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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

DÁIL ÉIREANN

Dé Céadaoin, 19 Nollaig 2012

Wednesday, 19 December 2012

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Leaders' Questions

Deputy Micheál Martin: One of the areas that has escaped any significant attention in the fallout from the budget has been the very savage and targeted approach to colleges of further education in terms of an attack on their pupil-teacher ratio and in the reduction of a variety of allowances to students. The two-point increase in the pupil-teacher ratio for these colleges will have a savage impact on the colleges and their students, leading to the loss of 200 whole-time equivalent posts. In reality on the ground up to 50 teachers could lose their positions, many of them part-time, in colleges doing specialist courses in cloud computing, horticulture, sound, music, dance and others areas across the board. They are all courses related to progressing young people from unemployment to employment.

If the Taoiseach cared to listen he would know that with a very high unemployment level among young people of 30%, this cut makes absolutely no sense. It targets second-chance education and those who want to go back to education to get a chance of work or to progress to third level. It is shameful that in addition to the pupil-teacher ratio increase, the budget will also reduce capitation rates for the colleges and will reduce allowances for people on vocational training opportunity schemes and Youthreach programmes. These are the very programmes that were designed to help young people come through the educational sector through alternative programmes and pathways. The Government has also abolished the cost of education allowance.

I know the Fine Gael Party will always protect the wealthy. However, fundamentally what is the purpose of the Labour Party in government-----

Deputy Brendan Howlin: Fixing what Fianna Fáil had broken.

Deputy Micheál Martin: -----if it can stand over a cut to a sector-----

Deputy Pat Rabbitte: Cleaning up the mess after Fianna Fáil.

Deputy Brendan Howlin: Again.

Deputy Micheál Martin: -----that does the most for those who lost out through mainstream education and who want a second chance? We built up this sector over the past 15 years-----

Deputy Pat Rabbitte: The Deputy's party built too much.

Deputy Micheál Martin: -----in terms of grants for colleges and for students.

An Ceann Comhairle: The Deputy is over time.

Deputy Micheál Martin: While the Minister, Deputy Howlin, might smile, it is not a laughing matter.

Deputy Brendan Howlin: Fianna Fáil broke the-----

An Ceann Comhairle: The Deputy is over time.

Deputy Micheál Martin: It is not a laughing matter for the students-----

Deputy Brendan Howlin: The Deputy has a brass neck.

Deputy Micheál Martin: -----who are watching this morning. The most the Minister, Deputy Howlin, can think about is having a good guffaw over the plight in which they find themselves.

An Ceann Comhairle: I thank the Deputy.

Deputy Micheál Martin: It is typical of how out of touch Ministers have become since going into government.

Deputy Bernard J. Durkan: The Deputy has a short memory.

Deputy Micheál Martin: I ask the Taoiseach to outline to the House whether an impact assessment was carried out on the effect of the increase in the pupil-teacher ratio on these colleges and the cuts affecting these students who are participating in those programmes. If so will the Government publish that impact assessment and if not will the Taoiseach commit at a very minimum this morning to have such an impact assessment carried out?

A Deputy: Another report.

The Taoiseach: The Deputy's charge of certain parties looking after certain sectors is nothing short of disgraceful. The change from 17:1 to 19:1 in the PTR the Minister announced in the budget takes effect next September. The Minister has already asked every VEC CEO to carry out an impact analysis on what this will mean for courses and to report to him.

Deputy Mattie McGrath: After the fact.

The Taoiseach: Of course that will be debated fully here in the Oireachtas.

Deputy Mattie McGrath: They will be appointing consultants.

The Taoiseach: It is an important element to education. The answer to the Deputy's question is "Yes". The impact analysis has been requested by the Minister from each CEO and will be reported to him and debated in the House subsequently.

Deputy Micheál Martin: The Taoiseach did not answer the question. The answer is not "Yes". The Taoiseach has just told us that the Minister did not carry out an impact assessment before making the cut. The Taoiseach has just said he will ask all the colleges or VECs. The principal of Ballyfermot Senior College said last evening that 10% of her staff will be cut. Ballyfermot Senior College is a fantastic college that has produced students who have gone all the way to Hollywood and won Oscar awards in animation.

Deputy Bernard J. Durkan: The Deputy will be intending to do a bit of that himself.

Deputy Micheál Martin: This sector has been the most innovative of all in responding to the crisis. Likewise Coláiste Stiofáin Naofa in Cork and the City of Cork VEC have already said they will lose up to 50 teachers as a result of this cut.

An Ceann Comhairle: A question, please.

Deputy Micheál Martin: Despite what the Taoiseach has said, it is not disgraceful that I have highlighted this issue this morning and pointed out that the Labour Party, which should be protecting the less well-off and those who want to avail of second level education-----

An Ceann Comhairle: Could we have a question, please?

Deputy Micheál Martin: -----should be doing something or standing up for something. That is quite a legitimate point for me to make.

An Ceann Comhairle: I thank the Deputy.

Deputy Micheál Martin: However, it is not legitimate for Deputies to be laughing and guffawing about a very serious cut affecting students which will make a difference to their capacity-----

An Ceann Comhairle: Could we have the Deputy's question, please?

Deputy Micheál Martin: -----to get to work and to progress in education. We have numerous examples of students down through the years who may not have come through mainstream effectively or gone to third level, but these courses were labour-market related-----

An Ceann Comhairle: I thank the Deputy.

Deputy Micheál Martin: -----focused on jobs and giving people skills and the capacity to gain jobs in a range of areas and have been very effective and successful.

An Ceann Comhairle: I thank the Deputy.

Deputy Micheál Martin: It is another unfair targeting of a sector of society that should be helped in accordance with the commitments in the programme for Government and not targeted in a very savage way as the Government has done without any thought or preparation as the Taoiseach has now acknowledged.

The Taoiseach: Deputy Martin never listens. I said his comment was disgraceful in suggesting any party is looking after a particular segment of Irish society. The party he leads from the days of the Galway tent with millionaires and all that-----

Deputy Mattie McGrath: The Taoiseach's party was not too bad itself.

Deputy Timmy Dooley: Fine Gael was more upmarket in those days. It was Fairyhouse for Fine Gael.

The Taoiseach: That is the comment I said was disgraceful. It was disgraceful for him to say that. Let us deal with the issue here.

An Ceann Comhairle: We might deal with the issue.

Deputy Niall Collins: Was the Taoiseach teeing off with the Quinns at one of Fine Gael's golf classics?

The Taoiseach: The pupil-teacher ratio in secondary schools is 19:1. The pupil-teacher ratio in colleges of further education was 17:1 and will be 19:1 from next September. The issue of devolution of responsibility of authority has been made by the Minister to the chief executive officers-----

Deputy Micheál Martin: That is such a con job - such a dishonest proposition. The Government does that - it devolves cutting.

The Taoiseach: ----- to make the choices as to the nature and quality of the courses to be pursued. The impact of the decision made by the Minister is to bring the pupil-teacher ratio for colleges of further education into line with those of secondary schools.

Deputy Micheál Martin: It is a different sector

The Taoiseach: As a former teacher, the Deputy should know it is not the pupil-teacher ratio that makes the real difference here.

Deputy Micheál Martin: The Taoiseach does not understand the sector.

The Taoiseach: It is the quality of the person standing in front of the class that counts.

Deputy Micheál Martin: The Taoiseach does not understand the sector.

The Taoiseach: One can produce reports that are the height of this roof that will show one but Deputy Martin never listens and that is what has him where he is.

Deputy Micheál Martin: The Taoiseach does not answer the questions he is asked.

The Taoiseach: The most important ingredient of education is parental and student interest and the quality of the teacher and the teaching that is given in the first place.

Deputy Micheál Martin: Courses will be lost over this.

The Taoiseach: That is why the Minister for Education and Science has given the devolved responsibility to chief executive officers to allow them to make choices regarding courses and their nature. This will be brought back to him. The pupil-teacher ratio in colleges of further education will be the same as that in secondary schools.

Deputy Micheál Martin: That kind of response is what is driving people mad. It is driving people over the edge.

The Taoiseach: This sector, as maintained, is important but then Deputy Martin never listens.

(Interruptions).

An Ceann Comhairle: I want silence for Deputy Adams.

Deputy Gerry Adams: The Dáil will break tomorrow for the Christmas festivities and most of us will go back to warm homes and our families. We are the very lucky ones. For many citizens, this Christmas will be especially tough because of the Government's austerity policies. The ESRI's assessment of budget 2013 confirms that once again, the poorest have been hit hardest. It is not just those on the margins who are faoi bhrú. Lower and middle income families are not being protected by the Government.

This morning, we heard news that the Bank of Ireland, in which the State has a 15% share and which has received nearly €5 billion of citizens' money, is to hike credit card fees by up to 4%. This is a bank that is cashing in on people when they are most stretched at Christmas time. The Taoiseach is aware that surveys by the credit union movement indicate that people can take up to six months to repay Christmas spending. Many people are stuck in the mire and struggling to pay back debt accumulated over years. Some people are forced to use credit cards to pay for necessities. I spoke to a woman this morning who told me she received a letter from the bank telling her that at her current rate of payment, she would not clear her credit card debt until 2045. All this is heaping pressure on citizens who are already struggling. Does the Taoiseach agree that the hike in credit card fees is wrong? Have he or his Government been in contact with the banks about this? What steps does he intend to take to deal with these banks which have levied mortgage increases and new account and credit card fees?

The Taoiseach: I understand that Bank of Ireland announced last October that it intended to introduce a range of increases in interest rates with effect from 18 December 2012. The credit card purchase interest rate will increase to 17.8% variable APR, while the rate for the classic credit card will increase to 19.9% variable APR. The rate for the remaining number of personal credit cards will increase by 0.7% APR with effect from 18 December 2012. No increase will be applied to the student credit card and there will be no change to the introductory or cash advance variable APRs for Bank of Ireland personal credit cards.

This bank is owned by private investors with a 15% share held by the Government and this area is not regulated by Government. I can confirm that the Government is in constant contact with the regulator in the Central Bank to ensure that he is happy he has the facilities, authority and power he needs in regulating the financial sector. This issue is very difficult for many people who have run up huge credit card bills. The economic indicators show that for the first time in a number of years, we have had three consecutive quarters of growth. The more we can proceed in that direction, the more competition there will be in the credit card area.

I do not like this but the Government is in constant contact with the regulator. I have written to him on a number of occasions stating that if he considers that he should have more appropriate powers, the Government will respond to that. This is a bank owned by private investors. We want it to be out there in the market. The Government has a 15% shareholding and this area is unregulated.

Deputy Gerry Adams: This is the Taoiseach's usual response when we raise a question about the banking sector. He says he cannot do anything about it but what he really means is that he will not do anything about it.

Deputy Ruairí Quinn: We deal with the banks in a different way than Sinn Féin did.

Deputy Gerry Adams: The Government rushed through the Finance (Local Property Tax) Bill at 11 p.m. last night. There were over 80 amendments but only one was taken.

An Ceann Comhairle: That is a separate issue. Does Deputy Adams have a supplementary question?

Deputy Gerry Adams: I am coming to that. Ná bí ag cur isteach orm arís. The point I am making is that there is one rule for the banking sector and another for citizens. This is the banks' Christmas present, while the family home tax is the Government's Christmas present. The Taoiseach says he cannot do anything about this but has he spoken to the public interest directors? I understand this Government has done nothing. I received a written response from the Minister for Finance which stated that I would be aware that the Government has not appointed any public interest directors to the boards of the covered banks since taking office. Who are the public interest directors? Lo and behold, the public interest directors include Mr. Dick Spring, late of this parish; Mr. Joe Walsh, late of Fianna Fáil; and Mr. Ray MacSharry.

(Interruptions).

Deputy Gerry Adams: Has the Taoiseach asked these public interest directors who are there to protect the public interest and if not, why not?

An Ceann Comhairle: Could we have Deputy Adams's question?

Deputy Gerry Adams: Does the Taoiseach intend to call the banks into the Economic Management Council or is it just a matter of, once again, wringing his hands and saying he can do nothing or, as I put it, is doing nothing about this sector?

The Taoiseach: As the Minister for Education and Science remarked, we treat banks differently than Sinn Féin did in the past. This is an area that is not regulated. It is an issue in respect of which the Government is in constant contact with the regulator in the Central Bank. On behalf of Government, I have written to the regulator stating that if he requires further or more appropriate powers, the Government will respond to that. It is not a case of saying the Government will not do anything. It is a case of saying that if the regulator requires further facilities, the Government will respond to that. This is not a case where the Government regulates the interest rates applicable to credit cards.

Our job as a Government is to restore our economy to good health. It is heading in that direction and for the first time in a number of years, we have had three consecutive quarters of growth. I do not like a situation where this announcement was made by the banks three or four days before Christmas but this is a commercial entity that has made this choice. We will respond to the regulator who is completely independent if he requires or requests further or more appropriate powers from Government. We want an economy that is running well and growing in health and that as a consequence further competition will enter the market from those who deal with credit cards. I repeat this on a regular basis. It is not easy for people not to run up bills on credit cards and it is a well-known fact that some people have run up extraordinary bills and these interest rates are high. One can advise people not to do that and yet circumstances dictate that it happens. Clearly, MABS is well used and available to everybody. The area is not regulated by Government but we are prepared to respond if the regulator requires further facilities or what he might consider more appropriate powers for himself.

Deputy Thomas Pringle: Yesterday, the Minister for Agriculture, Food and the Marine

joined other European Ministers with responsibility for fisheries in Brussels to determine fishing quotas for the next year. This week the Minister warned that the Council will be one of the most difficult in years. Ireland has a long history of being treated unfairly in this area and these threats are nothing new for fishing communities. The EEC effectively strong-armed us into giving away our rights to fish our own waters when we joined. These negotiations could affect the ability of the Council to agree quotas for mackerel, blue whiting and herring in 2013 and would also affect where Irish fishing vessels can fish next month. If this is not enough, they also face double-digit cuts in many quoted stocks which are vital for the Irish fishing industry. These proposed reductions would amount to a direct income cut for fishermen of €17 million and the full cost when the effect on fish factories and others are factored in is approximately €54 million, with up to 500 full and part-time jobs being put under threat.

Year after year fishermen live in uncertainty as to where their futures lie and they are in a constant battle to make a modest living. The bureaucracy of the fishing industry at EU level is taking its toll not only on fishermen but on fishing communities and the country as a whole. A fundamental change in EU fishing policy is what is essentially required to ensure the sustainability of our communities in the long-term guaranteeing a fair share for Ireland. What will the Government do to support coastal communities which could lose so much of their income? Does the Taoiseach have a contingency plan in place in the event of a breakdown and the loss of so many jobs?

The Taoiseach: Deputy Pringle should bear in mind that Ireland is one of the few countries which has managed to get into a strong position for whatever Minister has attended for a number of years. The reason for the success of Irish Ministers with responsibility for fisheries in recent years at negotiations in Brussels, which take place at the end of every year, is because of the quality of the scientific analysis the Minister brings to the table. The scientific analysis is carried out by the Marine Institute based in Oranmore in Galway. It is a fact that, being armed with exact scientific data, no Minister with responsibility for fisheries from here has come away from Brussels with a bad deal. These negotiations are ongoing and will finish towards this weekend.

Deputy Pringle asked about coastal communities. We must have a debate and an understanding that the level of production and fish required, based on the extraordinary growth in the world's population and therefore the requirement for food across the spectrum, is an issue central to the fishing negotiations. An application lodged for a major fish farm development off the Aran Islands in Deputy Grealish's constituency is being heavily objected to, with another possibly to follow off the west coast. These matters need to be considered rationally. The figure projected for growth in jobs onshore is 500 and this would make an enormous impact to coastal communities. This is an issue that needs to be debated here, by the planning authorities and by those dealing with environmental regulations.

It is clear that in the coming ten to 15 years the level of fish production required will be extraordinary and it will not be got from fishing in the sea because the levels of fish are not there. In this sense what the Minister is doing this week is basing his negotiations on the best scientific data and analysis we have ever had because of the exceptional quality of the data from the Marine Institute. I am sure the Minister, Deputy Coveney, will articulate this very strongly during the negotiations. While we are all concerned about the fishing industry in general there are matters we need to examine. Deputy Pringle may have an influence on this himself. We should be able to restore the fisheries off the west and north-west coast in the same way as previous Governments, did with the support of the fishing interests in the restoration of the Celtic Sea

and the fishing boxes which apply there. We should consider this issue for the future interest of fishermen and their incomes and livelihoods.

Deputy Thomas Pringle: There is no doubt the quality of the scientific evidence has improved and it is aiding us in our negotiations. However, the fact is that the Common Fisheries Policy is recognised as a failed policy throughout Europe. Focusing on making the best of this failed policy is a zero sum game for the fishing industry. What we need is to focus on totally changing the overall policy and getting a fair share for our fishing communities. There is potential in aquaculture, but many communities still depend on fishing and should be supported. The potential for the economy as a whole is very significant. Countries such as France do not catch their quota in its own waters but we cannot increase ours. Fishermen end up having to dump more fish than they can land because of this and because of the unfairness and imbalance built into it from the historical situation. Will the Government consider examining the policy on a broader basis and attempt to change the historical situation to allow coastal communities remain viable?

The Taoiseach: Deputy Pringle is well aware there has been serious overfishing by the Faroe Islands and Iceland and this has led to calls by Ireland at EU level to have sanctions imposed. In the context of restoration of fisheries off the coast we need co-operation here and a strategy and plan to let nature take its course and build up those stocks where fishing can apply. The Minister allowed smaller boats to avail of fishing this year. Despite the very good decision made by a previous Government in respect of drift net fishing-----

Deputy Micheál Martin: Am I hearing something?

The Taoiseach: Yes you are. Deputy Martin is listening at last and I thank him.

Deputy Kathleen Lynch: Very selective hearing.

Deputy Micheál Martin: It is definitely getting close to Christmas if a former Government is praised.

The Taoiseach: Despite the decision on drift net fishing I hear allegations of illegal fishing off the coast of Deputy Martin's county. I do not know whether it is true. There is an issue in respect of the mortality rate among the Atlantic salmon population and it cannot be put down to drift net fishing. Whether it is carbon or another issue there is a need for scientific analysis. Speaking to those who know about these things there are concerns as the mortality rate is much higher than it should be.

This is an issue in which everyone has an interest. The development of aquaculture, taking into account environmental sensitivities and the opportunity for economic development and jobs, is one issue. There the restoration of fisheries with the assistance and co-operation of the fishing interests, and the scientific analysis which is ongoing. Will we be able to reverse the situation from 35 or 40 years ago? Not just now. However, we have defined Ireland's territorial ownership of underwater ground, which is 200 million acres as far as Rockall. On each occasion a Minister with responsibility for fisheries representing our country has been in Brussels in recent years it is the quality of the scientific data which has stood this country in very good stead and we will continue with this effort.

Order of Business

The Taoiseach: It is proposed to take No. 27, Statements on European Council, Brussels; No. *a*7, Appropriation Bill 2012 - Order for Second Stage, Second and Subsequent Stages; No. 1, National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 - amendments from the Seanad; and No. 2 - Personal Insolvency Bill 2012 - amendments from the Seanad. It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 9 p.m. tonight and shall adjourn not later than 10.30 p.m.; the proceedings on No. 27 shall, if not previously concluded, be brought to a conclusion after 85 minutes and the following arrangements shall apply: the statements shall be made by the Taoiseach and by the main spokespersons for Fianna Fail, Sinn Féin and the Technical Group, who shall be called upon in that order and who may share their time, and shall not exceed 15 minutes in each case; a Minister or Minister of State shall take questions for a period not exceeding 20 minutes; and a Minister or Minister of State shall be called upon to make a statement in reply which shall not exceed 5 minutes; No. *a*7 shall be taken today and Second and Remaining Stages shall be decided without debate by one question which shall be put from the Chair, and which shall, in relation to amendments, include only those set down or accepted by the Minister for Public Expenditure and Reform; the proceedings on No. 1 shall, if not previously concluded, be brought to a conclusion after 30 minutes and any amendments from the Seanad not disposed of shall be decided by one question which shall be put from the Chair and which shall, in relation to amendments to the Seanad amendments, include only those set down or accepted by the Minister for Justice and Equality; in the event a division is in progress at the time fixed for taking Private Members' business, which shall be No. 93 – motion re Carers (resumed), Standing Order 121(3) shall not apply and Private Members' business shall, if not previously concluded, be brought to a conclusion after 90 minutes; and the proceedings on No. 2 shall, if not previously concluded, be brought to a conclusion at 10.30 p.m. tonight and any amendments from the Seanad not disposed of shall be decided by one question which shall be put from the Chair, and which shall, in relation to amendments to the Seanad amendments, include only those set down or accepted by the Minister for Justice and Equality.

An Ceann Comhairle: There are six proposals to be put to the House. Is proposal No. 1, that the Dáil shall sit later than 9 p.m. and shall adjourn not later than 10.30 p.m., agreed to? Agreed. Is proposal No. 2 for dealing with No. 27, statements on European Council, Brussels, agreed to? Agreed. Is proposal No. 3 for dealing with No. *a*7, Appropriation Bill 2012 - Order for Second Stage, Second and Remaining Stages, agreed to? Agreed. Is proposal No. 4 for dealing with No. 1, National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 - amendments from the Seanad, agreed to? Agreed. Is proposal No. 5 for dealing with No. 93, Private Members' business - motion re Carers (resumed), agreed to? Agreed. Is proposal No. 6 for dealing with No. 2, Personal Insolvency Bill 2012 - amendments from the Seanad, agreed to?

Deputy Micheál Martin: It is not agreed. I have to say that the guillotining of this measure is particularly inappropriate. Given what was announced this morning concerning the Bank of Ireland's increase in credit card interest rates and the general behaviour of the banks towards the Government and the Oireachtas on key issues, I appeal to the Taoiseach in this regard. Members of the public feel they are being bled by the banks and that banks are treating the Government, Oireachtas and themselves with contempt. The Taoiseach said earlier that he has written to the financial regulator and is in constant contact but all of that does not indicate any movement or change in behaviour or actions. People do not have the personal disposable

income to deal with these multiple charges and a tightening of the screw by banks.

In the Personal Insolvency Bill, the Taoiseach is continuing to give banks a veto on household debt resolution. We think that is a fundamentally flawed position to adopt. Given how the banks have behaved as recently as this morning, I appeal to the Taoiseach to give this House more time to consider these issues with a view to ensuring that banks do not have a veto in resolving household debt issues with clients and customers.

An independent office that could arbitrate between customers and banks, and whose findings would be binding on banks, would be a far more effective route to take. For those reasons we are opposing the manner in which the Government proposes to take the Personal Insolvency Bill in this House.

Deputy Gerry Adams: Sinn Féin also opposes the imposition of a guillotine on the Personal Insolvency Bill. We had an example this morning, which I raised with the Taoiseach earlier, but he dealt with it in a very unsatisfactory way. I understand that there could be as many as 245 amendments to be discussed today. Are they not important? This is the Government that said it would have a new way of doing business.

One in four families is in mortgage distress. Those people will be affected by the family home tax which the Taoiseach rushed through here yesterday. The Personal Insolvency Bill clearly gives the banks a veto but, as a result of the guillotine, we will not hear the alternatives. Nor will opposition Deputies have an opportunity to argue for a different case, which the Minister and the Government could take on board. The Government is treating this institution with contempt. The only ones who will benefit from the Personal Insolvency Bill are the very banks that were part of creating the problem.

The Government can clearly vote this Bill through. We can vote against it and go through this little pantomime that we do all the time. I appeal to the Taoiseach, however, to give time for a proper debate on the issue.

Deputy Richard Boyd Barrett: I also object to the guillotine being imposed on this legislation. It is clear that the banks are not willing to engage in the sort of debt write-down that is necessary to deal with this suffocating burden of distressed mortgage debt. In that context, serious questions need to be asked and teased out about whether this legislation will achieve the aim of dealing with the problem of mortgage distress. For our part, we do not believe that allowing banks to have the sort of veto that this legislation gives them will result in the sort of relief that distressed mortgage-holders require.

The Government Chief Whip is beginning to look a bit like Madame Defarge, with his predilection for guillotines coming down on important legislation.

Deputy Paul Kehoe: As long as I do not look like you, I am happy.

Deputy Richard Boyd Barrett: The guillotine should be lifted to allow for proper scrutiny of this most important legislation.

The Taoiseach: I dealt with this matter yesterday. It is almost the end of this Dáil session and we want to move on with setting up the personal insolvency service, which is an alternative to dealing with banks. In the exercise carried out last year in regard to the banks, the point has already been clearly made that they have been sufficiently resourced and recapitalised, so that

in cases where they consider it appropriate, write-downs can be made.

Deputy Micheál Martin: The Taoiseach could have fooled me.

The Taoiseach: There has to be an understanding of moral hazard, in addition to distinguishing between those who cannot or will not pay. We want to move on with the Bill and Members can make their points in the course of today's discussion here.

Question put: "That the proposal for dealing with No. 2 be agreed to."

The Dáil divided: Tá, 88; Níl, 39.	
Tá	Níl
Bannon, James.	Adams, Gerry.
Bruton, Richard.	Boyd Barrett, Richard.
Butler, Ray.	Broughan, Thomas P.
Buttimer, Jerry.	Browne, John.
Byrne, Catherine.	Calleary, Dara.
Byrne, Eric.	Collins, Niall.
Cannon, Ciarán.	Colreavy, Michael.
Carey, Joe.	Crowe, Seán.
Coffey, Paudie.	Doherty, Pearse.
Collins, Áine.	Donnelly, Stephen S.
Conaghan, Michael.	Dooley, Timmy.
Conlan, Seán.	Ferris, Martin.
Connaughton, Paul J.	Fleming, Tom.
Conway, Ciara.	Grealish, Noel.
Coonan, Noel.	Halligan, John.
Corcoran Kennedy, Marcella.	Healy, Seamus.
Costello, Joe.	Healy-Rae, Michael.
Creed, Michael.	Kelleher, Billy.
Deasy, John.	Kitt, Michael P.
Deenihan, Jimmy.	Mac Lochlainn, Pádraig.
Deering, Pat.	McConalogue, Charlie.
Doherty, Regina.	McDonald, Mary Lou.
Donohoe, Paschal.	McGrath, Finian.
Dowds, Robert.	McGrath, Mattie.
Doyle, Andrew.	McGuinness, John.
Durkan, Bernard J.	McLellan, Sandra.
English, Damien.	Martin, Micheál.
Farrell, Alan.	Moynihan, Michael.
Feighan, Frank.	Murphy, Catherine.
Fitzgerald, Frances.	Ó Caoláin, Caoimhghín.
Fitzpatrick, Peter.	Ó Snodaigh, Aengus.
Griffin, Brendan.	O'Brien, Jonathan.
Harrington, Noel.	O'Dea, Willie.

Harris, Simon.	O'Sullivan, Maureen.
Hayes, Brian.	Pringle, Thomas.
Hayes, Tom.	Shortall, Róisín.
Heydon, Martin.	Smith, Brendan.
Hogan, Phil.	Stanley, Brian.
Howlin, Brendan.	Wallace, Mick.
Humphreys, Heather.	
Humphreys, Kevin.	
Keating, Derek.	
Kehoe, Paul.	
Kelly, Alan.	
Kenny, Enda.	
Kenny, Seán.	
Kyne, Seán.	
Lawlor, Anthony.	
Lynch, Ciarán.	
Lynch, Kathleen.	
McCarthy, Michael.	
McFadden, Nicky.	
McHugh, Joe.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Naughten, Denis.	
Nolan, Derek.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Quinn, Ruairí.	
Rabbitte, Pat.	

Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Aengus Ó Snodaigh and Michael Moynihan.

Question declared carried.

An Ceann Comhairle: Those leaving the Chamber should do so quickly as we have limited time for the Order of Business.

Deputy Micheál Martin: With regard to the personal insolvency legislation, will the Taoiseach outline the timetable for the commencement of regulations? The Government has promised it will commence the Bill as quickly as possible. The matter of mortgage arrears is shocking, with over 180,000 people now in arrears, with much personal indebtedness. There is an incapacity of either the Government or the banking sector to deal adequately with the issue. It is important that the Taoiseach would let us know when he expects to commence the regulations following passage through this House of the Personal Insolvency Bill. Does the Government have any plans to commence the remaining sections of the Disability Act and the special education Act which deals with children with special needs?

The Taoiseach: The Minister for Justice and Equality will give full details of the schedule and timetable for the implementation of personal insolvency arrangements during the course of the debate. I do not have any indication from the Minister for Education and Skills of an intention with regard to the education Act raised by the Deputy. I will get the Minister to contact the Deputy.

Deputy Micheál Martin: Will the Taoiseach give me a report?

The Taoiseach: The Minister will give a report.

Deputy Gerry Adams: Yesterday the UK Commission on a Bill of Rights made its final report. The Taoiseach knows the work of this commission for the last two and a half years or

so has been used by the British Government to block a bill of rights for the North, which is part of the Good Friday Agreement. Interestingly, the final report of the commission recognised the distinctive Northern Ireland bill of rights process and its importance to the peace process. Given the Government's role as a co-guarantor of the Good Friday Agreement, will the Taoiseach outline how he intends to secure progress on the bill of rights for the North?

The Taoiseach: What is the Deputy's question? We want the Good Friday Agreement implemented in full and as a co-guarantor of that, we see it as an important matter. I have not had the opportunity to read the bill of rights that the Deputy referred to and which was published yesterday. I will have to read it and consider its implications in the context of discussions we have with the Northern Ireland Executive and British authorities.

Deputy Gerry Adams: To clarify, there is no bill of rights, although there should be. The British Government set up a commission to examine the concept of a bill of rights for the United Kingdom and used that as an excuse not to introduce a specific bill of rights for the North. Yesterday, ironically, the commission recognised "the distinctive Northern Ireland bill of rights process and its importance to the peace process." The British Government-----

An Ceann Comhairle: We are pressed for time.

Deputy Gerry Adams: I am disappointed the Taoiseach has not been briefed on this matter, which is a very important and key outstanding element of the Good Friday Agreement. As co-guarantor, what will the Government do to ensure the British Government keeps to this internationally recognised agreement, for which people North and South voted?

The Taoiseach: I am sorry for the confusion. I will first read the report in respect of the bill of rights and the reference to the distinctive issue concerning Northern Ireland. I will follow that through with the Northern Ireland Executive and British Authorities.

Deputy Sandra McLellan: The programme for Government contains a commitment to ending long-term homelessness and the need to sleep rough. This morning's report by the Simon Community of Ireland noted significant increases in the numbers sleeping rough, particularly in Cork and Dublin, despite the opening of extra shelter beds. What legislation or action will come from the Government to address the growing homelessness crisis?

An Ceann Comhairle: Is there promised legislation?

The Taoiseach: There is no promised legislation, although I noted the comments from the different organisations that work together to get extra accommodation for homeless persons.

Deputy Mattie McGrath: There will be more of them.

The Taoiseach: The Government will support these efforts.

An Ceann Comhairle: I ask Deputy Healy-Rae to be very brief as otherwise others will not get a chance to contribute.

Deputy Michael Healy-Rae: I will certainly be brief.

An Ceann Comhairle: There should be no preamble.

Deputy Michael Healy-Rae: Information has come to light over the past couple of days from the Office of Public Works that proves it will cost more to close Garda stations than keep

them open.

An Ceann Comhairle: What legislation are we discussing?

Deputy Michael Healy-Rae: It is a criminal justice Bill. Will the Taoiseach ask the Minister for Justice and Equality on his left if he will reverse from what he is now doing, which will end up costing the State more money-----

Deputy Mattie McGrath: Hear, hear.

Deputy Michael Healy-Rae: -----than if he kept the stations open?

An Ceann Comhairle: That is a parliamentary question.

The Taoiseach: The Garda Commissioner made these recommendations and the Minister accepted them.

Deputy Dara Calleary: The Government made the decision.

The Taoiseach: There will be a change in the way gardaí will do business, which will be to the benefit of every community. There will be more visibility, connection and contacts, with greater information.

Deputy Michael Healy-Rae: He is putting them into community centres. The man does not know what he is doing.

An Ceann Comhairle: The Deputy should be fair to other Members.

Deputy Mattie McGrath: It has been eight days since the Supreme Court handed down a judgment on the events leading up to the children's rights referendum involving misappropriation of funds and other issues. The Taoiseach indicated to Deputy Adams that he had not read the report he spoke of but this decision has been around for eight days. Will the Taoiseach comment on it? It was a shameful abuse of funds.

Deputy Alan Shatter: To what legislation is the Deputy referring?

Deputy Mattie McGrath: This relates to the children's rights referendum Bill.

Deputy Regina Doherty: That legislation has been passed.

Deputy Micheál Martin: It is a Supreme Court decision.

Deputy Mattie McGrath: It is a Supreme Court decision. The Taoiseach did not know about it when he spoke on radio as he referred to a High Court matter.

An Ceann Comhairle: That is not a matter for the Order of Business.

Deputy Mattie McGrath: It relates to the children's referendum Bill. The Government used €1.1 million.

The Taoiseach: There is a High Court case on this in January and I answered questions on it yesterday. I am precluded from saying anything that could prejudice that case.

Deputy Micheál Martin: No.

Deputy Mattie McGrath: That is not right. That is a cop-out.

An Ceann Comhairle: We are over time.

Deputy Bernard J. Durkan: On promised legislation-----

Deputy Mattie McGrath: Eight days have now passed.

Deputy Micheál Martin: The Taoiseach blamed the Attorney General first.

Deputy Mattie McGrath: It is Christmas and I want to be nice but the Taoiseach should also be nice or fair.

An Ceann Comhairle: This is the Order of Business. I call Deputy Durkan and ask him to refer to promised legislation.

(Interruptions).

Deputy Bernard J. Durkan: I am trying to raise promised legislation.

An Ceann Comhairle: We are over time. I ask Deputies to allow the speaker to continue. I am trying to be helpful but if the House does not co-operate, I will conclude the Order of Business. I ask Deputy Durkan not to give a preamble.

Deputy Bernard J. Durkan: The companies (miscellaneous provisions) Bill and criminal justice (proceeds of crime) Bill are listed as promised legislation.

An Ceann Comhairle: I know that.

Deputy Bernard J. Durkan: In view of comments made by the outgoing Director of Corporate Enforcement last year and again last week, is it intended to address the weaknesses he identified in the system given that they are an obstacle to bringing before the courts those who may have matters to answer for?

An Ceann Comhairle: The Deputy may not discuss the contents of legislation.

Deputy Bernard J. Durkan: Will the two Bills be brought to the House at the earliest possible date to address this specific issue?

An Ceann Comhairle: When are the Bills due?

The Taoiseach: While I do not have a definite date for the Deputy, I can confirm that discussions are taking place with the Criminal Assets Bureau in respect of the criminal justice (proceeds of crime) Bill. However, a great deal of work remains to be done both on that legislation and the companies (miscellaneous provisions) Bill.

Deputy Michael McNamara: When will legislation be introduced to give courts discretion to refuse to permit banks to repossess family homes when the banks in question have unreasonably refused offers-----

An Ceann Comhairle: To which legislation is the Deputy referring?

Deputy Michael McNamara: I am referring to the promise to introduce legislation in the latest update of the memorandum of understanding with the troika.

Deputy Billy Kelleher: The Deputy should not mind such promises.

An Ceann Comhairle: To which Bill is he referring?

Deputy Michael McNamara: Paragraph 33 of the memorandum of understanding provides-----

An Ceann Comhairle: I do not have the memorandum of understanding.

Deputy Michael McNamara: -----that the authorities will introduce legislation remedying the issues identified by case law in the 2009 Land and Conveyancing Law Reform Act, so as to remove unintended constraints on banks to realise the value of loan collateral under certain circumstances. In other words, a promise has been made to legislate for the repossession of family homes.

The Taoiseach: This will be done after the insolvency service has been set up arising from the Dunne case. Appropriate legislation will be put in place that will recognise a right the banks have always enjoyed when contracts for lending are set out. It will be done after the first insolvency service has been set up to provide clarity in respect of something that is already in existence.

Deputy Billy Kelleher: It will provide for evictions.

Deputy Michael McNamara: Will the legislation provide rights for owners of family homes who are trying to restructure their loans?

An Ceann Comhairle: We are not having a discussion on the matter.

Deputy Billy Kelleher: Coming from Mayo, the Taoiseach will know all about evictions.

Deputy Thomas P. Broughan: What is the status of the Health Service Executive (Governance) Bill? As a result of the rí-rá in the Chamber yesterday, I did not hear the Taoiseach's answer to a question on Priory Hall. Does he expect Mr. Justice Finnegan to report early in the new year?

The Taoiseach: The Bill has been passed by the Seanad and we are waiting for it.

Deputy Thomas P. Broughan: It was passed in the Seanad three months ago.

The Taoiseach: As the Deputy is aware, we have a packed agenda. In regard to Priory Hall, the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, has been awaiting developments on the issue. Progress has been made and I hope the matter will be resolved in due course. I feel for those who have been out of their homes and apartments for some time now.

Deputy Noel Grealish: The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, recently issued a directive to all post-primary schools and local authorities requiring them to buy from one supplier. This requirement is causing considerable hardship to small businesses and will result in the loss of eight jobs in Galway alone.

An Ceann Comhairle: To which legislation is the Deputy referring?

Deputy Noel Grealish: I am referring to the consumer and competition Bill.

The Taoiseach: Is the Deputy referring to schools?

Deputy Noel Grealish: Yes, the Minister for Public Expenditure and Reform issued a directive to all post-primary schools requiring them to purchase all stationery supplies from one supplier by April 2013. This directive will cost many jobs and will achieve minimal savings.

The Taoiseach: A pilot scheme is being done in regard to savings in schools, whereby if they procure their requirements from-----

Deputy Noel Grealish: Little savings will be made.

The Taoiseach: It was not the case that schools were being mandated to buy from a particular supplier. The Minister of State, Deputy Brian Hayes, has done substantial work on the concept of public procurement which offers the potential to make significant savings. The Bill in question is being progressed.

Deputy Willie O'Dea: It is anti-competitive.

Deputy Noel Grealish: Eight jobs are being lost in Galway.

Deputy Mary Lou McDonald: The survivors of the Magdalene laundries were excluded from institutional redress schemes and have not received an apology from the State or a recognition of the abuse visited on them. When will the House have sight of the interdepartmental report on the Magdalene laundries? Will the Taoiseach assure Deputies that time will be provided for the Dáil to debate the report early in the new year?

