

DÁIL ÉIREANN

AN ROGHCHOISTE UM GHNÓTHAÍ FOSTAÍOCHTA AGUS COIMIRCE SHÓISIALACH

SELECT COMMITTEE ON EMPLOYMENT AFFAIRS AND SOCIAL PROTECTION

Déardaoin, 9 Samhain 2017

Thursday, 9 November 2017

Tháinig an Roghchoiste le chéile ag 9.30 a.m.

The Select Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair /Members present:

Teachtaí Dála/Deputies	
John Brady,	
Joe Carey,	
Joan Collins,	
Regina Doherty (Minister for Employment Affairs and Social Protection),	
Willie O'Dea.	

Teachta/Deputy John Curran sa Chathaoir /in the Chair

Business of Select Committee

Chairman: I remind members that this morning there will be two meetings. The select committee is meeting first. After a ten minute break there will be a meeting of the joint committee.

Deputy Joan Collins: I must leave at 10 a.m. to speak to the Heritage Bill. I will speak for ten minutes and then come back again.

Chairman: That is okay.

No apologies have been received for the meeting of the select committee, but I have received apologies for later in the day. I propose that we go into private session to discuss the arrangements for the meeting. Is that agreed? Agreed.

The select committee went into private session at 9.35 a.m. and resumed in public session at 9.40 a.m.

Estimates for Public Services 2017

Vote 37 - Employment Affairs and Social Protection (Further Revised)

Chairman: I remind members and the officials that if they have mobile phones, they should either switch them off or leave them in flight mode. Not alone do they interfere with the transmission of the meeting but the recording is also interfered with.

The meeting was convened to consider the Further Revised Estimate for Vote 37 - Employment Affairs and Social Protection - which was referred by the Dáil to the select committee with an instruction to report back to it. I thank the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, and her officials for attending and for the briefing material which has been circulated to members. I invite the Minister to make an opening statement. Colleagues will then have a number of questions to put to her.

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): I thank the select committee for the invitation to attend. As members are aware, an allocation of €19.85 billion was provided for the Department this year. It represents 37% of gross current expenditure. Our expenditure to the end of September was €14.8 billion, which was very close to target for the year to that date.

Each week approximately 1.35 million people - pensioners, people with disabilities, people on maternity leave or sick leave, carers and jobseekers - receive a payment from the Department. In addition, more than 626,000 families receive child benefit each month for almost 1.2 million children. What is significant about the figures is not just their scale but what they represent, with which I know we all concur, namely, a social contract whereby the State, on behalf of citizens, provides support for those citizens who for whatever reason or whatever short or long period of their lives cannot provide for themselves.

In a statement in the Dáil on 15 June this year the Taoiseach announced that labour affairs

and labour law responsibilities would transfer from the Department of Business, Enterprise and Innovation to the Department of Employment Affairs and Social Protection. At a national level, the following employment policy and legislative functions have transferred to my Department: employment rights policy and legislation; the Low Pay Commission and legislation relating to the national minimum wage and related areas. At European Union and international level, the following employment policy functions are now the responsibility of the Department. We are taking a lead role in co-ordination at the Employment, Social Policy and Health and Consumer Affairs Council, affectionately known as EPSCO. There is the employment committee, also known as EMCO, while we are responsible for the EU Semester process. We are also responsible for the response and input into the EU pillar on social rights which we hope to sign in Gothenburg next week. We are responsible for engagement with Eurofound and the European Foundation for the Improvement of Living and Working Conditions, as well as the Council of Europe in the co-ordination of responses on the Social Charter.

The details of the employment legislation that was transferred to my Department following the Government's decision are set out in the Labour Affairs and Labour Law (Transfer of Department Administration and Ministerial Functions) Order 2017, SI 361/2017. The transfer of functions involved 11 separate pieces of primary legislation in the area of labour affairs and labour law. The Department also changed its name to the Department of Employment Affairs and Social Protection to reflect these new responsibilities.

In the context of an overall spend of almost €20 billion, the transfer of funding associated with these new functions amounts to just over €1.5 million. The transfer takes place on a cost-neutral basis. The Further Revised Estimate for 2017 for my Department has risen by €1.55 million, but there has been a corresponding decrease in the Estimates for the Department of Business, Enterprise and Innovation.

The amount of funding transferred appears quite small in terms of the overall Estimate, but the rationale for the transfer is very important. The transfer of the functions to the Department reflects the close links between the welfare and activation remit of the Department and the operation of the labour market. As members of the committee will be aware, the conditions for receipt of in-work income supports, unemployment benefits, illness and disability payments, as well as pensions and support payments, both reflect and influence how the labour market operates. Bringing responsibility for employment affairs and social protection under one Minister recognises this reality and will help to ensure, for example, that developments in respect of minimum wage pay rates, working hours and illness absences within the workplace will be co-ordinated with the relevant State supports from the Department. This is a new challenge for the Department and I look forward to leading on it in the months ahead. I am pleased to say 13 new colleagues from the former Department of Jobs, Enterprise and Innovation joined us last month. I welcome them to a large Department which has more than 7,000 staff.

