 18:

In page 8, line 38, after “forestry” to insert “plans,”.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 19:

In page 9, between lines 3 and 4, to insert the following:

“(o) to promote conservation, expansion, restoration, and positive management of natural and semi-natural woodlands, including the remnants of Ancient woodland and ensure that management plans are put in place for these woodlands once identified, whether they occur in Special Areas of Conservation or Natural Heritage Areas or otherwise, and that this is prioritised in forest policy;”.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 20:

In page 9, between lines 3 and 4, to insert the following:

“(o) to promote silviculture based on natural conditions using continuous cover forest planning and management using native species adapted to the site, having small scale operations and by encouraging natural regeneration, ensuring the protection of rare, endangered, and ecologically important areas while maintaining, conserving and enhancing biological diversity in forest ecosystems;”.

**Chairman:** In the absence of Deputy Pringle, Deputy Boyd Barrett can move and speak to the amendments in his name. Is that agreed? Agreed.

**Deputy Richard Boyd Barrett:** There is a theme that links many of these amendments. We need to develop this area. There is huge employment potential but it is a question of what the model is and what will work in the long term. The word sustainable is used so often that it almost loses its meaning. It means that something will last and will develop. I suppose one contrasts sustainable with short-termism because short-termism has dominated too often in too many things with disastrous consequences. That is why that sort of concept has developed.

One of the elements in this area which demonstrates how we have got the balance a bit wrong is that there is an over-reliance on one particular crop. Obviously, there are understandable reasons those involved in producing that crop choose to produce it. It grows quickly and there is a market for it but in terms of the overall picture, this is not sustainable. There has to be diversification, which has been acknowledged. There must be a greater emphasis on native species.

We must expand our vision and model of forestry in the direction of native species. That requires long-term planning and we have not even mentioned Coillte in all of this. However, this cannot happen without Coillte. I do not think we can develop the employment potential without a radical change in what Coillte is doing and its *modus operandi*. Something like a public works programme is required to develop the huge economic, social and cultural potential in this area.

This amendment touches on the need to shift the model from the current one towards one with more emphasis on community forestry and not just on clear felling and all of that area, about which the Minister of State spoke. There are as many employment prospects from all sorts of angles if we move in that direction. In fact, one could well argue that in terms of the overall economic impact of forestry not only on the timber industry, but in regard to the tourism potential.

Much of the reputation Ireland has as a place of history and heritage is tied up with our forests. That is just as important as the maybe slightly shorter-term view sometimes taken. That is the logic behind this amendment and some of the other ones. Again, it is part of filling out the picture of what sustainable forestry means.

**Deputy Tom Hayes:** The general functions of the Minister as described in section 5(c) provide for the promotion of good forest practice within the forestry and forest related sectors. Although the terminology “good forest practice” is broad, it includes a wide range of different management practices which include the use of natural regeneration and continuous cover forestry. Ireland has produced a code of best forest practice which describes operations required to establish and manage woodlands in accordance with sustainable forest management.

The use of continual cover forestry, where small felling coupes are removed to encourage natural regeneration, although not widespread, is practised in a number of areas in Ireland. I agree it should be encouraged as a management system where appropriate. However, the selection of species can include both broadleaf and conifers.

I must also recognise that other management systems, such as clear felling and replanting, play an important part in the sustainable management of forests by providing economies of scale. Forest owners and foresters have a range of management options which they can consider, depending on the species and type of woodland present. The important point to note here is that there is nothing in this Bill which will prevent a forest owner from considering the use of continuous cover forestry in any licence application submitted.

The Bill allows for the promotion of knowledge and awareness of forestry, as outlined in section 5(e). My Department has already provided funding for research in this area which will promote knowledge of this management tool. The use of continuous cover forestry has an important role to play in Irish forestry and will continue to grow as a forest estate matures. Foresters have traditionally taken advantage of the natural regeneration where it occurs as a method of establishing trees where holes in the canopy have been created by tree felling or by natural events such as wind blow. Indeed, over recent weeks, many forests have been completely blown down due the gales and artificial replanting will be required to ensure forests regenerate successfully. However, there will be other areas in the forest estate where a large tree will have blown down creating the conditions for seed to germinate naturally. Both methods of regeneration are valid and will provide the next generation of trees.

The Bill has all the required provisions to allow the functions described and it is not neces-

sary to include the amendment as proposed, so I do not accept the need for it.

**Deputy Richard Boyd Barrett:** I do not think we have got the balance right. We certainly have not got it right so far and the Bill should address the failure to get the balance right. That is the logic behind the amendment. Of course, there are different management systems and different people deal with different aspects of forestry. I fully accept the point Deputy McNamara made earlier about making distinctions between different types of forest. We must try to have a Bill which covers all the bases and does not make it difficult for a small farmer but provides the protection we need, shifts the model a bit and addresses the failures.

There is no doubt it has been a failure that we have placed so much emphasis on one species, a non-native species, and that we have failed dramatically in our afforestation targets. This is a problem which must be addressed and the Bill should be part of addressing it. However, I will not labour the point.

**Deputy Tom Hayes:** Keeping the balance will always be arguable but it is my intention, and that of the Department and everybody else, to keep the right balance.

**Chairman:** How stands amendment No. 20?

**Deputy Thomas Pringle:** I will press the amendment.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 21 and 94 are related and may be discussed together.

**Deputy Éamon Ó Cuív:** I move amendment No. 21:

In page 9, between lines 6 and 7, to insert the following:

“(p) to encourage and facilitate the development of a competitive timber industry and the creation of jobs in rural Ireland;

(q) to promote and facilitate the provision of a sufficient supply of sawlog at competitive prices to meet the requirements of the timber industry.”.

Part of the objective of this Bill must be the development of a competitive timber industry and the creation of jobs in rural Ireland. Just as the whole ecological and tourism scenes are important, so too is the timber industry. The timber industry has been very resilient and over the past five years has shown its capacity to survive and maintain jobs. In the areas where the major timbers mills are located - Ballygar, Longford, Cork and where I live - it is unlikely that any industry of that scale would have set up in those locations. We have very sizeable mills and further development is possible, with high added value in small operations. The five or six large companies are important but there is huge potential with small companies. Germany is a good example of that.

There should be an objective to create a competitive timber industry and to create jobs. I mention the promotion of the production and use of timber but that is very generic because the timber which goes into the board mills which Coillte owns is timber but, of course, the timber mills need something much more specific. They need suitable saw log on a continuous basis. We need planning for that because it is not a question of ag cur san earrach agus ag baint sa bhfómhair- sowing in the spring and harvesting in the autumn. It takes many years to grow a tree to full maturity and, therefore, it is important one of the functions of the Minister should be

to ensure there is a sufficient supply of saw log. I cannot see any reason the Minister would not accept that these are two valid objectives which should be added to the Bill. Both amendments are basically saying the same thing.

**Deputy Tom Hayes:** Section 5 includes a number of promotional functions of the Minister to facilitate the development of forestry, which in turn contributes to a competitive timber industry and the creation of jobs in rural Ireland. I am satisfied this is adequately addressed in the section. As supportive as I am of measures to improve employment in rural areas and the development of a competitive timber industry, the Deputy will no doubt be aware there are considerable restrictions in national and EU law on how the Government can intervene in the marketplace to promote certain economic activities or the development of national industries. Through successive rural development programmes and under state aid rules, the Government and the EU have provided substantial levels of funding for afforestation over recent decades, which provides significant volumes of timber for the market as well as associated employment opportunities. It is a matter for the markets to determine the price of saw log and it is most definitely not the function of the Minister to interfere in the process. Therefore, I do not propose to accept amendments Nos. 21 and 94.

**Deputy Éamon Ó Cuív:** The Minister of State's arguments miss the point because no one is proposing the Minister interferes in the markets. The simple fact of the matter is that if there is an enormous scarcity of anything, it is a seller's market. The Minister of State is saying on the one hand that he cannot interfere with the market, but on the other hand, he has amended the Bill to say the production of timber is a legitimate aim of the legislation. My amendment refers to the production of timber and to promoting and facilitating the supply of saw log at competitive prices. An adequate supply of saw log ensures prices are competitive. If I were to take out the phrase "at competitive prices" on Report Stage in order that the amendment would read "to promote and facilitate the provision of a sufficient supply of saw log to meet the requirements of the timber industry", that would be allowing the market to take its course. That would remove the pressure on the mills to outbid one another for a limited and insufficient supply of saw log. I do not accept the Minister of State's contention that European law says we cannot plan as a State to ensure we will have a sufficient supply of saw log in ten, 20 or even 70 years time to meet the requirements of the industry. If that were the case, one could argue there is something wrong with the EU but I do not believe the EU is saying that.

If it makes the Minister of State's job easier, I will come back on Report Stage with a revised amendment or the Minister of State himself could propose an amendment that takes out the words "at competitive prices". The Government can encourage and facilitate the development of a competitive industry. IDA Ireland does it all the time. We encourage and facilitate such development in many different ways. No one seems to have a problem with us building motorways, reducing the cost of broadband and providing any number of services for industries here. What is needed for the timber industry to be more competitive is an increase in supply as well as a guarantee of that supply. Therefore, I cannot see where the problem lies with amendment No. 21. If the offending words are "at competitive prices", I have no problem in taking them out and coming back on Report Stage with a revised amendment. I would be interested to see if the Minister of State would come back with an amendment of his own.

Amendment No. 94 allows the Minister to make regulations and I believe it is important the Minister is able to do so to deal with this issue. There is no point in having an afforestation programme if at the end of it we do not have a competitive, effective, properly functioning timber industry. At the end of the day, trees have to be felled at some stage and the majority of timber

in this country is commercial. We must have a competitive industry at the end of the process. If not, the Minister of State is saying jobs do not count.