The Taoiseach: Senator Martin McAleese has indicated that the report will be available for the end of the year. While only a short period is left, I spoke to the Senator some time ago and he is confident the date will be met.

Deputy Richard Boyd Barrett: The sale by Coillte this week of 1,000 acres of public land, bringing to 40,000 the number of acres of public forestry sold by the company in the past 20 years or thereabouts, indicates that our forest heritage is being sold from under our feet. I have asked repeatedly, in this context and in the context of the Government's stated commitment to sell off the harvesting rights of Coillte, when the forestry Bill will come before the House in order that Deputies can discuss in public what is happening to State forestry.

The Taoiseach: Two issues arise. The Government has considered the sale of timber from forestry lands as potentially a sale of a State asset. I refer to the timber rather than the land. The forestry Bill, which was due to come before the House in this session, will not be taken before the session ends. It will be taken early in the new session next year.

European Council Brussels: Statements

The Taoiseach: I am pleased to brief the House on the outcome of last week's European Council meeting in Brussels on 13 and 14 December. This was the final Council meeting before Ireland's Presidency begins in less than two weeks. The meeting focused on economic policy but also covered common security and defence, enlargement and foreign affairs. I am happy to report that progress was made on all issues, in particular, on economic and monetary union and

delivering the commitments agreed by the Council last June.

The meeting began on Thursday evening with the usual engagement with the President of the European Parliament, Martin Schulz, MEP. Mr. Schulz made a call on leaders to improve democratic accountability within EU decision making, making the reasonable point that many would struggle to explain the full range of measures deployed in response to the eurozone crisis to an ordinary person in the street. As we in Ireland know very well, this is a vitally important question. Issues debated at EU meetings, including the European Council, are complex but we need to factor in the legitimacy that can only come through public engagement and understanding.

Improving the perception of the European Union and eurozone will be an important aspect of Ireland's Presidency and 2013, including through the discussion that will take place at the informal meeting of Ministers for European Affairs which will be held in Dublin in January. As Deputies are aware, next year is also the European Union year of the citizen. We will engage closely with the European institutions in making this a meaningful exercise. None of us can take our electorates for granted.

As I stated last week when I briefed the House, progress on banking union, especially the single supervisor, was of pressing urgency not only for Ireland but for the euro area as a whole. The breakthrough agreement by EU Finance Ministers, including the Minister for Finance, Deputy Noonan, in the small hours of Thursday morning was, therefore, particularly welcome. They agreed and set out an ambitious timetable for the next elements of banking union and a framework for the single supervisory mechanism, SSM. The agreement provides for a differentiated approach to supervision depending on the size and significance of the banks concerned. It provides for equal treatment for euro area and non-euro area member states to allow banking union to be attractive to all 27 member states and protect the Single Market. While smaller institutions will not automatically come under the direct supervision of the European Central Bank, the ECB will remain responsible and will be able to step in to supervise these institutions.

The European Council built upon this by setting a deadline for the operational framework for the single supervisory mechanism, to be agreed as soon as possible in the first semester of 2013. This process will include giving a definition to what is meant by "legacy assets". It was also made completely clear that this process would ultimately allow the European Stability Mechanism, ESM, to recapitalise banks directly. The specifics remain to be considered, but this is clearly an important development of our consistent position over the course of this year.

The deal on a single supervisor means we can now move on with the next elements of banking union, which include the harmonisation of national recovery and deposit guarantee schemes. For these measures the European Council confirmed an ambitious timetable, with the Council to agree in March and co-legislators to agree by the end of June. Ensuring these deadlines are met will be a key task for our Presidency.

It was agreed that, after a single supervisor mechanism, SSM, is in place, the next logical step is the creation of a single resolution mechanism, SRM. On this, the Commission has been asked to submit a proposal next year with the aim of it being adopted before the European Parliament elections in 2014. The mechanism is to be based on contributions by the financial sector and will feature effective back-stop arrangements. Taxpayers will not carry the cost. It will have the necessary powers to ensure a resolution for any bank in participating member states.

In keeping with our clear and consistent position, the European Council also agreed that the immediate priority was to complete and implement the measures that had been agreed, including the six pack, the stability treaty and the two pack, alongside adopting the SSM and other related banking legislation. In particular, it called for the Council and the Parliament to ensure the two pack was rapidly adopted.

Last week's European Council meeting also made important progress on mapping out the way ahead on economic and monetary union, EMU. I set out the background to the discussion of this issue in the pre-Council statement of last week, in particular highlighting President Van Rompuy's report, the blueprint by the European Commission and the draft European Council conclusions, which at that stage included a sequence of structured steps for the strengthening of EMU.

The outcome of last week's meeting mainly focuses on the short to medium term and ties in directly to Irish interests and concerns. In his report to the meeting, President Van Rompuy set out an ambitious programme for developing EMU that extended beyond the European Parliament elections in 2014. It fuelled an important and interesting discussion on what is one of the most pressing issues facing the Union. Deepening economic and monetary union is necessary if we are to underpin the euro as a stable and credible currency, which the Government strongly supports as a vital national and European interest.

However, as I said to the House last week, it was clear to me that there were elements in President Van Rompuy's report that required greater explanation and elaboration. These issues were at the heart of what was discussed last week, where my assessment was widely shared, and it was agreed that further work was required in the period ahead before we would be in position to take concrete decisions on the way forward. This was especially true of the possible creation of agreements of a contractual nature with member states and of solidarity mechanisms for the eurozone.

Following our discussion, therefore, President Van Rompuy will now consider and consult further, and will present a time-bound roadmap on the following four issues to the June 2013 European Council: co-ordination of major economic reforms in the member states; the social dimension of EMU; the feasibility and modalities of contracts for competitiveness and growth between governments and EU institutions; and solidarity mechanisms to enhance the efforts made by states that enter into these arrangements.

On the first of these, co-ordination of economic reforms, the Commission is to bring forward a proposal in the context of the European semester, building on Article 11 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union. Clearly, new steps towards strengthening economic governance need to be accompanied by stronger legitimacy and accountability. I will be pressing to ensure the involvement of European and national parliaments in this matter.

We also agreed that, to improve governance within the euro area and building on the provisions of the stability treaty, the Heads of State or Government of the euro area will adopt rules of procedure for euro summit meetings in March of next year.

To help shape the ongoing work in the immediate period ahead, the European Council welcomed the annual growth survey recently published by the Commission, which launches the 2013 European semester process. Ensuring this is handled efficiently and effectively will be

a key priority for our Presidency. The growth survey will now be considered in the various relevant Council formations, with a view to the Council providing its views to the March 2013 meeting of the European Council, which will agree on the guidance to be given to member states on the preparation of their stability and convergence and national reform programmes. We also asked the Commission to include an assessment of labour and product market performance in its next annual growth survey with a view to promoting growth and jobs.

The European Council also gave close consideration to completion of the Single Market, which is a key priority for the Irish Presidency. Last week's conclusions called on the Council and Parliament to conclude the remaining Single Market Act I files as a matter of urgency, in particular those on professional qualifications, public procurement, posting of workers and e-signatures. These are complex issues. They also called on the Commission to present all key Single Market Act II proposals by spring 2013 and for the Council and Parliament to assign them the highest priority.

As President, Ireland will prioritise these Single Market and digital single market actions. The untapped potential of the EU's Single Market has an important contribution to make to delivering jobs and a growth agenda. We will work very hard to advance this agenda.

The European Council also called for consideration of the Commission's recent youth employment package, including early adoption of the recommendations on the youth guarantee schemes. This is also a priority objective for the Irish Presidency. It clearly matters to the young people of Europe, in particular young Irish, who are unemployed. We will aim to make significant progress with a view to adopting the recommendations at the Employment, Social Policy, Health and Consumer Affairs Council, EPSCO, on 28 February next. Youth unemployment will also be the main focus of the informal meeting of EPSCO Ministers taking place in Dublin earlier that month.

On enlargement, the European Council made good progress and welcomed and endorsed the conclusions agreed at the General Affairs Council last week. These will shape the enlargement agenda over the six months of Ireland's Presidency and it is likely we will have to consider such issues as granting candidate status to Albania and opening negotiations with Serbia and possibly Macedonia.

We welcome the reference in the conclusions to regaining the momentum in the accession negotiations with Turkey, where we would hope to progress over the next six months. We also intend to advance the accession negotiations with Iceland and Montenegro, and will oversee consideration of the final monitoring report on Croatia's preparations for accession. In this regard, we look forward to welcoming Croatia as the 28th member of the Union on 1 July.

The European Council adopted conclusions on the common security and defence policy, CSDP, which includes CSDP missions and capabilities, and preparations for a discussion on defence issues at the European Council in December 2013. The European Council tasked the High Representative and relevant EU bodies to develop further proposals and actions aimed at strengthening CSDP and improving the availability of civilian and military capabilities and to report on these initiatives by September 2013. The issues to be covered in the report will include increasing the effectiveness, visibility and impact of CSDP, enhancing the development of defence capabilities, and strengthening Europe's defence industry.

We also discussed the deteriorating situation in Syria and the ways in which the EU could

try to end the current violence and hasten the emergence of a negotiated solution. The Council reiterated very strongly its view that only a political solution could end the current nightmare for the Syrian people. It also restated that Assad had no place in a new, democratic Syria where human rights and the rights of all minorities should be both promoted and protected.

The Council considered the outcome of the most recent meeting of the Friends of Syria, which took place in Marrakesh on 12 December and at which Ireland was represented by the Minister of State, Deputy Costello. The Marrakesh meetings allowed many participants to meet the leadership of the new Syrian opposition coalition, and the Minister of State extended an invitation to the chairperson of the coalition to meet the Tánaiste to develop our contacts with the new body further and to explore how Ireland and the EU could best be of support.

The issue of recognition of the Syrian opposition coalition was also addressed at the Council. Ireland remains firmly of the view, in line with the clear majority of EU partners, that it would be premature at this stage to go beyond the limited recognition afforded to the Syrian opposition council at the Foreign Affairs Council meeting of 10 December. Our view is that it has still some work to do in terms of building up structures and satisfying us that it is fully representative, inclusive and democratic. This view was ultimately reflected in the conclusions agreed by the European Council last Friday.

Last week's Council outcome was a good and positive one, both from an Irish and European perspective. It represents progress on a number of key issues that will guide our work as Presidency in the first half of next year. It was one of the few Council meetings I attended where there was a sense of optimism and, indeed, achievement that dates and timelines were met and fulfilled in putting together the agreement for the legal framework for the single supervisory mechanism. That was an indication of leaders' refocused views. It is important that when decisions are made they are followed through and seen to be followed through. I look forward to keeping the House updated on the vitally important work that lies ahead.

Deputy Micheál Martin: No matter how the Taoiseach talks up the outcome of last week's summit, it is a fact that no significant step forward was actually delivered. At the end of a fourth year of economic crisis, the leaders of Europe have decided once again to take the path of complacency. Following the decisive action of the ECB in the middle of the year the leaders have used it as an excuse to water down and delay every significant element of the programme which Europe needs for jobs and recovery.

This summit did not deliver a banking union. It merely agreed to joint supervision of less than 2% of eurozone banks and kicked other vital reforms down the road. It did not deliver measures to reform the deep flaws in the foundations of the euro, but took all ambitious reforms off the table and fudged what is left for at least two years. The summit did not deliver any actions to help the more than 20 million Europeans who are unemployed. It simply repeated empty phrases. It did not do anything to address the increasing disunion between member states. It ignored the issue. Yesterday, the British Prime Minister said, for the first time, that he could imagine his country leaving the European Union. It is a very significant statement and has huge implications for Europe and this country. Many commentators have concluded have concluded that this summit was the time when the leaders of Europe signalled that they will make no major move until, once again, an emergency develops.

With regard to Ireland's contribution, yet again no attempt was made to speak up on behalf of vital reforms, and the policy remains one of hoping that something turn will up. This remains

one of the only governments in Europe which has failed to detail its views on the specific actions required to secure recovery in Europe. From the first time this Dáil discussed European matters after the general election, I and my party have taken a very consistent and constructive line. We believe that a reformed Europe is a vital foundation for sustainable growth and job creation. We reject the empty rhetoric of those who attack Europe as a conspiracy or an all-powerful dictator. In fact, we have argued that Europe has been too timid. It has tried to tackle an unprecedented crisis with minor incremental changes, always seeking to do as little as possible rather than everything that is required.

I remain the only party leader in this House to set out in detail specific proposals capable of addressing the worst flaws in the euro and allowing the EU to take the lead in helping countries such as Ireland to tackle unemployment. Ours was the first party to demand that we protect the democratic legitimacy of Ireland's relationship with the European Union by having a referendum on the fiscal treaty. At our Ard-Fheis and in the referendum Fianna Fáil refused to take the opportunistic route and campaigned on the basis of the treaty being just the first of many required steps. Nobody can question that we have been constructive and that we have put the long-term national interest ahead of short-term politics.

I am sorry that it is becoming increasingly clear that this Government has not developed, and is not interested in developing, a real strategy on Europe. Everything it does appears to be based on maximising the credit which can be claimed rather than pursuing a clear set of goals. In recent weeks, tensions within the Government and fear of the people have started to impact on European matters, particularly the core issue of bank-related debt. Since the budget there has been an almost frantic effort by the Government, especially Labour Party Ministers, to show that there is something happening buried deep beneath the broken promises, falling growth targets and rising disillusionment. Both the Minister for Communications, Energy and Natural Resources, Deputy Pat Rabbitte, and the Tánaiste have decided that pretending that the Labour Party is the saviour of the nation on the promissory note is the only route to redemption. This has even gone so far as to prompt the Minister for Finance, Deputy Michael Noonan, to lose his temper and tell a colleague to butt out of things which are not his concern. On Monday, the Tánaiste broke three decades of precedent when he told the Irish media that he would use the Presidency of the Council to secure one of Ireland's main demands. He said this in spite of the facts that he has not attended a single negotiating meeting with the European Central Bank and that the ECB is not subject to decisions of the European Council.

A budget has been pushed through the Dáil which has rightly been condemned by most of the public and some Government backbenchers because of its entirely avoidable targeting of the most vulnerable in society. What has been less commented upon is the fact that the budget figures are highly unlikely to be achieved. The budget figures can only be achieved if major unspecified savings are imposed by a range of Ministers. As we saw this year, claims about an iron hand guiding spending were completely untrue and nothing has been changed to ensure that next year is better. Yesterday it was announced that GNP, which is the most important measure of national income in this country, is falling. This is due directly to the major damage done to domestic confidence by Government decisions. Other than trying to follow fiscal targets set out in October 2010, there is no strategy to tackle any problem which has grown in the last two years. Domestic confidence cannot recover as long as the Government puts all of its effort into talking about recovery rather than taking concrete steps to achieve it.

The mortgage and household debt crisis has been allowed to keep growing with no credible response. Investment plans have been published which actually cut investment, with all

proposals for funding a job-creating stimulus rejected. It is highly unlikely that the figures announced in the budget will be achieved. No major initiative is under way to deliver the spending commitments, and the tax plans will not deliver the claimed revenue. This is especially true of the family home tax.

Deputy Dara Murphy: The Deputy said that last year as well and he was wrong.

Deputy Micheál Martin: I was not. There was a Supplementary Estimate of €1 billion-----

Deputy Dara Murphy: There was more growth in the economy and more jobs.

Deputy Micheál Martin: -----that was rushed through the Dáil without debate.

An Ceann Comhairle: Deputy Martin without interruption.

Deputy Micheál Martin: I am entirely correct.

All that is left is the hope that Europe will again turn up with something which will make up for the failures in budget planning.

As I have said previously, I believe there will be a deal in respect of the promissory note. The justice of the Irish case demands an outcome which would lengthen the term and reduce the rate to halve the impact of repayments on the Irish deficit across a few decades. The case for Ireland has been repeatedly hampered by the refusal of the Government to put aside domestic politics. However the Taoiseach summed up our case well in Paris last October. He has not repeated this line since then, so perhaps it was an accidental slip on his part. Certainly, it was an unusually non-partisan point for him to make. He said: "Ireland was the first and only country which had a European position imposed upon it in the sense that there wasn't the opportunity, if the government so wished, to do it their way by burning bondholders".

Any deal which replicates the handling of the repayment made in January this year would be deeply unfair and cause serious economic damage. While the Tánaiste and the Minister for Communications Energy and Natural Resources, Deputy Pat Rabbitte, appear to believe we did not pay the promissory note in March, we paid it and received a "thank you" note from the ECB. The national debt continued to reflect the full value of the promissory notes but the interest paid out of current funding increased very significantly as a result of that deal. Millions of euro extra were incurred as a result. This muddling through will have to end and it should end in the next three months, yet so far the Government has refused to publish even a single sheet of paper setting out what it is seeking. No technical papers have been provided and no details supplied. All we can be sure of, no matter what happens, is that the claims of Ministers cannot be taken at face value.

Since the rotating Presidency of the Council was created 40 years ago, it has been an absolute principle that the holder does not promote its unique national concerns. This Presidency will be significantly less influential than in the past because the Taoiseach will not lead the Council. The principle, however, will remain the same. Ireland is fortunate to have an excellent group of diplomats working on European issues in Brussels, Dublin and throughout our network of embassies. They are ably assisted by public servants in the various Departments who carry a heavy load of EU-related work. I have no doubt they will ensure that the Presidency is carried out to their usual, incredibly high standards of professionalism and effectiveness.

What is unhelpful, however, is when members of the Government seek to grandstand at

home in an attempt to impress people with sabre-rattling about using the Presidency to secure Ireland's goal. I agree with the Minister of State, Deputy Lucinda Creighton, that Ireland being asked to chair the Organisation for Security and Co-operation in Europe was a mark of the high esteem in which we are held by European colleagues. Of course, it is never acknowledged that this invitation issued a year before the Government took up office, yet another sign of the growing party politicisation of this area by Members opposite. In fact, I was Minister for Foreign Affairs when we were approached with a view to taking the chair of the OSCE, not only by fellow EU member states but by countries throughout the globe. The Taoiseach should instruct his Ministers to stop the empty grandstanding in the media. It has already caused us problems, with the German Government expressing displeasure at Dublin consistently over-spinning deals.

The summit deal in regard to the issue of banking union is a cause for major concern. Banking union has always encompassed three fundamental elements, namely, a single supervisory mechanism, a common system of guaranteeing deposits and a common system for closing down failed banks. All that has been agreed so far, however, is an incomplete supervisory mechanism, the operation of which is yet to be decided. Moreover, the new supervisory system will include only extremely large banks, meaning that fewer than 2% of the eurozone's banks will be covered. Certain leaders have pointed out that the new supervisor will be able to step in when banks get into trouble, an incredible observation given that the entire point of supervision is to prevent trouble in the first place. It also ignores the reality, as we know all too well from the experience at Anglo Irish Bank, that it is smaller, rapidly growing banks that nearly always cause the trouble. The €30 billion assets limit will become a target to be worked around by creative financial management. It amounts to a foolish capitulation of the principle that was supposed to have been agreed in June.

The resolution and deposit guarantee issues have been kicked down the road as a result of this summit and there is no sign whatsoever of a growing consensus. As one commentator pointed out on Sunday, the decision to exclude 98% of banks from direct supervision may have already scuppered the other elements of the banking union. This particular observer wrote, "If there are hardly any German banks in this new system, why should one expect Berlin to take part in a resolution system?" Europe's leaders left the summit patting themselves on the back for what they had agreed – we have had more of the same from the Taoiseach today – but, in reality, they may have fatally undermined a vital element in the effort to restore Europe's financial system.

If it were not for the President of the European Central Bank, Mr. Mario Draghi, there is no doubt that 2012 would have turned out to be the most destructive year in the Union's history. He deserves our gratitude for his intervention to prevent a potential economic meltdown. By stretching the ECB's remit to its very limit and facing down fundamentalist opponents, he did the citizens of Europe a great service. There is more he should have done, but his work in 2012 deserves our praise. By contrast, the political leaders of Europe have actually used his work to step back from taking urgent decisions. Even though an imminent collapse was avoided, so too were major forward steps avoided. This summit postponed every single major reform proposal for the future of economic and monetary union. Twelve months ago we were supposed to be committed to urgent, time-bound and radical action. As of last Friday, all radical actions have been removed from the agenda, there is no urgency and agreement is targeted for some indefinite time after the formation of the next Commission in late 2014.

This is not the leadership the people of Europe deserve. This is a clear betrayal - I recognise this is a strong description - of the spirit which built the EU and earned it the right to receive the

Nobel peace prize. The leaders who attended to receive that award should be dissatisfied with their performance and should reflect on their behaviour in the past two years. They have presided over a collapse in public confidence in the European Union. They have engaged in selfish agendas and shown no ambition or ability to show consistent leadership. There must be no repetition of these failings in 2013. There should instead be a determined effort both to tackle fully the urgent economic issues and put in place a real framework for sustainable growth. A first step in this regard would be for all leaders to be open and honest in setting out their own proposals and ending the practice, which is now out of control in this Government, of caring only about the public relations strategy.

In regard to the foreign affairs agenda, I asked in advance of the summit last week that the Taoiseach raise the issue of the Israeli settlement policy as recently articulated, which has seen a major expansion of disputed settlements, and press for this activity to be condemned. I am disappointed that there was no reference to this in the Taoiseach's statement. These provocative actions could further delay the achievement of a peaceful two-state solution.

In conclusion, this was a complacent summit which may prove in time to have caused considerable long-term damage to the prospects of the Union.

Deputy Gerry Adams: I propose to share time with Deputy Seán Crowe.

Acting Chairman (Deputy Tom Hayes): That is agreed.

Deputy Gerry Adams: Sinn Féin profoundly disagrees with the Government's attitude to the European Union and its failure to stand up for Irish interests. Sinn Féin wants to see a Union of equals, a social Union embedded in citizens' rights as opposed to a two-tier Union with the larger states in the ascendancy and the Irish Government acquiescing to their wishes. Having said that, I wish the Taoiseach well as the Government prepares to assume the Presidency in the new year. I am sure he sees it as an honour and I wish him well in his endeavours.

The latest European Council summit repeated the pattern of previous summits of broken promises and pledges, somewhat like the pre-election promises of Fine Gael and the Labour Party. The crisis in the EU is repeatedly kicked down the road as Governments fail to agree on the best way forward. Last week's meeting, which followed on the failure of member states to agree a new seven-year budget in November, was supposed to see substantive progress on reforming the euro regime and the banking system. However, the roadmap devised by the President of the Council, Mr. Herman Van Rompuy, ran into a roadblock and he was sent off with a "could do better" report card.

President Van Rompuy's roadmap was supposed to set out the way forward for the reduction of national fiscal and economic sovereignty in the interests of deeper economic and monetary union. Sinn Féin is opposed to fiscal union. Claims from certain quarters at last week's summit that the worst is behind us quickly came undone when the German Chancellor rubbished that view. Ms Merkel claimed that the EU faces at least another two difficult years involving high levels of unemployment and slow growth. It is clear that the German Government, which faces an election in September, has put German interests first. In these circumstances, should we be surprised that the Government is still no closer to the elusive deal on Ireland's bank debt which the Taoiseach claimed to have achieved in June? As this process continues to be strung out, our country's debt is heading for more than 120% of GDP, an entirely unsustainable level. At the same time and despite all the conflicting bluster from Ministers, there is still no sign of a deal

on the promissory note or the long awaited technical paper. I expect that a deal will indeed be cobbled together, but it will simply serve to push the problem up the road. The notion that we will not be asked to pay this debt is a figment of the Minister, Deputy Pat Rabbitte's, imagination. Last week's European Council summit agreed to the establishment of a single supervisory mechanism and a single resolution mechanism for European banks. Sinn Féin supports the strongest possible regulation of banks and banking at domestic and European level. The light touch regulation of the Fianna Fáil Government was clearly one of the major contributory factors of the banking crisis and the meltdown in the Irish economy. However, Sinn Féin has serious concerns about giving more power to an unelected and unaccountable body like the ECB. It contributed to the crisis through its low interest rate policy, which flooded Irish banks with cheap money and cheap credit. The ECB pushed Ireland into a bailout in 2010 and also appears to be one of the main obstacles to a deal on Ireland's debt. Commentators have been rightly critical of the failure of the Irish banking regulators to regulate properly the banking sector. Can we have confidence the ECB is fit for purpose before these institutions are given increased powers? Just because regulation failed in this State does not necessarily mean the answer is to hand over regulation to the ECB. The ECB has not shown itself to have any special insight when it comes to running itself or contributing to the banking debate. The ECB wants all the rights but none of the responsibilities when it comes to the banks. It centralises control and supervision over banks, some of which have been nationalised, but refuses to provide a backstop for the euro or to capitalise the banks centrally. Sinn Féin has called for the ECB to be a lender of last resort for the euro; however, that is not on offer. Focusing solely on problems associated with monetary reform of the euro will not solve the crisis. Bank debt must be written down and a growth strategy for the EU must be pursued.

In this context I want to comment on Ireland's forthcoming Presidency of the Council of the EU. On Monday, the Tánaiste outlined the priorities for the Presidency, which he said would be stability, jobs and growth. These are fine words but none of this has been delivered by the Government after 20 months in office. The six-month Presidency offers an opportunity for the State to show leadership at European level. It is an opportunity to move away from austerity towards a more socially inclusive EU and an opportunity to heal the disastrous social consequences of the austerity policies pursued by this and other EU Governments. Many important decisions will have to be made under Ireland's watch, including the signing off on the EU's seven year budget or the multi-annual financial framework. The Government should be arguing for a budget that will create jobs, retain jobs and invest in jobs. How can the EU be taken seriously when it talks about stimulus while at the same time looking at cutting, or at least not increasing, its budget? The Taoiseach needs to argue for an alternative approach, including a well-funded and fair CAP that prioritises working farmers. I urge the Government to ensure that, under its Presidency, a new PEACE programme is secured so the good work to date of the PEACE programmes is not squandered.

I welcome the Taoiseach's commitment to an all-Ireland element to the Presidency. I understand Government officials have liaised with officials from the Executive in the North, which is a good thing. Co-operation with the northern Executive is particularly important on issues like CAP and the PEACE programme

. Sinn Féin has consistently argued that the Government should take a sterner line in negotiations with our EU colleagues on debt. We should be frank with them, which means telling them our debt is not sustainable, that we cannot pay it and that we need action to alleviate the burden on our citizens to give our economy a fighting chance of recovery.

During pre-summit statements last week, I asked the Taoiseach to raise the case of Mr. Pat Finucane, either formally or informally, in light of the publication of the de Silva review. I am disappointed the Taoiseach made no mention of it in a statement. I also asked him to raise illegal actions by the Israeli Government following the welcome ceasefires between the Israeli Government and the Palestinians. I am also disappointed there is no mention of this in the statement.

The Taoiseach: I raised it with the Prime Minister, Mr. David Cameron.

Deputy Seán Crowe: It is good to hear the Irish Presidency will focus on youth unemployment. Like everyone, across all parties and none, we want to see this acted on and delivered during the six months of Ireland's Presidency. We know some countries in the European Union have introduced measures that have kept youth unemployment at a low level. Countries like Ireland, with and unacceptably high level of youth unemployment, need to look seriously at many of the credible and viable initiatives and adapt them to our local needs and conditions.

Earlier this month, the EU Commission launched its action plan on youth jobs. Young people across Europe were waiting and hoping that something concrete would emerge or that new thinking would gain traction. The plan is welcome but it is weak and, crucially, it does not commit to any new funding to tackle youth unemployment as a problem that needs its own focus. Youth unemployment is running at 30% in this State and is as high as 49% in Donegal. In Dublin South-West, my constituency, it is 40% but some estates in Tallaght have rates far above that. If we could factor in the young people who have left because of the lack of work, the figure would increase dramatically. In the recent budget, one element created a push factor by reducing the time people are eligible for jobseeker's benefit. We hope progress can be made on youth unemployment during the next six months but people are not holding their breath with the Commission's weak and vague plan.

My suggestion is that there is nothing stopping the launch of a young entrepreneurs fund during the Irish Presidency. Is there any difficulty in doing so? It could be funded by the European Investment Bank and, in view of the crisis in youth unemployment, if the fund is too low nothing stops member states increasing their subscription to the EIB for such a fund. That is a positive suggestion. We should do something concrete during the Presidency. The Taoiseach referred to the employment, social policy, health and consumer affairs, EPSCO, meeting taking place during February, with youth unemployment the main focus. We need to move beyond that and put something concrete in place. From listening to the Tánaiste, there is common agreement that this is the crisis facing us. I suggest putting something in place. There is a view that this is falling on the shoulders of the Irish Presidency but I would like to think we are genuine in moving it forward.

The adaption of the funding arrangement could also be looked at in view of the crisis with the 50:50 requirement being altered to a more realistic 75:25 for youth jobs in disadvantaged communities and regions. The bank recapitalisation could call on something like €700 billion from the European Stability Mechanism. Surely we can come up with some realistic proposal emerging during the Presidency for such a project considering there is so much common agreement across Europe.

The Taoiseach also mentioned the Common Security and Defence Policy. The conclusions of the European Council summit make large references to the European Common Security and Defence Policy. It states that in today's changing world the EU "is called upon to assume in-

creased responsibilities in the maintenance of international peace and security...and the promotion of its interests". Who is calling on the EU in this regard? Should it not read that the EU wants to assume greater international powers to promote its own interests? I refer to free trade agreements with countries that have abysmal human rights records. Colombia, for example, is the most dangerous place in the world for trade unions.

The conclusions also outline how the further development of Europe's military capabilities will increase employment and growth. Future employment and growth will not come from the militarisation of the EU. Member states should be reducing the amount they spend on militarisation and wars and invest in disadvantaged communities alongside viable stimulus packages to create sustainable growth and employment. Where will the products of further militarisation go? Will they go to Israel, Syria or Libya? We should focus on growth and employment plans and not on an industry that profits from death and destruction, particularly in areas around the world that are underdeveloped and disadvantaged.

It is mentioned in paragraph 34 of the conclusions of the summit that the European Council agrees to increase, enhance and strengthen Europe's common security and defence policy. It speaks of conflict prevention and crisis but also of increasing Europe's military technology and research. Is it not reasonable to ask how increased militarisation of the EU ensures conflict prevention? Only six member states are not members of NATO, so how can the EU speak of its high regard for conflict prevention? The EU seems not to be aware that many countries, like Ireland, are neutral.

We need only look at the recent conflicts in Iraq, Afghanistan, and at what might happen as more EU NATO countries back the opposition in Syria, to see how committed to conflict prevention these states are. In fact, the whole European Council conclusions on common security and defence policy is so full double-speak that even George Orwell would be surprised.

There is also reference in the council conclusions to the situation in Syria. It states that the European Council tasks the Foreign Affairs Council to work on all options to support and help the opposition in Syria. I am concerned about these matters and I will ask questions about them later in the debate.

Acting Chairman (Deputy Tom Hayes): You will have an opportunity to do that, Deputy.

Deputy Stephen S. Donnelly: With the agreement of the House, I will share my time with Deputy Boyd Barrett. As I have only five minutes to speak, I will touch on a few issues. The first is the single supervisory mechanism which came out of the recent meeting. The logic of the mechanism goes as follows. It will lower the risk because if the ECB is in charge of the banks, we will not repeat the mistakes of the past. This is not necessarily true. It is a dangerous logic of which I hope the Taoiseach will be cognisant during our Presidency. The argument goes that if the ECB is in charge, the banks will be better regulated than they were in the past. For that to be true, the ECB must be technically proficient, but the ECB has been technically flawed in its response to the eurozone crisis, as we know. Two decisions, in particular, have hit Ireland. The first was that no European bank should be allowed fail. The second was that no senior bondholder would incur any cost to their investment. We all know the result of that for us in Ireland. Not only does the ECB act in an economically technically flawed manner. Its reactions, particularly in those two issues which have socialised private sector losses, are immoral, certainly as judged by the values of our society and of the European project.

Something potentially dangerous is happening here. An institution that has acted technically incompetently and, in an immoral way, contrary to the values of our society and of the European project is being put in charge because there is a general acceptance that it knows best. I ask the Taoiseach to be cognisant of this when he is at the helm. They do not, necessarily, know best. They have not acted well. Many of the people in the ECB were in the central banks of the eurozone that did not act correctly. If the ECB gets it wrong, and inevitably it will, it becomes a systemic problem. If an isolated error is made, in Ireland, Spain or wherever, the system can correct itself. If the ECB gets regulation wrong, and it is more than capable of getting it spectacularly wrong, the error will apply everywhere in the eurozone. I ask the Taoiseach to be very cognisant of that.

The second issue is President Schulz's concern about democratic accountability which he has raised several times. I am deeply concerned about this. I have looked in detail at the two pack, the six pack, the fiscal compact and all of these bits and pieces. They are incredibly complicated. In the Joint Committee on Finance, Public Expenditure and Reform, we struggle every week trying to get our heads around the implications. As the rules become more complex and numerous there is an inevitable ceding of democratic control by elected representatives, like the Members of this House, to technocrats. This is something of which we need to be very careful.

I was particularly concerned by some of President Von Rompuy's recommendations. The Taoiseach mentioned agreements of a contractual nature. My understanding of what President Von Rompuy is saying is that when the nation states submit their budgets to the European Council, invisible technocrats will look at them against a wide range of economic measures and the Council will then make suggestions to the nation states to correct their budgets. President Von Rompuy seems to be saying that he does not want these to be suggestions. I believe President Schulz's concerns about democratic accountability are very profound and serious.

The final issue is the promissory note, the perception of Ireland and an opportunity we may have. I believe the promissory note should not be paid. It should not be restructured, unless it is to repay a euro a year for 30 billion years, or something. It should not be restructured. We should not pay it. I am not in charge, however, so that is just my opinion. Some of the resistance is due to a clear perception in the eurozone establishment that we are doing fine and that we can deal with it.

I am impressed by how the international media are reporting the Taoiseach as we come up to our Presidency. The Taoiseach is being reported as clearly saying Ireland needs a substantial deal on the banking debt, and not letting go of that. That is to be commended. My concern is that, during the Presidency, senior European politicians and technocrats will fly in, stay in the Merrion Hotel, be wined and dined in Iveagh House or Dublin Castle and fly out. My concern is what they will not see. The Taoiseach and his team must be creative and think of ways for them to see the food queues at the Capuchin centre, for example, and the impact of 435,000 people unemployed.

As the Taoiseach goes into these negotiations, I repeat my warning about the danger of limited success. There is a danger that we will get a small deal and that the Taoiseach will feel he has to take it, bring it back and claim it as success. That would be analogous to a distressed mortgage being moved to interest only. We need a very big deal. A small deal may be worse, in the short term, than a big deal.

Deputy Richard Boyd Barrett: Before I make my main points, I must correct the record. In a telling comment, Deputy Martin claimed Fianna Fáil was the first party to call for a referendum on the fiscal treaty. This is interesting, first because it is not true-----

Deputy Micheál Martin: It is true.

Deputy Richard Boyd Barrett: It is not true. Second, it indicates that even Fianna Fáil, notwithstanding its support for all the referendums, knows there are serious problems at the heart of the European project that are affecting people, and they are, amazingly, calling for a wealth tax, for which some of us have long been calling for. This reveals a growing awareness among large numbers of people in this country and across Europe that these summits are not gatherings of political leaders to secure the interests of ordinary citizens or to deal with their concerns. At these gatherings, the representatives of the political elites of Europe meet to plot how they can protect the European financial system, corporate interests and the super-wealthy of Europe and shove the costs of the economic crisis down the throats of workers, the unemployed and the least well-off. While the European elite throws out a few token mentions of youth unemployment and growth, the key watchwords that were repeated again at the most recent summit, the real priorities that are emerging from these summits, are budgetary discipline, economic co-ordination and increased competitiveness, which translates into more austerity for ordinary people that is dictated centrally by Europe, along with further attacks on the pay and conditions of ordinary workers and the welfare systems to increase competitiveness, while putting more power into the hands of the European Central Bank, the policies of which, as Deputy Donnelly outlined, have worsened the situation of the European financial crash.

To add to Deputy Donnelly's point, we bemoan the failure of the banks we bailed out to deal with the mortgage crisis, to lend to the SME sector or to behave in any way, as if they give a damn about what is happening to ordinary citizens in the economy, and the Taoiseach bemoans it, but he is moving towards giving more power to the institution that is dictating that policy to our banks. As soon as the crash hit at the end of 2008, the European Central Bank issued guidelines to the banks and to states demanding that even if banks were to be rescued with public funds, they must maintain profit maximisation as the key priority and should not be diverted into other social or macroeconomic goals. It was simple and clear. When Richie Boucher behaves like a belligerent thug at meetings of the Joint Committee on Finance, Public Expenditure and Reform, refusing to pay any attention to the interests of public representatives, it is because he is following ECB policy, which states profit maximisation is the only thing banks should care about. It is clearly the only thing they care about.

Acting Chairman (Deputy Tom Hayes): I ask the Deputy to refrain from naming people in the House.

Deputy Richard Boyd Barrett: The resulting costs are very clear in Irish society. Despite all the European of the year awards, the backslapping and hugs between leaders at these summits, the Taoiseach is delivering nothing in terms of debt relief and it is becoming increasingly clear that he is not even asking for debt write-downs.

We are getting nothing to deal with the unemployment crisis. The Government's own medium-term fiscal framework tells us that even if the budget projections work out for the next two years, unemployment will only go from the current level of 14.8% to 13% by the end of 2015. That is what the unemployed can look forward to, a 2% reduction in unemployment by the end of 2015. In other words, there will be no end to the economic crisis and in the domestic

economy growth will continue to fall. That is nothing to cheer about.

Deputy Mick Wallace: If the Taoiseach ignores the irreparable social damage austerity has caused and the destruction of our domestic economy, the test of whether austerity and structural reforms are working, according to those who manage to live out their existence in the financial bubble, is the ability of countries that have received bailouts to return to the capital markets. If this means anything, it must be that a country can borrow long-term funding from private investors at a sustainable interest rate that roughly resembles what it paid in the past. In 2005, Ireland could borrow for ten years at under 3%. Right now, it's notional ten year borrowing costs are 4.3% and may be higher in practice. If we find ourselves borrowing at rates close to double those for the stronger countries, we will continue to play catch up, falling further behind all the time. If the European Union is to take best care of all its members, there will have to be some form of debt mutualisation. The alternative will leave us permanently on the periphery.