In the immediate term our priority is to publish the Employment (Miscellaneous Provisions) Bill which is being drafted. The committee is aware that the Bill is in response to a commitment in the programme for Government to tackle the problems caused by the increased casualisation of work and particularly to strengthen the regulations pertaining to precarious employment. The proposals contained in the Bill are the result of extensive consultations, including public consultations following the University of Limerick study of zero-hour and low-hour contracts, in addition to detailed dialogue with the Irish Congress of Trade Unions and the Irish Business and Employers Confederation for several months. As I stated, I have met representatives of these organisations to hear first-hand their concerns about the ideas we all share.

The Bill aims to address a number of elements that have been identified by many parties in the Houses where current employment rights legislation can and must be strengthened to the benefit of employees, particularly low paid and more vulnerable employees, without imposing unnecessarily onerous burdens on employers and businesses. They include ensuring employees will be better informed about the nature of their employment contract and arrangements and particularly the core terms at a very early stage of employment. There is also the strengthening of provisions on minimum payments to low paid and vulnerable workers who may be called to work for a period but not provided with any work. The Bill will also prohibit zero-hour contracts in most circumstances, ensuring workers on low hour contracts will consistently work more hours each week than is provided for in the contract of employment. They will be entitled to be placed in a band of hours which better reflects the reality of their working hours over an extended period. The legislation will strengthen the anti-victimisation provisions for employers who try to invoke their rights under the new proposals. The drafting of the Bill is at a very advanced stage. As I stated, it is my intention to publish the Bill before the end of the year, subject to Cabinet approval.

As I mentioned, the further revision of the Estimate is very small in the context of a very large budget. However, expanding the remit of the Department to include employment rights, the Low Pay Commission and labour affairs makes absolute sense. I look forward to working with the committee, the remit of which will also be extended to cover the same topics in the coming months and years. We will work constructively on legislation and to improve employment rights in the labour force and the Irish market.

Chairman: Before calling Deputy Willie O’Dea, I have a general question. The Minister has set out clearly the new functions that have been transferred to the Department and indicated that 13 staff have also been transferred. She has spoken about employment rights, the Low Pay Commission, legislation relating to the national minimum wage and EU and international functions. She has also mentioned proposed legislation. I am conscious that, on the social protection side, the Department has a budget Bill to draft, with the social welfare and pensions Bill. In all seriousness, in looking at the additional workload arising from the legislative and international and EU elements, is the transfer of 13 staff appropriate to deal with the new work to be done? As the Minister set it out, it seems extensive. The three key pieces of legislation include the Bill that has proceeded through Second Stage, the social welfare Bill and the employment Bill which was referred to by the Minister. Will she give us an idea of the timelines for those pieces of legislation? It would be useful for the committee to know what they are.

Deputy Regina Doherty: It may be surprising, but it is testament to the 13 people concerned that every person involved with employment rights policy and legislation, the Low Pay Commission and the legislation relating to the national minimum wage was transferred. It was not the case that 100 staff were involved and that we had left 87 behind. The group was entirely responsible for this body of work and the 13 have moved to the new Department where they will continue to provide the excellent service they have always provided.

I do not want to discount the work being done, but there is the matter of how it has an impact on all other sections in the Department. It is about working collaboratively with schemes to ensure conditions and activities will be reflected in all elements. That is how we hope to improve as a 7,000-strong Department, as opposed to just relying on the wisdom of the 13 people concerned who were completely responsible in their previous Department. All of the other roles I have mentioned at EU or international level, including the EPSCO, the EMCO and Eurofound, were always the responsibility of staff in my Department. It is about ensuring we marry what

we are learning and committing to at European level with the European social pillar that will be signed next week in Gothenburg and reflect the schemes we have in place, with the supports and services we provide for Irish people. This is in order that we will enshrine EU ambitions with Irish ambitions and European labour law rights with Irish labour law rights. We must ensure we will reflect what is happening in international norms. I appreciate what the Chairman is saying.

Chairman: What about the timelines for the legislation mentioned?

Deputy Regina Doherty: We have reached Committee Stage of the Social Welfare (Miscellaneous Provisions) Bill which I hope to take in the coming weeks. The budget Bill will be brought to the Cabinet next Tuesday and published either on Wednesday or Thursday. I know that is ambitious, but I hope to have it done and dusted in both Dáil and the Seanad before the Houses go into recess in December. I expect to publish the employment rights legislation at some stage at the beginning or in the middle of December. As I suggested to Deputy Willie O’Dea and others yesterday, it might be ambitious, but we will start the debate before Christmas if we can.