**Deputy Michael McNamara:** The Minister of State cited EU competition law as an obstacle to this amendment. While I might not support this particular amendment, who are we fooling when we are talking about free competition in Ireland? We have a dominant player in the industry. It is completely dominant, in fact. The two shareholders in that player are the Minister for Finance and the Minister for Agriculture, Food and the Marine. The latter, who is given vast powers under this Bill, appoints the board of that dominant player. The Minister can require existing smaller players to produce a management plan and if he does not like it, he can change the plan. He can refuse smaller players a felling licence. One would not find something like this in a post-communist state. The level of protection that is being afforded to a mollycoddled State company is incredible. I do not believe EU competition law comes into this.

One of my main objections to this Bill is that it is ill-conceived in the absence of dealing with Coillte more generally. Coillte needs to be examined closely. Company representatives appeared before the joint committee previously and we know there are huge problems in Coillte. Shifting all the regulation onto small forestry owners and farmers who decide to grow crops while not addressing the elephant in the room is unacceptable. There are vast Coillte plantations close to my home but the chipper plant in the middle of my local town closed because it could not get any timber. We look out at enormous plantations every day on Slieve Aughty and Sliabh Bearnagh but there is no timber available. That is just one of many examples I could cite. Is a light going to be shone on Coillte or are farmers the only object of this Bill?

**Deputy Tom Hayes:** There are a few questions. We will be dealing with Coillte when we reach later amendments but Deputies must remember there is considerably more private forestry in Ireland now than previously, which must be taken into account. Deputy Ó Cuív suggested he would submit a revised amendment on Report Stage or that I should do so. I will not be tabling any amendment on Report Stage which would have the effect of controlling the price of timber. It is a free market and while I can agree with much of what Deputy Ó Cuív has said, we cannot legislate to control the price. In recent weeks, because of storm damage, prices have fluctuated significantly. It has been argued that logs have become extremely expensive in recent months to such an extent that it is impossible to make a profit. Controlling that is not to the benefit of the industry. Anyone who talks about controlling prices in the context of anything related to land and agriculture in Ireland is not singing from the same hymn sheet as me. The majority of the agricultural community does not want price controls.

**Deputy Éamon Ó Cuív:** The dominant factor in determining the market price for saw log is supply. In times of tight supply, prices go up. If, for example, the major supplier of logs was to withdraw from the market in the morning, the price would go through the ceiling. I do not go along with European ideas on competition law. The EU believes competition is the solution to all ills. My personal belief is that the root of the financial crisis in Europe was an over-reliance on competition in the banking sector. The belief was the sector would self-regulate and that competition would ensure none of the players in dominant positions would make foolish decisions. It is only *post-factum* that people distrusted their ability to look after their own money. I do not agree with the general idea that unbridled competition by very powerful players should not be regulated in Europe. What has caused the greatest damage to people is the dogma of competition. I will park that matter for discussion on another day.

If what I propose were to be amended to read “to encourage and facilitate the development of a competitive timber industry and the creation of jobs in rural Ireland” and second, “to pro-



mote and facilitate the provision of a sufficient supply of sawlog to meet the requirement of the timber industry”, would the Minister of State accept that proposed wording?

**Deputy Michael McNamara:** I agree completely that we should not engage in price fixing. There are two ways to skin a cat. If one can refuse a felling licence without compensation, of course that will push up the prices for those who are allowed felling licences. Let me put the case another way. If the Minister were to propose that a Minister could bring in an order to decree the number of cattle that could be killed in factories in Ireland-----

**Chairman:** There is no provision in the Constitution as I understand it for any Minister to make a decree of that nature. I am not a lawyer but-----

**Deputy Michael McNamara:** I am drawing an analogy between-----

**Chairman:** With due respect, Deputy, please draw an analogy that is relevant.

**Deputy Michael McNamara:** I am drawing an analogy between the refusal of a felling licence and the refusal to allow cattle go to slaughter, for example, if there was a provision whereby a Minister could refuse to allow cattle to go for slaughter or could limit the number going for slaughter in any given week, such as happened last week, due to market conditions. We all know that factories are slaughtering fewer of a particular type of cattle.

**Chairman:** What is the relevance of that to a ministerial decision?

**Deputy Michael McNamara:** It changes the price. When one interferes in the market, it changes prices.

**Chairman:** The current position in respect of beef prices has no relationship with this legislation, or with ministerial orders.

**Deputy Michael McNamara:** No, it has not. The Minister can refuse felling licences under this legislation but not under this particular Bill. If the Minister could determine that cattle could not go to slaughter, that would change market prices. How would it not? Is the Chairman suggesting it would not?

**Chairman:** I will move on, the discussion on the felling licence is more appropriate to another section which deals with it. The inference of the Deputy’s argument is that a Minister would restrict felling licences on the basis of trying to fix prices. I call on the Minister of State to respond to Deputy Ó Cuív’s proposed change to his amendment.

**Deputy Tom Hayes:** We will look at the proposed wording for Report Stage. I am not looking at anything in regard to control of prices.

**Deputy Éamon Ó Cuív:** I am not talking about controlling prices. To say there is no connection between price and an adequate supply of timber, and to say that the State does not have a duty to ensure there will be an adequate supply of timber to meet the needs of the industry is extraordinary in view of Food Harvest 2020. Clearly, the Minister for Agriculture, Food and the Marine sees a role for the Department in increasing production and in ensuring there is enough produced to meet demand in the future. He has set targets of a 20% increase in the production of milk and so on. What I have set out in my amendment No. 21, paragraphs (p) and (q) is not very different from what is contained in Food Harvest 2020. The Minister of State may choose to misread my proposals to encourage competitive prices as a proposal to control the current price, when what I am trying to do is ensure the Minister creates the conditions to ensure there

is enough timber for a competitive market. I am willing to amend my amendment and re-enter it on Report Stage. In the meantime I will press this amendment No. 21.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 22 to 24, inclusive are related and may be discussed together by agreement.

**Deputy Martin Ferris:** I move amendment No. 22:

In page 9, between lines 6 and 7, to insert the following:

“(2) The Minister has a duty to provide information to ensure the public and other authorities are regularly informed on the role and condition of forests as well as on all forestry activities.

(3) The Minister has a duty to ensure that all Irish citizens and environmental NGOs are entitled to participate in forestry planning and management at local and national level, ranging from public enquiries to environmental assessments and monitoring.”.

My amendment puts an obligation on the Minister to provide information to ensure local authorities are regularly informed on the applications for afforestation and so forth as well as a duty to ensure all Irish citizens and environmental NGOs are entitled to participate in forestry planning and management at local and national level. In my view if the local authorities and the people are involved from the very start of proposed forestry developments, it means we will not face challenges because from the outset the proposals will be transparent and upfront. This strengthens the Bill.

**Deputy Richard Boyd Barrett:** The amendments tabled by Deputy Pringle are similar. Clearly we were advised by the same source. What we have learned in the past year or two from the dispute on the proposed sale of the harvesting rights of Coillte is the enormous interest and passion that people have for Ireland’s forestry. We should seek to harness that in the best interests of forestry, communities and of the country as a whole. There is a requirement to open up all aspects of managing forests, planning afforestation and all environmental concerns - in fact, the whole gamut.

The Minister of State has stated his priority is to encourage people to invest in forestry, whereas it should be about opening up the process. Much of the discussion has been about encouraging farmers to invest in forestry, but the elephant in the room, as I mentioned earlier, is Coillte, as it owns the largest proportion of forests. To say that the public does not know what is happening in Coillte would be a mild understatement. We need to have an imperative in the Bill to involve the public and local communities in all aspects of how we develop and enhance our forests. In my view, the logic of these amendments is irrefutable. I hope the Minister of State may consider accepting this amendment.

**Deputy Tom Hayes:** I do not see the need for amendments Nos. 22 to 24, inclusive. I draw the attention of Deputies to the fact that only last December I announced the publication by my Department of a concise booklet detailing the main findings of Ireland’s second national forest inventory. All national forest inventory publications, including the main findings, and booklets are accessible on the Department’s website.

I remind Deputies that my Department, like other Departments, is a public body for the pur-

pose of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011. The regulations allow members of the public to request information relating to the environment held by or for a public authority and set out in the manner in which those authorities are required to deal with requests. For example, they set out the timeframes for responses and the formal appeals procedures that apply if a person is unhappy with a decision on his or her request. The regulations also oblige public authorities to be proactive in disseminating environmental information to the public. Furthermore, participation by the public and environmental non-governmental organisations is provided for under the approval process for initial afforestation and forest roads projects, as set down in the European Communities (Forest Consent and Assessment) Regulations 2010. Submissions on projects are invited from a number of consultation bodies, including An Taisce, and from the public. There is no need to replicate this within the Bill.

**Deputy Martin Ferris:** I am pressing the amendment.

**Deputy Richard Boyd Barrett:** There is a theme on our side in these amendments. The theme on the side of the Minister of State is that he does not seem to see the need for the amendments. The people on behalf of whom we are proposing many of these amendments, who are very knowledgeable about forests, are very concerned about the lack of transparency, accountability, public participation and openness when it comes to this country's forestry sector and how it can be developed in the best and most sustainable way. It is unfortunate the Minister of State is taking this view. These amendments are trying to address a more generally worrying aspect of the Bill, which is the manner in which it centralises a great deal of power in the hands of the Minister, who will be responsible for fleshing out the details of the general priorities that are set out in this legislation. I find that somewhat worrying. A balance should be struck in the opposite way. We need to involve the public. This is true of planning and development generally. The public is the last to know. The people are given the minimum amount of information at the last minute. These amendments seek to redress the balance by providing that the stakeholders in this sector - non-governmental organisations and communities, etc. - must be involved. The purpose of this Bill should be to ensure that happens.

**Deputy Tom Hayes:** I would hate to think the impression might be created that there will not be co-operation. One of the things I have learned about forestry since I was appointed to this portfolio is that there is a huge determination to co-operate in the growth of the industry for the good of the people, the community and the environment. The forestry liaison committee, on which all the bodies are represented, meets on a regular basis. Of course there are robust discussions and confrontations as ideas are exchanged at these meetings. That is good and healthy. I do not think anybody wants to hide information from the public. Coillte, the private forest owners and the timber mills have come together in recent weeks following the significant wind and storm damage. This morning, I attended a meeting in the Department that lasted over three hours, at which there was a forthright discussion on how the various interests can help each other to assess the damage that was done and ensure there is a supply of timber for the next 12 months. Attention was paid to how much timber will come on the market and what can be done in that regard.