It was interesting to read the views of leading *Financial Times* correspondent, Wolfgang Münchau on Monday, when he said at the European summit that the German Chancellor said she rejected a mutualisation of debt and hidden transfer payments. In other words, she will reject a bank resolution mechanism that does what such a policy is supposed to do, take taxpayers' money and rescue a bank. Without a real resolution mechanism, there can be no banking union either, so what happened last week was that the political process stalled in a very big way. What was agreed last week is virtually cost-free, a single supervisory mechanism for about 2% of the banks in the Eurozone and based at the ECB. The common supervisory structure will affect between 100 and 150 banks out of a total of 6,000, those with assets of more than €30 billion. The €30 billion will become a target to circumvent. The practical outcome of this agreement will be a two-tier banking system, one for large banks and one for small banks. The ECB will deal with failing banks just as the Eurogroup has been dealing with failing states. It will replace existing debt with new debt and impose conditions. Just as the eurozone will try never to allow a member to default, the ECB will never close a bank, no matter what its problems. Bank resolution becomes a euphemism for exactly the opposite. This is about the pretence of resolution, not real resolution.

That *Financial Times* commentator is well respected and he is not very impressed by what happened at the Council meeting last week. If we are to look at the *status quo* for the foreseeable future, continuing to drive down earnings and undermining the social welfare system, allowing women and children to suffer most from austerity, the brainchild of today's version of neoliberal thinking - austerity - will lead to the price being paid as a result of our adherence to the European powers being too high.

Acting Chairman (Deputy Tom Hayes): We will now move on to questions. I will take three questions at a time to allow everyone in.

Deputy Micheál Martin: On the single supervisory mechanism, would the Tánaiste accept it is a major disappointment that 98% of banks were, in essence, excluded? Does he accept the other key elements of the banking union have been undermined by this decision? A deposit guarantee scheme and a failed bank resolution mechanism have both been undermined by this decision. There is huge resistance within Europe, particularly from the German perspective, to any real banking union that has teeth and the scale to cover the 6,000 banks.

Could the Tánaiste confirm that he has not attended any meetings with the ECB on the renegotiation of the promissory note? Does he accept the basic principle that a host country does

not use the Presidency to pursue its own agenda and does he accept the European Council does not have jurisdiction over the European Central Bank? Could he explain then how Ireland, as co-chair of the Council, can influence the ECB, given the Council has no jurisdiction over the ECB in terms of the resolution of the promissory note issue? How will we use the EU Presidency to advance negotiations with the ECB?

Deputy Seán Crowe: The IMF made a statement during the week on meeting its deadlines. The subtext was that austerity is not working throughout Europe. Was there any sense of this growing reality among the European leaders at the Council meeting and were there discussions on the social cost of austerity?

The Taoiseach mentioned a meeting on Syria that took place in Marrakesh, attended by the Minister of State, Deputy Joe Costello, who suggested extending an invitation to the Syrian opposition coalition. Is there any indication the coalition will accept that invitation? Prior to the meeting there was discussion of the situation in Palestine, in particular in regard to the proposed 3,000 new settlements. Was there any discussion or agreement on that matter?

The British Prime Minister, David Cameron, has suggested Britain is considering leaving the European Union and a statement is due in January in this regard. Did this matter come up at any of the side meetings? There would be a negative impact on Ireland, especially in the Border region, given the difficulties involved.

Deputy Adams asked the Taoiseach to raise the de Silva report on the killing of Pat Finucane. Did that issue arise as part of the discussions? Was it raised with the British Prime Minister?

Deputy Eamon Gilmore: I refer first to Deputy Martin's question. It is not the case that 98% of banks are excluded from the single supervisory mechanism. The mechanism will cover the vast majority of European banks, some 90% all told, according to some estimates. The misunderstanding concerns the direct supervision by the ECB-----

Deputy Micheál Martin: That is the point.

Deputy Eamon Gilmore: There are a number of categories. Some banks have assets of more than €30 billion. There is also the agreement that the three largest banks in each member state will be covered. Some banks have assets greater than 20% of their country's GDP, while there are others in trouble. The last-named have been identified as those that will come directly under supervision.

Deputy Micheál Martin: That is only when they get into trouble. That is the point.

Deputy Eamon Gilmore: Yes, that is right.

Deputy Micheál Martin: They are only covered if they get into trouble.

Deputy Eamon Gilmore: The Deputy is missing the point. I refer to direct supervision. The supervisory mechanism will embrace the entire supervisory system of the European banks. We need to stand back from this. Initially there was a great deal of scepticism about it. First, there were those who said there would never be agreement to separate bank debt and sovereign debt or to allow for the ESM to recapitalise banks. Despite the scepticism agreement was reached in June that this would be done. Then there were those who argued there would be a pull-back from that position in October; there was not. Instead there was a commitment that the legislative framework would be put in place by the end of the year, and this has now been

agreed. The second two elements of banking union, namely, the bank resolution issues and the deposit guarantee scheme issues, are to be proceeded with in the early part of 2013. Far from undermining progress on banking union, progress is taking place. That is something we must welcome, first, from the point of view of the European banking system and, second, because of our own interest in the issue.

I refer to the discussions on the ECB. We must return again to the formula agreed in June, which was that the Eurogroup would take it forward, the situation in the Irish financial institutions would be addressed on its merits and, as has been clarified by a number of European leaders in the intervening period, this is being addressed on the basis that Ireland is a special case. The discussions with the ECB are being conducted, in the main, by the Irish Central Bank, and are being backed up by political level discussions which are taking place with the Eurogroup and ECOFIN, conducted by the Minister for Finance. At a political level they are being conducted by the Taoiseach and I. That process has been underway for some time and progress is being made. As we stated from the beginning, our objective is to get the right deal for Ireland rather than set ourselves some artificial deadlines.

Deputy Micheál Martin: Does the Tánaiste accept the Council has no jurisdiction over the ECB?

Deputy Eamon Gilmore: The ECB is separate. There is an established structure-----

Deputy Micheál Martin: Does the Tánaiste accept the point?

Deputy Eamon Gilmore: There is a structure established for the ECB.

Deputy Micheál Martin: Does the Tánaiste accept that the Council has no jurisdiction over the ECB?

Deputy Eamon Gilmore: I am not sure what is the purpose of the Deputy's question.

Deputy Micheál Martin: I just want an answer.

Deputy Eamon Gilmore: The Council agreed the way in which the Irish bank debt issue would be dealt with-----

Deputy Micheál Martin: It did not deal with it. The Tánaiste is playing politics.

Deputy Eamon Gilmore: -----which was that it would be progressed by the Eurogroup.

Deputy Micheál Martin: I asked a simple question. Does the Council have jurisdiction over the ECB? Can the Tánaiste answer "Yes" or "No"?

Deputy Eamon Gilmore: It is not about playing politics. The only person playing politics with this is the Deputy.

Deputy Micheál Martin: I only want a "Yes" or "No" answer.

Deputy Eamon Gilmore: The issue is to secure the best possible outcome for this country in terms of our banking difficulties. I do not want to go back into this again. If the Deputy invites me to play politics-----

Deputy Micheál Martin: I only want a "Yes" or "No" answer. The Tánaiste is filibuster-

ing.

Deputy Eamon Gilmore: -----I am quite happy to do so.

Acting Chairman (Deputy Tom Hayes): Please. In fairness, there are other questions to be answered.

Deputy Micheál Martin: I asked a question but the Tánaiste did not answer it.

Deputy Eamon Gilmore: The Deputy maintains an interrupting pattern.

Acting Chairman (Deputy Tom Hayes): Please, allow the Tánaiste to speak.

Deputy Micheál Martin: Will you answer the question - "Yes" or "No"?

Deputy Eamon Gilmore: I am answering the questions you asked. You asked about the discussions

Acting Chairman (Deputy Tom Hayes): Through the Chair, please.

Deputy Eamon Gilmore: Deputy Martin asked about the discussions with the ECB and I am providing him with the answer.

Deputy Micheál Martin: If only the Tánaiste would answer what I asked, namely, whether the European Council has any jurisdiction-----

Deputy Eamon Gilmore: That was not the question. I wrote down the question you asked.

Deputy Peter Mathews: Excuse me, Chair.

Acting Chairman (Deputy Tom Hayes): No.

Deputy Peter Mathews: The Tánaiste and the various leaders have had an opportunity to take up a majority of this debate. Some of us wish to ask questions.

Acting Chairman (Deputy Tom Hayes): I ask the Tánaiste to respond.

Deputy Eamon Gilmore: I answered Deputy Martin's question. I refer now to what Deputy Crowe asked about the social cost to the European economy. This cost was addressed in the conclusions of the European Council last week which state clearly that both the economic and the social dimensions are being addressed. The resolution of Europe's economic difficulties and the debate around that has moved on, very much in the direction of what is needed to generate economic growth in Europe and ensure that jobs are created there. That is why the priorities for the Irish Presidency in the first half of next year emphasise growth and jobs. We set out in our programme the way in which those issues are to be addressed, namely, by completion of the Single Market, addressing the digital single market and issues of mobility in the labour market, dealing with the banking union issue and the promotion of trade agreements. All these measures are aimed at developing an environment where jobs will be created in Europe. In addition, it is also our intention to advance the proposals for addressing youth unemployment, levels of which are far too high in Europe. That is the reason we have given a high priority to getting agreement on the youth guarantee during the course of the Irish Presidency.

I refer to Syria. As Deputy Crowe indicated, the Minister of State, Deputy Costello, suggested we should invite the new Syrian opposition coalition for discussions, and we will do that.

I met Mr. Khatib at the Foreign Affairs Council at the beginning of last week and I hope to have the opportunity to meet him here in Ireland if that can be arranged.

A very clear conclusion was reached and a very strong statement was issued on the building of settlements on the West Bank. It is our view, as stated repeatedly, that the building of the settlements on the West Bank will make a two-state solution impossible.

The Taoiseach has discussed the da Silva report with British Prime Minister, and I have discussed it with the Secretary of State for Northern Ireland and with the Deputy Prime Minister. It is a matter we expect to discuss again with them.

Deputy Richard Boyd Barrett: I have two questions.

Acting Chairman (Deputy Tom Hayes): Time is moving on. I ask the Deputy to be brief.

Deputy Richard Boyd Barrett: The Acting Chairman should not worry. I will not take as long as Deputy Martin did.

The development of the banking union and supervision of the banks by the ECB is being presented as a sort of panacea to which we should look forward. Why is that being presented as some sort of positive development when the ECB, by any reasonable assessment of what has gone on, has an enormous responsibility for the failure of the banking system and the financial system in Europe? Many of its decisions have worsened that situation and its priorities seem to be entirely at odds with the concerns of ordinary citizens. Ordinary citizens and their public representatives, at least at a public level, are saying that we need jobs economic growth and a path out of recession. The ECB's priorities are none of those things. They are about book-balancing, profit-maximisation for the banks, and insisting that public authorities should not interfere with banks when we need more interference judging by what has happened and is happening. Why is this being presented as some sort of positive development and what assurances can the Tánaiste give us that the ECB having this level of power over in the banking system will improve the situation in any way?

Approximately two weeks prior to the latest Council meeting, the biggest general strike in European history, if not in world history, took place. Much as the Government likes to blame me and certain people on the left for protest, it cannot blame this one on us. This was an unprecedented, co-ordinated, European-wide mobilisation of working people, of the less well-off of their civil society and trade union organisations saying this was not working for them. It is not dealing with unemployment or producing economic growth, but is impoverishing people and they want an end to these policies.

Acting Chairman (Deputy Tom Hayes): Deputy-----

Deputy Richard Boyd Barrett: Our unions are planning on doing something early in the new year. What can the Tánaiste say to them? Is there anything coming out of this summit that offers them anything when the Government's medium-term fiscal outlook indicates that unemployment will go from 14.8% to 13% by the end of 2015. The promise is that we will get a reduction of less than two percentage points in unemployment.

Acting Chairman (Deputy Tom Hayes): A question, please.

Deputy Richard Boyd Barrett: What does that offer us?

Acting Chairman (Deputy Tom Hayes): That is the question.

Deputy Peter Mathews: We are running short on time. I would like the Taoiseach and the Tánaiste to take particular note of the four aspects of the contribution made by Deputy Donnelly about 20 minutes ago. He mentioned the ECB and its incompetence at various stages to date. He raised the question of the adequacy of the banking union and what its purpose is. Deputy Wallace further developed the point by reference to Wolfgang Muncheou's article that what has been envisaged in the banking union could fall very far short of what is needed. We need more than the political plastering over of the situation that has happened in recent times. There have been large deluges of financial rain and the system has surcharged and then abated. It has not gone away and the fundamental engineering of the banking system with 6,000 banks in the eurozone, is still very weak and has not been addressed.

I believe I gave the Tánaiste or the Taoiseach an article on Deutsche Bank approximately two weeks ago. As admitted by very senior people within Deutsche Bank, there had been an accounting fraud at a level of up to €12 billion at the height of the financial crisis. These banking institutions are quite fragile. They have been plastering over their own fundamental engineering weaknesses. During our Presidency of the European Union in the next six months, we can and should bring these to the top of the agenda. We should be mindful of Deputy Donnelly's final point. We will be careful that all the visitors see the natural comforts of hospitality when they are here and will not be aware of the one in four households whose mortgages are in distress. They need to get tutorials about this when they are here because we will not be in a position to add weight to the argument and justify the case that we need the right dose of financial antibiotics - not a small dose that will fail and will allow the body relapse into economic underperformance. We need a big cortisone injection, which is a big write-down, as nothing less will suffice.

Acting Chairman (Deputy Tom Hayes): I ask the Tánaiste to answer the questions and perhaps give his final statement.

Deputy Eamon Gilmore: Deputy Boyd Barrett's questions get to the heart of the matter. He asked why we say that banking union is a positive and how that relates to the imperative to create jobs and get economic growth in the European economy. Deputy Martin will remember the banking crisis although of course he does not want to be reminded of it.

Deputy Micheál Martin: I certainly do.

Deputy Eamon Gilmore: At the start of the banking crisis this State took responsibility. The State gave the guarantee, took on the debts of the banks and placed those debts on the shoulders of the taxpayer. The ECB position throughout that period was that this was the way to go, that Ireland's banks' problems were problems for the Irish State and the Spanish banks' problems were problems for the Spanish state and so on. Its position was that if something went wrong with a country's banking system, that was that country's problem and it was on its own.

Deputy Peter Mathews: On the understanding that it was a liquidity crisis, which it was not.

Deputy Eamon Gilmore: That fundamental view of the banking crisis has now changed. There is a change in European policy on banking. That change is expressed in the conclusions of the June summit which clearly stated that bank debt and sovereign debt were to be separated and that Europe would proceed with the establishment of a banking union, which, once the

single supervisory mechanism was put in place, would provide for recapitalisation of banks to be done through the ESM. In other words, the problems of the banks in individual countries used to be the taxpayers' problems, whereas now the problems of banks within the eurozone system are essentially a European problem. That is why banking union is being established and why it is a positive.

How does that relate to the imperative to create jobs and growth? We need to have a functioning banking system within Europe in order to underpin economic activity and to ensure that credit is made available to businesses which create jobs and generate economic growth. The two are very much intertwined.

In respect of the points raised by Deputy Mathews, any of the contributions made here by any Deputy are listened to and taken on board. If I can follow the analogy, we have gone beyond antibiotics. The problem in the European economy and banking system is not one that can be dealt with by prescribing antibiotics.

Deputy Peter Mathews: I said cortisone.

Deputy Eamon Gilmore: Or even cortisone. This problem requires surgery and it is that surgery that is underway because that is what must be addressed the way we are doing it.

Deputy Peter Mathews: It needs a €3 trillion utilisation.

Acting Chairman (Deputy Tom Hayes): The Tánaiste, without interruption. We have gone over time.

Deputy Eamon Gilmore: It is fortunate that Ireland will assume the Presidency of the EU at the very time when the issue of banking union is coming to fruition. It gives us an opportunity to use the position we have in the Council to drive forward the process and implementation of what has already been agreed. It also gives us the opportunity to put the issues we face in respect of bank debt centre stage.

Deputy Micheál Martin: The Presidency does not do that.

Deputy Eamon Gilmore: Deputy Martin is just talking it down.

Deputy Micheál Martin: The Tánaiste is over-stating it and grandstanding for political reasons.

Acting Chairman (Deputy Tom Hayes): I ask the Deputy to allow the Tánaiste to finish as he only has one minute left.

Deputy Eamon Gilmore: Deputy Martin seems to wish that the Government would fail in this.

Deputy Micheál Martin: No, that is unfair. He is making a very unfair charge. I am not making that point.

Deputy Eamon Gilmore: This is the seventh Irish Presidency of the EU and it must be the first time the Leader of the Opposition effectively wishes that the country would not be able to deliver or that we would not be able to develop our Presidency. I am not being dishonest but Deputy Martin is constantly hectoring.

Deputy Micheál Martin: Is the Tánaiste being serious? That is an outrageous statement. I never said that. The Tánaiste should not be dishonest in the House.

Acting Chairman (Deputy Tom Hayes): The Tánaiste has the floor.

Deputy Micheál Martin: Why is the Tánaiste being so dishonest in the House? I did not say that. He did not hear my speech.

Deputy Eamon Gilmore: No.

Deputy Micheál Martin: He is being dishonest. I did not say that. He is doing his usual Labour's way, Frankfurt's way, overstating everything. I am asking him not to overstate things and grandstand. People have had enough.

Deputy Eamon Gilmore: I am not grandstanding.

Deputy Micheál Martin: It is a bit like child benefit. People have had enough. The Government says it will not do this and will do that but people do not believe it.

Deputy Eamon Gilmore: Deputy Martin came in here and said he wanted to put an end to Punch and Judy politics. If he carried on like that on the Punch and Judy stage, the children would get tired of it and go home.

Appropriation Bill 2012: Order for Second Stage

Bill entitled an Act to appropriate to the proper supply services and purposes sums granted by the Central Fund (Permanent Provisions) Act 1965, to make provision in relation to deferred surrender to the central fund of certain undischarged appropriations by reference to the capital supply services and purposes as provided for by section 91 of the Finance Act 2004 and to make provision in relation to the Financial Resolutions passed by Dáil Éireann on 5 December 2012.

Minister for Public Expenditure and Reform(Deputy Brendan Howlin): I move: "That Second Stage be taken now."

Question put and agreed to.

Appropriation Bill 2012: Second and Subsequent Stages

Acting Chairman (Deputy Tom Hayes): In accordance with the Order of the House today, I must put the following question: "That the Bill is hereby read a Second Time, that sections 1 to 4, inclusive, Schedules 1 and 2 and the Title are hereby agreed to in Committee and the Bill is, accordingly, reported to the House without amendment, that Fourth Stage is hereby completed; and the Bill is hereby passed."

Question put and agreed to.

Acting Chairman (Deputy Tom Hayes): This Bill, which is certified to be a money Bill in accordance with Article 22.2.1o of the Constitution, will be sent to the Seanad.

National Vetting Bureau (Children and Vulnerable Persons) Bill 2012: From the Seanad

The Dáil went into Committee to consider amendments from the Seanad.

Seanad Amendment No. 1:

Section 22: In page 24, between lines 40 and 41, to insert the following subsection:

"(2) The Chief Bureau Officer shall periodically report directly to the Garda Commissioner in relation to the performance and management of the functions of the Bureau.".

Seanad amendment agreed to.

Seanad Amendment No. 2:

Schedule 1: In page 29, line 20, to delete "2001." and substitute the following:

"2001,

(*g*) a reception or accommodation centre which provides residential accommodation services to applicants for asylum under contract to the Department of Justice and Equality.".

Acting Chairman (Deputy Tom Hayes): Does the Minister wish to make a statement?

Minister for Justice and Equality (Deputy Alan Shatter): There are two Seanad amendments before the House. The first deals with the chief bureau officer who is to report periodically directly to the Garda Commissioner in respect of the performance and management of the functions of the bureau. Amendment No. 1 inserts a new subsection between lines 40 and 41 on page 24. The purpose of this amendment is to make it clear in the Bill that the chief bureau officer shall report to the Garda Commissioner in respect of the performance and management of the bureau in respect of any issues arising. Section 23 of the Bill already provides that the bureau will make an annual report via the Garda Commissioner to the Minister, which will be laid before the Houses of the Oireachtas. However, the Bill should also provide that if in the course of any year, urgent issues arise which the chief bureau officer needs to bring to the Garda Commissioner's attention, he or she may do so. It is important that there is a direct reporting relationship between the chief bureau officer and the Garda Commissioner for a range of reasons. For example, if it turns out that the amount of work the bureau must undertake as a consequence of the implementation of the Bill is putting it under pressure or if there are staffing issues, it is important that this can be directly and immediately reported to the Garda Commissioner and my Department in so far as there is assistance we can give in these matters. Another example would be if some technical difficulty arose in the working of the new legislation. I would not want to go through different levels in the Garda Síochána before that was communicated to us. It is important that communications occur at speed. It is an amendment that ensures that the office can operate in a manner that is efficient and communications take place efficiently.

The second amendment deals with reception or accommodation centres which provide resi-

dential accommodation services to applicants for asylum. In retrospect, we thought that we should include those within the Bill for vetting purposes. It is worth putting on the record of the House that my Department's contracts with persons or organisations providing accommodation for asylum applicants already require that persons working in these accommodation centres be vetted. However, it is appropriate to make this requirement in law rather than relying solely on administrative arrangements. This amendment, therefore, makes it clear that the vetting of persons who work in such accommodation centres is a legal requirement.

I conclude by saying a few words about this Bill. I pay tribute to those working in what will now be referred to as the National Vetting Bureau. They do extraordinary work very efficiently. I pay tribute to the head of the bureau, Superintendent Pat Burke, who works beyond the call of duty in the hours he puts in, the very efficient way he co-ordinates the work of the bureau and in the manner in which he tries to facilitate circumstances of individuals and organisations where vetting is required at speed for some particular reason. It is important in completing the Bill that we acknowledge this work.

The enactment of the Bill is a very important marker and very important change affected by the Government. It was part of the programme for Government that this legislation be enacted. Vetting legislation which facilitated the use of soft information was promised for many years by previous Governments but was not enacted or presented to the House. Approximately ten years ago a previous Government suggested there were constitutional difficulties in progressing this legislation. My recollection is that at least two Private Members' Bill were published in this area by members of my party during this period, and ultimately the Joint Committee on the Constitutional Amendment on Children reported on this issue. In September 2008 it published a report which stated there were no constitutional difficulties, which the then Government finally accepted and it recommended to the previous Government that legislation be urgently published and enacted, but no such legislation was published during the lifetime of the previous Government.

The enactment of this legislation marks a very important step in putting in place an additional protection for children and vulnerable adults against the possibility of abuse. It seeks to ensure those who are employed in these areas either professionally or through engaging voluntarily on a regular basis are properly vetted and that the vetting now includes not merely accessing criminal convictions but goes to using appropriate soft information, but in circumstances in which the individual rights of those who may be affected are protected. They have an opportunity to know what information is being relied upon and there is an appellate structure within the framework of the legislation to ensure if information is incorrect this issue can be addressed in a fair and appropriate framework.

It is an important day that we are enacting this legislation and it is right that we acknowledge its importance. I want to say to Members of the House there are statutory instruments to be made to bring the legislation into force. It is my objective that we bring it into force in the first quarter of next year. I have no doubt it will impose additional burdens on the vetting bureau. We are looking to address any staffing issues that arise to ensure staffing within the bureau is appropriate to meet the demands that may be there. It is important those groups, organisations and businesses which are required under law to engage in vetting fulfil and meet their obligations in this context. We must remember what was there previously was substantially a non-statutory scheme without penalties for non-compliance. There are now penalties for non-compliance and it is important there is compliance.

It is important that we have in place the legal architecture which provides the maximum possible protection for children. No Government can guarantee at any time that no child will ever be the victim of abuse. As much as we would like to live in this utopian world we do not do so. What we can do is put together a legal framework or architecture which creates the possibility of protection for children which tries to ensure that children are not placed at risk in circumstances where the risk should have been previously identified.

Effectively we adopt what I describe as a precautionary approach. The Bill is another brick in the wall to establish this and I thank Members for their co-operation in its enactment. I also thank Deputy David Stanton, Chairman of the Joint Committee on Justice, Equality and Defence, and the members of the committee for the substantial work they did when we published the heads of the Bill and for their comments on the Bill. I thank the various individuals and organisations who made submissions, not just to the committee but to the Department, to ensure we enacted the best possible legislation. I thank the Deputies opposite and their parties for the constructive contribution made throughout the debate on the Bill in both Houses. I also thank the officials and the Department for the very substantial work in which they have engaged and for their assistance in ensuring we achieved our objective of having the legislation enacted before the end of the year.

Deputy Pádraig Mac Lochlainn: I thank the Minister and the departmental officials for their co-operation and for taking on board some of our feedback throughout the process. It is very much appreciated. This is obviously very important legislation, particularly in the context of the passing of the referendum on children and the belated accepting of responsibility by the State on these matters. We still have a long way to go but this is definitely a step in the right direction and a reassurance to the public that lessons are being learned.

An issue I wish to raise is that of spent convictions and I ask the Minister to consider further this matter and perhaps review how it progresses in time. The Minister wrote to me in October and stated it was his intention to streamline the interface between the two Bills to ensure they worked together harmoniously. We need to move forward with the Criminal Justice (Spent Convictions) Bill 2012 in the year ahead and when we do so inevitable issues will arise. I read the transcript of the exchange between the Minister and my colleague Senator Trevor Ó Clochartaigh in which the Minister acknowledged the difficult balancing act involved in protecting the interests of children when including soft information. Sinn Féin supports this because the main priority is the protection of children. When we come to deal with the Criminal Justice (Spent Convictions) Bill 2012 there may be issues to reconsider and it may be an opportunity to examine whether we can dovetail both pieces of legislation and ensure maximum protection. I ask the Minister to examine this. I saw from the exchange in the Seanad he is reflecting on it and will continue to do so, and I wanted to raise it at this point to ask that the Minister consider it again when we commence the next process which is somewhat related to this.

Seanad amendment agreed to.

Seanad amendments reported.

Personal Insolvency Bill 2012: From the Seanad

The Dáil went into Committee to consider amendments from the Seanad.

Acting Chairman (Deputy Tom Hayes): Amendments Nos. 1, 4, 7 to 9, inclusive, 53, 70, 72, 74, 91, 94, 95, 106, 109, 125, 145, 148, 149, 155, 164, 172 to 175, inclusive, and 181 are related and will be discussed together.

Seanad amendment No. 1:

Section 2: In page 10, subsection (1), line 18, to delete "and apart".

Minister for Justice and Equality (Deputy Alan Shatter): I welcome the opportunity to return to the House to report on further amendments made to the Bill in Seanad Éireann.

A total of 245 amendments were proposed and approved during Committee and Report Stages of the Bill in the Seanad. These were all Government amendments and were, for the most part, technical changes or text corrections.

The Long Title of the Bill was amended to take account of the insertion of new provisions in Part 5 concerning the regulation of personal insolvency practitioners and the insertion of a new Part 6 concerning the appointment of specialist judges of the Circuit Court to deal with personal insolvency.

I should also mention that among the amendments approved by the Seanad were those in regard to the exemption of one item of personal jewellery to the value of €750 and an increase in the value of an exempted motor vehicle from €1,200 to €2,000 in the debt relief notice process. Changes along these lines had been advocated by Senators Byrne and Cullinane, in particular, during the Second Stage debate in the Seanad.

A new section concerning the development by the insolvency service of guidelines on a reasonable standard of living and reasonable living expenses for debtors was also influenced by the contributions to the debate made by Senators and in particular by Senator Zappone. I am very pleased to report that progress. I was also pleased to make amendments to the text on Committee Stage in regard to the treatment of goods on hire purchase in the debt relief notice process. These were on foot of comments made by Senator Norris on Second Stage.

For ease of reference and to facilitate the debate, I am proposing to group the amendments thematically. This is because a number of amendments are necessarily repeated throughout the Bill to ensure a consistency of approach in relation to each of the new debt resolution processes, and in some cases are also replicated in the part dealing with bankruptcy.

The Acting Chairman has already read out the various amendments we are taking together. I will deal specifically with those amendments. The purpose of these amendments is either to improve the presentation of the Bill for greater clarity or to correct drafting errors in the text.

Amendments Nos. 173 to 175, inclusive, are drafting amendments designed to allow for service of notices by ordinary pre-paid letter, rather than by registered pre-paid letter as currently required by section 129. This change has been suggested by legal practitioners to address difficulties in using registered post effectively. It is the experience of many solicitors that up to 50% of this post is not delivered. The single largest reason is, and I quote, "Not called for", which is written on the envelope. Other reasons include "refused" or "gone away". On occasions, I think they include certain obscenities, to which I have no intention of giving voice in this House. Not everyone is enthusiastic when they receive something by way of registered

post.

Ex parte applications, which would otherwise have to take place, are expensive and time consuming to follow up on. In Northern Ireland the service of documents is now conducted via first class post. We think it is appropriate that the amendments be made with regard to dealing with ordinary post.

Deputy Niall Collins: I wish to comment on some of the items the Minister mentioned. I take on board what he has done concerning jewellery and that issue was well aired on previous stages in the House. The amendment dealing with the value of motor vehicles is also welcome. At the time, we said that people should be allowed to retain a motor vehicle which is appropriate to the needs of the family or the individual. Increasing the value from €1,200 to €2,000 will go a long way towards addressing that issue. So many people rely on vehicular transport and for most of them it is a necessity rather than a luxury. That the Minister has increased the ceiling by a significant amount will go a long way towards meeting the concerns.

The Minister referred to the appointment of specialist judges. Is that matter being taken as part of this group of amendments or is it in the next grouping?

Deputy Alan Shatter: It is in the seventh grouping.

Deputy Pádraig Mac Lochlainn: On a point of clarification, the grouping to which the Minister is referring does not deal with that.

Deputy Alan Shatter: No, it is not included in these amendments. I was just making some opening comments. When we come to the seventh group of amendments, we will deal specifically with specialist judges. I was just making an opening comment on it.

Deputy Niall Collins: All right. I will confine it to that.

Seanad amendment agreed to.

Acting Chairman (Deputy Tom Hayes): Seanad amendments Nos. 2, 12 to 22, inclusive, and 24 are related and may be discussed together.

Seanad amendment No. 2:

> In page 11, subsection (1), between lines 6 and 7, to insert the following:
>
> " "electronic means" includes electrical, digital, magnetic, optical, electromagnetic, biometric and photonic means of transmission of data and other forms of related technology by means of which data is transmitted;".

Deputy Alan Shatter: These amendments relate to the organisation, functions and governance of the insolvency service itself. In operating the new debt relief notice, debt settlement arrangement and the personal insolvency arrangement, the insolvency service will, for maximum effectiveness and efficiency, operate on a paperless basis to the greatest extent possible with electronic completion and transmission of documents. The court involved will also receive and issue documents by electronic means in order to facilitate the efficient deployment of staff in court time.

Amendment No. 2 inserts a definition of electronic means. The definition is required as a result of the proposed new section 23 at amendment No. 24, which provides for the insolvency

service to communicate by electronic means. It is designed to facilitate the processing of documents by the insolvency service and the courts service in regard to applications for the various debt resolution arrangements provided for in the Bill.

Amendment No. 12 deletes section 8(2)(*b*) and (*c*), as they are not necessary for the purpose of the operation of the insolvency service as it will not be owning or holding property in its own name. The OPW will be effectively making the necessary office accommodation arrangements for the service. Amendment No. 13 is intended to make it clear that it should be the director of the service, rather than the insolvency service itself, who authorises a person to enter into contracts on behalf of the insolvency service.

Amendment No. 14 improves and extends the functions of the insolvency service by now including a reference to use of the reasonable expenses guidelines and to education and training. Amendment No. 15 provides for the term of office of the director of the insolvency service. Amendment No. 16 addresses the current wording of section 11(3), which may not fully reflect the reporting relationship within the insolvency service in regard to who will make the policies and decisions of the service the director will implement. I am advised that subsection (3)(*a*) is not required in the context of the insolvency service and accordingly should be deleted.

Amendment No. 17 amends the text of subsection (11)(*a*) to delete the reference to disqualification, which is not appropriate in this particular context. Amendment No.18 makes it clear that the five-year tenure of the first director of the insolvency service, where he was previously appointed as director designate, commences on the date of his initial appointment to the director designate post and not on the establishment date of the service. The Bill, as passed by the Dáil, does not adequately deal with this particular matter.

Amendment No. 19 seeks to replace the existing section 15 of the Bill relating to a business plan, with new text. The proposed new text retains the requirement for the service to submit its business plans to the Minister for approval every year. However, it removes the current requirement in the Bill for the business plans to be laid before the Houses of the Oireachtas. Having reviewed the matter, I believe this latter onerous requirement is not particularly necessary. The proposed amendment brings the insolvency service more in line with governance provisions of other similar entities.

It is important to note, however, that the proposed amendment does not in any way diminish the accountability provisions of the service to the Oireachtas. These are contained in the provisions of the Bill regarding strategic planning which is in section 14, reporting in section 16, accounts and auditing in section 17, and appearances before Oireachtas committees in sections 18 and 19. In practice, for example, the Joint Committee on Justice, Defence and Equality would be entitled to invite the director of the service to appear before it to discuss any issue that fell within the ambit of the insolvency service. That obviously would be done in a general way, if it saw fit - not about a particular individual's personal insolvency which clearly would not be appropriate as a focus for an Oireachtas committee's discussion. I can envisage a range of issues which could arise on general policy as well as the agency's capacity to undertake its tasks.

Amendment No. 20 is a technical drafting amendment. It makes clear that the report referred to in subsection (6) is the annual report of the insolvency service which is to be laid before both Houses of the Oireachtas. Amendment No. 21 proposes the insertion of a new subsection (8) and is linked to the previous amendment to subsection (6). The purpose of section 16 is to make provision for the preparation of reports by the insolvency service to the Minister.

The provision as currently drafted permits the preparation of reports on a number of matters and is not limited to the preparation of annual reports. The current construction would have the effect that every single report prepared by the insolvency service, even on a very minor matter, would be required to be laid before the Houses of the Oireachtas. The new subsection (8) seeks to improve on the current text by giving the Minister the discretion to decide whether reports prepared by the service under the provisions of subsection (3) are to be laid before the Houses of the Oireachtas and published. Finally, amendment No. 22 is a technical drafting amendment required to improve the presentation of the text. It now refers to "a committee" rather than to "the committee".

Acting Chairman (Deputy Tom Hayes): I understand amendment No. 24 also is included in this grouping.

Deputy Alan Shatter: Having excluded reference to amendment No. 24 in that commentary, allow me to get out the notes on that amendment and address it. Amendment No. 24 states "Nothing in this Act shall be construed as preventing the Insolvency Service, in the performance of its functions under this Act, from sending or receiving documents or other information, or otherwise communicating, by electronic means". Again, this is just an amendment to ensure modern technology can be used in the transmission of documents and the insolvency service has the remit to do that.

Progress reported; Committee to sit again.

Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.

Ceisteanna - Questions

Priority Questions

Departmental Budgets

1. **Deputy Billy Kelleher** asked the Minister for Health the way he will achieve €780 million in savings in the health budget in 2013; and if he will make a statement on the matter. [57231/12]

Minister for Health (Deputy James Reilly): In the region of a €500 million of these savings will be achieved through cost efficiencies and separately through reorganisation under the public service agreement. The majority of savings will have no recourse to front-line activity. However, 2013 will be a challenging year and will require taking a number of tough measures to ensure the most vulnerable are protected.

The following is a summary of measures to be taken by the health group of Votes in order to adhere to the 2013 expenditure ceiling. There will be a reduction in the cost of drugs and other

prescribed items, saving €160 million; an increase of the drugs payment scheme threshold to €144 per month, saving €10 million; an increase in prescription charges for medical card holders, saving €51 million; reduced professional fees, saving €70 million; other changes to primary care schemes, saving €32 million; pay related savings of €308 million; increased generation of private income at €65 million; savings on the Department Vote of €60 million; procurement measures saving €20 million; and other measures of €5 million in savings. The total net saving is €781 million.

The Department of Health's own Vote is being reduced by €90 million, with €30 million transferring to the HSE and €60 million in savings. Even allowing for additional expenditure related to the EU Presidency, there will be a reduction in the Department's administrative budget. There will be savings with the National Treatment Purchase Fund, and €25 million of its budget will be transferred to the HSE. There will also be a range of further reductions, including reductions in funding for health agencies.

Deputy Billy Kelleher: The Minister would forgive me for raising this question in view of the fact that we had to vote through a Supplementary Estimate last week. The Minister outlined that it was a very small percentage and that overruns are the norm for the health service because it is demand led. Nevertheless, we should set out in 2013 in a way unlike the way we set out in 2012, and there should be a path to the end of the year. We accept that the Minister is paring closer to the bone the whole time but there should at least be identifiable and realistic savings that can be achieved. If these are not achieved in the first half of the year, there is an immediate problem and rather than delaying or prevaricating, does the Minister agree that it would be timely to act? For example, there could be action on the public service agreement and cost efficiencies or pay. If there is discussion about a reduction in core areas, agreement will be required or else there will be confrontation. Has the Minister had discussions with the trade unions or others in that respect?

The Minister recently announced that graduate nurses would be taken on at 80% of the cost of the qualified nurses with whom they would work. Are we beginning to ask the generation behind us - which had no responsibility for anything - to carry the can for everybody? This is a distasteful approach that we are beginning to see evolve. Does the Minister accept that we should be clear that everybody must carry the burden? Asking graduate nurses to carry the burden is unacceptable, regardless of whether the issue is identified as a saving.

Deputy James Reilly: The Deputy knows the service plan will be produced and it must come to me within 21 days of the Estimates. That means it will come to me on St. Stephen's Day, or *de facto* the end of this week. We have had a number of meetings about the issue, with the most recent last night. My colleagues, the Ministers of State, Deputies White and Kathleen Lynch, and I have been actively engaged in the process. As the Deputy notes, we want a very transparent methodology this year in order we can measure what is happening.