Chairman: Are there provisions in the budget Bill that will be needed before the end of the year?

Deputy Regina Doherty: Yes.

Chairman: Therefore, it is time-sensitive.

Deputy Regina Doherty: Yes. The schedule that we tentatively set out to put to the Business Committee yesterday allows us to come to the Dáil, go to the Seanad, come to the committee, go back to the Dáil and go back to the Seanad before the latter goes into recess on 20 December. It is obviously done with the co-operation of all the people responsible for having input into the Bill but I think we can do it.

Deputy Willie O’Dea: During the private session which preceded this, Deputy Joan Collins indicated she has to leave at 10 a.m. I will defer to the Deputy in order that she might contribute.

Deputy Joan Collins: I do not have too many questions. We have a Bill on Committee Stage, namely, the Banded Hours Contract Bill 2016. Does the Minister support that Bill being pushed through over the next couple of months? It has been the subject of some discussion before the committee. It has been unanimously agreed that it is constitutionally sound. It is only a matter of bringing it through Committee Stage now. I think we would get it through with the Department’s support.

Deputy Regina Doherty: To be frank, it is not on my radar for the next couple of weeks because the schedule is so busy with other legislation. I was not told that a date had been set for it and, therefore, I have done no preparatory work personally - other than what I would have already done - regarding the legislation. I do not think the Government sets out to be obstructive with any legislation. We might want to enhance or make it better, which is how I will always approach legislation. I was not aware that it had been scheduled and if it has been then I will go and look at how I think we can enhance that legislation. My priorities are the Social Welfare (Miscellaneous Provisions) Bill that is currently before the House, to introduce the Social Welfare Bill next week, and to get the miscellaneous employment Bill drafted, stamped, published and accepted by Government so we can get it in front of the House to reflect on the changes we want to make. We will make that legislation more robust and pass it. If Deputy Joan Collins

comes back to me with a date that has been set, I will do the necessary work.

Deputy Joan Collins: Will the issue of defined benefit be dealt with in the social welfare and pensions Bill?

Deputy Regina Doherty: That was always the intention. The heads of the Bill are as they were when the committee scrutinised them months ago. They were not included in the first draft and discussed on Second Stage because legal reflections still needed to be done regarding the impact on certain industries. Those deliberations have been finished and the amendments as they stood, in the main, will be the amendments we will put to the committee when we come back here for Committee Stage. That is absolutely the intention. It has not changed.

Deputy Willie O’Dea: On Deputy Joan Collins’ final point, I am glad to hear the Minister is reintroducing those provisions which appeared in the Bill that went through the pre-legislative scrutiny process here. It is important that we will have sight of those amendments for a reasonable period before we come here to discuss them. This is a complex issue and we have had many representations about the amendments.

The Estimate before the committee is minor in the greater scheme of things when one is talking about almost €20 billion in expenditure. Some €1.5 million going from one Department to another does not seem significant in money terms. I have no objection to the transfer. It is a good idea to transfer those responsibilities to the Department with responsibility for social protection. I had a couple of general questions on the figures that we received which accompanied the proposal. I notice that in 2016, the total expenditure on social protection was €19.84 billion. In 2017, it was €19.854 billion. There is a €14 million increase. There have obviously been savings which are being spent in other areas, etc., but the overall increase is approximately €14 million. We welcome the improvements announced to social welfare in the budget.

In the output section of the document circulated to us, the processing time for non-contributory old age pensions and disability allowance is only approximately 75% of the target. What steps does the Minister propose to take to expedite that? People in those circumstances, looking for disability allowance and the non-contributory old age pension, cannot wait for too long to have their claims processed.

The Minister might not have this information but I would appreciate if she could get it for me. I notice the figure for partial capacity benefit is €14 million. It seems low. How does the partial capacity benefit regime compare with the old regime whereby one could work for a number of hours? What is the expenditure on that? If the Minister does not have that information, she might get it for me. I am intrigued by the figure for control savings. It is €510 million in 2016 and €510 million in 2017. Will the Minister elaborate on that and indicate how effective the anti-fraud campaign, for want of a better phrase, has been in achieving the objectives stated by the then Minister, Deputy Varadkar? There are three issues at the bottom of page 37 relating to the proposed output for 2017. One is to prepare a paper on the total contributions approach for State pension qualification. What stage is that paper at with regard to its publication? How much work has been done on the total contributions system? The other proposal is to develop proposals for activation for new jobseekers and to review the operation and performance of the local employment service providers. Will the Minister comment on where we are with those objectives?