I see this at first hand. I understand where the Deputy is coming from. It might seem from the outside that there are problems with the availability of information. It has been clear to me within the Department over the past six months that people are committed to working together. Perhaps some statistics and facts in this respect can be made available at some future stage. While there is robust debate, there is no doubt that many people are willing to help with

the development of the forestry organisation into the future and that many resources are being provided to that end. I would not like members of the committee to think otherwise. Maybe we can find a way of getting more information out there. Deputy Boyd Barrett referred to the frustration of the people on behalf of whom these amendments have been tabled. As Minister of State with responsibility for forestry, I would like information to be provided to such people. We can discuss that in another space at another time. The point I am making is that the reality is a little different from what has been depicted. I will try at all times to ensure, where possible, that all information is put into the public arena to assist the bodies and the people who request more information.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 23:

In page 9, between lines 6 and 7, to insert the following:

“(2) The Minister has a duty to provide information to ensure the public and other authorities are regularly informed on the role and condition of forests as well as on all forestry activities.”.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 24:

In page 9, between lines 6 and 7, to insert the following:

“(2) The Minister has a duty to ensure that all the people who live in Ireland and environmental NGOs are entitled to participate in forest planning and management at local and national level, ranging from public enquiries to environmental assessment and monitoring.”.

Amendment put and declared lost.

Question proposed: “That section 5, as amended, stand part of the Bill.”

**Deputy Richard Boyd Barrett:** I tabled an amendment to this section to deal with an important issue. I understand it was ruled out of order because of a potential charge on the Exchequer. Our pretty spectacular failure to meet our afforestation targets is well known. We are delivering a small fraction of our afforestation targets. It is clear from the current trajectory that there is no real likelihood of a significant improvement in that regard. I believe it should be set out in the Bill that we will have targets and that we will meet those targets. It is clear from the discussion on the various amendments to section 5 that the Minister of State is placing a big emphasis on his hope that any expansion of the forestry sector will come from the owners of small or slightly bigger amounts of land. I do not think it will happen on that basis. The Minister of State has made it clear that this is what he is trying to do. I just do not think it is enough. The State, which is the biggest owner of forests, has singularly failed to advance the afforestation project. While it might succeed at some level, I do not think it will cut it in an overall sense to rely solely on incentivising or facilitating private owners of land. The State has to be obliged to deliver on afforestation.

I have made it clear when speaking on all the amendments to this section that many of those who are in favour of afforestation think there should be a binding requirement for it to happen within a short timeframe, for reasons relating to climate change, etc. They have suggested that

if we do not act in such a manner, it could have disastrous environmental consequences. They also argue that when we are setting out to meet those targets, we must shift towards greater use of native species for all sorts of reasons. I would like to make it clear, in the context of the disease that has affected Gougane Barra, that native species are less susceptible to disease than foreign species. If we do not shift from our current mode, it is a potential accident waiting to happen. I have mentioned the two aspects the Bill has to address to a greater extent than it does at present. First, it should focus on meeting our afforestation targets. Second, an emphasis on moving towards native broadleaf species is necessary for a myriad of reasons, some of which are linked to the question of sustainable forestry. This section should set out those priorities but fails to do so adequately.

**Deputy Willie Penrose:** I concur with Deputy Boyd Barrett. As I stated, we received an array of submissions from various interested parties. The annual afforestation target was always approximately 10,000 ha. We have discovered, however, that only 6,500 or 7,000 ha have been planted, which is only 65% or 70% of the target. As soon as there is any type of change, the target is subject to variation and grant aid is amended. The target will come under attack unless there is a reliable stream of incentives in place that is not subject to variation. The State has an obligation in this regard.

The committee met all interested parties, including representatives of Glennon Brothers, a company located in my area. Why does that firm have to import timber to meet demand when large tracts of forestry are in State ownership? I am familiar with this issue because my late uncle worked in forestry as a Coillte employee. It is incredible that much more planting was done in days of yore, when people travelled to work by bicycle, than is done in this era of mechanisation.

While I envisage a strong role in forestry for the private sector, including farmers, it is stretching credibility to put such a large number of our eggs into the private sector basket in the hope of achieving targets. Many members of the farming community have strong reservations about the Bill, but even if they were well disposed, we would not achieve the targets.

Section 32 deals with the Statute of Limitations. I must support my colleague, Deputy Boyd Barrett on this matter. The Bill has major problems. I do not say this because I am a barrister - I have held my whisht, as one says in my part of the country - but Deputy Boyd Barrett is correct. If one wants this Bill to have a regulatory central objective, it must first set out its targets. Once that has been done, one can regulate and if one fails to achieve the target, one can decide how to remedy the problem in 2016 or 2017. We have a healthy timber industry, with logging companies, the Masonite factory and other facilities doing great work. At one stage, however, we were running out of ash for the hurleys used in our native game.

While Deputy Boyd Barrett and I disagree on various issues, we are *at idem* on this matter. This legislation is an opportunity lost.

Question put and agreed to.

## SECTION 6

**Chairman:** Amendments Nos. 25, 45 and 46 are related and may be discussed together by agreement.

**Deputy Eamon Ó Cuív:** I move amendment No. 25:

In page 9, to delete lines 14 and 15.

The preparation of plans has become a modern fetish. It seems we must have a plan for everything. While persons planting forest need to have a plan, the purpose of any such plan should be to help them act wisely. I often wonder what happens to all these plans when they are submitted to Departments. Are they taken out every week, dusted down and read? No. Do they serve any purpose other than to catch someone much later when both sides have forgotten the details and the plan can be pulled out of a drawer? Does the type of route planning laid down in this legislation serve any purpose other than to enrich the professionals who draw up the plans? I doubt it. The type of plan an individual would draw up would differ greatly from the type of plan the Department will require, as the latter includes details to be produced by the experts on behalf of the person doing the planting. The Department or person doing the planting will never look at the plan again unless a dispute arises. For this reason, the requirement to draw up a plan should be removed from the Bill.

**Deputy Thomas Pringle:** The purpose of amendment No. 45 is to strengthen the section on forestry plans. While I accept the point made by Deputy Ó Cuív, I do not agree with him. Plans should be drawn up for reasons of proper forestry management and the protection of the environment. Forestry should be categorised as a public good and must, therefore, be planned for and managed.

On amendment No. 46, it is vital that the forestry management plan should be proportionate to the area under forestry. The plan required should vary, depending on the amount of forestry involved. As such, the owner of a small forest should not be required to provide the same level of detail in his or her plan as Coillte or the owner of a large private estate. The absence of such differentiation in the legislation has been identified as a significant shortcoming.

**Deputy Martin Ferris:** Amendment No. 45 is technical in nature.

**Deputy Tom Hayes:** Regarding amendment No. 25, forestry management planning is an essential tool which facilitates forest owners and foresters in the planning and scheduling of forest operations. Since the early 1990s, forest management plans have been prepared by foresters in support of grant aided afforestation schemes. These plans have provided forest owners with information on the timing of forest operations such as thinning and maintenance throughout the lifetime of their crops. Plans are also commonplace in other European countries. The section recognises the importance of plans in the management of forest resources sustainability.

Section 6(b) allows the Minister to require the submission of a management plan in support of an approval which includes consented and licensed operations. For example, a plan could be submitted in support of a felling licence application where the approximate timing of thinning and clear felling operations is outlined over the entire lifetime of the crop. In this case, a felling licence could be issued for up to ten years on the basis of a plan submitted, which could also include extensions. If these plans are periodically reviewed by forest owners and foresters, there is nothing to prevent them being used for further licence applications.

Some stakeholders have also raised concerns about the implementation of plans and the powers to set conditions. I stress that conditions attached to plans will be aimed at ensuring forestry operations take place in accordance with good forest practice. For example, if a forest management plan is submitted in support of a felling licence or afforestation application, it will be important the plans take account of environmental considerations. Conditions will only be attached where it is clear that the plan submitted is insufficient. For example, conditions would

be required if the plan submitted proposed harvesting an extraction through an archaeological site or if replanting was to take place immediately adjoining a river without an appropriate set-back distance being included as this would impact on fish and aquatic species. In such circumstances, conditions would be required as the plans submitted would benefit from the addition of conditions.

Previous amendments to extend the licensing period from five to ten years must be balanced with the provision that a plan submitted in support of a licence application could be amended, particularly where circumstances change. If these provisions were not in place, it would result in licences in the main being of short duration, which is not a desired outcome for the forest owner and Department.

In regard to amendment No. 45, while I appreciate that the Deputies' amendment to substitute "should" for "may" is positive towards forestry management planning, I believe the use of the word "may" is more appropriate in this section and, for this reason, I do not agree with the proposed amendment. Plantation sizes can vary from small to very large and it is important this provision is flexible enough to allow for a selective approach to the requirement for a management plan.

In response to the Deputy's proposed amendment No. 46, I draw his attention to section 10(6) where provision is made for the making of a regulation to provide for the "form, content, duration and implementation of plans". In drafting any such regulations the Minister will always have to have regard to the doctrine of proportionality, in particular that any requirement he proposes would not be disproportionate to the objectives he is seeking to achieve and that the constitutional rights of citizens are protected. Furthermore, such regulations cannot go beyond the principles and policies set down in the Bill.

The intention is to make management plans as user-friendly as possible, and my Department will provide templates to facilitate this process. While I accept the spirit in which the amendment is proposed, I do not think it necessary to include this text.

**Deputy Eamon Ó Cuív:** That is all fine, but any Deputy who holds clinics, as I do, will see housing application forms that one would need a PhD to complete. I assume the Minister of State has seen the new building regulations for one-off houses whereby it will cost an extra €15,000 to build a house. Every day we see regulations that are made, plans get thicker and we get assurances in every Bill that comes through the House that the Minister will have regard to the doctrine of proportionality, but that is not the way it is working. I will not press the amendment but once *carte blanche* is given for planning, all that ever happens is that the paper gets thicker and the conditions get more comprehensive. I have seen this happen over many years in public life and I am not sure the position has changed in proportion to the plans. My view is that all this planning has knocked more forests than the sawlog industry in Ireland in providing all the paper required.