Last year I asked that there would be two-weekly and monthly reporting of financial parameters but that did not happen. It will happen this year. Through several reports, the latest being the Ogden report, we have also identified the deficiencies that lie within the HSE's financial reporting mechanisms. The PA Consulting report set out to confirm this and identify a remedy, which has come about. We have put in place six senior experienced individuals in the financing area, as it was shocking to tell the Dáil that only approximately 10% of people dealing with the finances of the HSE had specific financial training. Is it any wonder we find ourselves in the current position?

I will specifically mention JobBridge for nurses, which is an excellent development that offers the opportunity for nurses who have trained here to stay here and continue training. It will also offer an opportunity to further the experience of these new nurses. I would like to see similar opportunities afforded to people who have studied physiotherapy. These people gained 550 points in the leaving certificate and have done four years in Trinity College, but many cannot find a job when they graduate and are unable to set up a practice on their own. If they could be given a couple of years experience, they would be fit to go into primary care where we need them badly.

Deputy Billy Kelleher: I hope the Minister will enjoy the reading the plan over turkey sandwiches on St. Stephen's Day. What happened last year was identifiable as early as March, April, May or June. There may have been overruns in the delivery of services but the clear failings were in the implementation of savings. That is our concern, and there are related issues of political accountability, administration and the publication of legislation by the Department of Health. We are concerned that if an issue is identified early, with a clear path laid out in the service plan, alarm bells can ring so that action can be taken. We do not want people outside Government Buildings like we had last September.

Deputy James Reilly: I agree with the Deputy. For far too long there were too many people who were quite happy to describe the problem but failed to do anything about it. Earlier this year people indicated there would be an inability to keep the budget, alluding to the two issues in particular of drugs and insurance. The insurance matter has been dealt with and the drugs issue has been dealt with comprehensively, albeit a little latter than we would have liked. Even if those matters had been addressed, there would still have been a significant overrun in the general medical services and the primary care reimbursement service area. We are now moving toward further transparency and accountability, and not alone will we let people know where problems lie, but also we will indicate what will be done about them. It is not good enough for people simply to describe a problem and throw their hands in the air when they are meant to be managing it. That is what we had in the past but it will not happen in future.

With regard to labour arrangements, there have been major changes in how consultants operate. That is being bedded in at the moment. That will give a lead to the other care professionals and the changes in work practices expected to make our health service competitive, affordable and efficient, so that everybody using it can access it as required.

Home Help Service

2. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health if the approximately 950,000 home help hours cut in 2012 will be fully restored; if all individual recipients of home help support who had hours cut in 2012 will have them restored immediately or early in 2013; and if he will make a statement on the matter. [57247/12]

Deputy James Reilly: The Minister of State, Deputy Kathleen Lynch, is currently in the Seanad dealing with equality legislation so I will take this question. The Government policy is to support older people to live in dignity and independence in their homes and communities for as long as possible. This is reflected in the HSE service plan for 2012, which includes various community-based services such as mainstream home help, enhanced home care packages, meals on wheels and day or respite care. These services meet the preferred wishes of many vulnerable older people and reduce pressures elsewhere in the wider care system. Demand for

them will increase as the demographics and complex needs of older people change.

The Health Service Executive has developed various operational initiatives to improve nationally its approach to all relevant aspects of its home support services. These include new guidelines for home care and a new procurement framework for approved agencies providing services on its behalf. While ongoing developments have been designed to standardise and maximise the use of limited resources, they also promote quality, safety and equity for providers and care recipients alike. Approximately 100,000 people or 20% of the population aged more than 65 years receive some form of HSE community based supports each year, including home, day and respite care.

I will provide some figures on the outturn for the 2012 target for mainstream home help. Between 2006 and 2011, the number of home help hours provided by the State increased from 8 million to 11.1 million, while the 2012 target for home help hours was 10.7 million. The number of clients benefiting as at 31 December each year has increased from 49,578 in 2006 to 54,000 in 2007, 55,000 in 2008 and 2009, 54,000 in 2010, 50,986 in 2011 and 50,000 in 2012. Funding increased from €185 million to €211 million last year and €205 million will be provided to the service this year. It is our intention to maintain the budget for 2012 in 2013.

Deputy Caoimhghín Ó Caoláin: In her post-budget speech, the Minister of State at the Department of Health, Deputy Kathleen Lynch, made a vague claim that there is a commitment on the part of the Government to restore home help hours and home care packages. Questioned by me at a recent meeting of the Committee on Health, the Minister indicated he intended to restore funding in 2013 to the 2012 level. My core objective is to establish whether the hours that have been cut from people across the board will be restored. This critical question has not been answered. When the Minister indicates funding levels will be restored to the 2012 level, does he have in mind the position that applied at the end of 2011, the position that applied after the loss of 500,000 home help hours in January 2012 or the position that applied after a further reduction of 450,000 hours was introduced on the back of the €130 million in cuts announced at the end of August 2012? The overwhelming majority of those affected by these measures want to know what will be their personal circumstances.

I have cited previously the case of a 94 year old man in my constituency whose 11 home help hours were cut to five hours. In another case, an 82 year old woman in Cork who is acutely ill with clots on her lungs and requires oxygen on a 24 hour basis has had her four weekly home help visits of one hour cut by 15 minutes per day. Her night visits have been removed entirely. In Galway, a mother trying to provide full-time care for her severely disabled six year old son has been robbed of five hours of home help care per week. These are only three cases. The issue here is not only the level of resourcing but also whether the hours that have been removed from deserving people will be restored. Will the Minister provide a categorical assurance that they will be restored as early as possible in the new year?

Deputy James Reilly: I restate for the information of the House that the budget for 2012 will be restored for 2013. Given that the circumstances in individual cases change as needs change, it would be inappropriate to state that the hours of every individual will remain the same next year. As circumstances change, some people will need more hours while others will need fewer hours. In terms of home care packages, which are different from home help, it was always the intention to change and rotate them. The classic case is that of a 70 year old gentleman who is discharged from hospital following a hip replacement operation. If his wife has arthritis and finds it difficult to look after him in the early stages, the gentleman will have a

nurse visiting as well as physiotherapy and home help. As he makes progress and starts to use one instead of two crutches, the nurse may no longer be needed and after four or five weeks, he will no longer need a physiotherapist and the home help hours can be reduced. The nature of home care is to provide a service to patients at the right time and in the right place and monitor their progress or, in some cases, deterioration.

It is our intention to restore the budget and while I am pleased this will be the case, it does not mean I will not seek greater efficiencies from or look long and hard at the budget. I have asked the Health Service Executive to examine the reason for an apparent differential between the payments made to some private providers and those made to public providers.

Deputy Caoimhghín Ó Caoláin: I can only interpret from the Minister's reply that he intends to restore the budget to the funding level that pertained prior to 30 August 2012. One can only presume that while he is not saying this clearly, the cuts announced in the Budget Statement of December 2011 for 2012 will stand. Does the Minister accept that the home help hours and home supports being provided are among the most cost-effective elements in the broad health service and that care in the home for people in need of such support generates phenomenal savings? Does he also accept that any deterioration or diminution of this support and service will lead to earlier demand for access to nursing home or similar institutional support, with all the consequential additional costs this will entail? Will he not find in the overall budget the funding required to restore it to the level that pertained prior to January 2012? This would result in the restoration of the 950,000 hours that were taken from home helps in 2012. Ultimately, this issue is one of hours and the hopes and expectations of the many people who have been hurting greatly in recent times.

Deputy James Reilly: I am aware of the value of home help and home care services and the need to support people at home. I do not know anybody who wants to go into long-term care before it is necessary to do so. I am also aware that the way in which hospitals are run means people who have finished their acute phase of care are sometimes left in a hospital bed because they do not have anywhere else to go. We introduced a transitional care programme which will address this issue. People who are older and frail will be admitted to specialist wards, have their medical conditions addressed urgently and start rehabilitation immediately. If it is found that this phase is likely to last for four or five days, the individuals in question will be transferred to another facility in the community where their rehabilitation will continue for up to ten weeks. If, during this period, it becomes obvious that they need long-term care, they will be able to go to a transitional long-term care facility until the place of their choice becomes available. This will alleviate much of the congestion in hospitals caused by delayed discharges.

I have issued an instruction to the Health Service Executive that people must be assessed before their hours change. If hours are to change, the assessment should not be such that it results in a person ending up in an institution, whether a nursing home or hospital, as a consequence of the reduction in home help or home care package hours.

Maternal Mortality Rates

3. **Deputy Mick Wallace** asked the Minister for Health his views on the Confidential Maternal Death Enquiry in Ireland Report for the Triennium 2009-2011 which shows that the maternal mortality rate here is actually double the official figure from the Central Statistics Office; his plans to implement the recommendations of the Maternal Death Enquiry Ireland; and if he

will make a statement on the matter. [57136/12]

(Deputy James Reilly): Statistics on the causes of death are based on civil registration and compiled internationally by the World Health Organisation, WHO. In the WHO's most recent world health statistics annual report 2012, Ireland had the 13th lowest rate of maternal mortality out of 178 countries reporting data. Maternal mortality is a rare occurrence in Ireland. It must be understood that since there are usually fewer than five such deaths per annum, rates can appear to fluctuate significantly from year to year. This is particularly so in percentage terms. For example, an increase in deaths from two to four in a given year would lead to an apparent 100% increase in the maternal mortality rate. As such, reports based on data from different years can appear to be contradictory.

It is generally recognised internationally that official vital statistics can result in an underestimate of maternal deaths. In particular, indirect obstetric deaths resulting from previous existing disease or diseases that developed during the pregnancy may be missed in the official statistics. For this reason, Ireland established a confidential maternal death enquiry, MDE, system in 2009. In doing so, it linked itself with the United Kingdom's confidential MDE, which has been acknowledged as the gold standard for maternal death inquiries in recent decades.

It is important to emphasis that if data from a confidential MDE are used, the results can only be compared with the results from other similar inquiries. The recently published report of Ireland's confidential MDE for the 2009-11 period cannot be compared with the civil registration-based rates of other EU countries that do not have MDE systems. Comparisons with the UK's MDE for the 2006-08 period showed that Ireland's rate was approximately 30% lower than the UK's. However, caution must be exercised in interpreting this data because, even when aggregating three years of data, for example, 2009 to 2011, the number of deaths remains small and the rates will be subject to significant fluctuation.

Additional information not given on the floor of the House

Variances noted between various reports are a combination of differences in ascertainment - how maternal deaths are identified or found - and definitions. For instance, the international comparisons in table 2 of the MDU report reflect such differences in definitions, calculations, etc. The CSO figures in that table are for 2009 only, are based on live and stillbirths and are based on the date of notification of the death to the CSO. The MDE Ireland figures in that table are for the 2009-10 period, are based on hospitals identifying all women who died of direct and indirect causes and are based on the date the woman was delivered. It is important to state that no matter what definitions are used or how case ascertainment is conducted, Ireland continues to be a safe country for a woman to give birth in and our safety record compares favourably with other developed countries.

The purpose of any confidential inquiry worldwide is to learn lessons about how we provide improved care in the maternity services, which impacts on maternal outcomes. The recent MDE report for Ireland makes a number of valuable recommendations in respect of clinical care and the improved ascertainment of cases. The recommendations will be taken up by the HSE-institute joint working group on maternal mortality. In the short term, the national clinical care programme for obstetrics, which was put in place subsequent to the instigation of the work on this report, will collaborate with health professionals to ensure that all learning from inquiries into tragic events related to pregnancy will be incorporated into service delivery to continue to ensure that care for mother and babies is as safe as possible. As outlined in the MDU report,

since its inception, MDE Ireland has promoted dissemination of recommendations from inquiry reports in order to inform health professionals and to improve maternity services.

I would like to emphasise the importance and benefits of confidential MDE reports in advancing quality and safety within the maternity services and such work will be taken into account in the implementation plan for the new patient safety agency.

Deputy Mick Wallace: I accept that as the numbers are low, just a few can change the percentages dramatically. It is phenomenal that the numbers are so low. I was at each of my four children's births and find it difficult to believe that there are not more problems. The confidential MDE cites a figure that is twice that of the CSO's. For 2009 and 2010, there were 149,000 maternities and 12 maternal deaths in Ireland, a maternal death rate of eight per 100,000 for those combined years. Data on the number of maternities for 2011 were unavailable at the time of writing.

The first of the report's six recommendations calls for a question on pregnancy status at the time of death to be added to the coroner's death certificate. The second recommendation is that interpretative services should be developed to ensure that the care of any patient is not compromised by a lack of communication and any misunderstanding.

The Minister will be familiar with the case of an African woman, Ms Bimbo Onanuga, who died in March 2010. According to her partner, hospital staff would not listen when he repeatedly warned that her condition was deteriorating. It has been reported that 75% of maternities in Ireland in 2010 involved women of Irish nationality, yet 40% of all maternal deaths identified between 2009 and 2011 by MDE Ireland were among women who were not born in this country. That is a bit frightening.

Deputy James Reilly: Clearly those statistics on how many births were to women of non-Irish descent must be examined further. If there was a disparity, it would be concerning.

I must agree with the Deputy, in that communication is essential. It is the cornerstone of clinical practice. If one cannot hear what the patient is trying to tell one, the chances of making a proper diagnosis and delivering a proper treatment and best practice are minimal. This is always an area of concern and we must be vigilant. In fairness to the Irish College of General Practitioners, it was the first college to introduce a communication module to its training. Communication should be taught during the training of all health professionals, including doctors, nurses, physiotherapists, etc.

Language barriers and cultural differences make a significant difference. Even those who speak English as their normal language use expressions that have entirely different meanings for other cultures. I could supply a few examples that would amuse the House, but doing so in a public place might not be proper. Not to make light of the issue, expressions have different meanings for different people even if the same words are used. I accept the Deputy's concerns on the issue of communication.

Deputy Mick Wallace: I understand that if there is a maternal death in England, an inquiry is automatically held, which is not the case in Ireland. There will be an inquiry into Ms Onanuga's inquiry two years after her death. Would the Minister consider putting in place a structure under which inquiries into maternal deaths would be automatic?

Deputy James Reilly: Without being categorical, my understanding is that there is an in-

quiry whenever there is a maternal death. Earlier this year, there were two such inquiries two days in a row at the same maternity hospital, something that had not happened for decades previously. Two different teams and theatres were involved and both investigations found that the deaths owed to different natural causes and were unrelated to specific practices in either case. Occasionally, there are bizarre coincidences in terms of when these tragic events occur.

To my knowledge, there is an inquiry whenever there is a maternal death. The MDE system has requested that the coroner's courts always report to it if any of their inquests involve a woman who has been pregnant.

Medical Card Eligibility

4. **Deputy Billy Kelleher** asked the Minister for Health if he will help cancer patients in severe distress to acquire medical cards; and if he will make a statement on the matter. [57232/12]

Minister of State at the Department of Health (Deputy Alex White): Under the provisions of the Health Act 1970, eligibility for health services in Ireland is based primarily on residency and means. There are two categories of eligibility for all persons ordinarily resident in Ireland, those being, full eligibility, which relates to the medical card, and limited eligibility, which applies to everyone else. Full eligibility is determined mainly by reference to income limits and is granted to persons who, in the opinion of the HSE, are unable to provide general practitioner, GP, medical and surgical services to themselves and their dependants without undue hardship.

There is no automatic entitlement to a medical card for persons who have cancer. There is a provision for discretion to grant a card in cases of "undue hardship" where the income guidelines are exceeded. Recently, the HSE set up a clinical panel to assist in the processing of applications for discretionary medical cards where there are difficult personal circumstances.

There is an emergency process for a person who is terminally ill or in urgent need of medical attention and cannot afford to pay for it that provides a card within 24 hours while the normal application process is being completed. Details of this procedure have been made available to all GPs and social workers. Such applications can be initiated through the local health offices, whose managers have access to a dedicated fax and e-mail contact line to the Primary Care Reimbursement Service, PCRS. Once the medical condition is verified by a GP or a consultant and the required personal details are provided, an emergency card is issued to that person for a six-month period. No means test applies to an application in the case of a terminally ill patient.

Deputy Billy Kelleher: I thank the Minister of State. Last year, I raised this issue in respect of an individual who was terminally ill and who subsequently passed away. To be fair, the system responded but the reality differs from what the Minister of State claims is occurring on the ground.

The clinical panel that assesses medical card applicants must be strict, given the rate of refusal for cancer sufferers in particular. I have been around Leinster House for 20 years and have always believed that, if one has cancer, one applies in the normal way and the service uses its discretion to grant a medical card based on medical need. That is no longer the case. For example, a woman who has had a mastectomy cannot access a medical card.

It is bizarre, to say the least, that what the Minister of State and the HSE claim is at variance with what is occurring on the ground. According to the Irish Cancer Society, many cancer patients are applying to it for support in accessing treatment. Hospitals are hunting them down for €75 every time they present for chemotherapy. There is something barbaric about this and I ask the Minister of State to consider the issue in the context of next year's service plan.

Deputy Alex White: The issue in regard to the inpatient charge, although related, is essentially a separate matter to the question of the discretionary allocation of medical cards on the basis of an applicant having a specific medical condition. There has never been an automatic entitlement to a medical card, even where a person is diagnosed with a debilitating and deeply stressful ailment, including cancer. The system does not provide for the automatic provision of a medical card in those circumstances. The individual concerned must submit an application. I certainly would expect any such application to be dealt with sensitively and expeditiously. If there was any sense in which that was not happening, it would give cause for concern. I reiterate, however, that there is no automatic entitlement. An application must be made and is assessed on the basis of the medical evidence. As I said, I agree that such applications ought to be expedited.

Deputy Billy Kelleher: The €75 charge is relevant because patients with a medical card are exempt from paying it. I accept that there has never been an automatic entitlement to a medical card. What is clear, however, is that the clinical review panel has raised the bar so high in terms of assessing entitlement based on medical need that applicants are increasingly failing to qualify. Of all the issues to be dealt with in the health service, this one is surely deserving of immediate attention. What is happening is at variance with what we are being told in the Dáil. I cannot countenance a situation where people in such circumstances are having their applications rejected by the clinical panel. I acknowledge that there never was an entitlement in this regard, but the situation in practice has, for many years, been that any person with cancer was granted a medical card on the basis of an assessment of need. That is no longer happening and such patients are being charged €75 upon admission to hospital for chemotherapy treatment. It is a very unfortunate development.

Deputy Alex White: At the risk of irritating the Deputy in regard to this sensitive issue, I am obliged to reiterate that there never was an automatic entitlement to a medical card for cancer patients.

Deputy Billy Kelleher: I did not claim there was. My point is that cards were, in practice, routinely granted to such patients on medical grounds.

Deputy Alex White: That continues to be the case. If the Deputy is aware of particular instances where this has not happened, we will be happy to examine them. We cannot, hand on heart, offer an absolute guarantee that every such application will be dealt with in an expeditious way, but it certainly should be. It is not clear to me that there has been the type of fundamental change in practice or approach the Deputy describes. As I said, if there are specific cases that have fallen through the cracks in terms of the application process, we would be anxious to address them.

Medicinal Products

5. **Deputy Luke 'Ming' Flanagan** asked the Minister for Health when he will introduce

legislation for the provision of cannabis derived products for the relief of pain, spasticity and other effects of ailments such as Multiple Sclerosis, Glaucoma and so on will be coming before Dáil Éireann; and if he will make a statement on the matter. [57362/12]

(Deputy Alex White): My Department has been informed by the Irish Medicines Board, IMB, that it is in receipt of a market authorisation request from a manufacturer under the European Union's mutual recognition procedure for a medicinal product containing cannabis extract. This product is indicated for the relief of symptoms of spasticity for people with multiple sclerosis. Under the Misuse of Drugs Act 1977, the manufacture, production, preparation, sale, supply, distribution and possession of cannabis or cannabis-based medicinal products are unlawful except for the purposes of research.

My Department is examining how authorised cannabis-based medicinal products for patients suffering from multiple sclerosis may be legally prescribed by medical practitioners and used by patients for the treatment of MS in Ireland. In that respect, departmental officials have been engaging with experts to identify how best to legally describe authorised cannabis-based medicinal products while maintaining existing controls on cannabis and cannabis substances. While the legislative amendments required can be made by means of statutory instrument, the legal issues are complex. The matter is being progressed as quickly as possible in my Department and it is hoped to bring forward legislative proposals in early 2013.

Deputy Luke 'Ming' Flanagan: I welcome the undertaking that legislative proposals in this area will be brought forward early in the new year. We now have a situation where 22 separate national authorities in Europe and around the world have granted approval for the cannabis-derived product, Sativex, having recognised the important benefits it provides to multiple sclerosis patients with spasticity. Mr. Ed Holloway, head of care and services research with the MS Society in Britain, indicated recently that the Medicines and Healthcare products Regulatory Agency has examined the evidence surrounding Sativex and deemed it a safe and effective treatment for spasticity, paving the way for its licensing in that jurisdiction. This product is not the cure all some claim it to be, but it is helping people in countries throughout Europe and the world.

I hope the Minister of State will fulfil his undertaking that legislation will be introduced early next year. Increasing numbers of people are approaching me to discuss this issue. One man in particular told me a very sad story of how, in order to alleviate his pain and discomfort, he was forced to purchase cannabis from the types of people who shot Veronica Guerin. None of us likes to see money going in that direction. According to this man, he no longer has to wear a nappy when he uses these substances. He has latterly discovered a person in the North who can provide him with Sativex - this transaction is, of course, illegal - which he uses until it runs out, at which point he is forced to use nappies once again. I fully accept that science is not based on anecdote, and I am loath to take that approach myself. However, this person sees clear benefits from using the product in question. It is unfair to people in his circumstances if the current legislative deficit continues for much longer.

I am well known as a campaigner for the legalisation of cannabis for recreational use. This issue, however, is entirely separate. I would hate anybody to think I am seeking to piggyback on the medical need issue, which would be a disgusting strategy. The two issues are unrelated.

Deputy Alex White: The Deputy raises a very fair point. There is no undue delay in regard to this issue, on which I was briefed when I assumed office. I assure the Deputy that the mat-

ter is progressing. We have our own processes in this jurisdiction and cannot rely on licensing systems that are in place in other jurisdictions, although we can certainly have regard to them. The Minister and I are absolutely concerned to expedite the availability of any product that would give relief to persons suffering pain or discomfort such as the Deputy has described. We must proceed in the proper manner, however, and we will do so in as expeditious a fashion as possible.

Deputy Luke 'Ming' Flanagan: The people contacting me will be waiting with bated breath for progress on the matter. It is an issue that should have been dealt with a long time ago.

Unlike the Minister, Deputy James Reilly, I am not a medical expert. Perhaps he will undertake to look into the claims by certain individuals that tetrahydrocannabinol, or THC, which is the principal component in cannabis, can have positive impacts in the treatment of cancer. I have read a great deal about the matter but am slow to shout about it. My mother died of cancer and the last thing I want is for anybody to be given false hope. However, if there is anything in these claims, I am anxious that they be examined in due course.

Deputy Alex White: We have the very best technical advice available to us both inside and outside the Department. Matters such as the Deputy raised are reviewed as they arise.

Other Questions

Obesity Levels

6. **Deputy Alan Farrell** asked the Minister for Health if he will provide an update on proposals to reduce the €1.6 billion costs related to obesity to the Exchequer; and if he will make a statement on the matter. [56885/12]

(Deputy James Reilly): The prevalence of overweight and obesity has risen steadily in recent times, with 61% of Irish adults now overweight or obese. The World Health Organization refers to the alarming speed with which obesity has increased in recent decades as a global epidemic.

The recently published report, The cost of overweight and obesity on the island of Ireland, funded by *safe*food and conducted by University College Cork, provides reliable figures for the annual economic cost of weight related ill health in Ireland. Initial findings estimate the annual cost of overweight and obesity in the Republic of Ireland to be €1.13 billion. The direct health care costs are €398 million or 35% of total costs. This figure includes hospital, GP and drug costs. In addition, two thirds of the economic costs were indirect costs in reduced or lost productivity and absenteeism, which amounted to €728 million. These figures show that the extent of the problem is greater than previously estimated, as indicated in the extrapolated figure of €400 million in the 2005 National Task Force on Obesity report.

The UCC study shows that almost 10% or 37,341 years of life lost are due to overweight and

obesity. The burden of disease from overweight and obesity combined account for an estimated 2.7% of total health expenditure. This Safefood funded study is particularly timely given that obesity is the major health problem in Ireland, of itself, and is contributing to other chronic diseases such as coronary heart disease and type 2 diabetes. Irish studies have shown that two out of every three adults are overweight or obese; one in four primary school children and one in five teenagers are overweight or obese. Of particular concern are the results of the recent Growing Up in Ireland survey which found that in children as young as three years of age, one in four are overweight or obese.

As Minister for Health I have made overweight and obesity a public health priority and have established a special action group on obesity, SAGO, which I meet with regularly to progress the obesity prevention agenda. It is recognised that no single initiative alone will reverse this growing trend, but a combination of measures should make a difference. For this reason, the special action group is concentrating on a range of measures including actions such as calorie posting in restaurants, which I have asked the SAGO to prioritise as one of the key initiatives that will have a positive impact in addressing the problem of our rising levels of overweight and obesity and as a means of educating the general public on the calorie content of food portions.

Additional information not given on the floor of the House

This involved a public consultation process with over 3,130 responses. Top line statistics from that process indicate that 96% of consumers want calorie menu labelling in all or some food outlets with 73% of food businesses indicating that they want calorie menu labelling in all or some food outlets also. This indicates that there is strong support for this initiative among the general public and also, in fact, within much of the food industry itself. Calorie posting has already commenced in a number of establishments and it is envisaged that in the coming months, when the necessary implementation mechanism has been devised, it will be further implemented.

My Department has worked with the Broadcasting Authority of Ireland with regard to the marketing of food and drink to children towards a new children's code to restrict marketing of high fat, high salt and high sugar foods and drinks up to 7 p.m. My Department, under the auspices of SAGO, has revised the healthy eating guidelines, including the food pyramid, and I launched these on 13 June 2012.

Treatment algorithms inform primary care staff of the steps to be taken with regard to managing obesity. An adult algorithm has been agreed with health care professionals and is now available. It is understood that the treatment algorithm for children is at final stages of agreement. The special action group on obesity has been discussing opportunistic screening and monitoring with the HSE with a view to earlier detection of overweight and obesity in children. This will improve the identification of overweight children at an earlier age and prevent these children from progressing into the obese category. Research is underway in association with the Department of Children and Youth Affairs to establish the use and types of foods and drinks stocked in vending machines in post-primary schools. Both I and SAGO have met with the Food and Drink Industry Ireland, FDII, and its members to discuss my action priorities and they have indicated to me that this is an area they are interested in supporting.

We know that three out of every four Irish adults and four out of five Irish children do not meet the targets set in the national physical activity guidelines developed by the Department of Health and the HSE in June 2009 and are consequently at risk of developing serious health

problems due to inactivity. National guidelines alone are insufficient to increase participation levels and so the HSE has also developed a programme entitled A Physical Activity Plan for Ireland to give clear direction for the promotion of physical activity in Ireland and address the risk of developing health problems associated with sustained inactivity. The national physical activity plan which will contribute to addressing this major health issue is currently being considered by SAGO and my Department.

A new health and well-being framework is being developed and will be launched as part of Ireland's Presidency of the EU. This is an overarching strategic framework for sustained action to improve the health and well-being of the nation. It will set out ambitious goals for improved health and well-being among our population. Priority areas being addressed include tobacco, alcohol, food and physical activity. The four goals of the framework are: to increase the number of Irish people who are healthy at all stages of life; to reduce health inequalities; to protect the public from threats to health and well-being and to create an environment where every sector of society can play its part.

Deputy Billy Kelleher: Certain statistics on this issue were presented to the health committee some time ago. Mr. O'Shea, a consultant with expertise in the area of diabetes and obesity, has said we are now sitting on a time bomb. He went further and said it has exploded and the carnage already surrounds us. He said we must act promptly. We must be forceful in our decision making process. Some of it might be unpopular in terms of policy, because we will have to examine the issue of taxation to discourage consumption of fizzy or high sugar drinks. There are also the issues of exercise, calorie counting and making ourselves aware of health. Other countries such as Australia have tackled this problem head-on. They have become almost obsessed with health but have achieved amazing results in a short period of time.

The Minister said something previously which struck me considerably, that we owe it to the generation following us because ours could be the first generation to be obliged to bury the people born after us. It is incumbent on us not only to extrapolate from the figures but to do something about it. Every possible measure should be taken. The Minister has set up the special task force and the health committee would like to play its part, but society in general must be encouraged and cajoled by policy, some of which might be unpopular as it might require tax hikes. Other aspects of policy will require a change in mindset. However, if we do not do something, we could end up burying our children.

An Leas-Cheann Comhairle: There is much interest in this question. I call Deputy Ó Caoláin and I will call the other three Deputies after the Minister.

Deputy Caoimhghín Ó Caoláin: Last February, the Minister told the Dáil there would be a voluntary code which would be monitored over a period of time. In the event of non-compliance or if it did not bear fruit, the Minister said he would legislate. Much of the focus in this regard has been on restaurant menus. I believe it should be directed at the foodstuffs we buy in supermarkets and the local convenience store and what we buy from fast food outlets. There is a much greater danger across those three areas and certainly a greater lack of awareness of what we are consuming. What is the up-to-date position with the monitoring of compliance with the voluntary code? Is the Minister satisfied that progress is being made? Will he consider expanding it into the other areas I have suggested? At what point will he make the decision as to whether legislation is required?

Deputy James Reilly: The Leas-Cheann Comhairle is correct. There is major interest in

this because, as Deputy Kelleher correctly points out and as I have mentioned in the past and we all believe it now to be true, ours could be the first generation to bury the generation following us due to the epidemic of obesity and the consequent epidemic of type 2 diabetes, something which I never saw in a person under the age of 30 years old when I was practising 20 years ago. Now, one sees it in teenagers. It is scary. There is no question that it is related. I have had an interest in this for a long time. Every second person who came to my clinic and had obesity was unaware of it. If one is not aware one has a problem, one cannot address it. Awareness is a huge part of it, and I thank Deputy Kelleher for his support in striving to improve awareness.

The issue is multi-factorial, so it does not just involve the Department of Health. It involves the Department of Justice and Equality, in terms of having safe places to exercise at night, the Department of the Environment, Community and Local Government, so there are well-lit pathways that are safe, and the Department of Education and Skills, in getting children to form a good habit of physical exercise. Senator Eamonn Coghlan has been very active in this area and in advising people about the value of fitness for the sake of fitness and how well it makes one feel. There is much medical information and research which shows that muscular activity creates endorphins, which are morphine-like substances that can make one feel well.

Deputy Luke 'Ming' Flanagan: They are great.

Deputy James Reilly: This issue requires a cross-departmental approach. This is the first Government to appoint somebody at the level of principal officer across health, education and children to promote this issue and awareness. All help and support is gratefully accepted and we will facilitate the Deputy with any suggestions he might have on how we can progress this.

On Deputy Ó Caoláin's question, we are monitoring the situation. There is an appetite among many of the businesses to become engaged in this. Part of the problem earlier was that they, even the Dáil restaurant, were a little concerned about whether they would be in trouble if there were not exactly 65 calories in the sandwich. That is not what we are trying to achieve. We want people to be aware of the general level of calories in a product. I am aware of an instance of somebody going to a coffee bar, reaching out for a bun but putting it back when they saw that it contained 400 calories. That is what we want. It is not about a nanny state, but we want people to be informed. They have a right to know. What they do with the knowledge thereafter is entirely a matter for themselves.

Deputy Luke 'Ming' Flanagan: One cannot turn on the radio without hearing about how much money we would save if we could do something about the promissory notes. It would not save us as much as some people claim. It is only approximately €1.3 billion, but we hear about it all the time. However, alcohol abuse is costing us €3.7 billion, the Minister says obesity costs us €1.13 billion while not doing enough exercise was estimated to cost us €1.8 billion. Yet, every day of the week we are talking about the promissory notes. The promissory note is very important but it pales into insignificance in comparison with these figures. Is there a figure that takes all three into account? If €3.7 billion is the cost of problems with alcohol abuse, part of that sum would be included in the obesity figure. In a way, they are subsets of each other. Is there information on the exact figure?

The big problem is that for the first time in the history of the human race, with the exception of the landed gentry and royalty in the past, it is easily possible to get enough calories. In my house it was often said that one would not leave many tins of dog food open for the dogs because the dogs are so stupid they would keep eating it until they died. It appears that human

beings in certain areas of the world who have unlimited access to food are a little like those dogs and do not know how to stop. It is a big challenge. One issue that is never taken into account is the fact that few of us prepare our food. While perhaps one should not eat a bag of chips because they contain many calories, and ideally one would not, if one at least goes out to buy the spuds, carry them into the house, peel them, make the chips and wash the dishes afterwards-----

Deputy James Reilly: One would be too tired to eat the chips.

Deputy Luke 'Ming' Flanagan: -----one is using up some of those calories. The problem nowadays is that there is unlimited access to food and one need not put any energy into getting it.

Deputy Billy Kelleher: One cannot go to the bog to cut the turf either, which would burn more calories.

Deputy Patrick O'Donovan: Previously, I have raised the issue of compiling the number of people we know will invariably die as a result of obesity related illnesses in the future, be it cancer, diabetes or heart disease, and comparing that with the manner in which the State has addressed the issue of deaths on our roads through the Road Safety Authority under the stewardship of an independent person such as Mr. Gay Byrne. Will the Minister consider, as part of the interdisciplinary, inter-departmental approach, appointing an obesity czar? The person could be a figurehead in holding the Government to account but, more importantly, also bringing the public with them and especially younger people. Members are not viewed in the best light on many issues, particularly those that affect society. It is a good idea to put a person *in situ*, who is respectable to legislators, children and people involved in the matter. The White House and the Obama Administration has done something similar in the United States and there have been tangible results.

Deputy Mick Wallace: Deputy Luke 'Ming' Flanagan should eat his spuds in their jackets rather than putting them in the deep fat fryer. With regard to the Minister's bun, I have a coffee shop and would rather people did not touch them if they are not going to eat them. Obesity is costing over €1 billion but the last round of sports grants to sports bodies was oversubscribed by ten times. Some €26 million was available at the time. Perhaps the Minister can have a word with the Minister for Transport, Tourism and Sport to say that it would be a great investment if the State was to spend more on sport in order to fight obesity. None of the members of the Wexford Youths under-18 and under-19 teams are obese.

An Leas-Cheann Comhairle: We have ranged far and wide in this question. I must ask the Minister to be brief.

Deputy James Reilly: That is because the issue ranges far and wide. I will examine the idea proposed by Deputy Patrick O'Donovan. Having a focussed individual such as that has merit. I have made this point about public health to county council health forums. We have a responsibility in the House on the issue. Politically, it is more sexy to open a new wing of a hospital or an MRI scanner than to promote a public health initiative. We have been very poor in supporting these things as politicians. We pay lip-service rather than paying for them. Every euro spent on prevention can save between €12 and €20 on treatment. That is well proven.

I agree with Deputy Luke 'Ming' Flanagan that there is a great amount of money to be saved in prevention. There is a major educational job to be undertaken and there are many vested interests. I would like to see vending machines in schools selling only fruit, apples and water

rather than the chocolate and crisps they currently sell. We must make the right thing to do the easy thing to do. If one is hungry and all one can avail of is a vending machine that sells this sort of stuff, that is what someone will do. The issue will occupy minds for a considerable time to come. I am open to initiatives people have to talk to us and to submit to the special action group on obesity. I look forward to the contributions of Deputies.

The Minister of State, Deputy Alex White, is particularly interested in alcohol and is progressing a policy on it. I would like to see not only the unit of alcohol on the side of the container but also the calories.

Symphysiotomy Report

7. **Deputy Mick Wallace** asked the Minister for Health when he expects to receive the Walsh Report in relation to the practice of symphysiotomy here; the reasons for the delay in its publication; and if he will make a statement on the matter. [57054/12]

12. **Deputy Brian Stanley** asked the Minister for Health the reasons for the delay in the completion of the final Walsh Report into the practice of symphysiotomy and related procedures at a number of hospitals; when he expects the report to be presented; his plans for its publication; and if he will make a statement on the matter. [57026/12]

Deputy James Reilly: I propose to take Questions Nos. 7 and 12 together. Professor Oonagh Walsh, an independent researcher, was commissioned by the chief medical officer in my Department to draft a report on the practice of symphysiotomy in Ireland. The report was conducted in two stages. The first stage is an independent academic research report, which is based on an analysis of published medical reports and research. The draft report contains information about how frequently symphysiotomy was carried out in Ireland and compares rates with other countries. The researcher experienced unforeseen difficulties in accessing information sources and, as a result, submitted the first stage of the report behind schedule in late January 2012. The researcher informed my Department that this was due primarily to the challenges with accessing historical data from a time when records on the procedure were not routinely kept.

The second stage in the research process, involved a consultation process on the draft report involving patient groups, health professionals and in particular the women who have undergone symphysiotomy. The researcher is currently finalising the report based on the consultation and it is also planned to have a peer review process. It is hoped the report will be published early in 2013.

Deputy Mick Wallace: Is the Minister aware of a number of inaccuracies and misleading findings in the draft report? For example, there is a suggestion that symphysiotomy was used only in emergencies, which is untrue. There is also a suggestion that symphysiotomy was safer than Caesarian section in the 1940s and 1950s, which is also wrong, and that doctors are not and were not legally required to obtain the patient's consent to medical treatment. Like other statements in the report, it is nonsense. Does the Minister know the vast majority of survivors of symphysiotomy refuse to co-operate with the so-called consultation process run by the Department of Health on the Walsh report? Like the Finucane family in response to the de Silva report, they see it as a whitewash. Will the Minister not do the decent thing by jettisoning the discredited report on yet another sorry chapter of institutional abuse in Ireland and set up a commission of inquiry so that survivors in their 70s and 80s can finally access the truth and justice?

Deputy James Reilly: The Deputy has made some statements. The idea that content is not necessary for procedure is nonsense. Whether we are comparing the practices of today and the practices of 50 and 60 years ago is an issue and a difficulty. Through the report, we seek to find justice and closure for the people who suffered at the hands of doctors who performed these procedures, something utterly unnecessarily. The idea of symphysiotomy performed on the way out, when the child has already been delivered, is outrageous. I would like to allow the report to be finalised and consultation to take place so that we can come back with a solution that can bring closure on the issue for the women who have suffered as a consequence.