Deputy Regina Doherty: The Deputy’s first question was on the difference between budgets from different years. While it is only a small amount, €14 million, one would have to

reflect on the huge savings that the Department has thankfully made because we have 200,000 people now working who were, for the last years, reliant on a weekly payment from the State. That is a significant amount of money and it has been reinvested to improve the lives of thousands of other people by increasing their weekly payments, albeit by a very small amount, by improving our making-work-pay structures, by increasing family income supplement, FIS, the thresholds of qualified child increase, QCI, and the thresholds for lone parents and their ability to make more money on a weekly basis. We have saved money by the huge reduction on the live register and people will note that we have ambitions to reduce it significantly again this year. All of that money gets reinvested and I am hopeful that we would get more money to have a debate on next year to figure out what we are going to do and how we can best spend it. There has been significant reinvestment in other areas of the Department of Employment Affairs and Social Protection because of the reductions in the live register.

The Deputy asked me a question about non-contributory payments. We have an ambition in the Department that all systems and schemes should have a 12-week turnaround. On appeal, some of those have delays because they are very complex and also because some people tend to hold back information from an original application until they get to appeal which does not help the turnaround times at all. We have an ambition to try to turn around applications for all schemes within 12 weeks. We suffer peaks and troughs for different schemes. The two schemes that are experiencing longer delays at the moment are domiciliary care allowance, DCA, and our non-contributory pension applications because there has been a huge increase in those applications. I am not sure why. One reflection on the DCA is that the medical card came on stream this year and more people became aware of its value. There is not a real reason why there should be a huge increase in non-contributory applications but there is. Staff are reflecting on it and we are well aware that, in certain instances, we retrain staff from other Departments and move them. There is nobody in the Department of Employment Affairs and Social Protection without a workload. We are trying to be responsible and reflective on where we have peaks and troughs. I am aware of it and we are consciously and actively monitoring and looking at it. We want to hit that 12-week target for all our payments.

I will address the Deputy's last question before I go back to partial capacity. The targets for anti-fraud measures are in and around the same every year. We do not get more or less ambitious to try to capture money that is being directed at schemes or people that should not necessarily be in receipt of it. Our ambition is to capture in and around that amount of money every single year. To answer the Deputy's question about last year's anti-fraud campaign, I will not entirely be in a position to be able to reflect on it until around the middle of next year. That is because it takes 12 to 18 months to take a referral, assess it, carry out an inspection, chase the information and if there is untoward behaviour taking place, bring forward charges and close the matter off. The ratio is that nearly half of reports received in the Department are substantiated and result in an overpayment being stopped and-or a summons, fine or, much worse, prosecution in court. This year's anti-fraud campaign trebled the number of reports. I am hopeful that, next year, I will be able to sit here with the committee, notwithstanding everyone's views about it or whether they like the method, and say "It worked and it gave us more". I will not be able to do that until next year and it may be that others will be proven right and I will be proven wrong. However, we will see when we have that conversation next year. Our ambition continues to be to stop people receiving payments they should not get in order that we can direct the money involved to people who should get it. That is not going to change.

I turn to partial capacity. There are no changes to the scheme itself. I was not 100% sure of that but it has just been confirmed to me. The scheme is no different-----

Deputy Willie O’Dea: I am talking about the contrast between the partial capacity scheme and the scheme that it replaced.

Deputy Regina Doherty: I beg the Deputy’s pardon. I misunderstood. The new scheme was introduced in 2012 and it is probably more effective than what was there because it is much more flexible. It responds to participants’ needs. The old system was probably a bit more clunky, although that is probably not the best word to describe it. The previous scheme was not as flexible as the new partial capacity system and it was changed to reflect directly the experience of the people using it. In the main, they are very happy with it but that is not to say we will not reflect in future on whether there are other changes to be made. As the Deputy and I are aware, schemes may need tweaks or small changes and we are always willing to have a look at them and reflect.

I hope to be able to publish, for public consultation, the report on total contributions soon. It is very nearly ready and I expect to bring it to Cabinet within the next two weeks. Once it is approved by Cabinet, the members of the committee will be the first to get it. It will be an extensive public consultation. As I said in the House yesterday, every new change and every new system creates winners and losers. There will be people who have an expectation of receiving a full or nearly full pension under the new total contributions model who may not do so, while there are others who are in receipt of less than they feel they should be who will get more. There will be an extensive public consultation process once that paper is published in the next couple of weeks and it will go on for at least three to six months. I hope there will be extensive hearings at this committee. I will value very much any help the committee can provide to make public the contents of the document and to bring about as fulsome a response to it - both from those who support it and those who want to point out its warts - as possible. It is about having a full conversation and that will start in the next couple of weeks.

The difference between the scheme we have planned for those under 25 and other schemes we have launched is that it will be entirely co-operative. People who are 25 and under will volunteer for the scheme. We will work with businesses to ensure they get minimum wage jobs, at least, for 30 hours per week for a minimum period of 12 months. We will work with industry and young people who want to work in jobs which give them training, the opportunity to expand their skills, an educational base and the work experience they definitely need where they are longer-term unemployed to address the challenges they face.