Amendment, by leave, withdrawn.

**Deputy Thomas Pringle:** I move amendment No. 26:

In page 9, line 20, after "guidelines" to insert the following:

"that incorporate binding requirements as in section 28 of the Planning Act".

**Deputy Richard Boyd Barrett:** This amendment seeks a proper planning process in the

same way as for other types of development and is self-explanatory. There is a point also, as in Deputy Pringle's previous amendment, about proportionality and excessive regulatory burden on some people. It is always the wrong people who get over-regulated, because proportionality does not work. It is the big guys who have the big impact and who, historically at least, get away with murder. There is no exception in forestry, because the largest owner of forests is not even subject to freedom of information. Recently we discussed Irish Water. I might argue that because the Government was put under pressure with regard to the application of freedom of information provisions to Irish Water, it conceded. The provisions do not apply to Coillte, nor to many of our semi-State companies, but they should apply. It is the little guy who is burdened with excessive regulation in some cases. I am not saying there should not be regulation. There is a need for some regulation because we are dealing with a very important resource and one that has significant environmental and social impacts and so on. However, we are a long way from getting the balance and the proportionality right. As the little guy is hit hardest while the big guy gets away with murder, the Bill must address that problem.

**Deputy Tom Hayes:** I draw the Deputy's attention to the fact that guidelines issued by the Minister for the Environment, Community and Local Government under section 28 are addressed to local authorities and not to the public at large or any particular sector of the economy. The guidelines are particular to the functions of the authorities under the planning and development Acts and are issued in the context of that Department's statutory role in overseeing the operation of the local government system and the implementation of policy in relation to local government structures, functions, human resources and financing.

More important, I remind the Deputy that section 7(1) makes provision for the Minister to attach binding conditions to any licence, approval, grant or loan given under the relevant statutory provisions. Such conditions can include the relevant elements of any guidelines, code of practice, or standards of good forest practice produced under section 6(d). I therefore take the view that the matter is sufficiently covered in the Bill and I do not propose to accept the amendment.

**Deputy Richard Boyd Barrett:** This reminds me of the whole maritime and foreshore area. We have had a situation up to now in which the Minister, with no timeframe set out and, essentially, completely off his or her own bat, makes decisions about oil rigs, windmills or whatever it is. The Government, with the new Bill, which is only at draft stage, has said it must have a transparent process. We have to change that - it does not go as far I would like but at least it is a move in the right direction - to say it is not good enough to centralise all this power in the hands of a Minister who can do whatever he or she likes on a discretionary basis, where he or she "may" do this and "may" do that, or may not. When it is open to discretion in this way, who benefits? Almost always it is the big players who have the ear of the Minister. The Minister of State made an interesting comment. I take the point - I know it was genuinely said on his part - that since he got into his Ministry he has been talking to Coillte, the timber people and so on, but he did not see all of the issues when he was on the outside. That is a very telling comment, if one thinks about it - the insiders and the outsiders - but most people are the outsiders. If one is on the inside and the Minister has-----

**Deputy Tom Hayes:** On a point of clarification, there is a lot of good happening-----

**Deputy Richard Boyd Barrett:** I do not doubt.

**Deputy Tom Hayes:** -----and we do not see it from the outside.



**Deputy Richard Boyd Barrett:** I am not disputing that. What I am saying is that there is a problem because, in reality, most people are on the outside. Whether good or bad, they do not know what is going on. They do not know the considerations and what is influencing the Minister to make decisions. I worry that much of what is in the Bill borders on the aspirational, when it really goes back to the Minister and says that he or she decides the detail. That is a problem. A transparent process is needed which is fair and is seen to be fair. I worry that too much of the power is vested in the hands of the Minister.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 28 and 29 are alternatives to amendment No. 27. Amendments Nos. 27 to 29, inclusive, may be discussed together.

**Deputy Martin Ferris:** I move amendment No. 27:

In page 9, to delete lines 22 to 24 and substitute the following:

“(e) purchase land that is for sale, land swop, or lease for afforestation or any other forestry related activity,”.

I assume the Minister’s wording “purchase or otherwise acquire” means compulsory purchase, irrespective of the wishes of the forest owner or whomever. My proposed amendment affords a protection for the landowner or the forest owner to protect his crop.

I hope the Minister will take this on board. Similar amendments have been put forward by Deputies Ó Cuív and Pringle.

**Deputy Thomas Pringle:** I wish to address amendment No. 28, but I would be quite happy if amendment No. 27 was accepted. This issue has been flagged on a number of occasions in presentations to the committee and the Minister is aware of it. The concern is that compulsory purchase orders could be used by the Minister to acquire land. The intention behind each of the three amendments is to ensure these orders are not an option in terms of the Minister acquiring land in regard to this. It is important to make this statement and to ensure clarity in the legislation so that it cannot be interpreted at a later date to mean the provision allows for the compulsory purchase of land.

**Deputy Éamon Ó Cuív:** I make the same proposal, but in a different and more blunt way. My proposal is that we insert the words “other than by compulsory order” in order to clarify the issue. It has the same effect as the other amendments, but goes about achieving it in a different way. We would all be happy if the Minister of State accepted an amendment that would have the effect we seek. We could leave it to Parliamentary Counsel to suggest how best to phrase it.

**Deputy Tom Hayes:** Concerns were raised in consultation with certain stakeholders, and on Second Stage in the Dáil, that this provision would allow for compulsory purchase of land by the Minister. In my concluding remarks on Second Stage I clarified, with the benefit of legal advice that I received on the matter, that section 6(e) does not provide the Minister with the power to purchase land compulsorily. This remains the position and I cannot accept the proposed amendments relating to CPOs. I believe that the term used in the subsection, “or otherwise acquire”, is sufficiently broad to cater for any type of acquisition, including by lease, other than of course by compulsory acquisition, as I have already clarified. The Parliamentary Counsel has advised that a CPO is not covered by this term.

**Deputy Martin Ferris:** Was the legal advice received from the Attorney General?

**Deputy Tom Hayes:** Yes.

**Deputy Martin Ferris:** Is there absolutely no possibility this can happen?

**Deputy Tom Hayes:** None at all.

**Deputy Thomas Pringle:** Will the Minister of State make the legal advice available to the committee? If it was given to the Department, it is not covered by Cabinet confidentiality.

**Deputy Tom Hayes:** Yes, we can make it available.

Amendment, by leave, withdrawn.

Amendments Nos. 28 and 29 not moved.

**Deputy Éamon Ó Cuív:** I move amendment No. 30:

In page 9, to delete line 30.

Line 30 in page 9 refers to “prescribed fees pursuant to *section 24*”. I want the reference to fees to be deleted. This is a simple amendment and I am interested to hear the Minister’s comment on this. No more than with other powers, once one gets the power to impose fees, one has the power to keep increasing them.

**Deputy Tom Hayes:** I cannot agree to this amendment. The issue of fees was already raised on Second Stage debate. At the time, I stressed that the inclusion of this provision within the Bill should not be interpreted as a statement of intent. I also reminded Deputies that the Department does not currently charge for forestry licences or scheme applications and this remains the position. It is a matter of policy as to whether the Minister should charge for such services and it would be remiss not to include for such an eventuality in this legislation. While I must allow for that possibility in the future, I do not foresee any need for such charges.

**Deputy Éamon Ó Cuív:** Does the Minister of State think his good officials will not advise some successor of his to impose fees?

**Deputy Tom Hayes:** I hope to be in this position for some time, so I am not worried about that.

**Deputy Éamon Ó Cuív:** I would have thought the Minister of State would hope to go on to bigger and better things and would not have to deal with forestry.

**Deputy Tom Hayes:** The thrust of this is not to have charges.

**Deputy Éamon Ó Cuív:** We are always told that, but it is so contradictory. We are told the thrust is not to have charges and to trust the Government not to introduce them, but allow it the power to introduce them without having to refer back to the committee. I do not trust the system, because I know what happens over time.

**Deputy Pat Deering:** The Deputy was part of it.

**Deputy Éamon Ó Cuív:** Exactly, and I was very wary about these issues. One will not find much legacy after me, not like this crowd.

Amendment put and declared lost.

Section 6 agreed to.

## SECTION 7

**Chairman:** Amendments Nos. 31, 65 and 90 are related and may be discussed together.

**Deputy Éamon Ó Cuív:** I move amendment No. 31:

In page 9, to delete line 40.

Am I to understand that this refers to a register within the Department and that it has nothing to do with land registry?

**Deputy Tom Hayes:** Yes, that is correct.

**Deputy Éamon Ó Cuív:** I will withdraw the amendment.

**Deputy Tom Hayes:** Amendments Nos. 65 and 90 are related to this amendment. Amendment No. 90 is a Government amendment and I hope it will go some way towards allaying Deputy Ó Cuív's concern about section 20. The purpose of this amendment is to remove the provision whereby conditions of a licence could be registered as a burden on the land by the Property Registration Authority. The provision for the registration of replanting orders as burdens will remain. Replanting orders are provided for by section 25 and only apply where trees have either been removed without a licence or damaged, regardless of whether a prosecution has been brought.

The provision for registering of conditions of licence, including replanting, is provided for under the Forestry Act 1946. However, it is accepted that the power to register conditions of licences as burdens has not been exercised to any great degree and that to do so as a matter of routine was never the intention nor would it be practical. The registering of replanting orders is a completely different matter. However, it is a reasonable response to an unlawful act, the purpose of which is to ensure that the replanting requirement is complied with. Once the order has been complied with, the burden can be removed.

Amendment No. 65 is also a Government amendment. It is a minor technical change that abbreviates reference to the Property Registration Authority to "the Authority".