Deputy Caoimhghín Ó Caoláin: The Minister indicated some time early in the new year. On receipt of the report, I presume the Minister will publish it so that we have the opportunity to examine its content. Whatever the final Walsh report contains, there is an onus and responsibility on all political voices to listen to the demands of the victims of what I have always seen as a barbarous procedure, a view the Minister has disputed. I refer also to the victims of the related procedure pubiotomy. We must listen to their appeals across a number of different processes of resolution. The choice should be given to the women. It is an ever-reducing number. Since the last time we addressed the issue in the Chamber, I know of a small number of victims who have passed on from this life. That will continue to be the case. This is the last opportunity to engage of the Minister before the end of the year and I ask him to commit to providing a choice. There will be those who are happy to accept some form of redress but many others want the opportunity of a court process as they feel only that process will enable them to fully vindicate their right to the truth and justice. In order to facilitate a significant number of them, the suspension of the Statute of Limitations, in particular for that cohort of victims, is required. I ask the Minister to reflect on that and keep an open mind on it even though I do not expect a response this afternoon. Hopefully, in early 2013, he will provide a choice for the ever reducing number of very unfortunate people.

Deputy James Reilly: Deputies on all sides of the House are agreed that this issue must be resolved. The Deputy alluded to removing the Statute of Limitations, but the Attorney General's view on that is clear. It would have serious consequences for the Government in a range of areas beyond this issue.

We need to resolve this matter. I hope the report will help in that regard. I agree that it should be published on its completion and when we have had time to digest it. I do not intend to delay. I am aware that many of these ladies are getting on in years and would like closure of the issue. That is what I seek to bring. We will have to find a way to do that, notwithstanding the tight financial constraints on the Government at present.

Deputy Mick Wallace: May I correct a mistake I made when discussing an earlier question. I meant to say "inquest" rather than "inquiry". That is why the Minister may have been surprised by my question.

With regard to symphysiotomy, I agree with Deputy Ó Caoláin that time is running out for many of these people. The authorities in the United Kingdom have announced a new police investigation into the Hillsborough disaster, which happened 23 years ago. The Minister might follow that example with a symphysiotomy inquiry. It would not go astray.

Deputy Caoimhghín Ó Caoláin: I accept the Minister's point that concern at this matter is shared across the board in the Chamber. I acknowledge the commitment of members of both Government parties in regard to the all-party group. Their contribution and their commitment

to resolving this issue is unquestioned.

I ask the Minister to accept, whatever legal advices might be presented, that there is equal and, arguably, longer standing eminent legal advice that gives a very different view. It would be a tragedy if a particular legal interpretation caused any of these women to be denied what is theirs, by right. Surely this is something we can, collectively, aspire to achieve and deliver as early in 2013 as possible. I hope the Minister will give every favourable consideration to that appeal.

Deputy Billy Kelleher: An all-party motion on this issue has already been discussed in the House. There is unanimity among Government and Opposition parties that some way of giving redress to these women should be brought forward.

I urge the that the report be published as soon as possible and that a redress mechanism be put in place. The stories of the women are chilling, harrowing and emotive, but time is not on the side of many of them.

I accept that the Government is obliged to take the advice of the Attorney General into account but we must find a mechanism that addresses the suffering of the women concerned and allows them to share their stories with dignity and respect and seek redress.

Deputy James Reilly: I assure the Deputies and the ladies concerned that there are difficulties, as I have outlined, but that where there is a will there is a way. I am determined to find that way.

Medicinal Products

8. **Deputy Peadar Tóibín** asked the Minister for Health the steps he is taking to secure reductions in the current cost of generic equivalents, which are high by international comparisons; and if he will make a statement on the matter. [57029/12]

(Deputy Alex White): The prices of drugs vary between countries for a number of reasons, including different prices set by manufacturers, different wholesale and pharmacy mark-ups, different dispensing fees and different rates of VAT. In recent years, a number of changes to the pricing and reimbursement system have been successfully introduced in Ireland. These have resulted in reductions in the prices of thousands of medicines.

The Department and the HSE have successfully finalised discussions with the Association of Pharmaceutical Manufacturers in Ireland, APMI, which represents the generic industry, on a new agreement to deliver further savings in the cost of generic drugs. Under this agreement, from 1 November 2012 the HSE will only reimburse generic products which have been priced at 50% or less of the initial price of an originator medicine. In the event that an originator medicine is priced at less than 50% of its initial price the HSE will require a generic price to be priced below the originator price. This represents a significant structural change in generic drug pricing and should lead to an increase in the generic prescribing rate.

In addition, the Health (Pricing and Supply of Medical Goods) Bill 2012, which is currently before the House and Second Stage of which was completed this week, provides for the introduction of a system of generic substitution and reference pricing for prescribed drugs and medicines. These reforms will promote price competition among suppliers and ensure that

lower prices are paid for these medicines, resulting in further savings for taxpayers and patients.

Deputy Caoimhghín Ó Caoláin: When does the Minister of State expect the arrangement he has outlined to take effect? Some generic substitutions are costing between 96% and 98% of the originator medicine, which is a very marginal saving and defeats the purpose of replacement and of whatever savings can be accrued from it. Can the Minister outline the action being taken to give effect to the commitment he has outlined?

Second Stage of the Health (Pricing and Supply of Medical Goods) Bill was debated on Monday of this week. There is some concern that the same sense of urgency does not seem to apply to it as to other Bills. A raft of legislation is being rushed through in these last days before the Christmas recess. Would this Bill not have required being moved to Committee, Report and Final Stages much more quickly? How soon will we have the opportunity to address the Bill on Committee Stage?

Deputy Alex White: The Deputy's two questions are one. The generic substitution regime is to be governed by the legislation to which the Deputy referred. The legislation itself does not purport to arrange these substitutions. It gives the Irish Medicines Board the power to do so and the regime is set out in the legislation. The legislation is required for that to be achieved, as the Deputy is aware.

Second Stage of the Bill was completed on Monday afternoon and the Dáil has referred it to the Select Committee on Health. It is my earnest wish, and that of the Minister, that the Bill be expedited as soon as possible. There is no wish for any delay in the passage of the legislation. The contrary is the case. I regard it as a priority. There is, however, an enormous volume of legislation in the system at present, including legislation in the area of health. There have been difficulties in expediting different Bills.

I hope I say this without over-extending the point. We were fortunate that we had time available on Monday, because the House was sitting to deal with other matters, and we were able to get the Bill in on Monday afternoon. The quicker this can be done the better, from our point of view. There are four health Bills in the Houses currently. This is very important legislation, for the reasons I outlined in my reply and which Deputy Ó Caoláin supports, as he did on Second Stage. Anything we can do together to get the Bill through the Houses quickly will be in all our interests.

Deputy Caoimhghín Ó Caoláin: I recommit to offer every support for the fast-tracking of this Bill which I, of course, support. We should use this opportunity to consider ideas to improve the legislation. That is how we should approach legislation, as opposition voices. If we are not opposed to a measure our amendments are intent on improving it, where possible. We should use the intervening period before the resumption of the Houses in the new year, to prepare any possible amendments that might present so as to be able to expedite the passage of the Bill.

I would welcome a situation that mirrored what the Minister of State indicated in his opening response That is a position we would like to get to. It cannot happen soon enough in my opinion.

Deputy Billy Kelleher: We have also offered support in terms of the Health (Pricing and Supply of Medical Goods) Bill and will try to encourage the committee to move as quickly as possible with that. Equally, however, it is legislation that needs to be critically analysed on

Committee Stage.

There was some price referencing between Ireland and New Zealand that showed huge disparities in the cost of drugs. Even with the legislation, we are still completely out of kilter with the norms for pricing of ordinary medicines, the every day drugs that are issued on prescription and this clearly cannot be sustained. The Bill will deal with aspects of that but there are other inherent difficulties in the system that lead to increased costs for medicines for individuals and the State through the reimbursement scheme.

Deputy Alex White: There has been considerable progress in the broader area. On the question of the agreements with the industry, savings have been made, although not as quickly as all of us would have hoped. The agreements have been put in place and will yield considerable benefits to the taxpayer and patients in the year ahead. I thank Deputies Kelleher and Ó Caoláin and the other Deputies who have supported the rationale behind this legislation, which is finally getting a grip on this issue at a level of legislation, putting in place a system where we can make happen what people had been talking about for so long.

Ambulance Service

9. **Deputy Pearse Doherty** asked the Minister for Health if enhanced ambulance and paramedic services will be made available in County Donegal; and if he will make a statement on the matter. [57017/12]

Deputy James Reilly: Emergency ambulances from all stations across Donegal are used in a dynamic manner, to maintain emergency cover and respond to calls as required. Ambulance stations across the county and adjacent counties support each other, and the nearest available resource responds to an emergency call, regardless of where it is based. I would be the first to acknowledge the geographical spread in County Donegal.

The National Ambulance Service has enhanced the delivery of ambulance services in the north west through the recent introduction of a new intermediate care service in Sligo and Letterkenny. The purpose of the ICS is to undertake routine and non-emergency stretcher-based patient transport, such as inter-hospital transfers, in order to free up emergency resources for emergency calls. Once again, we are back to the patient being treated by the right person in the right place at the right time, which carries for ambulance services as well. This service will be fully operational in early 2013 with 19 intermediate care operatives. At the moment it operates in a limited number of areas, which includes Letterkenny. The NAS is also assisted in the west by a pilot emergency aeromedical service which was established in June 2012 and which is based in Custume Barracks, Athlone. This dedicated resource provides emergency transport where transport time is critical and where certain clinical criteria are fulfilled. I have had discussions with Minister Edwin Poots, MLA, in the North on how we can co-operate on air ambulance services as well and in community services on either side of the Border, a hospital service. Radiotherapy services in Altnagelvin are a case in point.

The ambulance service is also progressing training of additional advanced paramedics and a number of staff from the north west, including Donegal, are included in this programme.

In addition to the above, a paramedic upskilling programme is currently being progressed across the country, which will enhance the delivery of care to patients.

Deputy Caoimhghín Ó Caoláin: My attention has been drawn to a report in the *Donegal Democrat* of Monday, 26 November. This referred to a situation where a distraught mother had to drive her unconscious child to hospital while a paramedic tended to the child in the back seat of the car. If this was an isolated incident, it might not have been raised in this way, but I am told there are other reported instances where ambulances have been told only one paramedic was available to both drive and tend. With the child needing to be attended to and brought to Letterkenny General Hospital, the paramedic could not drive the ambulance. The situation is serious and I am drawing it to the Minister's attention because there is a fault line. That is not to question the role of individual ambulance drivers and-or paramedics but certainly it is to question the decision making of those who oversee the service or who have issued governance rules to those entrusted with that oversight.

We were told by the article, and inquiries I have made on the back of it, that the paramedic in this instance sought additional support through the channels he would report to and people were available with the necessary skills, other paramedics and ambulances drivers, but permission to engage those available professionally trained personnel was refused. This is a serious matter and was of significant concern to the paramedic concerned and to his fellow professionals in the ambulance service in Donegal. I ask the Minster what steps he will take to assure the people of Donegal that a situation such as that described in the *Donegal Democra*t article will not reoccur.

Deputy James Reilly: This is a serious matter and I intend to have it investigated. It makes no sense to me that an ambulance would go out on its own and the paramedic would therefore be unavailable. Given the choice between driving or caring for the patient, it does not make any sense. I went around the country and met the staff, including ambulance staff, in the regions about the future plans for the health service. One of the paramedics raised an issue with me that I intend to address. Sometimes these very experienced individuals are sent to a house and when they arrive, having examined the patient, they see no reason to bring him or her to hospital but they have no other option. They cannot bring the patient to the out of hours doctor on call, or advise them to wait until the follow morning to see his GP. I believe, however, that should be the case; these are highly qualified individuals.

That is not quite what the Deputy is talking about but what I am trying to say is we have a wonderful resource here and we should allow them give of the knowledge they have in a complete fashion and not just corral them into narrow spaces. I undertake to investigate this and come back to the Deputy with a report. To my mind, this was utterly unacceptable.

Written Answers follow Adjournment.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Paschal Donohoe - the need to finalise student grant applications; (2) Deputy Luke 'Ming' Flanagan - the need to address the problems of rogue taxi drivers through regulation; (3) Deputy Derek Keating - the increased incidences of tuberculosis throughout

Dublin city and county; (4) Deputy Maureen O'Sullivan - the need to respond to the increase in homeless numbers from the recent sleeping rough count; (5) Deputy Gerald Nash - the need to fast track carer's allowance payments to returned emigrants who have come back home to care for family members; (6) Deputy Simon Harris - the lack of primary school places available in Greystones and Kilcoole, County Wicklow; (7) Deputy Michael McNamara - the need to give courts discretion not to allow banks who have unreasonably refused offers of restructure to repossess family homes; (8) Deputy Michael P. Kitt - the closure of the residential centre of Toghermore House, Tuam, County Galway; (9) Deputy Jonathan O'Brien - the effects of the increase in the pupil-teacher ration from 17:1 to 19:1; (10) Deputy Noel Harrington - the need to provide adequate broadband speeds in all areas of the country; (11) Deputy Charlie McConalogue - the impact of a number of cuts in budget 2013 to the further education and training sector in particular the increase in the pupil teacher ratio for PLC schools; (12) Deputy Joe McHugh - Irish culture and bullying in Irish society; (13) Deputy Billy Timmins - the need to publish an interim report on the inquiry into the death of Savita Halappanavar; (14) Deputy Shane Ross - the proposed closure of Stepaside Garda station, County Dublin; (15) Deputy Caoimhghín Ó Caoláin - the implications of the proposal to appoint up to 1,000 nursing and midwifery graduates to a two year rotational graduate scheme on 80% of an entry grade nurse/midwife salary; (16) Deputy Mattie McGrath - the need for FÁS to remunerate persons with whom it entered agreements in relation to the Tipperary hostel project; and (17) Deputy Mick Wallace - the need for a grant scheme to assist with septic tank repairs.

The matters raised by Deputies Noel Harrington, Michael P. Kitt, Gerald Nash and Maureen O'Sullivan have been selected for discussion.

Topical Issue Debate

Broadband Services

Deputy Noel Harrington: I thank the office of the Ceann Comhairle for selecting this topic. It is one of those debates that comes to this House and its committees quite often - the idea of providing adequate broadband to the country. It is parallel in importance to railway, road or other infrastructure in terms of driving economic activity. Broadband, literally, is vital in this day and age, not just for home use but to generate economic activity, be that in an urban or rural area. I know the Department has recognised this through the announcement of various schemes recently, such as the national broadband scheme, the Schools 100 Megabyte project, the metropolitan area networks and the rural broadband scheme.

The concern I wish to raise is the adequacy of the provision of broadband to certain parts of the country, which is proving very challenging. This country subscribes to the EU challenge to provide a minimum service of 30 megabytes per second to every household in the country by 2020. I am concerned this target is becoming unreachable or very difficult to attain. I can tell of an instance that happened recently in Bantry in south west Cork which shows the impact this service can have. It came about through the endeavours of a local councillor, Mary Hegarty, who met representatives of Amazon and gave them a proposition for jobs they could provide in the area if the technology and infrastructure were in place. They made the commitment and

delivered on it, offering 26 jobs with Amazon, servicing technological aspects of that company. Regrettably, however, because we could not provide five megabyte per second service in certain areas, some of those jobs had to go. The impact of 26 jobs in a place like Bantry is a terrific good news story. Happily, the majority of people were able to take up the offer because the necessary five megabyte service was available. I reiterate the great impact this can have in a place like west Cork. It is as significant as some of the recent job announcements in more urban areas.

We need to move on. There are many parts of the country, rural areas in particular, that are not adequately provided. The figure given, for example, of 97% broadband coverage in the country is fine if one is talking about basic broadband service of one or two megabytes per second but that is not enough for economic activity. In this Chamber in the past 12 months or more we have had some intense debates on the closure of small schools. Such schools do not close because of lack of commitment by the Minister for Education and Skills or lack of finance provided by the Minister for Finance. Small schools close because there is an insufficient number of children. Garda stations and banks close for similar reasons. The banks show a different dynamic in that nine out of ten bank transactions are now done online. However, it is fruitless to point the many people who have a one-megabyte or minimum broadband service towards online access. Many of the policies we are implementing through budget cuts or corrections could be easily supplemented by investment in an adequate broadband service. People like James Whelton, for example, who recently figured in the Forbes Under 30 list, understand this. He has spoken about establishing the "coder dojo" classes about which we have heard. Such people realise the potential for every citizen in the State to use digital technology and what this can bring about.

I appeal to the Minister, Deputy Rabbitte, and his Department to push forward and apply 30 megabyte per second technology to every household. There is no need to bring fibre optic networks to every house. They can be brought to an area and the technology exists to bounce the connection into every household. I look forward to the Minister's response and acknowledge his commitment in this area. This is an issue that needs to be highlighted.

Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte): Deputy Harrington is absolutely right about the potential of broadband for economic dispersal and job creation in a region such as the one he represents, which I visited very recently for an engagement with David Puttnam, who, I am happy to tell the House, has accepted the appointment as digital champion for Ireland. Living in Skibbereen as he has for the past 26 years, he has arranged a facility where, for example, he can conduct lectures, as he does every week with students in Sunderland, Brisbane and Manchester from his video conferencing facility in Skibbereen. Without doubt, Deputy Harrington is right about the significance of this technology.

In terms of the architecture being put in place by the national broadband plan, I reiterate for the House that the timetabled plan targets will put in place 100 megabyte service for 50% of the population by 2015. A further 20% at least will have 40 megabytes or better. It is principally in the third tier, which will have 30 megabytes or better, that State intervention will be necessary because the private sector will not supply the necessary quality bandwidth to the less densely populated areas of the country. The prospectus we will draw up will require the successful bidders to deliver 30 megabytes, or better. I assure Deputy Harrington that will be more than ten times better than what is available in his area at present. There is no country in the western world - known to me, at any rate - where there is not a difference between the high-speed bandwidth available to densely populated urban areas and what is available in very poorly populated

regions. Holland may be an exception but that is a tiny area that is densely populated throughout. There are entire tracts of the United States that have no broadband.

The idea is that tiers 1 and 2 are to be implemented by the end of 2015. The intention in respect of tier 3 is to implement service by the end of the lifetime of this Government. The reason for the date being as late as 2016 is that we have no choice but to go through the State aids procedure because we envisage the investment of State money. The procedure is painstakingly slow and I do not know of any short way around it. We must do a detailed mapping exercise and have just begun preparations for implementing this next year. The idea is that by the end of the lifetime of the Government the successful bidders will deliver a 30 megabyte service.

Deputy Harrington unwittingly stated the target date was 2020 but that is the European digital agenda. Ours is more ambitious if we can deliver on it, as I believe we can. There has been some €300 million of Exchequer investment in the past decade. In the past five years alone private investment in the broadband infrastructure across all platforms amounts to €2.5 billion. There is very significant private investment going on and there is fierce competition. Deputy Harrington is absolutely right. There are parts of the country where provision is very basic and that is not good enough. Broadband offers possibilities of doing business in the regions that was unthinkable before. It has tremendous capacity to keep people in their own areas.

We have connected some 297 second level schools with 100 megabyte service, which transforms the educational environment. We are about to announce the next 200 second level schools in the second tranche and by 2014 we will have connected every second level school in Ireland to this service. Progress is being made. There are in contemplation a few other very innovative initiatives in respect of the area in which the Deputy is interested. I am not in a position to deal with those, but the House will have noticed that the State has received more than €850 million from telecommunications companies recently as result of the spectrum auction, and in turn the four successful companies are engaged in preparation for the roll-out of next generation access. There is considerable progress and I thank the Deputy for raising the issue.

Deputy Noel Harrington: I thank the Minister for his reply and for his commitment to delivering what he regards as vital infrastructure. I join him in welcoming the appointment of Lord David Puttnam as our digital champion. It is a brilliant appointment and I believe his passion and knowledge will bear fruit. I was in his home and I have seen what he can do, which is quite remarkable. While I do not want to pour cold water on it, he can deliver learning and lectures to people across the globe but the problem is in many places he cannot do so five or ten miles out the road. That is the challenge and I know the Minister accepts it. The time might come eventually when we will spend four days in committee in our own homes and spend one day in plenary in Dublin. The technology is not that far away and is something that could be considered. Similarly, university students could study from their own homes for the majority of the time. We have not even contemplated the economic and social advantages that could bring to a student's home life, especially to one from a rural area. We need to consider the economic, social and communications activity this could generate.

The globe has become a fairly small marble in terms of communications, as the Minister has recognised. I am very glad my dates are wrong and that the Minister has corrected me. It is far more advanced than I had thought. I look forward to the delivery of the programmes as they come on stream. I look forward to a greater quality of life for those people who have been challenged by a poor service to date.

Deputy Pat Rabbitte: I agree with everything the Deputy has said about the potential and the importance of this in terms of priority policy decision making at Government level. A few weeks ago, colleagues from my Department visited a secondary school in what can only properly be termed a socially disadvantaged area of the city. They were amazed to find five young women studying honours mathematics remotely with a teacher in Coláiste Bríde in Clondalkin. Honours mathematics was not available in the school previously. The prospect of specialist teachers being accessed remotely has immense implications and it really changes the classroom, as we know it. It is worth visiting that school to see how it functions.

Mental Health Services

Deputy Michael P. Kitt: I thank the Ceann Comhairle for allowing me to raise the issue and I thank the Minister of State for coming to the House to deal with it. I am inquiring about the transfer of 18 residents from Toghermore House to other centres. The Minister of State, Deputy Kathleen Lynch, opened part of the centre at Toghermore House in autumn 2011. It is a very fine facility and there has been great praise for the work that has been done there. Much money has been spent on Toghermore House and it would not take much more to address the fire and safety standards that have been highlighted as a problem.

It would be very harsh to move 18 people from Toghermore House coming up to Christmas with no centres as yet identified for those residents. We need a better response from the HSE on this issue. I understand the engineer's report, which has just come in, refers to fire doors that are urgently needed, and I hope they will be installed. Effectively, there is no need to close Toghermore House if we can address the issue of fire safety. We have been advised that the service and training will continue at Toghermore House. It is an example of decisions being made at short notice with very serious implications for the users of health services in County Galway. In the past year, nursing home centres at Woodford and Oughterard, to name but two, were closed without warning. Indeed the facility at Woodford closed over a weekend. I would like the Minister of State to reconsider this question. If improvements need to be carried out, what does the improvement work entail and how much will it cost? I would like to see a more complete statement from the HSE than the one I saw to date.

I have referred to 18 residents, but there is considerably more activity in the centre. The training places and day places mean that up to 50 or 60 people use the services there. Given the availability of this centre, no rented properties are used in Tuam and these 18 people have rights like everybody else.

I am sure the Minister of State knows the history of Toghermore House. The house was donated to the State by the late former Labour Senator, Bobby Burke, and it is now the headquarters for mental health services in Tuam and Headford. The family of the late Bobby Burke are held in very high regard in the north County Galway area. The facility has proven very cost-effective when compared with the alternative of using rented property. It is also helping to cast away the stigma associated with psychological illnesses by encouraging people to seek treatment and help, just as they would for any other health complaint. The staff have told me having people at Toghermore House has prevented admission to hospital, or where there is admission to hospital it has meant a shorter stay for people in hospital.

The historic Toghermore House is the headquarters for this area and plans are under way to locate other health services there such as speech and language therapy and physiotherapy.

The campus might also be used in the future by some local voluntary organisations. Extensive renovation and refurbishment works have been carried out on the main house, while vacant dilapidated warehouses and stores have been transformed into modern clinic rooms, offices and recreational areas. It is a very fine facility and I would not like to see it undermined in any way from the point of view of the residents or the staff. I believe we have a very good centre and I hope the Minister of State can give us some information on the engineer's report. I hope we can assure the people who use the service that the residential centre will continue in operation.

Minister of State at the Department of Health (Deputy Alex White): I thank Deputy Kitt for raising this issue for discussion today which I am taking on behalf the Minister of State, Deputy Kathleen Lynch.

Tuam mental health services cater for the Tuam and Headford catchment areas with a population of approximately 35,000 and a caseload in excess of 800 individuals. Traditionally the service was provided at St. Brigid's Hospital in east Galway, but gradually over the years, community mental health services in Tuam and Headford have been developed, as the Deputy indicated. Among the services provided by Tuam community mental health services are a day hospital which operates five days per week as a community mental health centre; a day centre which provides a seven-day service for approximately 30 patients; one high-support, three medium-support and five low-support residences, accommodating 40 service users; and Toghermore House, an 18-bed residence providing high support to a mixed service-user group, including elderly, those with a learning disability, those in need of continuing care and respite accommodation.

The HSE makes every effort to ensure the quality and safety of all services delivered to patients and staff by keeping such matters under review. As such, an independent fire and safety report on Toghermore House was undertaken in September last and its final report was submitted to the HSE last week. The report shows that the current facility does not meet the minimum fire safety standards for this type of building, which needs to be addressed immediately.

The HSE has formed a local steering group to assess the challenges outlined in the report with a view to closing the facility as a matter of urgency. The group consists of a cross-section of senior local mental health services personnel, as well as patient representation. The HSE will also be liaising with the residents and their families as part of the process. The measures on how best to address the fire and safety issues are being discussed at a meeting of the steering group scheduled to take place today to progress the matter in a controlled and safe manner. The steering group is also considering the relocation of the current residents to the most appropriate clinical settings according to their individual needs while the safety issues are addressed.

Toghermore House remains operational during this process but has ceased any new admissions since last Monday. It is also important to stress, however, that all other mental health services in the Toghermore complex to which Deputy Kitt referred and which include the day hospital, the day centre, the training centre workshop, primary care and child and adolescent mental health services will continue to operate as normal. The Minister of State with responsibility for disability, equality and mental health asked that she and the Department be kept informed of developments in respect of Toghermore House arising from the steering group's findings. Obviously, the situation is somewhat fluid but I hope this at least provides some clarification on the issue.

Deputy Michael P. Kitt: I thank the Minister of State for his reply. He concluded his reply

by saying that the situation is fluid and I certainly hope so. I understand that report is just in. If it is a question of the fire doors, and fire safety was mentioned by the Minister of State, I hope he would agree with me that it make more economic sense to carry out those necessary repairs and deal with fire safety issues rather than move people who are very used to that area out of Toghermore House to a centre that does not exist in the sense that it is true to say that the HSE would not have places available at short notice for the 18 people involved.

The Minister of State mentioned that new admissions ceased since last Monday. Again, it is disappointing when he talks about Toghermore House remaining operational. We pay rent in many cases in the HSE west area but pay no rent in Tuam because we have an excellent centre donated by the late Senator Bobby Burke which has meant so much to the community of Tuam. The staff told me that this centre prevents admission to hospital, leads to shorter hospital stays and, in particular, removes any stigma of mental illness. If this is true, it is well worth looking at and I hope the Minister of State with responsibility for disability, equality and mental health would take an interest in this. She opened part of that facility a year ago and unveiled a plaque to commemorate the development of a new integrated mental health campus at Toghermore so it would be very disappointing if we now say we cannot continue with the residential centre there. When she visited Toghermore on that day in the autumn of 2011, the Minister of State promoted A Vision for Change, which she has endorsed very strongly, and spoke positively about her commitment to a patient-centred service. I hope the Minister of State gives my views to her and we can hold on to the residential centre for the sake of the 18 people. This is coming up to Christmas and removing these people to another centre will be very harsh. I am sure the Minister of State will agree with me.

Deputy Alex White: The Deputy makes the case very well. There is no doubt that it is extremely upsetting for people, particularly at this time of the year, when they are discommoded when an event like this occurs and there is a requirement for them to be moved out of a facility with which they are familiar. If that could be avoided, I am sure it would be. I am sure the Deputy will agree that the HSE and those involved must balance the risk of upsetting and discommoding people against the important requirement to ensure the safety of people where a risk is identified and needs to be assessed and acted upon if it is found to be real. There is a balancing exercise involved.

I cannot say any more than what I have said by way of reply to the Deputy. I was not aware of the background or historical significance of the house and how it had been donated by the former Labour Senator Bobby Burke. I am quite sure the facility is as described by Deputy Kitt and that there is a fine facility with services such as primary care, in which I am very interested and of which I am supportive, as indeed is the Minister of State with responsibility for disability, equality and mental health and the rest of the Government. I will conclude by reiterating that the situation is somewhat fluid. The meeting to which I referred was held today and I am sure the right decision will be made in the circumstances.

Carer's Allowance Eligibility

Deputy Gerald Nash: As the Minister of State is aware, it can cost up to €2,000 per week to provide care to an older person in a residential nursing home in the public sector. It costs the State about €200 per week for a carer, who is, more often than not, an immediate relative, to provide round the clock care for a parent, aunt or uncle in his or her home through the provision

of the carer's allowance. This State officially denies that basic level of support to emigrants who return home in a parent's time of need to look after the people who took care of them when they were growing up. Many returning emigrants, because they do not satisfy the Department's habitual residency clause, are not officially entitled to receive any recognition or financial support from the State to provide the care they feel duty bound to undertake. The Minister of State is aware that they do not qualify for a carer's payment if they have not been resident in the State in the previous two years. The local community welfare officer also appears to be prevented from providing any support to help a family make ends meet and to recognise the role of the carer under such circumstances.

The habitual residency clause, as the House will be aware, was introduced for very good reasons in May 2004. Nobody wants to see opportunistic exploitation of the social welfare system. This week, I came across the case of a woman who does not meet the habitual residency requirements and who is returning to Drogheda to look after her mother who is awaiting an organ transplant. This demands a review of this system and that we insist on a process that takes into account the reality of life and the need for the social protection system to respond in a humane manner that respects the dignity of the carer and the people for whom care is provided. We should identify a better way. There may be no more than 100 such people and perhaps even fewer who experience this issue in any given year. At a small cost, we could and should provide urgent assistance to families who most need help in a time of crisis and emotional strain. Where specific sets of circumstances apply and where the returning emigrant is in some cases the carer of last resort for an ill or infirm relative, I urge the Department to take a less dogmatic and more sympathetic view of the plight of carers who are emigrants returning to care for an aged, ill or infirm relative.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan): I thank Deputy Nash for raising this issue which, as he noted, affects a relatively small number of people but is very important. I am taking it on behalf of the Minister for Social Protection who is in the Seanad. The Department of Social Protection is committed to delivering the best possible service to its customers and continuously strives to achieve the highest standard of customer service possible. Carer's allowance is a means-tested income support payment to people providing full-time care to a person who needs that care because of age, physical or learning disability or illness, including mental illness. At the end of October 2012, 51,550 customers were in receipt of carer's allowance, approximately 23,000 of whom are on half-rate carer's allowance along with another primary social welfare payment.

In 2011, the amount spent on carer's allowance was €507 million. Expenditure on carer's allowance over the past ten years to the end of 2011 has increased by almost 320% and the number of claimants in receipt of carer's allowance increased by almost 250% over the same period. The habitual residence condition applies to all social assistance payments including carer's allowance. The determination of a person's habitual residence is made in accordance with five factors which are set out in legislation. These are the length and continuity of residence in the State or in any other particular country; the length and purpose of any absence from the State; the nature and pattern of the person's employment; the person's main centre of interest; and the future intentions of the person concerned as they appear from all the circumstances.

These five factors have been derived from European Court of Justice case law. EU rules prevent discrimination on nationality grounds with regard to social security, so it is not possible to exempt a particular category of Irish citizens such as returning emigrants from the habitual residence condition either in general or for carer's allowance without extending the same treat-

ment to all EU nationals. However, the guidelines regarding determination of habitual residence address the issue of returning emigrants very specifically. The guidelines state, "A person who had previously been habitually resident in the State and who moved to live and work in another country and then resumes his-her long-term residence in the State may be regarded as being habitually resident immediately on his-her return to the State". I hope this is of help to Deputy Nash.

In determining the main centre of interest in the case of returning emigrants, deciding officers take account of the purpose of return; the applicant's stated current and future intentions; verified arrangements which have been made with regard to returning on a long-term basis such as the transfer of financial accounts and any other assets; the termination of residence-based entitlements in the other country or assistance from Safe Home or a similar programme to enable Irish emigrants to return permanently; the length and continuity of the previous residence in the State; the record of employment or self employment in another State; and whether he or she has maintained links with the previous residence and can be regarded as resuming his or her previous residence rather than starting a new period of residence.

This is generally sufficient to enable the deciding officer to determine whether an applicant's present circumstances in Ireland indicate a temporary visit or habitual residence. Relatively few returning Irish emigrants are refused social welfare payments on grounds of habitual residence. In 2011, 13,888 applications for carer's allowance were processed. Of these, 223, or approximately 1.6%, were refused on the basis of habitual residency, of which 42 were Irish nationals.

It is acknowledged that the time taken to process carer's allowance claims generally at present is unacceptable. The Department of Social Protection has implemented measures to improve the processing time for carer's allowance applications including the allocation of additional temporary resources. Following the completion of a major modernisation project, an in-depth business process improvement project was completed for the carer's allowance scheme. This project focused on optimising output and customer service and the elimination of the current backlogs. The processing of claims has been divided into two streams. One concentrates on dealing with new claim intake and processes these without delay and the other focuses on the backlog, which is ring-fenced with a clear and targeted plan for its elimination. Since the implementation of the new process the Minister is happy to report that substantial inroads have been made to the current backlog and new applications are being processed on receipt.

Deputy Gerald Nash: I thank the Minister of State for her detailed response. Part of the problem is a lack of clarity among the public with regard to how claims may be handled in certain offices of the Department of Social Protection. I have detected a pattern in recent times whereby once the issue of habitual residency is put forward an official may - this is not always the case - suggest there is little point in making an application because it would not be considered. Will the Minister of State clarify this? What I discern from what she stated is that perhaps there is an amount of flexibility or misunderstanding with regard to how the process works.

The Minister of State mentioned that a person who had previously been habitually resident in the State and had moved to live and work in another country and then resumed his or her long-term residency in the State may be regarded as being habitually resident immediately on his or her return to the State. This is probably an acknowledgement that in the case of an application for carer's allowance by an Irish national, an amount of discretion may be applied by the Department of Social Protection in its consideration. It is important, and it is a stated

objective of the Government, that we support carers at every level of society. The Minister of State outlined the approximately €500 million expended by the State on carer's allowance and half-rate carer's allowance. This is a very important support.

As the Minister of State outlined, a small number of people are affected. In 2011, 13,888 applications for carers allowance were processed and 1.6% of these were refused on the basis of habitual residency and only 42 were Irish nationals. A good job of work could be done to clarify the situation for returning emigrants who wish to apply for carer's allowance to take care of a mother, father, aunt or uncle. There appears to be an amount of confusion. This discussion has clarified it and I encourage returning emigrants who are here to support family members to go down the route of applying for a carer's allowance, provide all of the necessary evidence and have a discussion with Department of Social Protection staff to ensure the application is processed and progressed properly.

Deputy Jan O'Sullivan: I agree with Deputy Nash that there appears to be quite a bit of flexibility with regard to the various elements the officers take into account and in my original contribution I referred to the fact a person can be regarded as being habitually resident immediately on his or her return. I will certainly convey to the Minister, Deputy Burton, the issues Deputy Nash has raised. If there is a need for clarification for those implementing these guidelines I am sure the Department would be happy to provide this clarification to ensure people who are entitled to it receive carer's allowance.

Homeless Persons

Deputy Maureen O'Sullivan: While some families will struggle and find Christmas difficult it will be business as usual for many and we will see spending in shops, homes and bars and on travel. It is good that we do not lose sight of those who are homeless. There is a story behind every homeless person and nobody makes a career decision to end up homeless. I represent Dublin Central where it is a major issue but where there are also great organisations such as the Simon Communities, Focus Ireland, Depaul, the Society of St. Vincent de Paul, the Salvation Army, the Capuchin day centre and Dublin City Council. They provide vital services such as emergency services and trying to progress strategies such as The Way Home and Pathway to Home. I acknowledge the great generosity of Irish people. Other initiatives such as Safetynet also exist.

It is difficult to obtain accurate information on homelessness for many reasons. The concept is complex. When compiling figures on homelessness does one include those who are squatting, those on a sofa for a night, those moving from sofa to sofa and those coming out of hospital, rehabilitation services or prison with nowhere to go? We know what we see on the streets five minutes from here and we have information from the housing lists and statistics. The homeless service at Dublin City Council recently found 87 people were sleeping rough in the month of November, which was the same as the previous month. We know of the very sad death of a homeless person in Wicklow recently. There has been an increase in Cork. A very frightening statistic is that from the beginning to the end of the Celtic tiger, the number of homeless people in the country doubled.

Demands on the services are increasing but the services have the same or fewer resources. I wish to speak about those in addiction who are trying to stay clean and sober but end up in the same accommodation as those still using or still drinking. I am glad the Minister of State is

present because if the property tax is applied to social housing associations and local authorities struggling as it is with accommodation it will set them back further. They are trying to progress this and I must give them credit. While aspects of homelessness are complex, we know that one simple solution is to provide more housing with support. In that respect, I am glad the Minister of State is here to take this Topical Issue and I hope she will have some insight into it.

Deputy Jan O'Sullivan: I thank Deputy Maureen O'Sullivan for raising this issue. I have just come from Blessington Street, in her own constituency, where the Simon Community was opening a homeless facility for 12 people with support. I agree with her that good work is certainly being done by a number of voluntary housing associations.

It is never acceptable to have people sleeping on the streets. At this time of the year, more than any other, we seem to recognise a problem that endures throughout the year, every year. My Department's role involves providing a national framework of policy, legislation and funding to underpin the role of housing authorities in addressing homelessness at local level. Statutory responsibility in regard to the provision of accommodation and related services for homeless people rests with the housing authorities. The implementation of the homeless strategy at local and regional level is being carried out through the framework of statutory homelessness action plans adopted by housing authorities.

The stubbornly high number of rough sleepers in Dublin, as reported by Dublin City Council recently, reflects the gravity of the challenge facing the Government, the voluntary sector and other agencies in tackling the homelessness problem. I have sought to put in place real solutions for people who find themselves without a home. Investment of almost €50 million has been provided by central and local government in the provision of homeless services in 2012.