Deputy Willie O’Dea: When is it proposed to introduce the scheme?

Deputy Regina Doherty: We will launch in quarter 2 of 2018. It is just to give us a couple of months. There was no money in this year’s budget to do it earlier. It is catered for in next year’s budget, assuming we pass the Bill. We will establish the scheme in quarter 1 and launch it in quarter 2.

Chairman: Can the Minister clarify a minor point? She mentioned consultation on the total contribution pension scheme. Obviously, the detail of the scheme will go through in due course. As a general principle, does she envisage that being for new entrants only or is it envisaged that existing pensioners will be transferred into it?

Deputy Regina Doherty: I do not think one can stop existing pensioners asking to be adjudicated under a new system. What I think we will find is that people who will get a better pension under the new scheme will ask to move to it while people who-----

Chairman: I do not want the detail of the scheme; it is the principle involved. The two schemes will operate and somebody can stay on their existing one or opt to move to the other. I just want the principle of what the Minister envisages without the detail.

Deputy Regina Doherty: That is the ambition. It will probably not last for ever. It will be determined by the public consultation rather than laid down by us. There will be a period during which one can opt in or out of either scheme. At some point, that period will have to end, which will depend on how we all feel about it during the public consultation. The idea of moving to a new scheme is to move to do exactly that. There will be a window of however many years to allow people to opt in or out. Once the agreed window closes, however, people will be adjudicated according to the new system.

Deputy John Brady: I bid everyone a good morning and thank the Minister for attending. Yesterday, I asked her about the changes to pensions which were made in 2012. She outlined the process whereby the Department was going through the figures and the data and said that it was cumbersome. She said she hoped to have some figures this week or next week. I submitted a parliamentary question, the reply to which contained some interesting figures, including that the figure of 35,000 impacted older people, which is constantly referred to, is actually closer to 42,000.

Deputy Regina Doherty: It is growing every year.

Deputy John Brady: That was certainly very interesting. What are the Minister's views on it? While the figure is growing every year, the 35,000 figure was only provided recently by the Department. It grows every year, but not at that rate. Where has the figure come from? It is a matter of concern.

The Minister said she hopes to bring forward the employment (miscellaneous provisions) Bill before Christmas and to start the legislative process. Deputy Joan Collins referred to a Bill which my colleague, Deputy Cullinane, brought forward and which went through a rigorous procedure before the Joint Committee on Jobs, Enterprise and Innovation, as it was then known. Unfortunately, that Bill is now parked and waiting on a money message. In her response to Deputy Joan Collins, the Minister said she would do everything she could to ensure that Opposition legislation is advanced. It seems, however, that many Opposition Bills are on the shelf waiting for money messages. If the Minister is sincere in what she says, I ask her to use her office to help to progress Opposition legislation because Deputy Cullinane's Bill will deal with the zero-hour and banded hours contracts she talks about in the context of her legislation. Said Bill has gone through a rigorous procedure in committee. It received cross-party support at the joint committee and numerous amendments were recommended which will enhance and strengthen the Bill. There was input from all of the trade unions as well as from legal experts and all of that has been taken on board. As such, I ask the Minister to look at the Bill and to advance it.

I am a little bit confused about the Minister's Bill. In the first instance, she says it is about protecting low-paid and vulnerable employees and, in the next, she says it aims to prohibit zero-hour contracts in most circumstances. Can she explain what the term "most circumstances" means in that context? If she is only intending to ban zero-hour contracts in most circumstances, she is not banning them. The problem will still be there. To ban them for some employees but not others makes no sense. The heads of the Bill state that it will ban zero-hour contracts yet it creates exemptions if work is of a casual nature. The Minister will be well aware that zero-hour contracts are casual. That is the problem. The Minister would be well aware that

zero-hour contracts are casual. That is the essence of the problem. Can the Minister explain that because it does not make sense to me?

I asked the Minister about head 8 of the Bill when she was here previously and she was not able to answer. Head 8 proposes that an employee can seek redress from the Workplace Relations Commission, WRC. Would I be right in saying that is within the Labour Court? That head will make it an offence for an employer to ignore the Labour Court's ruling. I presume I am right about that. The Labour Court will make a ruling on a point of law that it does not have the power to make because it is not a real court.

Deputy Regina Doherty: I challenge the Deputy to say that to the court.

Deputy John Brady: It is not a real court of law. It does not have the powers. The Minister would be aware that, based on the now infamous 2013 Supreme Court ruling on joint labour committees setting national wage rates for certain industries, such as construction, restaurants and hotels, we know the Labour Court is not a court of law. The WRC is a voluntary body. How can the Minister punish an employer for ignoring a ruling that is not law? Will she answer that question? She could not or would not answer when I put it to her previously.