**Deputy Éamon Ó Cuív:** Will the Minister of State clarify that? On the one hand, he seems to say in the early part of his reply that this will only apply where somebody fells trees illegally. However, in the second part he seems to say otherwise. There could be a general placing of a burden in the Land Registry on the folio, in all cases, of a requirement to replant until the replanting took place. It seems to be a very cumbersome way of enforcing the law. I do not see why the burden has to go on the folio. If somebody does not comply with a rule or a licence, there are plenty of ways of bringing them to court. There is no need to put a burden on the folio. If a burden is to be put on everybody's folio just because one or two people might not replant, rather than chasing the people who will not replant and bringing them to court, that seems to me to be wrong and very burdensome.

**Deputy Tom Hayes:** This is only in cases of unauthorised dwellings.

**Deputy Éamon Ó Cuív:** Where does it state that?

**Chairman:** Lines 16 to 39 on pages 19 and 20 are being deleted.

**Deputy Tom Hayes:** Where the replanting order is served on any person, in the case of registered land, the section refers to “the replanting order as a burden affecting such land”.

**Deputy Michael McNamara:** Does a replanting order just apply where there is an illegal felling or can it also be a condition of a felling licence?

**Chairman:** I think the question is whether a replanting order can be registered as a legal burden, as opposed to a replanting order being applied. Is that not the difference?

**Deputy Michael McNamara:** I think the Minister of State is implying that the only time it will be registered as a burden is if it is in response to an illegal felling, which would be excellent. Can a replanting order be registered as a burden if it is a condition of a felling licence?

**Deputy Tom Hayes:** No.

**Chairman:** That effectively is the change. Lines 16 to 39 have been deleted and have been replaced by amendment No. 90. Section 20 is effectively amended entirely. That is the point that is being made here.

**Deputy Éamon Ó Cuív:** The section states that a replanting order is served on any person under section 25(9). That subsection reads “The Minister, may, with the consent of the owner, issue a replanting order in respect of other land owned by the owner”. It does not seem to state that this only applies to where somebody felled illegally. It seems to me that there is a general power under section 20 to attach a burden on the folio until the replanting takes place, even if the person felled with a licence.

**Deputy Michael McNamara:** I welcome the Minister of State’s assertion that this burden would only be in the case of an illegal felling. That is a very positive step, but amendments would have to be introduced on Report Stage to make that clearer, because at the moment, the Minister can, following an application under the relevant statutory provisions, grant a licence as appropriate, with or without conditions. A condition could be a replanting. Section 25(9) refers to trees that have been felled or otherwise removed without a licence.

**Deputy Tom Hayes:** There is a bit of confusion in respect of a replanting order. I suggest we deal with it on Report Stage.

**Chairman:** Are members happy with that?

**Deputy Éamon Ó Cuív:** I am happy with the principle that the Minister of State has enunciated, namely, that the burden would only be imposed in the case of somebody who illegally felled. However, I am not happy that it is clear, but if the Minister of State brings clarity to it on Report Stage, I will then accept it.

**Chairman:** We will deal with that when it comes to that amendment.

Amendment, by leave, withdrawn.

**Chairman:** Amendments Nos. 32 and 33 are related and may be discussed together.

**Deputy Thomas Pringle:** I move amendment No. 32:

In page 10, line 2, after “conditions” to insert the following:

“, but only where it accords with the principles of sustainable forest management as defined in *section 2*”.

**Deputy Richard Boyd Barrett:** This follows on from a series of earlier amendments about sustainable forest management and the more recent discussion about the powers of the Minister. The power of the Minister to grant licences should be subject to being compatible with sustainable forest management, which the Minister of State has sadly decided so far he does not want to put into the Bill. I suppose the appeal to include that in the Bill falls with the Government’s refusal to put that into the Bill generally. I feel that should be the critical criterion. I can only ask the Minister of State to reconsider that, and I will be pressing the amendment.

**Deputy Éamon Ó Cuív:** Section 7 states, *inter alia*:

Where the Minister, following an application under the relevant statutory provisions—

- (a) grants a licence,
- (b) gives an approval,
- (c) makes a grant or loan, or
- (d) makes an entry in a register,

he or she may grant, give or make it, as appropriate, with or without conditions.

I do not see the “without conditions” element, so I think it will be with conditions. There are more and more conditions with these things, and my amendment seeks to insert, after the phrase “with or without conditions”, that any conditions “shall be proportionate to achieving the Act’s objectives and shall not impose additional costs on the sector that are not justified”. All the time the conditions just get more onerous in everything being done. We will stop any activity in the country. As Deputy Boyd Barrett pointed out, those who have enough wealth can obviously ignore the conditions, because they can take the rap. It is always the poor guy who gets caught with these multiple conditions not because the State wants to act unfairly, but because the other person can take the chance.

When my constituents tell me they are going to take someone to court, I say that it is fine for a millionaire to put down €30,000 on a horse at the Galway races, but the ordinary person cannot take that punt. The people who cannot fight these disproportionate conditions are those at the smaller end who are struggling. There should be some restriction on the Minister to make sure the conditions are proportionate.

**Deputy Tom Hayes:** I do not accept these amendments. Section 7(1) allows for the attachment of conditions which can include adherence to good forest practice and environmental guidelines. The general functions of the Minister, as described in section 5(b) and (c), promote good forest practice and the sustainable management of woodland. As I have stated, sustainable forest management is not a fixed concept. The definition of sustainable forest management will invariably evolve over time to reflect the changing values of society.

As regards amendment No. 33, the Minister must be empowered to attach conditions to a licence or approval for justifiable reasons, including conditions which may, for example, relate to issues of public safety or for reasons related to environmental protection. Such conditions are standard and nothing new and do not expose the sector to risks that are not already a normal

part of its business. There is nothing there that makes it more difficult than it has been. The thrust of this Bill is to make it amenable to the small people, whom the Deputy rightly points out we want to help.

**Deputy Richard Boyd Barrett:** Most of the points have been made on good forest practice. The Minister of State referred to our having a national forest standard. Where did that come from? Who developed it? The Minister of State says it will develop over time, that it can evolve, but it seems to be self-generated now and all the stakeholders do not have real input.

Environmental groups have pointed out to me that the standards proposed at the Rio Earth Summit are the best we have come up with to date. While it may evolve from there, a self-generated standard, probably developed by the Department, is not as good as something that was generated at the most important environmental summit ever held, with much greater levels of input. That is the point of this and other amendments. We need a higher standard based on more consultation, expertise and knowledge.

**Deputy Éamon Ó Cuív:** When the Minister of State did his constituency work before being taking up his portfolio, did he ever say, “this has gone crazy with conditions”? When a constituent came to him with pages and pages of conditions did he say, “If I am ever in the Department, I would make this proportionate”? Now is his opportunity to write into the Bill that the conditions must be proportionate to their effect. Every Deputy knows this country has gone mad on conditions. There is no limit to the conditions the person at the computer can write in. It is a temptation because it protects that person. No matter what one does, the officials can say “you are wrong because we put in the condition”. It makes day-to-day life practically impossible. We need some clause about proportionality. Will the Minister of State at least think about that between now and Report Stage when I will resubmit this amendment?

**Deputy Tom Hayes:** I have no problem thinking about it between now and Report Stage. People in general, and the small landowners who apply or draw up the plan, are custodians of the land. They like the environment and want to protect it for future generations. They want their plans to be practical and reasonable. Many of them are much more knowledgeable than some of the so-called experts. I gave instances of several recent cases, particularly in respect of flooding, in which older people, custodians of the land, could tell us more about the problems of rainfall and where flooding has occurred. We underestimate the value of these people. They are the landowners across the country. Some people, particularly those writing in magazines, who regard themselves as environmental experts have questionable practical experience. We should listen to the custodians of the land, who farm it and put forward these plans.

Forestry is a long-term commitment. We heard earlier people do not go into forestry because there are many challenges for land use, such as whether dairy is more profitable and one can change from dairy to beef and so on. Forestry is totally different. Those who decide to go into it want the plan to respect the environment. The thrust of the Bill is to make it easier for people who decide to make this massive change to their land use to complement the environment and the surrounding structures.

**Deputy Richard Boyd Barrett:** As this discussion evolves, certain points are becoming clear to me. I hope the Minister of State might take on board some of what is coming up. Otherwise he will end up placing a massive burden on those he says he wants to encourage and those who should be subject to much more regulation will get off scot free. The Minister of State needs to shift the balance.

**Deputy Michael McNamara:** I agree with the Minister of State's objective of making it easier for people to get into forestry because we need to attract people into forestry. How does this Bill simplify the process? What red tape does it remove? What is removed from a previous Act that this Bill repeals to make it easier to get into forestry? I would love to think I was part of a Dáil that made it easier to get into forestry. I fear, however, that I will only make it easier for the departmental officials to make it more difficult for people to get into forestry, while reducing their own workload by transferring it to the farmers who might decide to do this in the future but, more important, to those who have made the decision. They are stuck. The officials are not stuck. They can try to change the law. If one has planted one's land, one is stuck with whatever comes down the track. If we introduce a Bill that makes it more difficult for those people, then their neighbours, who might have considered getting into forestry will walk away from it. How does the Bill make it easier for those people? The Minister of State may not have the answer to hand but we should discuss it on Report Stage.

**Deputy Willie Penrose:** When I graduated from agricultural college in 1979, the farm organisation scheme was in place. The Minister of State may say that has nothing to do with the Bill but it has a lot to do with it. At that time the form for the farm organisation scheme was very simple. The farmer had only to set out his or her livestock units and what he or she wanted to achieve by year end. Surely we could devise something as simple as that, which was very successful through the 1970s, 1980s and into the 1990s. I am worried we will end up with all these conditions that will be like the cross-compliance conditions. God would not satisfy them, particularly when bureaucrats go out to examine. A little power goes a long way and can blow someone's head if it is taken too seriously. That is what happens. People have the power to refuse something or impose conditions. Theory must be tinged with practicality and pragmatism for it to be effective. The farm organisation scheme is a template. I would like the committee to see the templates the Minister of State is bringing forward tested out and about. My concern is that what emanates is booked and backed by theory rather than by practice. Felling licences and conditions are necessary but what type of conditions will be imposed? We are back to proportionality and reasonableness but what is reasonable for me may not be reasonable for someone else. The problem is that reasonableness is very subjective.