Rough sleeping is monitored closely countrywide but particularly in Dublin where the problem is most prevalent. The Dublin region's outreach team works on an ongoing basis to engage with all individuals sleeping rough, with the specific goal of moving people into accommodation through the Dublin City Council central placement service. The problem of rough sleeping is limited outside Dublin, with Cork, Waterford, Limerick, and Galway city councils reporting sufficient bed capacity on a nightly basis and that no one is sleeping rough due to the lack of a bed. The rough sleeper count for Cork, as reported recently in the media, does not appear to be consistent with the figures supplied by the Cork region's outreach team. Those figures report two to three rough sleepers in Cork.

Unfortunately, housing authorities consistently report the existence of a small number of entrenched rough sleepers who are unwilling to avail of accommodation. I take the Deputy's point that sometimes the accommodation may not be appropriate, particularly if there is drug taking involved and they are trying to avoid certain behaviour. This group has been particularly difficult to engage with due to mental health issues and aggressive behaviour. Outreach teams continue to try to provide solutions for this group and to encourage these persons to avail of accommodation. Where they refuse to do so, outreach teams ensure that they have sufficient food and bedding.

Progress has been made in the area of homelessness but unfortunately that is not enough. The recent Dublin figures are a stark reminder of the complexity of the homelessness issue and the difficulties in finding answers to it. It is not tolerable that anyone should sleep on the streets. It is not good enough and we cannot sit idly by.

One of my priorities is to ensure that homeless people have access to secure, stable and appropriate accommodation. Short-term interventions are not a long-term solution to homelessness. We need to continue to focus on long-term solutions to homelessness. I acknowledge, however, that we do need a level of short-term accommodation for urgent situations.

The community and voluntary sector has a critical role to play in dealing with homelessness, especially so in these difficult times. I am especially pleased to see the agencies engaging in housing and resettlement solutions, in line with Government policy on housing-first and housing-led initiatives, rather than managing people in emergency accommodation. Fostering a resettlement culture that promotes independent living is the key to tackling homelessness.

It is important that any initiative dealing with homelessness should be progressed in collaboration with the relevant regional homeless consultative fora. They were specifically established to allow the community and voluntary sector to work in partnership with the State sector in progressing initiatives to overcome homelessness, and to ensure that such initiatives do not disadvantage other persons in need of housing. These fora consist of individuals with particular expertise relevant to the implementation of homeless initiatives.

The annual provision of current funding from the Department should provide for sufficient bed capacity to accommodate all those in need of emergency accommodation nationwide. I acknowledge that, sadly, there are still people on the streets.

Deputy O'Sullivan sought figures and, as she knows, the rough sleepers count takes place regularly. There are also figures on homelessness from the Central Statistics Office that arise from the census, but they do not always tally with some of the data we get from local authorities. There is therefore some work to do in determining exactly who is homeless and who should be counted in the figures. I acknowledge that we need to do some more work on that.

Deputy Maureen O'Sullivan: Homeless people say they get to a point where they feel they are almost invisible and are of absolutely no value. As a result, their self esteem and dignity disappear. That is where the services are vital and do such great work.

About a month ago, I visited Brother Kevin in the Capuchin Day Centre in Bow Street, Dublin. He told me that his food bill for the year is €1.9 million. On top of that he also has to pay water and waste charges. He gets €350,000 from Dublin City Council and €100,000 from the HSE, so those figures do not add up. There is an increasing demand for food parcels and other services provided at the centre.

I welcome the Minister of State's answer which admitted that while progress has been made, it is unfortunately not enough. Everybody knows what to do but it is a question of joining up the dots. The people to talk to are those who are providing such services. On a practical basis, we must examine how much the service is taking in and what it has to give out. If the Department of the Environment, Community and Local Government or the Department of Social Protection can bring any influence to bear on water and waste charges, it would give them so much more money that they can then spend on services for the homeless.

Deputy Jan O'Sullivan: I thank Deputy O'Sullivan and fully agree with her that we need to talk regularly to those who provide such services. I again pay tribute to the Capuchins, the Simon Community, Focus Ireland and all the other voluntary bodies that do tremendous work in this area. We must ensure that we are all working together in partnership to deliver the best possible result for those who need these services. One of the things I most admire about the vol-

untary sector is that, as well as emergency accommodation and soup runs, they are also supporting people who have moved into either local authority or private rented accommodation. They thus ensure that such people can maintain those homes, which is a crucial element of their work.

Message from Seanad

Acting Chairman (Deputy Bernard Durkan): Seanad Éireann has passed the Equal Status (Amendment) Bill 2012, without amendment, and the Health Insurance (Amendment) Bill 2012, without amendment.

Personal Insolvency Bill 2012: From the Seanad (Resumed)

The Dáil went into Committee to resume consideration of Seanad amendment No. 2:

Section 2: In page 11, subsection (1), between lines 6 and 7, to insert the following:

" "electronic means" includes electrical, digital, magnetic, optical, electromagnetic, biometric and photonic means of transmission of data and other forms of related technology by means of which data is transmitted;".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard Durkan): Seanad amendments Nos. 3, 26, 27, 42, 44, 62, 64, 75, 76, 79, 116, 119, 128 and 131 are related and may be discussed together. Seanad amendment No. 3:

Section 2: In page 11, subsection (1), between lines 7 and 8, to insert the following:

" "excludable debt", in relation to a debtor, means any:

(*a*) liability of the debtor arising out of any tax, duty, levy or other charge of a similar nature owed or payable to the State;

(*b*) amount payable by the debtor under the Local Government (Charges) Act 2009;

(*c*) amount payable by the debtor under the Local Government (Household Charge) Act 2011;

(*d*) liability of the debtor arising out of any rates due to the local authority (within the meaning of the Local Government Act 2001);

(*e*) debt or liability of the debtor in respect of moneys advanced to the debtor by the Health Service Executive under the Nursing Homes Support Scheme Act 2009;

(*f*) debt due by the debtor to any owners' management company in respect of annual service charges under section 18 of the Multi-Unit Developments Act 2011 or contributions due under section 19 of that Act;

(*g*) debt or liability of the debtor arising under the Social Welfare Consolidation Act 2005;

"excluded debt", in relation to a debtor, means any:

(*a*) liability of the debtor arising out of a domestic support order;

(*b*) liability of the debtor arising out of damages awarded by a court (or another competent authority) in respect of personal injuries or wrongful death arising from the tort of the debtor;

(*c*) debt or liability of the debtor arising from a loan (or forbearance of a loan) obtained through fraud, misappropriation, embezzlement or fraudulent breach of trust;

(*d*) debt or liability of the debtor arising by virtue of a court order made under the Proceeds of Crime Acts 1996 and 2005 or by virtue of a fine ordered to be paid by a court in respect of a criminal offence;".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard Durkan): Seanad amendment No. 4 has already been discussed with Seanad amendment No. 1.

Seanad amendment No. 4:

Section 2: In page 11, subsection (1), between lines 7 and 8, to insert the following:

" "insolvency arrangement" means a Debt Relief Notice, Debt Settlement Arrangement or a Personal Insolvency Arrangement;".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard Durkan): Seanad amendments Nos. 5, 33, 38, 60, 114, 160 and 192 are related and may be discussed together.

Seanad amendment No. 5:

Section 2: In page 11, subsection (1), between lines 34 and 35, to insert the following:

" "relevant pension arrangement" means:

(*a*) a retirement benefits scheme, within the meaning of section 771 of the Taxes Consolidation Act 1997, for the time being approved by the Revenue Commissioners for the purposes of Chapter 1 of Part 30 of that Act;

(*b*) an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784 of the Taxes Consolidation Act 1997;

(*c*) a PRSA contract, within the meaning of section 787A of the Taxes Consolida-

tion Act 1997, in respect of a PRSA product, within the meaning of that section;

(*d*) a qualifying overseas pension plan within the meaning of section 787M of the Taxes Consolidation Act 1997;

(*e*) a public service pension scheme within the meaning of section 1 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004;

(*f*) a statutory scheme, within the meaning of section 770(1) of the Taxes Consolidation Act 1997, other than a public service pension scheme referred to in *paragraph* (*e*);

(*g*) such other pension arrangement as may be prescribed by the Minister, following consultation with the Ministers for Finance, Social Protection and Public Expenditure and Reform;".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 6, 134, 135, 136 and 176 are related and will be discussed together.

Seanad amendment No. 6:

Section 2: In page 11, subsection (1), lines 36 and 37, to delete "security in or over property of the debtor" and substitute the following:

"security (other than a guarantee or pledge referred to in section 35(8) of the Credit Union Act 1997) in or over property of the debtor".

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 2: In page 12, subsection (1), to delete lines 10 to 15 and substitute the following

" "specified creditor", in relation to a protective certificate, means a person specified in a protective certificate as being the person to whom a particular debt is owed;

"specified debt", in relation to a protective certificate, means a debt that is specified in that protective certificate as being subject to that certificate;".

Seanad amendment agreed to.

Seanad amendment No. 8:

Section 2: In page 12, subsection (1), line 17, to delete "and apart".

Seanad amendment agreed to.

Seanad amendment No. 9:

Section 2: In page 12, subsection (2), to delete lines 46 to 48.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 10, 29, 36, 111 to 113, inclusive, and 157 to 159, inclusive, are related and will be discussed together.

Seanad amendment No. 10:

Section 2: In page 13, between lines 2 and 3, to insert the following new subsections:

"(4) For the purposes of *sections 24(2)(g)(i)*, *84(1)(g)* and *116(1)(g)*, a debtor enters into a transaction with another person at an undervalue if he or she—

(*a*) makes a gift to, or otherwise enters into a transaction with, that other person on terms that provide for the debtor to receive no consideration, or

(*b*) enters into a transaction with that other person, the value of which, in money or money's worth, is significantly greater than the value, in money or money's worth, of the consideration provided by that other person.

(5) For the purposes of *sections 24(2)(g)(ii)*, *84(1)(h)* and *116(1)(h)*, a debtor gives a preference to another person if—

(*a*) the other person is a creditor of the debtor to whom a debt (other than an excluded debt or an excludable debt) is owed, or is a surety or guarantor for any such debt, and

(*b*) the debtor does any thing (including the granting of security), or suffers any thing to be done, which has the effect of putting that other person into a position which, in the event that the insolvency arrangement concerned is issued or comes into effect, as the case may be, would be better than the position in which that other person would have been if that thing had not been done or suffered to be done.".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 11, 183, 230 to 242, inclusive and 245 are related and will be discussed together.

Seanad amendment No. 11:

Section 5: In page 13, lines 29 to 42, to delete subsections (2) and (3) and substitute the following:

"(2) The performance of the functions, and the exercise of the powers and jurisdiction, conferred by this Act on the Circuit Court shall be within the jurisdiction of the circuit of the Circuit Court in which—

(*a*) the debtor to whom an application under this Act relates is residing at the time of the making of the application or has resided within one year of the time of the making of the application, or

(*b*) the debtor to whom the application relates has a place of business at the time of the making of the application or has had a place of business within one year of the time of the making of the application.

(3) An application to the Circuit Court under this Act may be made—

(*a*) in such office of, or attached to, the Circuit Court within the circuit concerned,

(*b*) in such combined court office (within the meaning of section 14 of the Courts and Court Officers Act 2009) within the circuit concerned, or

(*c*) in such office of the Courts Service, within the circuit concerned, designated by the Courts Service for the purpose of this Act,

as may be prescribed by rules of court.".

Seanad amendment agreed to.

Seanad amendment No. 12:

Section 8: In page 14, lines 10 to 17, to delete subsection (2) and substitute the following:

"(2) The Insolvency Service shall be a body corporate with perpetual succession and, without prejudice to the generality of the foregoing, may sue and be sued in its corporate name.".

Seanad amendment agreed to.

Seanad amendment No. 13:

Section 8: In page 14, lines 35 to 39, to delete subsection (6) and substitute the following:

"(6) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Insolvency Service by the Director or any person generally or specially authorised by the Director in that behalf.".

Seanad amendment agreed to.

Seanad amendment No. 14:

Section 9: In page 15, subsection (1), between lines 12 and 13, to insert the following:

"(*h*) in accordance with *Part 5*—

(i) authorise individuals to carry on practice as personal insolvency practitioners,

(ii) supervise and regulate persons practising as personal insolvency practitioners,

(iii) perform such functions as are assigned to the Insolvency Service under that Part,

(*i*) prepare and issue guidelines as to what constitutes a reasonable standard of living and reasonable living expenses under *section 23*,

(*j*) arrange for the provision of such education and training, in relation to the performance by them of their functions under this Act, of approved intermediaries, personal insolvency practitioners and other persons, as it thinks fit,".

Seanad amendment agreed to.

Seanad amendment No. 15:

Section 11: In page 15, lines 39 to 41, to delete paragraph (*b*) and substitute the following:

"(*b*) Subject to *subsection (13)*, the Director shall hold office for such period, not ex-

ceeding 5 years from the date of his or her appointment under this section, as may be determined by the Minister.".

Seanad amendment agreed to.

Seanad amendment No. 16:

Section 11: In page 16, subsection (3), lines 14 and 15, to delete paragraph (*a*).

Seanad amendment agreed to.

Seanad amendment No. 17:

Section 11: In page 17, subsection (11), lines 1 and 2, to delete paragraph (*a*) and substitute the following:

"(*a*) dies, resigns or is removed from office, or".

Seanad amendment agreed to.

Seanad amendment No. 18:

Section 11: In page 17, lines 17 to 19, to delete subsection (13) and substitute the following:

"(13) If, immediately before the establishment day, a person stands designated by the Minister under *subsection (12)*—

(*a*) the Minister shall appoint that person to be the first Director, and

(*b*) for the purposes of *subsection (1)(b)*, the date of that person's designation under *subsection (12)* shall be deemed to be the date of his or her appointment under this section.".

Seanad amendment agreed to.

Seanad amendment No. 19:

Section 15: In page 19, lines 10 to 45 and in page 20, lines 1 to 21, to delete section 15 and substitute the following section:

15.—(1) Subject to this section, the Insolvency Service shall, in each year—

(*a*) prepare and adopt a business plan in respect of that year or of such other period as may be determined by the Minister, and

(*b*) submit the plan to the Minister.

(2) A business plan shall—

(*a*) indicate the activities of the Insolvency Service for the period to which the business plan relates,

(*b*) contain estimates of the number of employees of the Insolvency Service for the period and the business to which the plan relates, and

(*c*) accord with policies and objectives of the Minister and the Government as they relate

to the functions of the Insolvency Service.

(3) In preparing the business plan, the Insolvency Service shall have regard to the strategic plan in operation at that time approved under *section 14*.

(4) The Insolvency Service shall submit to the Minister with a business plan a statement of its estimate of the income and expenditure relating to the plan that is consistent with the moneys estimated to be available to the Insolvency Service for the period to which the business plan relates.".

Seanad amendment agreed to.

Seanad amendment No. 20:

Section 16: In page 21, subsection (6), lines 4 and 5, to delete "a report under this section," and substitute "an annual report submitted under *subsection (1)*,".

Seanad amendment agreed to.

Seanad amendment No. 21:

Section 16: In page 21, between lines 9 and 10, to insert the following new subsection:

"(8) The Minister may, if he or she considers it appropriate to do so, cause a copy of a report submitted under *subsection (3)*—

(*a*) to be laid before each House of the Oireachtas, and

(*b*) where *paragraph (a)* has been complied with, published in such form and manner as he or she considers appropriate.".

Seanad amendment agreed to.

Seanad amendment No. 22:

Section 19: In page 22, lines 22 to 27, to delete subsection (1) and substitute the following:

"(1) The Director shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Insolvency Service as is required by the Committee and, for that purpose, shall provide the Committee with such information (including documents) as it specifies and as is in the possession of, or is available to, the Director.".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendment No. 23, amendments Nos. 1 and 2 to Seanad amendment No. 23, and Seanad amendments Nos. 30, 34, 37, 77 and 129 are related and will be discussed together.

Seanad amendment No. 23:

Section 23: In page 24, before section 23, but in Part 2, to insert the following new section:

23.—(1) The Insolvency Service shall, for the purposes of *sections 24*, *60(4)* and

95(4) and section 85D (as inserted by *section 146*) of the Bankruptcy Act 1988, prepare and issue guidelines as to what constitutes a reasonable standard of living and reasonable living expenses.

(2) Before issuing guidelines under *subsection (1)*, the Insolvency Service shall consult with the Minister, the Minister for Finance, the Minister for Social Protection and such other persons or bodies as the Insolvency Service considers appropriate or as the Minister may direct.

(3) In preparing guidelines to be issued under *subsection (1)*, the Insolvency Service shall have regard to—

(*a*) such measures and indicators of poverty set out in Government policy publications on poverty and social inclusion as the Insolvency Service considers appropriate,

(*b*) such official statistics (within the meaning of the Statistics Act 1993) and surveys relating to household income and expenditure published by the Central Statistics Office as the Insolvency Service considers appropriate,

(*c*) the Consumer Price Index (All Items) published by the Central Statistics Office or any equivalent index published from time to time by that Office,

(*d*) such other information as the Insolvency Services considers appropriate for the performance of its functions under this section,

(*e*) differences in the size and composition of households, and the differing needs of persons, having regard to matters such as their age, health and whether they have a physical, sensory, mental health or intellectual disability, and

(*f*) the need to facilitate the social inclusion of debtors and their dependants, and their active participation in economic activity in the State.

(4) Guidelines issued under *subsection (1)* may provide examples of—

(*a*) expenses that may be allowed as reasonable living expenses, and

(*b*) expenses that may not be allowed as reasonable living expenses.

(5) The Insolvency Service shall make guidelines issued under *subsection (1)* available to members of the public on its website.

(6) Subject to *subsection (7)*, the Insolvency Service shall issue guidelines under *subsection (1)* at intervals of such length, not being more than one year, as it considers appropriate.

(7) Failure by the Insolvency Service to comply with *subsection (6)* shall not render invalid for the purposes of this Act the guidelines most recently issued by it under this section.".

Acting Chairman (Deputy Bernard J. Durkan): Is amendment No. 23 agreed to?

Deputy Pádraig Mac Lochlainn: No, Acting Chairman, I have tabled amendments to

amendment No. 23.

Deputy Niall Collins: The Acting Chairman was doing well.

Minister for Justice and Equality (Deputy Alan Shatter): Perhaps I should come in at this point. These amendments relate to the issue of reasonable living expenses. Amendment No 23 empowers the insolvency service to draw up guidelines in respect of a reasonable standard of living and reasonable living expenses for debtors. These guidelines are referenced in sections 24, 60(4), 95(4) and section 85D, as inserted by section 146 of the Bill, of the Bankruptcy Act 1988 and will be required for the information of all concerned in the new debt resolution processes.

The new section 23 sets out the principles and policies which will set the parameters for the guidelines on living expenses. The insolvency service will be required to consult the Minister, the Minister for Finance, the Minister for Social Protection and such other persons or bodies as the insolvency service considers appropriate or as the Minister may direct. Subsection (3) sets out the matters to which the insolvency service is required to have regard in the course of drawing up guidelines. These include poverty indicators as set out in Government publications on poverty and social inclusion, statistical information collated by the Central Statistics Office on household income and expenditure, and the consumer price index. The insolvency service may also consider other appropriate sources of information such as academic studies. A broad range of matters are required to be taken into consideration with regard to differences in the size and composition of households and the differing needs of persons, having regard to matters such as their age, health and whether they have a physical, sensory, mental health or intellectual disability. The insolvency service will be required to issue guidelines on reasonable expenses at intervals of no longer than one year. The insolvency service will work closely with the money advice and budgeting service, MABS, and other organisations with expertise and interest in seeking to devise broad, realistic and workable guidelines.

I ask Members to note a slight typographical correction to amendment No. 23, which is that the reference to "Insolvency Services" in subsection (3)(*d*) should read "Insolvency Service". I presume there is no difficulty in so amending it.

As for Deputy Mac Lochlainn's proposed amendments, the new section 23 was amended on Report Stage in the Seanad to take account of suggestions from Senators that the insolvency service also should have regard to other information or research sources such as academic studies when compiling the guidelines on reasonable standards of living and reasonable living expenses for debtors. I was happy to take on board this suggestion and have reflected this in the provisions of subsection (3)(*d*). However, it would not be appropriate to refer in primary legislation to an individual study or publication and therefore I do not propose to accept the Deputies proposed amendment to subsection (3)(*a*).

In respect of the proposed amendment to subsection (3)(*e*), I am satisfied that the existing provisions of the new section 23 are sufficiently broad to allow for differences in geographical location to be taken into account in the preparation of the guidelines where necessary - this was a provision that was introduced during the debate in the Seanad - and to the extent it is possible to so do. I should mention that each of the three new debt resolution processes provided for in the Bill requires the specific circumstances of the debtor to be taken into account and geographic location will of course be one such factor to be considered.

Amendment No. 30 refines the provisions of section 24(5) to better set out how "net disposable income" is to be calculated in the context of an application for a debt relief notice. Amendments Nos. 34 and 37 propose to amend section 24(7) and 24(14) to include a specific reference to the guidelines in regard to reasonable living expenses, which are to be issued under the new section 23. Amendment No. 77 proposes to replace section 60(4) with new text that takes into account of the new provisions provided in section 23 in regard to reasonable living expenses in respect of the debt settlement arrangement process. Amendment No. 129 proposes a corresponding amendment to section 95, which applies to personal insolvency arrangements. I think that addresses all of the various amendments, including those tabled by Deputy Mac Lochlainn, that fall under this particular group.

Deputy Pádraig Mac Lochlainn: I move amendment No. 1 to Seanad amendment No. 23:

> In subsection (3)(*a*), after "inclusion" to insert ", and those articulated in the Consensual Budgeting Standards mechanism, and other mechanisms to assess relative income poverty".

In respect of the amendments to which the Minister has referred, Sinn Féin welcomes that the Government took on board its proposals to ensure guidelines are produced that outline what exactly constitutes a reasonable standard of living. This is essential to ensure people are not driven into poverty. A consensual budgeting standards mechanism aims to develop a standard that is rooted in social consensus about goods and services that everyone can afford. The Vincentian Partnership for Social Justice has used this in much of its research and the methodology itself works using focus groups of people from differing socioeconomic backgrounds to identify the actual expenditure choices and judgments that are made by people in real life as well as how they manage their money. The mechanism establishes the cost of a minimum essential standard of living across lifecycles and covers a broad range of age groups, while also providing a more comprehensive picture of the needs of groups such as single adults of working age living alone, etc.

Further to this, Sinn Féin also is calling for the insolvency service to examine geographic locations. Cost of living will vary depending on location and those who live in rural areas with no access to public transport will find it more difficult to get to work, bring children to school and so on in respect of transport costs. Sinn Féin welcomes that the Minister has defined more clearly what constitutes a reasonable standard of living. However, I ask him to consider the two amendments I have tabled. They complement what the Minister has done in this regard and I ask him to reconsider them.

Deputy Niall Collins: I have one brief comment to make. Can the Minister confirm that when the insolvency service goes about drawing up its view of what constitutes reasonable living expenses, the consultation process will be open to the public? I note the Minister referred to other such bodies. Will the public in general be afforded an opportunity in this regard? In other words, will a public notice be published calling for submissions from the public, as well as the plethora of organisations that exist? While organisations such as MABS are an integral part of this legislation, will other organisations be afforded an opportunity to partake in the consultation process? How often will that be updated? Will it be annual, biennial or every three years?

Deputy Alan Shatter: The legislation envisages it as an annual review of what are reasonable expenses. The reality is it will be open to the insolvency service to consult as it deems appropriate and to consider a range of reports and publications that address this issue, as well as consulting with particular Departments. I do not expect it will be appropriate that on an annual

basis the insolvency service will engage in some major public consultative process. It must have regard to all the expertise and statistical and financial information available.

When it comes to reasonable living expenses, guidelines will ultimately be published. In dealing with the individual circumstances of a seriously indebted person, the arrangement put in place will depend on particular issues relevant to the individual that must be taken into account. There will not be a set formula resulting in a set sum as applicable to every individual. There will be much variance in that regard.

I have no doubt the service will have regard to the expertise of the Money Advice and Budgeting Service and the manner in which it approaches this issue. I do not envisage an annual public consultative process but the director of the insolvency service would have sufficient expertise to engage in this process. When the guidelines are published, the service will be the body to which each non-judicial debt settlement will be furnished for oversight essentially to sign off on to ensure issues are being dealt with appropriately. When it comes to experience, I am sure the service will have insight into what arrangements are put in place with regard to the expenditure of different people. I expect that would feed into any annual review of reasonable living expenses. It will deal with real people in real debt in the context of a real debt settlement arrangement. Over a period, the service will develop its internal expertise in the area and may well identify issues that repeatedly arise that may not be covered with the first set of published guidelines. There is adequate discretion invested in the insolvency service to ensure that in putting these guidelines on reasonable living expenses in place, it will have available the maximum information.

For the reasons I previously outlined, I cannot accept Deputy Mac Lochlainn's amendments. We have added substantially to the provisions of the Bill as originally published. I am of the view that these additions cover everything about which Deputy Mac Lochlainn is anxious as it is open to the agency to access any source material that is of assistance in addressing the issues. In the circumstances I cannot accept the amendments being tabled.

Amendment No. 1 to Seanad amendment No. 23 put and declared lost.

Deputy Pádraig Mac Lochlainn: I move amendment No. 2 to Seanad amendment No. 23:

In subsection (3)(*e*), after "households," to insert "their geographic locations, ability to access services".

Amendment No. 2 to Seanad amendment No. 23 put and declared lost.

Seanad amendment agreed to.

Seanad amendment No. 24:

Section 23: In page 24, before section 23, but in Part 2, to insert the following new section:

24.—Nothing in this Act shall be construed as preventing the Insolvency Service, in the performance of its functions under this Act, from sending or receiving documents or other information, or otherwise communicating, by electronic means.".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 25, 28, 31,

amendment No. 1 to 31, 32, amendment No. 1 to 32, 35, 39, 43 and 45 to 52, inclusive, are related and will be discussed together by agreement. Is that agreed? Agreed.

Seanad amendment No. 25:

Section 23: In page 24, to delete lines 27 to 31 and substitute the following:

" "Debt Relief Notice process" in relation to a debtor, means the process that commences with the submission of a written statement by the debtor under *section 25(1)* and which concludes, as the case may be, when—

(*a*) the debtor's application for a Debt Relief Notice is withdrawn, deemed to be withdrawn or refused, in accordance with this Chapter, or

(*b*) the Debt Relief Notice issued in relation to that debtor ceases to have effect in accordance with this Chapter;".

Seanad amendment agreed to.

Seanad amendment No. 26:

Section 23: In page 24, to delete lines 32 to 41 and in page 25, to delete lines 1 to 16.

Seanad amendment agreed to.

Seanad amendment No. 27:

Section 23: In page 25, to delete lines 31 to 33 and substitute the following:

"(*b*) subject to *sections 32(9)* and *43*, may include a secured debt, and

(*c*) does not include an excludable debt, unless it is a permitted debt;".

Seanad amendment agreed to.

Seanad amendment No. 28:

Section 24: In page 26, subsection (2), line 24, to delete paragraph (*f*).

Seanad amendment agreed to.

Seanad amendment No. 29:

Section 24: In page 26, lines 25 to 29, to delete paragraph (*g*) and substitute the following:

"(*g*) has not, during the period of 2 years ending on the application date—

(i) entered into a transaction with a person at an undervalue that has materially contributed to the debtor's inability to pay his or her debts (other than any debts due to the person with whom the debtor entered the transaction at an undervalue), or

(ii) given a preference to a person that has had the effect of substantially reducing the amount available to the debtor for the payment of his or her debts (other than a debt due to the person who received the preference);".

Seanad amendment agreed to.

Seanad amendment No. 30:

Section 24: In page 26, line 41 and in page 27, lines 1 to 11, to delete subsection (5) and substitute the following:

"(5) For the purposes of *subsection (2)(b)*—

(*a*) "net disposable income" means the income available to a debtor, calculated in accordance with *paragraph (b)*, less the deductions referred to in *paragraph (c)*,

(*b*) the following, in relation to a debtor, shall be taken into account in calculating his or her income—

(i) his or her salary or wages,

(ii) the welfare benefits (other than child benefit) of which he or she is in receipt,

(iii) his or her income from a pension,

(iv) contributions from other household members, and

(v) any other income available to him or her,

and

(*c*) the following (where applicable), in relation to a debtor, shall be deducted from the sum calculated under *paragraph (b)*:

(i) his or her reasonable living expenses;

(ii) income tax payable by him or her;

(iii) social insurance contributions payable by him or her;

(iv) payments made by him or her in respect of excluded debts;

(v) payments made by him or her in respect of excludable debts that are not permitted debts;

(vi) such other levies and charges on the specified debtor's income as may be prescribed.".

Seanad amendment agreed to.

Seanad amendment No. 31:

Section 24: In page 27, subsection (6), between lines 31 and 32, to insert the following:

"(ii) one item of personal jewellery to a value not exceeding €750 or such other value as the Minister may prescribe, where the cost of purchase of that item is not included in the qualifying debts of the debtor for the purposes of *subsection (2)(a)*;".

Deputy Pádraig Mac Lochlainn: I move amendment No. 1 to Seanad amendment No. 31:

In line 1, to delete "€750" and substitute "€1,500".

I am sure Deputy Michael McGrath would like to speak to this as well as he has pressed the issue throughout the debate. This deals with the item of ceremonial importance. There was mention of "bazookas" when we debated what would be an appropriate amount for a valuation in this regard. In fairness, I appreciate that the Minister has come some way, although there may be many women out there very aggrieved at the valuation of €750. The amendment would increase this to €1,500, which is a more realistic valuation for the average engagement or wedding ring over the past decade. I have determined this from consultation with people about the matter. Will the Minister consider the matter further, although I appreciate that he has come some distance? Nevertheless, €750 is not a realistic valuation for the typical item of jewellery of ceremonial importance.

It is an important matter, although there has been a bit of fun with this in the media. We must complete a Bill that strikes a balance between satisfying those who are owed money and not humiliating those who are unfortunate enough not to be able to repay debts. To leave a provision for a person's wedding ring to be taken from that person as part of the process would lead to humiliation. We must get to a valuation that is more realistic in reflecting the average value out there and I argue that €1,500 is much closer to that than €750.

Deputy Alan Shatter: I will deal with all this group of amendments, beginning with Seanad amendment No. 25. They provide for miscellaneous amendments to Chapter 1 of Part 3, which deals with the debt relief notice process. Seanad amendment No. 25 makes clear the debt relief notice process concludes when the debtor's application for debt relief notice is withdrawn, deemed to be withdrawn or refused or when the debt relief notice issued with regard to the debtor ceases to have effect. The text as currently presented in the Bill is not sufficiently clear and requires further refinement for the avoidance of doubt.

Seanad amendment No. 28 proposes the deletion of paragraph (*f*) of section 24(2). This deletion arises as a consequence of Seanad amendment No. 35, which proposes the deletion of section 24(8), regarding the treatment of goods on hire purchase in the context of the debt relief notice process. Having considered the comments made in the Seanad on the matter, as well as comments from relevant organisations, and having consulted with the Parliamentary Counsel, I have decided to remove the provision from the Bill to offer greater flexibility to debtors. I am advised by Parliamentary Counsel that the matter can be left to the provisions of the Consumer Credit Act 1995 and there is no requirement for an explicit provision in the Bill.

Amendment No. 31 is in response to concerns raised by Deputies and Senators on items of personal jewellery. Deputies will be aware that setting a value for such items is difficult and invidious to a degree. I am now providing an exemption from the asset test of €750 for one item of personal jewellery, provided the application does not seek to settle the purchase cost of the item as a qualifying debt. The Minister may, by regulation, review the amount of the value of the item.

I listened to Deputy Mac Lochlainn's contribution on this matter, on which I recall there was an inordinate focus in the House previously. I note this particular issue attracted the attention of Deputy Healy-Rae who has not exactly been engaged in the heavy lifting in the discussion of the details of the legislation. It is, however, an issue that is always good for a headline. No matter what figure was included in the Bill, Deputies would have tried to raise it. I am sure Deputy Niall Collins will correct me if I am wrong but it is my recollection that it was in an

exchange with him or his colleague, Deputy Calleary, that a figure of €500 was suggested to me.

Deputy Pádraig Mac Lochlainn: Deputy Stephen Donnelly suggested the figure of €500.

Deputy Alan Shatter: Somebody suggested a figure of €500. We must remember that what we are doing under the debt relief notice is allowing an individual to have €20,000 of debt written off over a period on the basis that he or she has very limited means and is incapable of paying his or her debts. I remind Deputies again that the creditors may be the local shop which, to remain open, depends on people paying their debts, the local credit union whose members, to maintain the financial viability of the credit union, require that those who borrow money pay their debts, or a local self-employed painter and decorator who did work on someone's home for two or three weeks and may be dependent on getting paid for the work he has done to feed his spouse and children. Let us be realistic about this. One cannot expect individuals who are genuinely owed money and may be placed in financial difficulty if a series of other individuals do not pay to them what they are owed for the supply of services or products to regard as acceptable that the individuals in question are permitted to retain items of substantial value. What we are doing in this area is a good deal more considerate of debtors than what is done in other jurisdictions. Deputies should be clear that no such exemption exists in any other jurisdictions. We have provided an exemption for a single item of personal jewellery of €750 and I have no doubt that if I had inserted a value of €1,500, an amendment would have been tabled proposing a value of €3,000. I cannot go any further on the issue or accept the proposed amendment.

Amendment No. 32, like the previous amendment on jewellery, recalls our debates on the valuation of the exempt motor vehicle in section 24. I remind Deputies that the-----

Deputy Pádraig Mac Lochlainn: I did not realise we were discussing a series of amendments.

Acting Chairman (Deputy Bernard J. Durkan): I will put each amendment individually.

Deputy Alan Shatter: We are taking the amendments together. On the exempt motor vehicle, I believe a vehicle with a value of £1,000 is exempt under a similar debt mechanism in Northern Ireland. The relevant legislation was enacted in Northern Ireland in 2011 and Sinn Féin was part of the legislative process. We originally proposed a figure of €1,200 but I undertook to give consideration to Deputies' comments on the issue, including with regard to the safety of vehicles and a range of other matters. Having given the matter consideration, we have increased the value to €2,000. This refers to an exempt motor vehicle that is not included as part of a debtor's assets. It must be recalled that the debtor may keep the vehicle while having €20,000 of debt wiped out. There are some creditors who will regard it as entirely unreasonable that someone should retain a motor vehicle valued at €2,000 in circumstances where they will not be paid anything in the event that the debtor owes them €2,000. There has to be balance in this matter. The exemption is subject to the application not seeking to settle the purchase cost of the item as a qualifying debt. In other words, if I have a vehicle valued at €2,000 and I owe €1,800 on the vehicle, the vehicle cannot be made exempt from the debt process in circumstances where the person who sold the vehicle or funded its acquisition is left to hang and is not being paid. That is the exception and again the Minister may, by regulation, review the amount.

I do not propose to accept Deputy Mac Lochlainn's amendment, which proposes a value of €3,000. One could conclude that we are in some kind of bidding war on this issue. Deputies should remember that for every exemption, one is dealing with creditors who may be owed

small but important sums of money. Where one is dealing with reasonable living expenses, a person who cannot have a vehicle cannot drive. The reason other jurisdictions do not provide for this type of exemption is that they take the view that a car is luxury if a person owes others money. It is a luxury not only in the context of retaining the car but also given all of the expenses that have to be incurred to keep it on the road, including petrol, car insurance and tax and maintenance costs. We are doing something here that many other jurisdictions do not do. In the circumstances, the Deputy's amendment proposing to increase the value of the car cannot be accepted.

Amendment No. 39 proposes to set out more clearly the information the debtor is required to provide to the approved intermediary in support-----

Deputy Pádraig Mac Lochlainn: On a point of order, would it not be more practical to dispose of each amendment before moving onto the subsequent amendment?

Deputy Alan Shatter: The order of the House was that all of these amendments would be taken together because they are interrelated. Obviously, Deputy Mac Lochlainn should be entitled to speak on the issue related to the value of the car. It may be helpful, therefore, to allow me to complete my contribution on this series of amendments because there is a connectivity between them all. They have been grouped for this reason and also because it facilitates discussion rather than a piecemeal debate.

I was dealing with amendment No. 39 which proposes to set out more clearly the information the debtor is required to provide to the approved intermediary in support of his or her application for a debt relief notice. It also includes at paragraph (*a*)(iv) additional text which places a notice on the debtor to inform the approved intermediary as to what efforts the debtor has made to reach alternative repayment arrangements with creditors prior to seeking a full write-off in the debt relief notice. While this may not be of significant concern as such, it serves as a useful indicator and could lead to a current or future Money Advice and Budgeting Service client for a debt relief notice being potentially diverted into an acceptable repayment arrangement with creditors, thereby avoiding the process and some of its consequences. This approach would complement current MABS strengths and involvement in debt resolution.

Amendment No. 43 is a drafting amendment to require a debtor who applies for a debt relief notice to make a statutory declaration as to the completeness and accuracy of his or her prescribed financial statement.

Amendment No. 45 provides that an application for a debt relief notice may be withdrawn by the approved intermediary at any time prior to the issuing of a debt relief notice by the insolvency service under section 28. This potential situation is not currently addressed in this part of the Bill and is required for the avoidance of doubt.

Amendment No. 46 proposes the amendment of section 28 to address a lacuna in the existing text. The new text makes provision for circumstances where a debt relief notice application is referred to the insolvency service but the service is dissatisfied with the application. Subsection (1)(*b*) provides that in such cases the service is required to inform the approved intermediary.

Subsection (2) provides for circumstances in which the court refuses an application for a debt relief notice. Subsection (3) makes provision for the appropriate court, where it requires further information or evidence for the purpose of its arriving at a decision under subsection (2), to hold a hearing on the matter. Subsection (4) makes provision for the hearing not to be

held in public unless the court decides otherwise. Subsection (5) requires the court to notify the insolvency service of its decision on the application.

Amendment No. 47 is a drafting amendment which amends the cross-referencing in regard to core notification arising from the new text in section 28. Amendments Nos. 48 and 49 are technical drafting amendments to improve the presentation of the Bill.

Amendment No. 50 provides for the replacement of the current subsections (3) and (4) in section 33. The amendment essentially improves the text by making clear how the debtor's income is to be calculated for potential repayment where there has been an increase in such income. It also takes account of the new provisions regarding excluded and excludable debts and how these are to be treated in this scenario.