There was a news story yesterday about a Minister of State, Deputy Halligan, which he acknowledged. The ruling made by the WRC for a fine of €7,500 for a senior official who was discriminated against has caused major concern and upset. I would like the Minister's views on that line of questioning. There have been calls for the Minister of State to resign. He should issue a more thorough apology and explain himself further. I listened to an interview with him this morning and his justification for that line of questioning does not stand up.

Chairman: I have given Deputy Brady a great deal of latitude. I extended the same courtesy to Deputy O'Dea. I remind colleagues that the Minister is here to talk about the Further Revised Estimate. Some of the questions have sounded more like those proper to Committee Stage of a Bill. To be fair to the Minister-----

Deputy John Brady: I wanted to take the opportunity while the Minister is here-----

Chairman: I have given both Deputies a lot of latitude. The Minister is here and in as far as she can answer them I ask her to address the issues. The meeting is about the Further Revised Estimate.

Deputy Regina Doherty: I thank the Chairman. This is a bit like 'Mastermind'; it is keeping me on my toes to ensure I know what I am talking about.

Chairman: I am sure the Minister is up for it.

Deputy Regina Doherty: The numbers are increasing and are going to do so every year. There are 17,000 new contributory pensioners every year. Some of those will be affected by their longevity, working out the averaging of their total contributions over those years. The initial figure of 36,000 was probably at the end of last year. This year, we will probably have an extra 6,000 and another 5,000 or 6,000 next year. Until we fix this, more women and men who are averaging their total contributions over a 40 or 35-year period will be at a disadvantage in the context of the changes made in 2012. I repeat what I said yesterday - the report will be ready to go to Cabinet by next Tuesday. The officials have done Trojan work on it in the past couple of weeks. It is difficult to get the details. I cannot overemphasise that. Staff are dealing with paper records and it is a manual job. That report will give us solutions in respect of this issue in

order that we will not be here next year discussing the fact that another 7,500 people have been disadvantaged. We will fix the situation in the coming weeks or months. I gave that guarantee yesterday. In case the Deputy thinks there is some conspiracy on the part of the Department to hold back in respect of this matter, people qualify for contributory and non-contributory pensions every day. The number of people getting less than they expected to get in the form of a pension on the basis of their contributions being averaged over a long period will continue to grow until we fix the situation. We will fix it.

The Deputy's second question was about the Opposition Bill. Much as I am delighted to have been elevated to Cabinet in recent months, I know my place and I have neither the ability nor the authority to issue money messages. I do have a view, as I have said many times, that nobody in this House has a monopoly on wisdom. Opposition legislation can be as good and as robust as, and perhaps sometimes better than, that produced by Government. I have never been of the view that just because a Bill comes from the Opposition we should vote it down for the sake of it. I have always thought that we should have longer debates than we have had in the past 18 months.

There is a difficulty with Opposition legislation between Second Stage and Committee Stage. There are approximately 230 Bills in that position. Due to the fact that I was a member of the Business Committee, I am aware that the aim of the Dunning report, the process relating to which was conducted over seven months, was to try to overcome that impasse in order that we might come to some arrangement. The Government is not stopping money messages just for the craic. The legislation has to be robust and must go through pre-legislative scrutiny or post-pre-legislative scrutiny, depending on where it sits. We have to find a mechanism for getting some of that legislation through the House. The Business Committee has not been able to agree on the recommendations contained in the Dunning report. Until it does, we are not in a position to move any further than we have offered, which is significant for a Government, to advancing those Bills. Much as I understand the Deputy's frustration, I suggest that he direct it towards the Business Committee and encourage it to accept the recommendations of the Dunning report. If he does not accept those recommendations, he could come up with something better in order that we might move that legislation forward and not just think that it is the lack of a money message that is stopping the legislation from proceeding. The latter is not the case.

The Deputy raises his eyebrows because I say not all zero-hour contracts will be banned but that is not a sinister view. We are going to ban zero-hour contracts so that people cannot be brought in willy-nilly on a two or three-hour basis. In some very strict and genuine cases, there is a need to have zero-hour contracts available. I refer, for example, to substitute school teachers who may or may not be on a panel. There may be an emergency where a school has no teacher, where a substitute teacher on a panel may not be available and where the school will have to look outside that panel. A school is not going to organise a five hour contract for somebody on a weekly basis where there are not five hours in that school but the teacher is needed this week because another is off sick or for whatever reason. It has to be a genuine emergency. We are not leaving a loophole here for people to take the mick and to use it. We are adamant, as I know the Deputy, those in Fianna Fáil and all the other Deputies in the House are, that we are going to reduce an employer's ability to use people on a casualised basis. There are genuine emergencies where they need that wriggle room. That will be clear in the legislation. The Deputy will be able to propose changes to it if he wishes but absolutely only in genuine cases where emergency cover is needed will we tolerate any offering of zero-hour contracts.