**Deputy Éamon Ó Cuív:** The Minister of State gave a great speech about how people are genuine in the majority and that they will do the right thing anyway. I believe that is true. I have also come to the conclusion over the years in my role as a manager that if I had a good employee, no rules were needed. I also found that if I had an employee who was not performing I could write a book of rules to fill this room but that never worked. We think that by imposing more conditions we will solve the problems of the world and eliminate the rogue. However, for most of the time we are causing grief to genuine people. There are pages of conditions in these documents and like the insurance policy, most people never read the conditions until there is a problem and then they realise these conditions exist. This is the case with the rural areas of conservation regulations. One day they tell us that these bits of scrub are great high-nature areas and the next day they tell us we will be fined for calling it a forage area.

I ask that the word "conditions" be qualified, that there has to be some qualification in the law that they must be proportionate. I am not being prescriptive but I think there has to be a clear direction to all people who might start writing those conditions that they have to be proportionate. I cannot for any good reason understand why that would not be written in as a clear direction to all future people who are thinking of putting in conditions that there has to be a sense of proportionality. I ask the Minister of State to consider this amendment.

**Chairman:** I invite the Minister of State to respond on amendments Nos. 32 and 33.

**Deputy Tom Hayes:** The last thing we want to do is to cause grief to anyone. This was never the intention of this Bill. I hope we can achieve consensus in that regard. Deputy Penrose referred to farm modernisation. He gave a very clear example of what we should be doing. A working group is dealing with this issue. I assure Deputy Penrose that the conditions will not be cumbersome. It will be easy and manageable. We will work within those guidelines to do the best we can to make it amenable for everyone. The last thing we want to do is to make it awkward for people to use it.

**Chairman:** The Deputy has asked a specific question. Is the Minister of State prepared to look at it on Report Stage?

**Deputy Tom Hayes:** Yes.

Amendment put and declared lost.

**Deputy Éamon Ó Cuív:** I move amendment No. 33:

In page 10, line 2, after “conditions” to insert the following:

“which shall be proportionate to achieving the Act’s objectives and shall not impose additional costs on the sector that are not justified”.

Amendment put and declared lost.

**Chairman:** Amendment No. 34 and amendment No. 35 are related and may be discussed together by agreement.

**Deputy Éamon Ó Cuív:** I move amendment No. 34:

In page 10, line 9, to delete “having regard to all the circumstances of the case, including” and substitute “where there is”.

My amendment seeks to provide that the only reason a licence can be revoked is for non-compliance. It seems the Minister is giving himself a lot of power. The phrase, “all the circumstances of the case” is very wide. The Minister of State’s amendment No. 35 reads:

but a revocation of a licence or of another foregoing matter shall not take place unless the Minister is satisfied that—

(i) there are substantial grounds warranting that course of action, and

(ii) the exercise of none of the other powers under this subsection would remedy the matter”.

I still consider that to be way too loose because it is still not saying that the person has to be in breach of the licence before it can be revoked. I believe it should not be revocable or be suspended unless one is in breach of the licence. Otherwise the licence is an uncertainty and therefore anyone funding a person with a licence will not know from day to day whether a licence will remain in force or not.

**Deputy Tom Hayes:** I cannot agree to amendment No. 34. The proposed amendment would limit the Minister’s power to revoke an approval or a licence or loan only in circum-



stances where a breach of the approval or licence or loan occurs. It would prohibit the Minister from revoking an approval, licence or loan in circumstances where, for example, a licensed forestry operation is having unanticipated or unintended impacts on humans or habitats or protected species or where an approval, licence, or loan, is mistakenly issued by the Department. I must also stress that my proposed amendment to extend the licensing period from five up to ten years, must be balanced with the provision that a plan submitted in support of a licence application could be amended or revoked, particularly where circumstances change. If these provisions were not there, it would lead to licences in the main being of short duration which is not a desired outcome for either the forest owners or the Department. The Minister must have the power to revoke in those circumstances.

Section 18 section allows for the issuing of a felling licence with or without conditions. It also allows for conditions to be varied or suspension or revocation of a licence once issued. In the vast majority of cases these powers will not be required as forest owners will carry out felling in accordance with licences issued and no adverse impact will occur. However, in a small number of cases, there may be unintended consequences where harvesting activities licences for up to ten years into the future may have potential adverse impacts that were not foreseen. Examples of such impacts might include situation resulting from tree felling causing adverse damage to species such as freshwater pearl mussels. Other cases may include significant situation or a landslide affecting aquatic zones. In these cases, although extreme, suspensions of a licence may be the preferred choice to allow alternative options to be considered rather than complete revocation.

A number of stakeholders have raised concerns that this power to suspend or revoke licences creates uncertainty for forest owners. In order to provide assurances to forest owners I am introducing an amendment that states that there will be substantial grounds warranting a decision to vary conditions or to suspend or revoke a licence. The purpose of this section and amendment is to strike a balance by providing licences for felling activities over long periods of time but also to have the power to intervene in limited circumstances where required.

**Chairman:** A vote has been called in the House.

**Deputy Éamon Ó Cuív:** I will withdraw the amendment and resubmit it for Report Stage.

Amendment, by leave, withdrawn.

**Deputy Tom Hayes:** I move amendment No. 35:

In page 10, line 10, after “conditions” to insert the following:

“, but a revocation of a licence or of another foregoing matter shall not take place unless the Minister is satisfied that—

(i) there are substantial grounds warranting that course of action, and

(ii) the exercise of none of the other powers under this subsection would remedy the matter”.

Amendment agreed to.

**Chairman:** I suggest that we suspend proceedings for 20 minutes in order that members might attend the division currently being taken in the Dáil.

*Sitting suspended at 5.20 p.m. and resumed at 5.50 p.m.*

**Chairman:** Amendments Nos. 36 and 37 have been ruled out of order on the basis that they would give rise to a potential charge on the Exchequer.

Amendments Nos. 36 and 37 not moved.

Question proposed: “That section 7, as amended, stand part of the Bill.”

**Deputy Michael McNamara:** I have three primary concerns about the Bill, one of which relates to the refusal of felling licences without compensation. If one grows a commercial crop, regardless of whether it is wheat or Sitka spruce, one does so in order to bring it to market. If one cannot bring one’s crop to market, then I am of the view that this is an interference with one’s property rights. Those rights are protected under the Constitution. I examined this matter at the weekend, particularly in the context of J. M. Kelly’s *The Irish Constitution*, which details the cases relating to this matter. Bizarrely, quite a number of them involve the Minister for Agriculture, Food and the Marine and relate to quotas, licences, etc. It is complex but there is a general principle that if the State interferes with one’s property rights, one is entitled to compensation for that. Under the planning Acts, as a general principle, if one is refused planning permission, one is not entitled to compensation. When one applies for planning permission, arguably one is seeking permission for a change of use of land or there is a possibility one is going to benefit from it. If one grows Sitka spruce, no one grows 10, 100 or 1,000 acres of it to admire the beauty of it because it is not particularly beautiful. It is not like an ancient oak forest. It is grown as a crop and if one cannot fell it, one’s property rights are being interfered with and no compensation is provided. It is very clear the Minister can refuse an application for a felling licence without compensation.

I want to contrast that with the provisions of the legislation in Britain, which does not have any written guarantees for the right to property, although it has an unwritten constitution. The legislation states: “The following provisions shall apply where application is made to the Commissioners [in Britain it is the commissioners, not the Minister, who grants felling licences] ... and relates to the felling of trees in accordance with the plan of operations or other working plan approved by the Commissioners under a forestry ... agreement, or otherwise approved by them in writing for the purposes of this section.” It also provides that the commissioners shall not refuse the licence unless the Minister basically approves them in doing that. It further provides: “If the Commissioners refuse the licence, the applicant may by notice given to the Commissioners in the prescribed manner and within the prescribed time require them to buy the trees”. Those provisions are very different from the position in Ireland where one can apply for a licence and be refused and there is no comeback and no possibility of compensation for a refusal.

I can appreciate the difficulty this would create for the Department but at the very least the Minister might incentivise forest management plans. They are referenced later in the Bill and they are compulsory. Even where people have a forest plantation in place, the Minister of State’s officials can suddenly require them to have a forest management plan and it might or might not be approved by them. Why can this not be done by way of incentive in that if a forest management plan provides that the trees shall be felled at a certain stage, it cannot be refused without compensation, as is provided for in Britain. The Minister of State spoke about the lack of forestry in Ireland and how we need to incentivise people. One would be mad to plant 100 or 1,000 acres and run the risk of being told in 50 years time that we love the look of those Sitka spruce. Why would one take that risk? People want certainty. Forestry is an agricultural endeavour and people want a return for it. If they can be told that they cannot get a felling licence

50 years on, why would they bother? I would view that as a huge disincentive. I agree with what the Minister of State is setting out to achieve here, which is, first, to make forestry easier and, second, to make it more attractive, but this provision does neither.

I hope the Minister of State will consider for Report Stage how he can deal with the issues of refusals of felling licences, in particular whether he could introduce a provision similar to that in Britain with regard to where felling is envisaged as part of a forestry management plan. I note the Minister of State's official is shaking his head. All of us as legislators can choose what we vote and do not vote for. Some Ministers are captive to their officials and some are not.

**Chairman:** I ask the Deputy to temper his language. "Captive" is a provocative word and one I would not use. I ask the Deputy to reconsider his use of it. There are other words that might explain the point he is trying to make.

**Deputy Michael McNamara:** There are two methods by which Bills can be put through these Houses. Ministers can try to railroad them through or they try to take on board concerns expressed at committee. If Ministers are not prepared to take on concerns expressed at committee, what is the point in having a Committee Stage? Why do we not put the Bill through in two hours of a Friday afternoon?

**Chairman:** We are having an extensive discussion on this and there are considerations-----

**Deputy Michael McNamara:** There are not that many amendments being considered, in fairness.

**Chairman:** We can quantify them at the end. There are also significant amendments tabled by the Minister of State, on foot of the process heretofore, to be considered. There are significant amendments in the name of the Minister already tabled on foot of discussions heretofore.