Amendment No. 51 is a drafting amendment. The previous provision concerned in section 34 is now to be dealt with by a revised section 35 provided for by amendment No. 52, which improves the text of the existing section 35 with regard to the situation of the debt relief notice process when a possible payment to creditors becomes available. The primary change is to mirror the now possible inclusion of certain previously excluded debts in a debt relief notice. In recognition of that possibility, such creditors deemed to hold permitted debts, which are those excluded debts the creditors have agreed to include and write off, will receive priority over other creditors if some funds become available. Realistically, I do not expect such repayments will be a major feature of the debt relief notice process, given its nature and the likely economic position of applicants for a debt relief notice.

Acting Chairman (Deputy Bernard J. Durkan): Amendment No. 1 to amendment No. 31, which we are discussing as part of this group, is in the name of Deputy Mac Lochlainn.

Deputy Niall Collins: May I seek a clarification?

Acting Chairman (Deputy Bernard J. Durkan): Yes.

Deputy Michael Healy-Rae: I also indicated.

Acting Chairman (Deputy Bernard J. Durkan): I call Deputies Niall Collins and Healy-Rae in that order.

Deputy Niall Collins: Can the figures of €750 and €2,000 in respect of jewellery and vehicles, respectively, be revised upwards by ministerial order?

Deputy Alan Shatter: Yes.

Deputy Michael Healy-Rae: I raised my issue with the Minister previously. I appreciate from where he is coming when he refers to creditors, as I know what it is to be a creditor. Perhaps unlike him, my other work often entails my being owed money by people who find themselves in a position of being unable to pay. I can view the issue from both sides of the coin.

The figure is set too low. I appreciate the Minister's remarks to the effect that, regardless of what figure he decided on, be it €2,500 or €3,000, people would claim it was wrong. Sure, I may as well be talking to the wall.

Deputy Alan Shatter: I beg the Deputy's pardon.

Deputy Michael Healy-Rae: I genuinely believe the figure the Minister has set is too low.

There is a groundswell of opposition. People outside the Houses know which figure is being chosen and are unhappy with it. Anyone can run into financial difficulty in the current economic climate. Regarding the point on which Deputy Niall Collins sought clarification, it is good the figure can be raised at a future date, but I do not know why the Minister would not accede to the request to increase the figure to at least €1,500. Items became more expensive while times were good and people might have bought items with which they would not like to part. The flat rate figure set by the Minister in respect of personal jewellery is too low and should be increased.

I appreciate how he has moved on the question of vehicular transport. When I raised this issue previously, he missed my point. He believed I was referring to one type of vehicle when I mentioned "jeeps". Where I come from, a "jeep" is a work vehicle, not something that can be seen swanning around the suburbs of Dublin or taking children to school. There is a difference. The work vehicles are used by contractors and farmers. If they want to get their legs back under them, return to work and try to get to a better place after running into financial trouble, strong, suitable and sound vehicles are a basic necessity. These are not fancy or elaborate. They are ordinary, common work vehicles that any farmer, contractor or so on needs. They are not the type of vehicle that someone like the Minister might have. I hope he will take on board my opinions.

Deputy Pádraig Mac Lochlainn: How does one follow that? Spot on. Deputy Healy-Rae has conveyed the difference between urban and rural mindsets.

I appreciate that the Minister has moved some ways and pushed the value of the item of ceremonial importance to €750. In fairness, he also pushed the vehicle's valuation to €2,000. I welcome this. He may believe we are being churlish in our amendments, but he knows the typical engagement ring purchased in the past decade would rarely have cost as little as €750. I appreciate that a Deputy provided him with a valuation. I was alarmed when I heard it.

I do not want the Minister to believe this is a token amendment. It is a practical measure that reflects the reality of the value of people's engagement and wedding rings. No one involved in the process wants to see legislation the practical interpretation of which permits someone's engagement ring to be taken. We will press the amendment if the Minister does not accept it. Clearly, the Government will win this debate, given the numbers in the House, but I ask the Minister to reflect on the question put to him by Deputy Niall Collins. There may be an opportunity to amend this measure at a later stage if he cannot do so today.

The second issue is that of the car valuation. The Minister used the term "luxury". I agree with Deputy Healy-Rae, in that having a vehicle in rural Ireland is no luxury. If one lives in rural parts of the Inishowen Peninsula or in north or west County Donegal, public transport will rarely pass one's way during the day. If one wants to have a job or participate in the life of the community in any meaningful way, one must have a car. I appreciate that the Minister has moved towards €2,000, as it is a step in the right direction.

The State benefits from VRT. Against all European directives, we choose to have a high VRT rate, increasing the cost of our cars. What one would get for £1,000 in the North differs greatly from what one would get for €1,200 in this State.

My amendment reflects reality. With all due respect, we are rural people and we know a basic car or vehicle, to take Deputy Healy-Rae's point on board, is necessary to survive in areas where the public transport system of many years is now absent. All the Minister needs to do is ask one of his rural colleagues what constitutes a basic car for the people in question.

I appreciate what the Minister has stated. A local business, credit union or so on will seek to strike a balance; no one wants people to be humiliated. The people under discussion are in financial hardship. Through this amendment, we want those in rural Ireland in particular to have the chance to return to the world of work.

Our amendments are practical and are not intended to disrespect the fact that the Minister has taken on board our points. I commend him in that regard, as he has not maintained a stubborn position. I appreciate the ring valuation came from an Opposition Member's recommendation. In the Minister's heart of hearts, though, he knows he probably has not gone far enough with either valuation. He may, however, insist on not accepting these amendments. Will he at least offer an assurance that he will review these matters in the near future, in the context of his ministerial rights under the legislation?

Deputy Alan Shatter: I did not say that I regarded a car as a luxury. I merely observed that the view is taken in other jurisdictions that where a person is in serious debt and that debt is to be written off, it is not reasonable that the individual should continue to run a car. It is not merely the question of excluding the car as an asset of value; consideration is also given to all of the inherent expenses involved in keeping a car on the road.

Northern Ireland is as much a rural community as the Republic of Ireland, so we should not look in two opposite directions on exactly the same issue. Whatever the difference in vehicle registration tax as between the two jurisdictions, the Deputy cannot seriously suggest that a car valued at £1,000 in the North is of necessity far superior to any vehicle one might purchase for €2,000 in the Republic. The Deputy knows that is a nonsensical claim. In fact, a car valued at €2,000 in this State will invariably be in better condition than a car valued at only £1,000 in Northern Ireland. Moreover, the Deputy's party was satisfied with a valuation of £1,000 being included in the legislation enacted in the North.

Deputy Pádraig Mac Lochlainn: This is straw man stuff.

Deputy Alan Shatter: It is the reality. In the context of insolvency legislation in Northern Ireland, there was no issue for Sinn Féin in fixing a threshold of £1,000 on the value of a vehicle which can be exempted from the asset base for the purpose of determining whether an individual will qualify for a debt resolution mechanism similar to our debt relief notice.

Deputy Pádraig Mac Lochlainn: Bankruptcy is a different matter in the North, however, given that it applies for a much shorter period.

Deputy Alan Shatter: We are providing greater relief in the Republic for individuals who are in debt. In any case, no matter what figure I put on it, the Deputy would seek to cap it.

In regard to the jewellery issue, it was like pulling teeth when I asked Deputies opposite to indicate what value they had in mind. To use a good old Yiddish-American term, everybody looked at me and stayed schtum for quite a long time.

Deputy Niall Collins: The Minister does not realise that we know he knows it all.

Deputy Alan Shatter: When the tooth was finally loosened and a member of the Opposition suggested a figure of €500, there was furious nodding in my direction from that side of the House.

Deputy Pádraig Mac Lochlainn: It was nervousness.

Deputy Alan Shatter: There was not a single dissenter. Even Deputy Michael Healy-Rae did not dissent because he did not have a figure in mind himself.

I made my misgivings regarding this provision clear when we discussed it on Committee Stage. As I recall, I pointed out both in this and the other House that in practice, in the 30 or so instances of bankruptcy that are decided in this country every year, creditors do not ask about the bankrupt individual's wedding ring. It is not part of the conversation and is not perceived as an issue creditors would wish to address. In the case of a husband who becomes insolvent, for example, it is not the case that his wife's wedding ring will be brought into play. Where an individual becomes insolvent, his or her personal assets are normally part of the consideration, but I am not aware of the jewellery issue having created a problem for anybody in reality. This particular issue has grown legs because it is all very interesting and makes a great newspaper headline. I acceded to the wishes of Deputies to designate one item of personal jewellery - which does not have to be ceremonial - as exempt from the consideration of a person's assets. I continue to have misgivings that this measure might actually encourage creditors to seek valuations in future in circumstances where they would not heretofore have approached the issue at all. In other words, it is my concern that we are not necessarily travelling a route that will be helpful to individuals in serious debt who resort to this particular debt resolution mechanism.

To be clear, my view on this does not come from any ideological perspective, and I have huge sympathy for individuals who find themselves in serious debt. This legislation is about introducing mechanisms to assist people in debt to work their way through it and to facilitate that debt being written off. As it stands, there is no statutory mechanism whereby a person in debt can, without going into bankruptcy, have that debt or some portion of it written off. When this legislation is enacted, we will have, under the debt relief notice, the possibility of €20,000 of debt being written off within a short number of years, after which individuals can get on with their lives. Creditors, no matter how meritorious, will effectively be burnt in this situation. In fact, they may end up getting absolutely nothing while the debtor walks away. This will be of considerable assistance to people with very limited assets and income who made financial mistakes. It is important to bear in mind that not everybody is a victim here. Indeed some of those who benefit will have arrived in their predicament simply by spending money they did not have or spending it unwisely. As a consequence, creditors who might, from the best of motives, have given these people credit will get burnt. We must be balanced in this regard.

As I said, we have included, on the urging of Deputies opposite and their colleagues in the Seanad, a provision which exempts jewellery up to a particular value from being counted as an asset in the context of the debt relief notice mechanism. The measure has been deliberately designed, with provision for the amount to be amended by way of regulation, to ensure we can keep a watchful brief on how it works in practice. This was done for a series of reasons. It is important, for example, when financial limits are set in primary legislation, where it is appropriate to do so, that provision is made to deal with issues of inflation.

I cannot go any further than that on this issue. I reiterate my reservations regarding the inclusion of the measure. I remain of the view that in a broad range of circumstances in which people are in financial difficulty, creditors would not seek to pursue this issue at all. Unfortunately, however, it seems to be the only aspect of the legislation in which the media were interested. If a person has an item of personal jewellery worth hundreds of thousands of euro - before Deputy Healy-Rae shouts at me that nobody has such items of jewellery, I challenge him-----

Deputy Michael Healy-Rae: Only somebody like the Minister.

Deputy Alan Shatter: I wish the Deputy would not be always so personal. It is not necessary to get a headline to be either abusive or personal. He, however, cannot resist taking that approach every time he comes into the House.

Deputy Michael Healy-Rae: It was the Minister who got personal.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy had his opportunity to speak. He must remain silent while the Minister replies.

Deputy Alan Shatter: The Deputy cannot resist such outbursts because they might get him a headline.

Deputy Michael Healy-Rae: The Minister started it and he knows he started it. If he cannot take it, he should not give it out.

Acting Chairman (Deputy Bernard J. Durkan): This is not a parish pump. I ask the Deputy to have regard for the House.

Deputy Alan Shatter: It is unfortunate that we were having a serious debate in this House until Deputy Healy-Rae decided to pop up to address the jewellery issue. He has made no contribution of any description to the rest of the legislation.

Deputy Michael Healy-Rae: The Minister is wrong again.

Deputy Alan Shatter: Nor has he contributed to any of the serious engagement which resulted in major amendments to the Bill. It is unfortunate that it is this particular issue, as opposed to the very substantial measures that are designed to be of genuine assistance to persons in debt, which catches a headline .

Returning to the car valuation, in the context of this issue not being addressed in certain jurisdictions and in the context of the value that is attached in similar circumstances in adjacent jurisdictions, I am of the view that increasing the threshold from €1,200 to €2,000 is appropriate. An increase of €3,000, however, is a step too far in the context of the balance that must be fairly struck in the interests of creditors. Again, this is an issue, because it can be dealt with by way of regulation, that is open to review. I do not want to be misunderstood in this regard. I share the view that a car is a necessity depending on where one lives in this State. For some it is a necessity for social interaction and contact with family and friends, while for others it is essential to get to work and for taking their children to school. We have taken that into account, but there must be a balance. I cannot accept the amendments in the context of that balance.

Amendment No. 1 to Seanad amendment No. 31 put and declared lost.

Seanad amendment No. 31:

Section 24: In page 27, subsection (6), between lines 31 and 32, to insert the following:

"(ii) one item of personal jewellery to a value not exceeding €750 or such other value as the Minister may prescribe, where the cost of purchase of that item is not included in the qualifying debts of the debtor for the purposes of *subsection (2)(a)*;".

Seanad amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 1 to Seanad amendment No. 32:

In line 1, to delete "€2,000" and substitute "€3,000".

Amendment No. 1 to Seanad amendment No. 32 put and declared lost.

Seanad amendment No. 32:

Section 24: In page 27, subsection (6)(*c*)(ii)(I), line 35, to delete "€1,200 or less" and substitute the following:

"€2,000 or less, or is worth such other amount as the Minister may prescribe, where the cost of purchase of that item is not included in the qualifying debts of the debtor for the purposes of subsection (2)(*a*)".

Seanad amendment agreed to.

Seanad amendment No. 33:

Section 24: In page 28, subsection (6), to delete lines 4 to 7 and substitute the following:

"(iv) any interest in or entitlement under a relevant pension arrangement unless *subsection (14)** applies.".

Seanad amendment agreed to.

Seanad amendment No. 34:

Section 24: In page 28, subsection (7), lines 10 to 15, to delete paragraphs (*a*) to (*c*) and substitute the following:

"(*a*) the current liabilities of the debtor,

(*b*) the contingent and prospective liabilities of the debtor and (insofar as is ascertainable) the times at which such liabilities will become due for payment,

(*c*) the current and prospective assets and income of the debtor, and

(*d*) guidelines issued under *section 23**.".

Seanad amendment agreed to.

Seanad amendment No. 35:

Section 24: In page 28, lines 16 to 28, to delete subsection (8).

Seanad amendment agreed to.

Seanad amendment No. 36:

Section 24: In page 28, lines 29 to 47, and in page 29, lines 1 to 5, to delete subsections (9) and (10).

Seanad amendment agreed to.

Seanad amendment No. 37:

Section 24: In page 30, between lines 11 and 12, to insert the following subsection:

"(14) In determining what constitutes reasonable living expenses or a reasonable standard of living for the purposes of this section, regard shall be had to guidelines issued under *section 23**.".

Seanad amendment agreed to.

Seanad amendment No. 38:

Section 24: In page 30, between lines 11 and 12, to insert the following subsections:

"(14) Where this subsection applies and a debtor has an interest in or entitlement under a relevant pension arrangement which would, if the debtor performed an act or exercised an option, cause that debtor to receive from or at the request of the person administering that relevant pension arrangement—

(*a*) an income, or

(*b*) an amount of money other than income,

in accordance with the relevant provisions of the Taxes Consolidation Act 1997, that debtor shall be considered as being in receipt of such income or amount of money.

(15) *Subsection (14)#* applies where the debtor—

(*a*) is entitled at the date of the making of the application for a Debt Relief Notice,

(*b*) was entitled at any time before the date of the making of the application for a Debt Relief Notice, or

(*c*) will become entitled within 6 months of the date of the making of the application for a Debt Relief Notice,

to perform the act or exercise the option referred to in *subsection (14)#*.".

Seanad amendment agreed to.

Seanad amendment No. 39:

Section 25: In page 30, subsection (1), lines 15 to 17, to delete paragraph (*a*) and substitute the following:

"(*a*) such information as may be prescribed in relation to—

(i) his or her creditors,

(ii) his or her debts and other liabilities,

(iii) his or her assets, and

(iv) the efforts made by him or her to reach an alternative repayment arrangement with his or her creditors, and".

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard Durkan): Seanad amendments Nos. 40, 41, 54, 55, 58, 59, 170 and 180 are related and may be discussed together.

Seanad amendment No. 40:

Section 25: In page 31, lines 28 to 46 and in page 32, lines 1 to 3, to delete subsections (9) and (10) and substitute the following:

"(9) Where an approved intermediary resigns from the role of approved intermediary as respects a debtor, he or she shall notify the Insolvency Service of that fact, which notification shall be accompanied by a statement of the reasons for his or her resignation.

(10) Where, at any time during the Debt Relief Notice process after the debtor has made the confirmation referred to in *subsection (3)*, the approved intermediary concerned ("original approved intermediary")—

(*a*) dies,

(*b*) becomes incapable, through ill-health or otherwise, of performing the functions of an approved intermediary as respects the debtor,

(*c*) resigns from the role of approved intermediary as respects the debtor, or

(*d*) is no longer entitled to perform the functions of an approved intermediary under this Act,

the debtor shall, as soon as practicable after becoming aware of that fact, appoint another approved intermediary to act as his or her approved intermediary for the purposes of this Chapter.

(11) (*a*) Where *paragraph (a)*, *(b)* or *(c)* of *subsection (10)* applies, the debtor concerned shall, as soon as practicable, inform the Insolvency Service of that fact.

(*b*) Where an approved intermediary has been appointed under *subsection (10)*, the approved intermediary shall, as soon as practicable, inform the Insolvency Service and the creditors concerned of that fact.".

Deputy Alan Shatter: These amendments provide for situations where an approved intermediary or personal insolvency practitioner resigns or becomes unable to act, and a replacement intermediary or practitioner is appointed.

Amendment No. 40 improves the text of the provisions of section 25 dealing with situations where an approved intermediary resigns or otherwise becomes unavailable to continue acting as such for the debtor. Essentially, the required notifications to be made by the parties concerned are set out in a clearer fashion. Subsection (10) now provides that if an approved intermediary resigns from the role in respect of a debtor, the intermediary shall be required to notify the insolvency service. A replacement approved intermediary must inform the insolvency service of his or her appointment. I ask the House to note a slight correction of alignment in amendment No. 40, which is that in the new subsection (10), the text after paragraph (d) should be aligned to subsection level. That will be dealt with in the final printed form of the Bill.

Amendment No. 54 amends the existing provision so as to empower the insolvency service to prescribe the criteria for authorisation of persons as authorised intermediaries.

Amendment No. 55 provides that the authorisation of a person to act as an approved intermediary may be withdrawn, as provided for in regulations, when they no longer meet the criteria for authorisation.

Amendment No. 58 replaces subsections (4) to (6) of section 46 with new text regarding notification and reporting responsibilities relating to the resignation and replacement of personal insolvency practitioners. These amendments are required to improve the overall presentation of the section for clarity and for consistency of approach with the amendments to section 25 regarding approved intermediaries.

Amendments Nos. 41, 59, 170 and 180 are technical drafting amendments to further refine the text.

Seanad amendment agreed to.

Seanad amendment No. 41:

Section 25: In page 32, subsection (11), lines 4 and 5, to delete "*subsection (9)*" and substitute "*subsection (10*)*".

Seanad amendment agreed to.

Seanad amendment No. 42:

Section 26: In page 32, before section 26, to insert the following new section:

26.—(1) A Debt Relief Notice shall be issued in respect of an excludable debt only where the creditor concerned has consented, or is deemed to have consented, in accordance with this section, to the issue of such a Debt Relief Notice.

(2) Where a debtor who wishes an application under *section 26* to be made on his or her behalf wishes the Debt Relief Notice concerned to be issued in respect of an excludable debt, the approved intermediary concerned shall, without delay, notify the creditor concerned of that fact, which notification shall be accompanied by—

(*a*) such information about the debtor's affairs (including his or her creditors, debts, liabilities, income and assets) as may be prescribed, and

(*b*) a request in writing that the creditor confirm, in writing, whether or not the creditor consents, for the purposes of this section, to the Debt Relief Notice being issued in respect of the debt.

(3) A creditor shall comply with a request under *subsection (2)(b)* within 21 days of receipt of the notification under that subsection.

(4) Where a creditor does not comply with *subsection (3)*, the creditor shall be deemed to have consented to the issue of a Debt Relief Notice in respect of the debt concerned.

(5) In this Chapter, "permitted debt" means an excludable debt to which *subsection (1)* applies.".

Seanad amendment agreed to.

Seanad amendment No. 43:

Section 25: In page 32, subsection (2)(*c*), line 31, to delete "*section 25*;" and substitute the following:

"*section 25* and a statutory declaration made by the debtor confirming that the statement is a complete and accurate statement of the debtor's assets, liabilities, income and expenditure;".

Seanad amendment agreed to.

Seanad amendment No. 44:

Section 25: In page 32, subsection (2)(*d*), to delete lines 34 to 37 and substitute the following:

"(i) the amount of each debt due to that creditor,

(ii) whether the creditor concerned is a secured creditor and, if so, the details of any security held in respect of the debt concerned, and

(iii) where the debt is an excludable debt, whether that debt is a permitted debt within the meaning of *section 26**;".

Seanad amendment agreed to.

Seanad amendment No. 45:

Section 25: In page 33, between lines 26 and 27, to insert the following subsection:

"(5) An application under this section may be withdrawn by the approved intermediary at any time prior to the issue of a Debt Relief Notice under *section 28*.".

Seanad amendment agreed to.

Seanad amendment No. 46:

Section 28: In page 34, lines 38 to 45 and in page 35, lines 1 to 8, to delete subsections (1) to (3) and substitute the following:

"28.—(1) Where the Insolvency Service, following its consideration under *section 27*—

(*a*) is satisfied that an application under *section 26* is in order, it shall—

(i) issue a certificate to that effect,

(ii) furnish that certificate together with a copy of the application and supporting documentation to the appropriate court, and

(iii) notify the approved intermediary to that effect, and

(*b*) is not so satisfied, it shall notify the approved intermediary to that effect.

(2) Where the appropriate court receives the application and accompanying documentation pursuant to *subsection (1)(a)*, it shall consider the application and documentation and, subject to *subsection (3)*—

(*a*) if satisfied that the criteria specified in *section 24(2)* have been satisfied, shall issue a Debt Relief Notice in respect of the debts specified in the application under *section 26* which it is satisfied are qualifying debts, and

(*b*) if not so satisfied, shall refuse to issue a Debt Relief Notice.

(3) The appropriate court, where it requires further information or evidence for the purpose of its arriving at a decision under *subsection (2)*, may hold a hearing, which hearing shall be on notice to the Insolvency Service and the approved intermediary concerned.

(4) A hearing referred to in *subsection (3)*, unless the appropriate court considers it appropriate to hold it in public, shall be held otherwise than in public.

(5) The registrar of the appropriate court shall notify the Insolvency Service where the appropriate court—

(*a*) issues a Debt Relief Notice under this section,

(*b*) refuses an application under *subsection (2)(b)*, or

(*c*) decides to hold a hearing referred to in *subsection (3)*.".

Seanad amendment agreed to.

Seanad amendment No. 47:

Section 30: In page 35, subsection (1), line 21, to delete "*section 28(3)*" and substitute "*section 28(5)(a)**".

Seanad amendment agreed to.

Seanad amendment No. 48:

Section 32: In page 37, subsection (1)(*g*), line 18, after "debtor," to insert "other than a security agreement,".

Seanad amendment agreed to.

Seanad amendment No. 49:

Section 32: In page 37, subsection (1)(*g*)(ii), lines 22 and 23, to delete ", or a forfeiture of a term,".

Seanad amendment agreed to.

Seanad amendment No. 50:

Section 33: In page 38, lines 29 to 35, to delete subsection (3) and substitute the following:

"(3) Subject to *subsections (4)** and *(5)***, a specified debtor whose income increases by €400 or more per month during the supervision period concerned shall surrender to the Insolvency Service 50 per cent of that increase.

(4) The reference in *subsection (3)* to a specified debtor's income is a reference to his

or her income as stated in the information provided, or documents submitted by him or her, or on his or her behalf, under *section 26*, less the following deductions (where applicable):

(*a*) income tax;

(*b*) social insurance contributions;

(*c*) payments made by him or her in respect of excluded debts;

(*d*) payments made by him or her in respect of excludable debts that are not permitted debts;

(*e*) such other levies and charges on the specified debtor's income as may be prescribed.".

Seanad amendment agreed to.

Seanad amendment No. 51:

Section 34:In page 39, lines 13 and 14, to delete subsection (4).

Seanad amendment agreed to.

Seanad amendment No. 52:

Section 35: In page 39, lines 15 to 31, to delete section 35 and substitute the following:

35.—(1) The Insolvency Service, on receipt of a sum under *subsection (2)* or *(3)* of *section 33* or under *section 34*, shall deal with that sum in accordance with this section.

(2) On receipt of a sum referred to in *subsection (1)*, the Insolvency Service shall, subject to *subsection (3)*—

(*a*) apportion that sum, on a *pari passu* basis, among the specified creditors to whom a specified qualifying debt that is a permitted debt is owed, and

(*b*) within one month of such receipt, transmit to each such specified creditor payment of the sum apportioned to that creditor under *paragraph (a)*.

(3) Where, following a payment or payments to specified creditors under *subsection (2)* or *subsection (4)*, as the case may be, all of the specified qualifying debts referred to in *subsection (2)* have been paid in full, the Insolvency Service shall, in relation to a sum referred to in *subsection (1)*—

(*a*) apportion that sum, on a *pari passu* basis, among the remaining specified creditors concerned, and

(*b*) within one month of such receipt, transmit to each such specified creditor payment of the sum apportioned to that creditor under *paragraph (a)*.

(4) Where the Insolvency Service—

(*a*) has apportioned a sum to a specified creditor under *subsection (2)(a)* or *(3)(a)*, as the case may be, and

(*b*) after reasonable efforts, is unable to locate that specified creditor,

it shall apportion the sum referred to in *paragraph* (*a*) among the specified creditors referred to in *subsection (2)(a)* or *(3)(a)*, as the case may be, whom it has succeeded in locating and, within one month of doing so, shall transmit to each such specified creditor payment of the sum so apportioned.

(5) Where a specified qualifying debt is secured, the Insolvency Service, in apportioning a sum to the specified creditor concerned under *subsection (2)(a)*, *(3) (a)* or *(4)*, shall disregard the value of the security held by the specified creditor for that debt.".

Seanad amendment agreed to.

Seanad amendment No. 53:

Section 41: In page 42, subsection (4)(*e*), line 35, to delete "as the court thinks fit" and substitute "as it deems appropriate".

Seanad amendment agreed to.

Seanad amendment No. 54:

Section 44: In page 44, subsection (5), line 9, to delete "The Minister may" and substitute the following:

"The Insolvency Service, with the consent of the Minister, may and, if directed by the Minister to do so and in accordance with the terms of the direction, shall, following consultation with any other person or body as the Insolvency Service thinks appropriate or as the Minister directs,".

Seanad amendment agreed to.

Seanad amendment No. 55:

Section 44: In page 44, between lines 16 and 17, to insert the following new subsection:

"(6) Regulations under *subsection (5)* may provide for the withdrawal of an authorisation of a person where he or she no longer meets the criteria for such an authorisation prescribed in those regulations.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 56, 57, 61, 63, 65, 66, 67, 117, 118, 120, 121, 122, 177, 178 and 179 are related and may be discussed together.

Seanad amendment No. 56:

Section 46: In page 44, lines 29 to 35, to delete subsection (1) and substitute the following:

"46.—(1) A debtor to whom *section 45* applies shall submit to a personal insolvency practitioner a written statement disclosing all of the debtor's financial affairs, which statement shall include—

(*a*) such information as may be prescribed in relation to—

(i) his or her creditors,

(ii) his or her debts and other liabilities,

(iii) his or her assets, and

(iv) guarantees (if any) given by the debtor in respect of a debt of another person,

and

(*b*) such other financial information as may be prescribed.".

Deputy Alan Shatter: These amendments address matters relating to an application for a protective certificate in the debt settlement arrangement and personal insolvency arrangement processes.

Amendment No. 56 substitutes the existing text of section 46(1) with new text regarding the information which the debtor is required to provide to the personal insolvency practitioner about his or her financial affairs. It also now includes a requirement for the disclosure of details of any guarantees given by the debtor. The amendment is intended to improve the clarity of the provision.

Amendment No. 57 is a technical drafting amendment to further refine the text to include a reference to the provision of the personal insolvency practitioner's advice in writing.

The purpose of Amendment No. 61 is to make clear that where the advice of a personal insolvency practitioner is that a debtor should not make a proposal for, or enter into, an arrangement, the personal insolvency practitioner is required to notify the insolvency service of that fact, and the appointment of the personal insolvency practitioner shall come to an end.

Amendment No. 63 inserts a new subsection (3) in section 53 to provide that a proposal for a debt settlement arrangement should only concern debts which are in default for a period of more than six months prior to the application. Amendment No. 118 provides for a similar amendment to be made to section 88 regarding a proposal for a personal insolvency arrangement.

Amendment No. 65 extends the provisions of section 54(2)(*e*) with new text to provide that the schedule of debts and creditors that must accompany an application for a protective certificate relating to a proposal for a debt settlement arrangement should also contain any other information that may be prescribed. Amendment No. 120 provides for a corresponding amendment to section 89(2)(*e*) regarding an application for a protective certificate relating to a proposal for a personal insolvency arrangement.

Amendment No. 66 inserts two new subsections in section 54 to improve the text. The new subsection (3) provides that an application for a protective certificate may be withdrawn by the personal insolvency practitioner at any time prior to the issue of the certificate. This is not made clear in the Bill as it currently stands. The new subsection (4) places an obligation on the personal insolvency practitioner to notify the insolvency service as soon as practicable after he or she becomes aware of any inaccuracy or omission in an application for a protective certificate. The insolvency service is required to have regard to any such information provided

under subsection (4) for the purposes of its consideration of the debtor's application. Amendment No. 121 provides for the same amendments to be made to section 89 in relation to the personal insolvency arrangement.

Amendment No. 67 will replace the current section 56 with improved and extended text regarding the process whereby the insolvency service refers an application for a protective certificate in respect of a debt settlement arrangement to the court. The new elements concern situations where the insolvency service is dissatisfied with the application and may require a revised application or where a court requires further information. Where a court decides to hold a hearing, it may hold it otherwise than in public. Amendment No. 122 is similar in purpose to Amendment No. 67 and proposes the replacement of section 91 relating to the process for referring an application for a protective certificate in respect of a personal insolvency arrangement to the court.

Amendment No. 117 removes the requirement for a debtor applying for a personal insolvency arrangement to make a statutory declaration as to his or her co-operation with secured creditors in regard to the principal private residence and replaces it with a requirement for a declaration in writing. At present, section 131 requires the Minister for Justice and Equality to prescribe the form of the prescribed financial statement to be used in applications for the new debt resolution processes provided for in the Bill. For flexibility, amendments No. 177 and 178 propose instead that the insolvency service should carry out this function. Amendment No. 179 is a technical drafting amendment to improve the presentation of section 131.

Seanad amendment agreed to.

Seanad amendment No. 57:

Section 46: In page 44, subsection (2)(c), line 43, after "arrangement," to insert the following:

"which advice the personal insolvency practitioner shall confirm in writing to the debtor,".

Seanad amendment agreed to.

Seanad amendment No. 58:

Section 46: In page 45, lines 15 to 39, to delete subsections (4) to (6) and substitute the following:

"(4) On being appointed under subsection (3), the personal insolvency practitioner shall—

(*a*) confirm in writing to the debtor that the personal insolvency practitioner has consented to act in the role of personal insolvency practitioner as respects the debtor, and

(*b*) notify the Insolvency Service of his or her appointment.

(5) Where a personal insolvency practitioner is appointed under subsection (3), he or she shall stand appointed, and the debtor concerned shall not appoint another personal insolvency practitioner under that subsection, until such time as—

(*a*) the debtor concerned requests him or her to resign from the role of personal in-

solvency practitioner as respects the debtor, or

(*b*) the personal insolvency practitioner resigns from that role, on his or her own initiative.

(6) Where a personal insolvency practitioner resigns from the role of personal insolvency practitioner as respects a debtor, he or she shall notify the Insolvency Service of that fact, which notification shall be accompanied by a statement of the reasons for his or her resignation.

(7) Where a personal insolvency practitioner appointed under subsection (3) ("original personal insolvency practitioner")—

(*a*) dies,

(*b*) becomes incapable, through ill-health or otherwise, of performing the functions of a personal insolvency practitioner as respects the debtor,

(*c*) resigns from the role of personal insolvency practitioner as respects the debtor, or

(*d*) is no longer entitled to perform the functions of a personal insolvency practitioner under this Act,

the debtor shall, as soon as practicable after becoming aware of that fact, appoint another personal insolvency practitioner to act as his or her personal insolvency practitioner for the purposes of Chapter 3 or 4, as the case may be.

(8) (*a*) Where paragraph (a), (b) or (c) of subsection (7)* applies, the debtor concerned shall, as soon as practicable, inform the Insolvency Service of that fact.

(*b*) Where a personal insolvency practitioner has been appointed under subsection (7)*, the personal insolvency practitioner shall, as soon as practicable, inform the Insolvency Service and the creditors concerned of that fact.".

Seanad amendment agreed to.

Seanad amendment No. 59:

Section 46: In page 45, subsection (7), line 41, to delete "*subsection (5)*" and substitute "*subsection (7)**".

Seanad amendment agreed to.

Seanad amendment No. 60:

Section 48: In page 46, between lines 20 and 21, to insert the following new section:

48.—(1) Subject to subsection (4), in relation to Debt Settlement Arrangements and Personal Insolvency Arrangements, where a debtor has an interest in or an entitlement under a relevant pension arrangement, such interest or entitlement of the debtor shall not be treated as an asset of the debtor unless subsection (2) applies.

(2) Where this section applies and a debtor has an interest in or entitlement under a relevant pension arrangement which would, if the debtor performed an act or exercised an

option, cause that debtor to receive from or at the request of the person administering that relevant pension arrangement—

(*a*) an income, or

(*b*) an amount of money other than income, in accordance with the relevant provisions of the Taxes Consolidation Act 1997, that debtor shall be considered as being in receipt of such income or amount of money.

(3) *Subsection (2)* applies where the debtor—

(*a*) is entitled at the date of the making of the application for a protective certificate,

(*b*) was entitled at any time before the date of the making of the application for a protective certificate, or

(*c*) will become entitled within 6 years and 6 months of the date of the making of the application for a protective certificate in relation to a Debt Settlement Arrangement or within 7 years and 6 months of the date of the making of the application for a protective certificate in relation to a Personal Insolvency Arrangement, to perform the act or exercise the option referred to in subsection (2).

(4) Nothing in subsections (1) to (3) shall remove the obligation of a debtor making an application for a protective certificate to make disclosure of any interest in or entitlement under a relevant pension arrangement in completing the Prescribed Financial Statement.".

Seanad amendment agreed to.

Seanad amendment No. 61:

Section 48: In page 48, between lines 12 and 13, to insert the following new subsection:

"(5) Where the advice of a personal insolvency practitioner under *subsection (1)* is that the debtor should not make a proposal for, or enter into, an arrangement, the personal insolvency practitioner shall notify the Insolvency Service of that fact, and the appointment of the personal insolvency practitioner under *section 46(3)* shall come to an end.".

Seanad amendment agreed to.

Seanad amendment No. 62:

Section 48: In page 49, between lines 9 and 10, to insert the following new subsections:

"(4) (*a*) A Debt Settlement Arrangement shall not contain any terms that would release the debtor from an excluded debt or otherwise affect such a debt.

(*b*) A proposal for a Debt Settlement Arrangement shall not include any terms that, if contained in a Debt Settlement Arrangement that came into effect, would contravene paragraph (a).

(5) Unless otherwise expressly stated, a reference in this Chapter to a debt is a reference to an unsecured debt and a reference to a creditor is a reference to an unsecured creditor.".

Seanad amendment agreed to.

Seanad amendment No. 63:

Section 53: In page 50, between lines 21 and 22, to insert the following new subsection:

"(3) A debtor shall not be eligible to make a proposal for a Debt Settlement Arrangement where 25 per cent or more of his or her debts (other than excluded debts and secured debts) were incurred during the period of 6 months ending on the date on which an application is made under *section 54* for a protective certificate.".

Seanad amendment agreed to.

Seanad amendment No. 64:

Section 54: In page 50, before section 54, to insert the following new section:

54.—(1) An excludable debt shall be included in a proposal for a Debt Settlement Arrangement only where the creditor concerned has consented, or is deemed to have consented, in accordance with this section, to the inclusion of that debt in such a proposal.

(2) Where a personal insolvency practitioner proposes to include an excludable debt in a proposal for a Debt Settlement Arrangement, he or she shall, without delay, notify the creditor concerned of that fact, which notification shall be accompanied by—

(*a*) such information about the debtor's affairs (including his or her creditors, debts, liabilities, income and assets) as may be prescribed, and

(*b*) a request in writing that the creditor confirm, in writing, whether or not the creditor consents, for the purposes of this section, to the inclusion of the debt in a Debt Settlement Arrangement.

(3) Subject to subsection (6), a creditor shall comply with a request under subsection (2)(b) within 21 days of receipt of the notification under that subsection.

(4) Where a creditor does not comply with subsection (3), the creditor shall be deemed to have consented to the inclusion of that debt in a proposal for a Debt Settlement Arrangement.

(5) Where a creditor consents or is deemed to have consented, in accordance with this section, to the inclusion of an excludable debt in a proposal for a Debt Settlement Arrangement, that creditor shall be entitled to vote at any creditors' meeting called to consider that proposal.

(6) Where the debtor concerned is the subject of a protective certificate, and a creditor to whom this section applies brings an application under *section 58(1)* in respect of that protective certificate, the period referred to in *subsection (3)* shall not commence until the date on which the appropriate court determines the application.

(7) An excludable debt shall not be the subject of a Debt Settlement Arrangement unless it is a permitted debt.

(8) In this Chapter, "permitted debt" means an excludable debt to which subsection (1) applies.".

Seanad amendment agreed to.

Seanad amendment No. 65:

Section 54: In page 50, subsection (2)(*e*), to delete lines 39 to 44, subsection (2)(e), and substitute the following:

"(*e*) a schedule of the creditors of the debtor and the debts concerned, stating in relation to each such creditor—

(i) the amount of each debt due to that creditor,

(ii) whether, as respects the debt concerned, the creditor is a secured creditor and, if so, the nature of the security concerned, and

(iii) such other information as may be prescribed;".