I will come back to the Labour Court issue later.

Deputy Halligan is in Thailand. I know from my experience and that of some of my colleagues that it is difficult to make a fulsome response from so far away. What I heard yesterday was a fulsome apology and acknowledgment that what he said was inappropriate and wrong. If the Deputy considered the statement he made in the course of the interview, he probably acknowledged it at the time. I think his words were “I probably shouldn’t ask you this but ...”. That probably tells another story. I have had the privilege of knowing Deputy Halligan not just since he has been in government with me but also over the past five or six years that I have been in the House. In these Houses, one probably does not have reason to have conversations with certain people. Deputy Halligan is an incredibly friendly person. I know he has championed women’s rights far more loudly, with respect, than some of the women in these Houses in the past seven years. When I hear that he genuinely apologises for the hurt and distress he caused and his explanation for what he said, I take it as being 100% bona fide. I accept his apology. I will not sit here and pretend that what he did was correct because it was not. I also know that he knows he should not have said what he said and he has apologised fully for it. I also categorically put it on the record that he has championed women’s rights in this House over the past seven years, which is as long as I have been here, much louder than some other people in this House.

In respect of the Labour Court, it is not the Supreme Court. However, the Labour Court and the Workplace Relations Commission are statutory bodies which have statutory powers. The reason people go to them is that they want to find co-operative solutions to the difficulties they have. That is why it works as effectively as it does. It also seeks and has the power to uphold judgments that arise from other courts. Mr. Sheridan will correct me if I am wrong. The reason it is so successful is that people co-operatively and collaboratively come to the table and find a solution to the issues they have. The WRC is probably more effective because it is used much more often. While the Deputy does not believe the Labour Court is a proper court, it certainly is a statutory body with statutory powers. It works very effectively and I hope it will work as effectively today as it has done with all the other dispute resolutions that have been put before it in the past.

Deputy John Brady: I also recognise the fantastic work the WRC does and not for one second was I trying to run it down. What I said was that the Labour Court cannot rule on a point of law.

Chairman: The Deputy has made the point.

Deputy Regina Doherty: I am only being nosy now but I am not sure what is the purpose of Deputy Brady saying that. Is it that he would like it to be able to rule on a point of law? Does he have a specific grievance that it did not do something?

Deputy John Brady: The Minister is saying that under head 8 of the Bill, there will be provision for an employee to be able to seek redress from the WRC. I said that was through the Labour Court within the WRC. There was a Supreme Court ruling in 2013 which specifically stated that the WRC could not make determinations on points of law regarding setting national wage rates. There is a point there. There is a legal definition going back to 2013 that it does not have the power to rule on points of law.

Chairman: The Deputy has made the point. The Minister may respond if she has a brief answer. I do not want to have a debate on this.

Deputy Regina Doherty: I will answer in less than ten words, which is unusual for me.

The reason it is so effective is that it is co-operative. It is not trying to sting one fellow over the other woman. We certainly could not say that of our courts system, which is completely adversarial.

Chairman: I thank the Minister. This is not the appropriate time for further discussion. The Bill will be before us and Deputy Brady will have adequate opportunity then to go through it in detail.

Deputy Joe Carey: I welcome the Minister. She has already covered a lot of ground. On the enhanced remit of the Department itself, the Minister referred to this change. I welcome the change, especially the new remit in labour affairs and labour law. She made reference to 11 pieces of legislation that need to be enacted. Where do they stand? Does the Minister hope to be in a position to bring much of that legislation before the Houses in the near future?

On the employment (miscellaneous provisions) Bill, I welcome the Taoiseach's statement of a number of months ago. How advanced are works in that regard and when will the Bill be presented to the Houses for debate?

Deputy Regina Doherty: I thought for an awful moment there that the Deputy was going to ask me to name them all off. They are already enacted. It is legislation currently on the Statute Book that has just moved from the old Department to the new one. I have a list which I will give to the Deputy. He need not panic. They are not new pieces of legislation that have to come before us. We have enough to be doing for the next couple of months anyway.

The employment Bill is very close to being ready to present to Cabinet. I have made a commitment that it will be presented before Christmas. If I can expedite that, we will have a real opportunity to get it to Second Stage before Christmas. It will definitely be published before Christmas.

Deputy Willie O'Dea: As another victim of the non-issuing of money messages, I also want to express my frustration. I am very glad that the Minister feels our frustration. There is another aspect to this. I take the Minister's point about issuing a money message but she said in her response that, in order for a money message to be issued, the Bill must have gone through pre-legislative scrutiny. Who decides on submitting a Bill to pre-legislative scrutiny? I have a number of Bills that have not even reached that level.