**Deputy Michael McNamara:** What process has there been heretofore? There has been a Second Stage debate.

**Chairman:** Yes, and there have been hearings.

**Deputy Michael McNamara:** Yes.

**Chairman:** Are they not processes in the Deputy's mind?

**Deputy Michael McNamara:** They are.

**Chairman:** I do not know why the Deputy asked the question then. I call Deputy Pringle.

**Deputy Michael McNamara:** There is one other point I wish to make.

**Chairman:** I have called Deputy Pringle.

**Deputy Thomas Pringle:** I want to raise a matter that is in the same vein as the one raised by Deputy McNamara. It relates especially to amendment No. 37, which was ruled out of order because it could pose a potential charge on the Exchequer. If there are circumstances that may arise where a felling licence would be refused on the basis that it was decided, in the common good, that the forest should be maintained - a felling licence may be refused for very good reasons, as has been outlined in a number of submissions, perhaps for environmental reasons, to protect a sensitive waterway, or to have a forestry in particular a place for the common good - it is reasonable to expect that forest should be entitled to some form of compensation and that the

Minister should be able to recognise that in the legislation. It is totally unreasonable to think that if we decide as a nation to preserve a particular forest, the owner of that forest, who has invested in it and grown it to the stage where they want to fell it, is told they cannot do so, to go away and that there will be no compensation. I do not see how amendment No. 37 poses a potential charge on the Exchequer. It states “The Minister may [invoke] the provisions of [another section] in certain circumstances”. The Minister has entire discretion there. In terms of natural justice, it is a matter we should examine. If it is decided in the public good that a felling licence will not be granted, it is reasonable that the owner of the forest should be compensated for that. The Minister of State should reconsider that aspect.

**Chairman:** I call the Minister of State to reply.

**Deputy Michael McNamara:** There is one point I wish to make with regard to section 7 which I was not allowed to make and I would like to make it now.

**Chairman:** Okay, the Deputy can make it.

**Deputy Michael McNamara:** Has legal advice been obtained that it is acceptable to refuse a felling licence in respect of plantation that has been grown with the benefit of planning permission to the effect that a felling licence can be refused without any compensation measures?

**Chairman:** I wish to clarify with the Deputy whether permissions to grow trees are granted on foot of planning permission or approval. Is the process covered by a formal planning permission? I thought it was covered by the section 28 provision.

**Deputy Michael McNamara:** The issue is-----

**Chairman:** The question was asked. Is such permission granted on foot of planning permission? I need clarification on what the Deputy means by planning permission in the context of his question.

**Deputy Michael McNamara:** My question is more about whether a felling licence can be refused in respect of a commercial plantation without compensation.

**Chairman:** An approved-----

**Deputy Michael McNamara:** Yes, an approved-----

**Chairman:** -----plantation as opposed to one for which there was planning permission. To qualify the position, planning permission is not relevant here.

**Deputy Michael McNamara:** Can a felling licence-----

**Chairman:** I am only trying to get clarity on this.

**Deputy Michael McNamara:** Yes, but I am trying to make this as clear as possible. I appreciate that the Minister of State might not be able to answer this now but, in advance of Report Stage or when we come back to this, he might obtain legal advice as to whether it is constitutionally acceptable to deny a felling licence for an approved plantation without any compensation or compensatory measures.

**Deputy Tom Hayes:** I will come back to the Deputy on that.

**Deputy Michael McNamara:** I thank the Minister of State.

**Deputy Tom Hayes:** In response to what has been said, I do not want to bully this legislation through. Members are going through a process in this regard. The Bill was the subject of a lengthy Second Stage debate in the Dáil Chamber during which there were good contributions. The select committee is dealing with amendments on Committee Stage. There has been consultation in recent months with all stakeholders, all of whom were listened to. Moreover, the Department has been as open as it possibly can be in this process. If there is anything to which I must revert on Report Stage, I will. While I will accept what it is possible to accept, ultimately, the purpose is to enact a new law, which has not been done since 1947, to make forestry amenable and make it easier for people to become involved in it. There are a lot of improvements in the Bill. Many changes have been made, as has much progress. Provision has been made for longer licences, as well as greater flexibility regarding the associated obligations. The Bill contains a lot of detail and while I do not wish to get bogged down in the rights and wrongs of it, the procedures are being followed. The procedure is to have the Committee Stage debate and deal with the amendments that have been tabled.

**Deputy Thomas Pringle:** On the principle of whether someone should be compensated, is this something the Minister of State will even consider?

**Deputy Tom Hayes:** I will revert to the Deputy on it.

**Chairman:** In fairness, the advice I received was this proposal had to be ruled out of order because it involved a potential cost to the Exchequer. Deputy Michael McNamara has outlined an example of a case in Britain and the Minister of State has indicated he will come back to it.

**Deputy Tom Hayes:** I am not in a position to respond today.

**Chairman:** We will come back to the Deputy on it.

**Deputy Michael McNamara:** That is fair.

Question put and agreed to.

#### NEW SECTION

**Deputy Thomas Pringle:** I move amendment No. 38:

In page 10, between line 33 and 34, to insert the following:

“8. (1) The Minister should establish a working group based on the Forestry Liaison Group, with balanced representation for the social, environmental and economic stakeholders.

(2) The working group may create sub-groups to issue advice on specific areas when required in consultation with the Minister.

(3) The working group should have input in setting of agendas and work.

(4) The working group should act as a link between international and national forest policies.

(5) The terms of reference of the working group should be set by the stakeholders and be guided by the Rio Forest Principles.”.

This amendment was tabled on behalf of Deputy Richard Boyd Barrett and its intention is good.

It is an attempt to recognise that there are more stakeholders in the forestry sector than forestry producers or growers, semi-State companies and the State. It envisages the establishment of a liaison group to guide policy work in this area comprising non-governmental organisations, NGOs, the environmental sector, the industry and the Department. In the legislation the Minister also envisages the establishment of committees. This proposal should be given due consideration and taken on board. Perhaps the Minister of State might come up with a wording on Report Stage that would achieve the same aim but which would be more acceptable.

**Deputy Tom Hayes:** While I do not accept the amendment, I see merit in the Deputy's proposals on structures for setting up committees based on, for example, the structure of the current forestry liaison group which has balanced stakeholder representation. The level of detail proposed by the Deputy is not appropriate to the Bill which sets down the basic principle for the establishment of committees. In general, however, I agree with the thrust of what he seeks to do and consideration will be given to this issue.

**Deputy Thomas Pringle:** Can members expect a proposal to be brought forward on Report Stage to achieve this?

**Deputy Tom Hayes:** Yes, to allow for flexibility.

**Deputy Thomas Pringle:** To confirm, may I resubmit the amendment on Report Stage?

**Chairman:** Yes, once it is not voted on.

Amendment, by leave, withdrawn.

## SECTION 8

**Deputy Tom Hayes:** I move amendment No. 39:

In page 10, line 36, after "functions" to insert "under the relevant statutory provisions".

This is a technical amendment to expand the text in order that the functions for which the Minister may establish committees are related to functions under the relevant statutory provisions. These functions are extensive and will not be limited in any way by the amendment.

Amendment agreed to.

Section 8, as amended, agreed to.

## SECTION 9

**Chairman:** Amendment No. 41 is an alternative to amendment No. 40. Amendments Nos. 40 and 42 are related, while amendments Nos. 43 and 44 are alternatives to amendment No. 42. Therefore, amendments Nos. 40 to 44, inclusive, will be discussed together.

**Deputy Tom Hayes:** I move amendment No. 40:

In page 11, to delete lines 19 to 23 and substitute the following:

**“9. (1) A person shall not disclose confidential information obtained by him or her while performing, or as a result of having performed, duties as a member of a committee unless he or she is authorised to do so by the Minister or as provided by law.”**

This amendment to section 9(1) is no more than a reordering of the text by the Parliamentary

Counsel in order that it reads better. There is no change to the provision or the purpose for which it is intended.

**Deputy Thomas Pringle:** Amendment No. 41 was tabled on behalf of Deputy Richard Boyd Barrett. In the context of debates held elsewhere in the Houses in recent weeks, the intent of the amendment is that if a disclosure is deemed by a member of a committee to be in the public interest, it should be exempt from the offence provided for under this provision. Moreover, in recognising sustainable forest management as a clear objective of the Bill, the amendment proposes that disclosures in this regard should be exempt also. Will the Minister of State indicate whether this legislation will fall within the remit of the Protected Disclosures Bill or whether a member of such a committee would be covered by the proposed provisions of the Protected Disclosures Bill? That might be an alternative to the amendment.

**Chairman:** I invite the Minister of State to discuss the remaining amendments together.

**Deputy Tom Hayes:** I will deal with amendment No. 41 first. While I cannot accept it, I will consider the public interest issue in consultation with the Parliamentary Counsel and, if necessary, review the section on Report Stage.

Amendment No. 42 arises from consultation I had with stakeholders who expressed concern about the severity of the penalties imposed for unauthorised disclosure of information by a committee member. It was put to me by a number of parties that this would deter people from becoming members of such a committee and in the course of the Second Stage debate on the Bill, I agreed to revisit this provision. The penalty now proposed, that is, a class E fine equating to €500, is at the lowest end of the scale and would only be applied following a conviction. This replaces a provision for a class A fine of €5,000 or six months imprisonment or both. It remains important that unauthorised disclosure of confidential information by members of the committee be discouraged. I must emphasise, in this context, the word “confidential”. It is not intended to preclude general comments or discussion on everyday issues relating to the committee. As for what is meant, an example would be the unauthorised disclosure of ongoing and sensitive negotiating positions either at national or European Union level, the disclosure of which would be damaging to the official position. Given that amendment No. 42 proposes to reduce the penalty for unauthorised disclosure of confidential information, I cannot accept amendments Nos. 43 and 44.

**Deputy Willie Penrose:** Will the Minister of State specify what is a class E fine?

**Deputy Tom Hayes:** It is €500 and at the lowest end of the scale, whereas a class A fine is €5,000 or six months imprisonment or both. That is what was originally proposed and it was reduced because of the concerns of those who made submissions.