I think the Minister will agree that whatever the form of total contributions system, it will still leave some people at a disadvantage who are currently disadvantaged in terms of the 2012 rules. Some may look at the new scheme and decide they would be better off under the total contributions scheme while others will not be. I was delighted to hear the Minister say she hopes to be in a position to fix this problem in the very near future - in the coming weeks or months, as she said. We are talking here about elderly people. I know the Minister is conscious of that and that they do not actually have all the time in the world. I welcome this move and we will keep engaging with the Minister on the matter.

Deputy Regina Doherty: I received the Deputy's letter and I thank him for it. To answer the Deputy's direct question, the people who are responsible for ensuring that all of our legislation, Government and Opposition, goes through pre-legislative scrutiny are those who were on the Dáil reform committee. Fianna Fáil had three very active members on that committee. I was lucky enough to sit on it myself. We made the decision on the basis that if legislation needed to be enhanced before it got to Second Stage, it would make it robust. That was also

relying on us having a budgetary committee and legal representation to help Opposition Members with drafting. Those facilities have not been established yet. I am sorry to labour this point but in terms of the Dunning report and co-operation from Government, as the Deputy is aware, there is not money sitting in a budget somewhere for Opposition Deputies to get a money message. All the money in every Department is qualified and accounted for. The proposal was to have a budget for money messages so that at least, for Opposition legislation that required a money message, there would be a fund that could be drawn down and that was not earmarked for something else. We are all from different parties and the sooner the Business Committee gets a resolution to these issues, the sooner all of our legislation can move forward. The Deputy can extol my wisdom so I can help him make his legislation better and he can certainly help me make mine better. While that impasse is there, the 239 pieces of Opposition legislation will continue to multiply. It is up to us to fix it.

The Deputy is right but he is also wrong. When we go to public consultation on the total contributions model, it will be dependent on the parameters and how much of a homemaker scheme we put into the new model. That will determine whether people lose. We might, for example, issue referrals of how people can exclude bits of their working life, if they worked for two years at the beginning of it and then had a break. It will depend on us and that is why the public consultation is so important not just to me, but to all of us. When we get to this magic date of 1 January 2020 or whatever the date will be that we move to the new model, it has to be the most robust and fair model that we can produce. Our pensioners deserve no less. I do not want to find Deputy O'Dea in Government in five years' time and me beating him over the head because there is an anomaly in the next system. We want to make sure we get this right, that it is sustainable financially into the future, and that it is received by pensioners as something that is fair and that they can live with. That is why the public consultation is so important. We must all be part of it and must get as many people into the conversation as we can.

Chairman: The Minister referred to EU and international level. Apart from the three Bills, of which we have spoken numerous times, as a result of EU legislation or directives are there impending Bills, on either the employment side or the social protection side, of which she is aware? I am asking about both primary and secondary legislation.

In her opening statement, the Minister mentioned a number of EU and international responsibilities and functions. I attended the European committee on the social charter last week and I was surprised to see a list of conclusions of non-conformity for Ireland for 2016. I quickly discovered that some countries were deemed to be non-conforming because they did not respond but I was disappointed to learn there is not a flow of information between the Department and this committee on these issues. I ask the Minister to keep the committee informed of relevant information on the subject of EU and international-level functions. When I read the documentation in preparation for the meeting, it was the first time I had seen this information and it had not been presented to the committee in any way. In its broader remit, the committee would have an interest in these matters.

Deputy Regina Doherty: I will have to take responsibility for that. To be honest, it never even dawned on me to do this. I am new to Europe and it is all new to me but I will certainly send any information on reports on which we are working to the committee, including those which we will be signing off on next week. I would love the chance for me and the officials to discuss what legislation might arise in these contexts. There is no imperative to instigate legislation in respect of what we are signing up to but there is a will to do so. Some of the legislative changes we are making to work-life balance, for example, and to ensure people get to spend

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more time with their children, are necessary but I do not get to make these decisions on my own - we have to do it collectively. I will certainly get for the committee all the documents on which we have been working in the past couple of years. I would love the opportunity to come back and talk about them with members.

Chairman: That concludes the formal meeting. I thank the Minister and her officials.

Deputy Regina Doherty: Is the Vote accepted?

Chairman: The Vote is accepted. I do not think we are in a position not to accept it, as the rules stand.

Message to Dáil

Chairman: In accordance with Standing Order 90, the following message will be sent to the Dáil:

The Select Committee on Employment Affairs and Social Protection has completed its consideration of the following Further Revised Estimate for public services for the year ending 31 December 2017: Vote 37 — Department of Employment Affairs and Social Protection.

The select committee adjourned at 10.35 a.m. *sine die*.