**Deputy Willie Penrose:** Properly so.

Amendment agreed to.

Amendment No. 41 not moved.

**Deputy Tom Hayes:** I move amendment No. 42:

In page 11, to delete lines 24 to 26 and substitute the following:

“(2) A person who contravenes *subsection (1)* shall be guilty of an offence and be

liable, on summary conviction, to a class E fine.”.

Amendment agreed to.

Amendments Nos. 43 and 44 not moved.

Section 9, as amended, agreed to.

## SECTION 10

Amendment No. 45 not moved.

**Deputy Thomas Pringle:** I move amendment No. 46:

In page 11, after line 43, to insert the following:

“(2) The detail required in a forest management plan shall be proportionate to the area of forestry.”.

Amendment put and declared lost.

Amendment No. 47 not moved.

**Deputy Thomas Pringle:** I move amendment No. 48:

In page 12, between lines 14 and 15, to insert the following:

“(7) Prior to the making of regulations the Minister shall consult with the relevant Oireachtas Committee.”.

This amendment sets out that prior to the making of regulations the Minister shall consult with the relevant committee of the Oireachtas so that those regulations can be scrutinised by it. It is self-evident. It is good parliamentary practice. I would ask that the Minister of State would consider taking this on board.

**Deputy Tom Hayes:** It is a matter for discussion with the Chair of the relevant Oireachtas committee and not appropriate for inclusion in primary legislation. I would also draw the Deputy’s attention to section 3, which provides that every regulation made under this Act must be laid before the Oireachtas.

**Deputy Thomas Pringle:** The problem with that is they are laid after they are made.

**Deputy Tom Hayes:** They are supposed to be laid prior to them being made.

**Deputy Thomas Pringle:** There is a short timeframe for discussion on them. The principle of discussing them in an Oireachtas committee is a principle the Government should be able to accept.

**Deputy Willie Penrose:** This is something that is close to my heart. I have made numerous submissions on it, especially on the Diseases of Animals (Amendment) Act 2001 during the foot and mouth disease crisis where regulations were brought to us in some shape or form so that we had some input into it.

Secondary legislation is important. We get to debate primary legislation here and thrash it out, and Ministers spend hours listening to all of our travails, but secondary legislation is laid



before the House. It is a done deal. Secondary legislation gives effect to the primary legislation and how such legislation can be administered at local level, etc.

This is where legislation in this place goes wrong. Secondary legislation has a status that is dismissed but it is of central importance because that is how the functioning and effectiveness of the primary legislation is brought into effect. In that regard, a court will look at the secondary legislation. In primary legislation, it can look for the schematic, the teleological and all such matters that are associated with the interpretation of legislation.

In this context, there has been much debate. In fairness, I must salute the Minister of State on being open to consultation. I know what it is like. He has set a barometer for the rest of the Ministers that they should be more open and receptive to consultation of all the stakeholders. He is well facilitated well here by the Chairman, who has endless patience with us all. It is important the legislation is robust and good and that is what everybody sets out to achieve.

The Minister of State should produce draft regulations and give us an opportunity to provide an input into them. That would solve the problem. The Minister of State would probably reject them, but he will have the Attorney General's advice through one of her agents anyhow.

Sometimes the like of us, who are ordinary Joes and who meet ordinary people, may well bring forward something that could be perceptive, be worthwhile and make a significant improvement in terms of the application of a regulation. Before the Minister of State finalises the regulations, he might bring them before the committee. This committee, through the chairperson, has been most facilitative. Let us look at them, even for an hour. It could be worthwhile and it might be a good exercise.

**Deputy Tom Hayes:** I will ask the officials to look at it and see can we bring it back at Report Stage. Would that be acceptable?

**Deputy Willie Penrose:** That is acceptable.

Amendment, by leave, withdrawn.

Question proposed: "That section 10 stand part of the Bill."

**Deputy Michael McNamara:** As I stated earlier, this Bill examines the forestry sector while ignoring the elephant in the room, Coillte. There is a dominant player in the Irish forestry sector and that dominant player is State-owned. If one thinks that forestry is a market, which to an extent it is, everybody who wants to plant a few acres will end up competing with Coillte.

I do not have a problem with how the Minister of State, Deputy Tom Hayes, or the Minister, Deputy Coveney, would deal with this, but we are making law for the future. I would have a worry that a Minister, who is a shareholder of Coillte, can delve into private forestry, require it to come up with a forest management plan, and accept or reject it, and there does not seem to be any basis by which the Minister may accept or reject the forestry management plan set out in law.

The Chairman suggested that it was outrageous that a Minister might refuse a felling licence to manipulate the market in some way. It is outrageous to think that Deputy Tom Hayes might do that or that Deputy Coveney would do that, but we have seen Ministers, from Ireland and from many other countries, act strangely over the past 60 years. I would have worries about the potential for abuse of dominant position that this provides.

I have no problem with forest management plans, but they could be delivered by way of incentives rather than being required, particularly for forests which are already sown. Foresters planted them with the approval of the State and decided they would invest the future of their land in this sector and now the Minister, who is a member of Government and a shareholder in Coillte, can delve into their forestry and tell them what to do. I would be particularly concerned that he could impact upon the commercial viability of private forestry in that manner.

I have no problem with the Minister having the power to have an impact on, make or require forestry plans for State forestry - it would probably be good - but I would have concerns in the case of private forestry.

**Deputy Tom Hayes:** Point noted.

Question put and agreed to.

## SECTION 11

**Deputy Thomas Pringle:** I move amendment No. 49:

In page 12, line 19, to delete “have regard to” and substitute “ensure that”.

This amendment was suggested by Deputy Boyd Barrett. The term “have regard to” is very weak in legislation or plans. It basically means something has only to cross the Minister’s mind when he is doing something; it has no real strength. The term “ensure that” strengthens the provisions on the social, environmental and economic functions of forestry. It is important in legislating that we examine all aspects of forestry. The Minister should ensure they are accounted for rather than merely having regard for them.

**Deputy Willie Penrose:** Normally I would agree with some of Deputy Pringle’s points but in this case I can see where the Minister is coming from. Preceding “have regard to” is the word “shall”. It is mandatory, therefore, for the Minister to have regard to the various factors. I can understand Deputy Pringle’s concern that the Minister could simply dismiss the factors but the qualification of “shall”, which constitutes an imperative, deals with the issue. That is just my reading.

**Deputy Tom Hayes:** I can have regard to the social, economic and environmental functions of forestry. By means of policy and other measures provided for in this Bill, I can seek to strike an appropriate balance between those functions, or to improve the performance of one or more of them, but I cannot “ensure” these functions or any one function is performing to the optimum. Consequently, I cannot accept the amendment.

Amendment put and declared lost.

Amendment No. 50 not moved.

**Deputy Thomas Pringle:** I move amendment No. 51:

In page 12, to delete line 21, and substitute the following:

“(b) lead with reference to all relevant national forest policy and national forest standards,”.

This was submitted by Deputy Boyd Barrett. I will allow it to speak for itself.

**Deputy Tom Hayes:** As stated previously, although the terminology “good forest practice” is broad, it includes a wide range of different management practices that includes national and international good practice with regard to standards and forest policy. The amendment, as described, is catered for in the existing text. Therefore, I do not accept it.

Amendment put and declared lost.

**Chairman:** Amendments Nos. 52 and 53 are related and may be discussed together, by agreement.

**Deputy Thomas Pringle:** I move amendment No. 52:

In page 12, to delete line 23, and substitute the following:

“(i) protected semi-natural habitats and protected species that may be impacted by forest activities, both inside and outside the forest, and whether within or outside protected areas, and”.

The amendments attempt to strengthen the provisions in section 11. They were submitted by Deputy Boyd Barrett.

**Deputy Tom Hayes:** I understand that environmental stakeholders sought amendments to section 11 to provide more explicit references to the requirement to protect semi-natural habitats and species both inside and outside the forest and to consider the potential cumulative impact of afforestation projects, in addition to the potential impact of afforestation projects, when combined with other projects such as wind farms. However, the proposals set out in the amendments are unnecessary. Subsections 11(d) and 11(e) already make clear reference to functions and responsibilities of the Minister under the EIA directive and the birds and habitats directive, which take account of cumulative impacts and combined effects. I am informed it is bad drafting practice to try to summarise or paraphrase the functions and responsibilities that arise in another body of complementary legislation, especially where those functions and responsibilities are already set out in a comprehensive and precise manner. It poses an unnecessary risk of creating confusing and contradictory interpretations. A clear reference to other legislation is sufficient and preferable.

Amendment put and declared lost.

**Deputy Thomas Pringle:** I move amendment No. 53:

In page 12, line 37, after “Regulations,” to insert the following:

“including in each case consideration of in combination effects of afforestation and other plans or projects,”.

Amendment put and declared lost.

**Chairman:** Amendment No. 54 has been ruled out of order because it involves a potential charge on the Exchequer. It was discussed with amendment No. 37.

Amendment No. 54 not moved.

Section 11 agreed to.

Section 12 agreed to.

**Chairman:** I suggest that we adjourn. We stated we would finish at 6.25 p.m. There is not much point in our proceeding to another section. I thank the members. I have tried to be as fair as possible and we have had a pretty engaging discussion.

**Deputy Michael McNamara:** The lack of compensation applies to section 14. Could the Minister of State obtain legal advice on the ordering of the removal of materials beside a forest where there is no compensatory provision?

**Chairman:** We can discuss section 14 when we get to it.

**Deputy Michael McNamara:** I am flagging the issue of legal advice. The same issue of compensation arises.

**Chairman:** That is fair enough. There are no amendments tabled to section 14. I thank the members, secretariat and broadcasting staff. I thank the Minister of State and his officials for attending and for their contributions. I hope this part of the process will prove to have been worthwhile.

Progress reported; Committee to sit again.

The select committee adjourned at 6.30 p.m. until 9.30 a.m. on Thursday, 6 March 2013.