Seanad amendment agreed to.

Seanad amendment No. 66:

Section 54: In page 51, between lines 9 and 10, to insert the following subsections:

"(3) An application under this section may be withdrawn by the personal insolvency practitioner at any time prior to the issue of a protective certificate under *section 56**.

(4) Where a personal insolvency practitioner becomes aware of any inaccuracy or omission in an application under this section or any document accompanying such an application, he or she shall inform the Insolvency Service of this fact as soon as practicable and the Insolvency Service shall have regard to any information provided under this subsection for the purposes of its consideration of the application.".

Seanad amendment agreed to.

Seanad amendment No. 67:

Section 56: In page 52, lines 26 to 48, in page 53 lines 1 to 44, and in page 54 lines 1 to 8, section 56 deleted and the following section substituted:

56.—(1) Where the Insolvency Service, following its consideration under section 55—

(*a*) is satisfied that an application under section 54 is in order, it shall—

(i) issue a certificate to that effect,

(ii) furnish that certificate together with a copy of the application and supporting documentation to the appropriate court, and

(iii) notify the personal insolvency practitioner to that effect, and

(*b*) is not so satisfied, it shall notify the personal insolvency practitioner to that effect and request him or her, within 21 days from the date of the notification, to submit a revised application or to confirm that the application has been withdrawn.

(2) Where the appropriate court receives the application for a protective certificate and

accompanying documentation pursuant to subsection (1)(a), it shall consider the application and documentation and, subject to subsection (3)—

(a) if satisfied that the eligibility criteria specified in section 53 have been satisfied and the other relevant requirements relating to an application for the issue of a protective certificate have been met, shall issue a protective certificate, and

(b) if not so satisfied, shall refuse to issue a protective certificate.

(3) The appropriate court, where it requires further information or evidence for the purpose of its arriving at a decision under subsection (2), may hold a hearing, which hearing shall be on notice to the Insolvency Service and the personal insolvency practitioner concerned.

(4) A hearing referred to in subsection (3), unless the appropriate court considers it appropriate to hold it in public, shall be held otherwise than in public.

(5) Subject to subsections (6) and (7) and section 71(2), a protective certificate shall be in force for a period of 70 days from the date of its issue.

(6) Where a protective certificate has been issued pursuant to subsection (2)(a), the appropriate court may, on application to that court by the personal insolvency practitioner, extend the period of the protective certificate by an additional period not exceeding 40 days where—

(a) the debtor and the personal insolvency practitioner satisfy the court that they have acted in good faith and with reasonable expedition, and

(b) the court is satisfied that it is likely that a proposal for a Debt Settlement Arrangement which is likely—

(i) to be accepted by the creditors, and

(ii) to be successfully completed by the debtor, will be made if the extension is granted.

(7) Where a protective certificate has been issued pursuant to subsection (2)(a) or extended under subsection (6), the appropriate court may on application to that court extend the period of the protective certificate by a further additional period not exceeding 40 days where—

(a) the personal insolvency practitioner has been appointed in accordance with section 46(7)*, and

(b) the court is satisfied that the extension is necessary to enable the personal insolvency practitioner so appointed to perform his or her functions under this Chapter.

(8) A hearing held under subsection (7) shall be held with all due expedition.

(9) The period of a protective certificate may be extended under subsection (7) once only.

(10) The registrar of the appropriate court shall notify the Insolvency Service and the

personal insolvency practitioner concerned where the court—

(a) issues or extends a protective certificate under this section,

(b) refuses to issue or extend a protective certificate under this section, or

(c) decides to hold a hearing referred to in subsection (3).

(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

(a) enter details of the name and address of the debtor and the date of issue of the protective certificate, and

(b) where applicable, the extension under this section of the protective certificate, together with such other details as may be prescribed under section 128(3)(b), in the Register of Protective Certificates.

(12) On receipt of a notification under subsection (10) of a decision of the court referred to in that subsection, the personal insolvency practitioner shall notify each of the creditors specified in the schedule of creditors of that decision and, in the case of a decision to issue a protective certificate, the notification by the personal insolvency practitioner shall contain a statement—

(a) that the debtor intends to make a proposal for a Debt Settlement Arrangement,

(b) of the effect of the protective certificate under section 57, and

(c) of the right of the creditor under section 58 to appeal the issue of the protective certificate.

(13) Notwithstanding the provisions of subsections (5), (6) and (7), a protective certificate that is in force on the date on which a proposal for a Debt Settlement Arrangement is approved in accordance with section 68 shall continue in force until it ceases to have effect in accordance with section 71.

(14) A protective certificate issued under this section shall—

(*a*) specify—

(i) the name of the debtor who is the subject of it,

(ii) the debts ("specified debts") which are subject to it, and

(iii) the name of each creditor to whom a specified debt is owed,

and

(*b*) contain such other information as may be prescribed.

(15) In considering an application under this section the appropriate court shall be entitled to treat a certificate issued by the Insolvency Service under subsection (1) as evidence of the matters certified therein.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 68, 69, 71, 82, 92, 93, 123, 124, 126, 127, 146 and 147 are related and will be discussed together by agreement.

Seanad amendment No. 68:

Section 57: In page 54, lines 9 to 45, to delete subsections (1) to (3) and substitute the following:

"(1) Subject to subsections (3), (4), (5) and (8), a creditor to whom notice of the

issue of a protective certificate has been given shall not, whilst the protective

certificate remains in force, in relation to a specified debt—

(*a*) initiate any legal proceedings;

(*b*) take any step to prosecute legal proceedings already initiated;

(*c*) take any step to secure or recover payment;

(*d*) execute or enforce a judgment or order of a court or tribunal against the debtor;

(*e*) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the creditor or the creditor holds security over the goods;

(*f*) contact the debtor regarding payment of the specified debt, otherwise than at the request of the debtor;

(*g*) in relation to an agreement with the debtor, other than a security agreement, by reason only that the debtor is insolvent or that the protective certificate has been issued—

(i) terminate or amend that agreement, or

(ii) claim an accelerated payment under that agreement.

(2) Whilst a protective certificate remains in force, no bankruptcy petition relating

to the debtor—

(*a*) may be presented by a creditor to whom subsection (1) applies in respect of a specified debt,

(*b*) in a case where the petition has been presented by such a creditor in respect of a specified debt, may be proceeded with.

(3) Without prejudice to subsections (1) and (2), and subject to section 63, whilst a protective certificate remains in force, no other proceedings and no execution or other legal process in respect of a specified debt may be commenced or continued by a creditor to whom subsection (1) applies against the debtor or his or her property, except with the leave of the court and subject to any order the court may make to stay such proceedings, enforcement or execution for such period as the court deems appropriate pending the outcome of attempts to reach a Debt Settlement Arrangement, but this subsection shall not operate to prohibit the

commencement or continuation of any criminal proceedings against the debtor.".

Deputy Alan Shatter: These amendments seek to improve the provisions of the Bill relating to the effect of a protective certificate or the approval of a debt settlement arrangement or a personal insolvency arrangement. Amendments Nos. 68 and 123 refine the text of sections 57 and 92 to better clarify the effect of the issue of a protective certificate in a debt settlement arrangement or a personal insolvency arrangement.

Amendment No. 69 makes it clear that a secured debt is not affected by a protective certificate in the debt settlement arrangement process. Amendment No. 71 is required to improve the current formulation of section 59(1). It also includes a new provision which requires the personal insolvency practitioner to make a proposal for a debt settlement arrangement in addition to inviting submissions from creditors. Amendments Nos. 126 and 127 provide for corresponding amendments to section 94 regarding the personal insolvency arrangement. Amendment No. 82 is a technical drafting amendment which amends the existing text of section 63 to include a necessary cross-reference to section 57. Amendments Nos. 92 and 146 refine the text of sections 74 and 112 in relation to the effect of an approved debt settlement arrangement or personal insolvency arrangement on creditors. Amendments Nos. 93 and 147 aim to clarify the position in those sections in relation to creditor action against another person who may have guaranteed the specified debts concerned. The purpose of Amendment No. 124 is to delete section 92(8), which is now redundant following the amendments regarding excluded and excludable debts.

Seanad amendment agreed to.

Seanad amendment No. 69:

Section 57: In page 55, lines 21 and 22, to delete subsection (8) and substitute the following:

"(8) A secured debt shall not be subject to or affected by a protective certificate under this Chapter.".

Seanad amendment agreed to.

Seanad amendment No. 70:

Section 58: In page 55, subsection (3)(a), line 36, to delete "failing to give such direction" and substitute "not making such an order".

Seanad amendment agreed to.

Seanad amendment No. 71:

Section 59: In page 56, lines 3 to 19, to delete subsection (1) and substitute the following:

"(1) Where a protective certificate has been issued, the personal insolvency

practitioner shall as soon as practicable thereafter—

(*a*) give written notice to the creditors concerned that the personal insolvency practitioner has been appointed by the debtor for the purpose of making a proposal for a Debt Settlement Arrangement and, subject to section 62 (2), invite those creditors to

make submissions to the personal insolvency practitioner regarding the debts concerned and the manner in which the debts might be dealt with as part of a Debt Settlement Arrangement, and such notice shall be accompanied by the debtor's completed Prescribed Financial Statement,

(*b*) consider any submissions made by creditors in accordance with paragraph (a) regarding the debts and the manner in which the debts might be dealt with as part of a Debt Settlement Arrangement, including any submission made by a creditor with respect to previous or existing offers of arrangements made by the creditor to or with the debtor, and

(*c*) make a proposal for a Debt Settlement Arrangement in respect of the debts concerned.".

Seanad amendment agreed to.

Seanad amendment No. 72:

Section 59: In page 56, subsection (2)(a), line 26, to delete "debts;" and substitute "debts.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 73, 83 to 88, inclusive, 90, 96 to 100, inclusive, 137 to 144, inclusive, 151 to 154, inclusive and 182 are related and will be discussed together .

Seanad amendment No. 73:

Section 59: In page 56, subsection (2)(b)(i), line 29, to delete "section 67, 77 or 78" and substitute "section 67 or 77".

Deputy Alan Shatter: This group of amendments deals with procedures for creditors' meetings relating to proposals for a debt settlement arrangement or personal insolvency arrangement, court approval of a debt settlement arrangement or personal insolvency arrangement, and also with procedures for variation of such arrangements. Amendment No. 83 provides for a more specific reference to the documents required to be given to the creditors prior to a creditors' meeting to consider a proposal for a debt settlement arrangement. The amendment also makes it clear that where a creditors' meeting does not take place before the expiry of the protective certificate, the debt settlement arrangement procedure shall be deemed to have come to an end.

Amendments Nos. 84, 85 and 86 are technical drafting amendments to provide for correct cross-referencing consequential to Amendment No. 40. Amendments No. 137, 138 and 139 provide for corresponding amendments to the provisions relating to creditors' meetings regarding proposals for personal insolvency arrangements.

Amendment No. 87 proposes to replace section 67(3) with new text in order to make the provisions consistent with similar provisions in the Bill, such as those in section 65(2). It also provides that where an amended debt settlement arrangement proposal is prepared, the personal insolvency practitioner should also be required to furnish this proposal to the insolvency service. Amendment No. 142 will make a corresponding amendment to section 105(5), which applies to amended proposals for personal insolvency arrangements.

Amendment No. 88 clarifies that the voting rights exercisable by a creditor at a meeting of creditors to approve a debt settlement arrangement are in proportion to the amount rather than the value of the debt due to that creditor on the day the protective certificate is issued. This is a better expression of the likely situation.

Amendment No. 140 replaces the current section 104 of the Bill in order to set out, in a clearer fashion, all of the relevant factors in regard to the determination and exercise of voting rights at creditors' meetings in regard to a personal insolvency arrangement. Amendment No. 141 is a technical drafting amendment.

Amendment No. 143 replaces the current text of section 106 with regard to the proportion of creditors required to approve a personal insolvency arrangement. The purpose of the amendment is to clarify the operation of the section. The section has been shortened to reflect the key point, which is the percentage of votes in total and in the secured and unsecured classes. Some other provisions of the section have been relocated to the revised section 104 proposed by amendment No. 140.

Amendment No. 182 proposes to insert a new section in Chapter 6. It sets out how debts in other currencies are to be dealt with in the context of the provisions of the Bill. There are specific references to a foreign currency in section 68(3) and section 104(2). However, I am advised that it would be more appropriate to delete those references and to provide a general currency conversion provision applicable to the three new debt resolution processes instead.

Amendments No. 90 and 144 replace the provisions of section 73 and 111 in regard to the approval by a court of a debt settlement arrangement or personal insolvency arrangement. The text of the sections, while not altered substantially, is now presented in a more coherent fashion in regard to the satisfaction of the eligibility criteria for the insolvency service and the court.

Regarding the variation of debt settlement arrangements and personal insolvency arrangements, amendment No. 73 is consequential on Amendment No. 100, which will delete section 78 of the Bill. This section provided for the process of termination of a debt settlement arrangement by a meeting of creditors. On further reflection with the Office of the Attorney General and Parliamentary Counsel, it is proposed that the section be deleted on the basis that it is not particularly required in the light of the provisions of section 79, which require the involvement of the court. There is no comparable provision in the personal insolvency arrangement.

Amendments Nos. 96 and 151 are required to ensure consistency between the debt settlement arrangement and personal insolvency arrangement provisions of the Bill with regard to the variation of either arrangement. These amendments address inconsistencies between sections 79 concerning the debtor's consent to a variation of a debt settlement arrangement and the corresponding section 115 concerning consent to the variation of a personal insolvency arrangement.

Amendment No. 97 will remove the discretion previously afforded to the personal insolvency practitioner in regard to the calling of a creditors' meeting to consider a possible variation in a debt settlement arrangement. Amendments Nos. 98, 99, 152, 153 and 154 aim to clarify the procedures for voting by creditors on a proposed variation of a debt settlement arrangement, or a personal insolvency arrangement.

Seanad amendment agreed to.

Seanad amendment No. 74:

Section 59: In page 56, subsection (2)(b)(ii), line 31, to delete "concerned;" and substitute "concerned.".

Seanad amendment agreed to.

Seanad amendment No. 75:

Section 60: In page 57, subsection (2)(b), line 8, to delete "subject to *paragraphs (c)* and *(d)*,".

Seanad amendment agreed to.

Seanad amendment No. 76:

Section 60: In page 57, subsection (2), lines 13 to 49 and in page 58, lines 1 and 2, to delete paragraphs (*c*) and (*d*).

Seanad amendment agreed to.

Seanad amendment No. 77:

Section 60: In page 59, lines 3 to 10, to delete subsection (4) and substitute the following:

"(4) For the purposes of *subsection (2)(f)*, and without prejudice to *subsection (3)*, in determining whether a debtor would have sufficient income to maintain a reasonable standard of living for the debtor and his or her dependants under the Debt Settlement Arrangement, regard shall be had to any guidelines issued under *section 23**.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 78, 80, 81, 89, 130, 132 and 133 are related and will be discussed together.

Seanad amendment No. 78:

Section 61: In page 59, subsection (3), line 30, to delete "Arrangement," and substitute "Arrangement, and subject to *section* 62,".

Deputy Alan Shatter: This group of amendments deals with the treatment of preferential debts in the debt settlement arrangement and personal insolvency arrangement processes. Amendments Nos. 78 and 130 are technical amendments to sections 61 and 96, to insert cross-references to the sections dealing with a preferential debt and debt settlement arrangement or a personal insolvency arrangement.

Amendment No. 80 replaces the existing text of section 62(1) with revised text which makes clear that unless the creditor concerned otherwise agrees in writing and provision to that effect is made in the terms of the debt settlement arrangement, a preferential debt is to be paid in priority by the debtor. Amendment No. 81 proposes the insertion of an interpretation provision in relation to "preferential debt". Amendments No. 132 and 133 make corresponding amendments to section 97, which relates to preferential debt for the purposes of the Personal Insolvency Arrangement Chapter. Amendment No. 89 replaces subsections (3), (4) and (5) of section 68

with one new subsection (2). The provisions in subsections (3) and (4) have been addressed by Amendments Nos. 76 and 182. The provisions of the previous subsection (5) relating to preferential debt in relation to a proposal for a Debt Settlement Arrangement have been further refined in the new subsection (2).

Seanad amendment agreed to.

Seanad amendment No. 79:

Section 61: In page 59, between lines 33 and 34, to insert the following subsection:

"(4) Unless provision is otherwise made in the Debt Settlement Arrangement where an Arrangement provides for payments to a creditor to whom section 54 applies that are greater than the payments that creditor would receive if such payments were made on a *pari passu* basis, the fees, costs and charges referred to in *section 60(2)(g)* shall be payable by that creditor in proportion to the payments received by him or her.".

Seanad amendment agreed to.

Seanad amendment No. 80:

Section 62: In page 59, lines 41 to 46 and in page 60, lines 1 to 6, to delete subsection (1)and substitute the following:

"(1) Unless the creditor concerned otherwise agrees in writing and provision is so made in the terms of the Debt Settlement Arrangement, a preferential debt shall,subject to *subsection (3)*, be paid in priority by the debtor and where those debts are to be paid in priority the provisions of section 81 of the Bankruptcy Act 1988 shall apply with all necessary modifications.".

Seanad amendment agreed to.

Seanad amendment No. 81:

Section 62: In page 60, between lines 19 and 20, to insert the following subsection:

"(4) In this Chapter, "preferential debt" means a debt which, if the debtor concerned were a bankrupt would be a debt—

(*a*) that by virtue of section 81 of the Bankruptcy Act 1988 is to be paid in priority to all other debts, or

(*b*) that by virtue of any other statutory provision is to be included among such debts.".

Seanad amendment agreed to.

Seanad amendment No. 82:

Section 63: In page 60, subsection (1), line 20, to delete "section," and substitute "section and *section 57*,".

Seanad amendment agreed to.

Seanad amendment no. 83:

Section 65: In page 62, lines 1 to 21, to delete subsections (2) to (4) and substitute the following:

"(2) When calling a creditors' meeting under this section, the personal insolvency practitioner shall do so in accordance with any regulations under *section 69* and, in any case, shall—

(*a*) give each creditor at least 14 days written notice of the meeting and the date on which, and time and place at which, the meeting will be held,

(*b*) ensure that the notice referred to in paragraph *(a)* is accompanied by a copy of each of the documents referred to in *section 66*, and

(*c*) lodge a copy of the notice referred to in paragraph *(a)* and the documents referred to in *section 66* with the Insolvency Service.

(3) Where a creditors' meeting referred to in subsection (1) does not take place before the expiry of the protective certificate, the Debt Settlement Arrangement procedure shall be deemed to have come to an end.".

Seanad amendment agreed to.

Seanad amendment No. 84:

Section 66: In page 62, subsection (1), line 22, to delete "*section 65(3)(b)*" and substitute "*section 65(2)(b)"*.

Seanad amendment agreed to.

Seanad amendment No. 85:

Section 66: In page 63, subsection (2), line 20, to delete "*section 65(3)*" and substitute *"section 65(2)"*.

Seanad amendment agreed to.

Seanad amendment No. 86:

Section 66: In page 63, subsection (2)(*b*), line 27, to delete *"section 65(3)*" and substitute *"section 65(2)"*.

Seanad amendment agreed to.

Seanad amendment No. 87:

Section 67: In page 63, lines 39 to 47, to delete subsection (3) and substitute the following:

"(3) Where the personal insolvency practitioner prepares an amended proposal for a Debt Settlement Arrangement pursuant to subsection (2) he or she shall—

(*a*) notify the debtor of the date on which, and time and place at which, the ad-

journed meeting will be held,

(*b*) at least 7 days before the day of the adjourned meeting, unless all of the creditors agree in writing to receive a shorter period of notice, notify each creditor of the date on which, and time and place at which, the adjourned meeting will be held,

(*c*) ensure that the notices referred to in *paragraph (a)* and *(b)* are accompanied by a copy of the amended proposal, and

(*d*) lodge a copy of the notice referred to in *paragraph (b)* and a copy of the amended proposal with the Insolvency Service.".

Seanad amendment agreed to.

Seanad amendment No. 88:

Section 68: In page 64, lines 28 to 30, to delete subsection (2) and substitute the following:

"(2) The voting rights exercisable by a creditor at a creditors' meeting shall be proportionate to the amount of the debt due by the debtor to the creditor on the day the protective certificate is issued.".

Seanad amendment agreed to.

Seanad amendment No. 89:

Section 68: In page 64, lines 31 to 44, to delete subsections (3) to (6) and substitute the following:

"(3) A creditor to whom a preferential debt is owed shall not be entitled to vote in respect of that debt in favour of a proposal for a Debt Settlement Arrangement at a creditors' meeting unless that creditor has furnished to the personal insolvency practitioner a waiver in writing of the creditor's right to have that debt treated as a preferential debt.".

Seanad amendment agreed to.

Seanad amendment no. 90:

Section 73: In page 66, lines 23 to 47 and in page 67, lines 1 to 5, to delete subsections (1) to (6) and substitute the following:

"(1) Where—

(*a*) no objection is lodged by a creditor with the appropriate court within 14 days of the giving of the notice referred to in *section 70*, or

(*b*) an objection is lodged with the appropriate court and the matter is determined by the court on the basis that the objection should not be allowed, the appropriate court shall proceed to consider, in accordance with this section, whether to approve the coming into effect of the Debt Settlement Arrangement.

(2) For the purposes of its consideration under *subsection (1)*, the appropriate court shall consider the copy of the Debt Settlement Arrangement furnished to it under *section*

71(1) and, subject to *subsection (3)*—

(*a*) shall approve the coming into effect of the Arrangement, if satisfied that the—

(i) eligibility criteria specified in section 53 have been satisfied,

(ii) mandatory requirements referred to in *section 60(2)* have been complied with,

(iii) Debt Settlement Arrangement does not contain any terms that would release the debtor from an excluded debt, an excludable debt (other than a permitted debt) or a secured debt or otherwise affect such a debt, and

(iv) requisite percentage of creditors referred to in *section 68(9)* has approved the proposal for a Debt Settlement Arrangement,and

(b) if not so satisfied, shall refuse to approve the coming into effect of the Debt Settlement Arrangement.

(3) The appropriate court, where it requires further information or evidence for the purpose of its arriving at a decision under *subsection (2)*, may hold a hearing, which hearing shall be on notice to the Insolvency Service and the personal insolvency practitioner concerned.

(4) A hearing referred to in *subsection (3)*, unless the appropriate court considers it appropriate to hold it in public, shall be held otherwise than in public.

(5) For the purposes of *subsection (2)*, the court may accept—

(a) a certificate issued by the Insolvency Service certifying that the eligibility criteria specified in *section 53* have been satisfied as evidence that such eligibility criteria have been satisfied, and

(b) the certificate issued by the personal insolvency practitioner concerned pursuant to *section 70(1)* as evidence that the requisite percentage of creditors referred to in *section 68(9)* has approved the proposal for a Debt Settlement Arrangement.

(6) The registrar of the appropriate court shall notify the Insolvency Service and the personal insolvency practitioner concerned where the court—

(a) approves or refuses to approve the coming into effect of the Debt Settlement Arrangement under this section, or

(b) decides to hold a hearing referred to in *subsection (3)*.

(7) On receipt of a notification under *subsection (6)* of the approval of the coming into effect of the Debt Settlement Arrangement, the Insolvency Service shall register the Debt Settlement Arrangement in the Register of Debt Settlement Arrangements.".

Seanad amendment agreed to.

Seanad amendment No. 91:

Section 74: In page 67, subsection (2)(*b*), lines 19 to 21, to delete all words from and including "concerned," in line 19 down to and including "Arrangement." in line 21 and substitute "concerned.".

Seanad amendment agreed to.

Seanad amendment No. 92:

Section 74: In page 67, lines 22 to 43, to delete subsection (3) and substitute the following:

"(3) Where a Debt Settlement Arrangement is in effect, a creditor who is bound by it shall not, in relation to a specified debt—

(*a*) initiate any legal proceedings;

(*b*) take any step to prosecute legal proceedings already initiated;

(*c*) take any step to secure or recover payment;

(*d*) execute or enforce a judgment or order of a court or tribunal against the debtor;

(*e*) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the creditor or the creditor has security over the goods;

(*f*) contact the debtor regarding payment of the specified debt otherwise than at the request of the debtor;

(*g*) in relation to an agreement with the debtor, other than a security agreement, by reason only that the debtor is insolvent or that a Debt Settlement Arrangement is in effect—

(i) terminate or amend that agreement, or

(ii) claim an accelerated payment under that agreement.".

Seanad amendment agreed to.

Seanad amendment No. 93:

Section 74: In page 68, between lines 28 and 29, to insert the following subsection:

"(10) Notwithstanding *subsections (3)* and *(4)*, the fact that a Debt Settlement Arrangement is in effect in relation to a debtor under this Chapter shall not operate to prevent a creditor taking the actions referred to in *subsection (3)* or *(4)* as respects another person who has guaranteed the specified debts concerned.".

Seanad amendment agreed to.

Seanad amendment No. 94:

Section 75: In page 69, subsection (5), line 2, after "has" to insert "defaulted".

Seanad amendment agreed to.

Seanad amendment No. 95:

Section 75: In page 69, subsection (10), line 32, after "made" to insert the following:

"under this Act and in accordance with the Debt Settlement Arrangement".

Seanad amendment agreed to.

Seanad amendment No. 96:

Section 77: In page 70, between lines 23 and 24, to insert the following subsections:

"(2) The debtor's written consent shall be required to any variation of a Debt Settlement Arrangement provided that any unreasonable refusal by the debtor to consent to a variation shall be subject to challenge in accordance with *section 84.*

(3) A debtor shall be considered to be acting reasonably where the debtor refuses to consent to a variation of a Debt Settlement Arrangement where that variation would require the debtor—

(*a*) to make additional payments in excess of 50 per cent of the increase in his or her income available to him or her after the following deductions (where applicable) are made:

(i) income tax;

(ii) social insurance contributions;

(iii) payments made by him or her in respect of excluded debts;

(iv) payments made by him or her in respect of excludable debts that are not permitted debts;

(v) such other levies and charges on income as may be prescribed,

or

(*b*) to make a payment amounting to more than 50 per cent of the value of any property acquired by the debtor after the coming into effect of the Debt Settlement Arrangement unless receipt of that property had been anticipated by the terms of that arrangement.".

Seanad amendment agreed to.

Seanad amendment No. 97:

Section 77: In page 70, subsection (2), line 29, to delete "may" and substitute "shall".

Seanad amendment agreed to.

Seanad amendment No. 98:

Section 77: In page 70, lines 31 to 38, to delete subsection (3), and substitute the fol-

lowing:

"(3) When calling a creditors' meeting to be held under this section, the personal insolvency practitioner shall—

(*a*) give each creditor at least 14 days written notice of the meeting and the date on which, and the time and place at which, the meeting will be held,

(*b*) ensure that the notice referred to in paragraph (a) is accompanied by written proposal for the variation of the Debt Settlement Arrangement, and".

Seanad amendment agreed to.

Seanad amendment No. 99:

Section 77: In page 71, lines 1 to 3, to delete subsection (6) and substitute the following:

"(6) For the purposes of subsection (5), the voting rights exercisable by a creditor at a creditors' meeting under this section shall be proportionate to the amount of the debt due by the debtor to the creditor on the date on which the vote takes place.".

Seanad amendment agreed to.

Seanad amendment No. 100:

Section 78: In page 71, to delete lines 26 to 45 and in page 72, to delete lines 1 to 20.

An Leas-Cheann Comhairle: Seanad amendments Nos. 101 to 105, inclusive, 108, 110, 156, and 161 to 163, inclusive, are related and will be discussed together by agreement.

Seanad amendment No. 101:

Section 79: In page 72, subsection (1), line 21, to delete "A creditor" and substitute "Without prejudice to *section 84*, a creditor".

Deputy Alan Shatter: These amendments deal with situations where a creditor or personal insolvency practitioner wishes to challenge the coming into effect of a debt settlement arrangement or personal insolvency arrangement or to have such an arrangement terminated in accordance with the Bill.

Amendments Nos. 101 and 108 are technical drafting amendment to insert necessary cross references into sections 79 and 84. Amendment No. 102 clarifies, in the context of a court's consideration for the application for termination of a debt settlement arrangement, at what point in time the eligibility criteria were not met. Amendment No. 103 is a technical drafting amendment to improve the presentation of the Bill. Amendments Nos. 104 and 161 provide for a clearer expression of what constitutes a period of arrears for the purposes of an application to the court by a creditor or personal insolvency practitioner for termination of a debt settlement arrangement or personal insolvency arrangement on the grounds that the debtor is in arrears with his or her payments for at least three months. Amendments Nos. 105 and 162 will ensure that the debtor also will be given notice by the personal insolvency practitioner of the termination of a debt settlement arrangement or personal insolvency arrangement due to a six month arrears default. Amendments Nos. 110 and 156 are technical drafting amendments to sections 84 and 116 to make it clear that a creditor may only challenge a debt settlement arrangement

or personal insolvency arrangement on the grounds that the debtor has committed an offence if the offence in question has caused a material detriment to the creditor. The purpose of Amendment No. 163 is to define, in section 118, when a six month arrears default takes place. The new subsection reflects the text of section 80(3), which defines a six month arrears period for the purposes of a debt settlement arrangement.

Seanad amendment agreed to.

Seanad amendment No. 102:

Section 79: In page 72, lines 29 to 31 to delete paragraph (b) and substitute the following:

"(*b*) the debtor, when the Debt Settlement Arrangement was proposed, did not satisfy the eligibility criteria specified in section 53;".

Seanad amendment agreed to.

Seanad amendment No. 103:

Section 79: In page 72, subsection (1)(f), line 42, before "have" to insert "to".

Seanad amendment agreed to.

Seanad amendment No. 104:

Section 79: In page 73, subsection (2), lines 9 and 10, to delete paragraph (*b*) and substitute the following:

"(*b*) at no time during that 3 month period were any obligations in respect of those payments discharged."

Seanad amendment agreed to.

Seanad amendment No. 105:

Section 80: In page 73, subsection (1), line 21, after "Service" to insert "and the debtor".

Seanad amendment agreed to.

Seanad amendment No. 106:

Section 81: In page 73, subsection (1), line 36, to delete "has been deemed to come to an end, has failed" and substitute "has been deemed to have failed".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 107, 185 to 191, inclusive, and 193 to 201, inclusive, are related and will be discussed together by agreement.

Seanad amendment No. 107:

Section 82: In page 74, to delete lines 4 to 8.

Deputy Alan Shatter: Amendment No. 107 proposes the deletion of section 82 which

provides that a terminated debt settlement arrangement under sections 78, 79 or 80 are to be deemed acts of bankruptcy. These are now listed in amendment No. 186 which inserts them in to the appropriate section in the Bankruptcy Act 1988. Amendment No. 185 inserts a definition of "trustee" for the purpose of interpretation. Amendment No. 186 amends section 7 of the Bankruptcy Act 1988 to provide that a failed or terminated debt settlement arrangement or personal insolvency arrangement will be included in the list of acts of bankruptcy. Amendments Nos. 187 and 188 are technical drafting amendments to improve the text of the Bill. Amendment No. 189 empowers the court to order the attendance of the debtor at the court hearing of the adjudication of the creditor's petition for his or her bankruptcy and to make a full disclosure of assets and liabilities. This provision corrects a gap in the present legislation.

Amendment No. 190 is a technical drafting amendment to section 139 of the Bill, which replaces section 15 of the Bankruptcy Act, to add a reference to the requirements of section 11 of that Act being fulfilled. Amendment No. 191 is a technical drafting amendment to improve the presentation of the Bill. Amendment No. 193 provides for the ending of applications for payments by the bankrupt under section 65 in favour of the approach to bankruptcy payment orders now provided under Amendment No. 200. It also provides for the continuation and possible variation of an existing payment order under section 65. Amendments Nos. 194 to 198 are essentially drafting amendments to improve the text by providing for the issue of a certificate of discharge or annulment in a bankruptcy, and to make a necessary reference to a trustee in bankruptcy in the sections of the Bankruptcy Act 1988 concerned.

Amendment No. 200 substitutes and improves the current text in section 146 of the Bill inserting section 85D to the Bankruptcy Act in regard to bankruptcy payment orders which may, if the debtor's circumstances permit, be sought. The court in deciding on such orders will have regard to the reasonable living expenses of the bankrupt and his or her dependants. Amendment No. 201 updates the time period in section 123 of the Bankruptcy Act in regard to potentially fraudulent actions from the present twelve months to the now standard period in this Bill of three years.

Seanad amendment agreed to.

Seanad amendment No. 108:

Section 84: In page 74, subsection (1), line 23, after "are" to insert ", without prejudice to *section 79*,".

Seanad amendment agreed to.

Seanad amendment No. 109:

Section 84: In page 74, subsection (1)(*b*), line 32, to delete "followed" and substitute "complied with".

Seanad amendment agreed to.

Seanad amendment No. 110:

Section 84: In page 74, subsection (1)(*f*), line 42, to delete "Act" and substitute the following:

"Act, which causes a material detriment to the creditor".

Seanad amendment agreed to.

Seanad amendment No. 111:

Section 84: In page 74, subsection (1)(*g*), line 44, to delete "within the meaning of *subsection (2)*".

Seanad amendment agreed to.

Seanad amendment No. 112:

Section 84: In page 75, lines 1 to 5, to delete paragraph (*h*), and substitute the following:

"(*h*) the debtor had given a preference to a person within the preceding 3 years that had the effect of substantially reducing the amount available to the debtor for the payment of his or her debts (other than a debt due to the person who received the preference).".

Seanad amendment agreed to.

Seanad amendment No. 113:

Section 84: In page 75, lines 6 to 26, to delete subsections (2) and (3).

Seanad amendment agreed to.

Seanad amendment No. 114:

Section 85: In page 75, before section 85, but in Chapter 3, to insert the following new section:

85.—(1) Where, as respects a debtor who has entered into a Debt Settlement Arrangement which is in force, a creditor or the personal insolvency practitioner concerned considers that a debtor has made excessive contributions to a relevant pension arrangement, the creditor or personal insolvency practitioner may make an application to the appropriate court for relief in accordance with this section.

(2) The reference to the debtor having made contributions to a relevant pension arrangement shall be construed as a reference to contributions made by the debtor at any time within 3 years prior to the making of the application for a protective certificate on behalf of the debtor under *section 54*.

(3) Where the appropriate court considers that having regard in particular to the matters referred to in subsection (4) the contributions to a relevant pension arrangement were excessive it may:

(*a*) direct that such part of the contribution concerned (less any tax required to be deducted) be paid by the person administering the relevant pension arrangement to the personal insolvency practitioner for distribution amongst the creditors of the debtor, and

(*b*) make such other order as the court deems appropriate, including an order as to the costs of the application.

(4) The matters referred to in *subsection (3)* as respects the contributions made by the debtor to a relevant pension arrangement are:

(*a*) whether the debtor made payments to his or her creditors in respect of debts due to those creditors on a timely basis at or about the time when the debtor made the contribution concerned;

(*b*) whether the debtor was obliged to make contributions of the amount or percentage of income as the payments actually made under his or her terms and conditions of employment and if so obliged, whether the debtor or a person who as respects the debtor is a connected person could have materially influenced the creation of such obligation;

(*c*) the amount of the contributions paid, including the percentage of total income of the debtor in each tax year concerned which such contributions represent;

(*d*) the amount of the contributions paid, in each of the 6 years prior to the making of the application for a protective certificate on behalf of the debtor under *section 54* including the percentage of total income of the debtor concerned which such contributions represent in each of those years;

(*e*) the age of the debtor at the relevant times;

(*f*) the percentage limits which applied to the debtor in relation to relief from income tax for the purposes of making contributions to a relevant pension arrangement in each of the 6 years prior to the making of the application for a protective certificate on behalf of the debtor under *section 54*; and

(*g*) the extent of provision made by the debtor in relation to any relevant pension arrangement prior to the making of the contributions concerned.".

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 115 and 184 are related and will be discussed together by agreement.

Seanad amendment No. 115:

Section 85: In page 75, to delete lines 29 to 39.

Deputy Alan Shatter: This group of amendments deals with the review of the Bill after its enactment. Amendment No. 115 which proposes the deletion of section 85, is consequential on the new review section inserted by Amendment No. 135a. Amendment No. 184 revises the original review provision in regard to the operation of the Bill. That review, which will now encompass the three new debt resolution processes in Part 3, will commence no later than three years after commencement and be completed within a year.

However, as I said when we discussed this point previously, the operation of this Bill will be subject to ongoing review. I have made it clear that I will swiftly intervene, with amending legislation, to make additional provision or to correct any error that arises from operational experience.

Seanad amendment agreed to.

Seanad amendment No. 116:

Section 116: In page 76, between lines 39 and 40, to insert the following subsections:

"(6) (*a*) A Personal Insolvency Arrangement shall not contain any terms that would release the debtor from an excluded debt or otherwise affect such a debt.

(*b*) A proposal for a Personal Insolvency Arrangement shall not include any terms that, if contained in a Personal Insolvency Arrangement that came into effect, would contravene *paragraph (a)*.".

Seanad amendment agreed to.

Seanad amendment No. 117:

Section 88: In page 77, subsection (1)(*g*), line 18, to delete "statutory declaration" and substitute "declaration in writing".

Seanad amendment agreed to.

Seanad amendment No. 118:

Section 88: In page 78, between lines 33 and 34, to insert the following subsection:

"(5) A debtor shall not be eligible to make a proposal for a Personal Insolvency Arrangement where 25 per cent or more of his or her debts (other than excluded debts) were incurred during the period of 6 months ending on the date on which an application is made under section 89 for a protective certificate.".

Seanad amendment agreed to.

Seanad amendment no. 119:

Section 89: In page 78, before section 89, to insert the following new section:

89.—(1) An excludable debt shall be included in a proposal for a Personal Insolvency Arrangement only where the creditor concerned has consented, or is deemed to have consented, in accordance with this section, to the inclusion of that debt in such a proposal.

(2) Where a personal insolvency practitioner proposes to include an excludable debt in a proposal for a Personal Insolvency Arrangement, he or she shall, without delay, notify the creditor concerned of that fact, which notification shall be accompanied by—

(*a*) such information about the debtor's affairs (including his or her creditors, debts, liabilities, income and assets) as may be prescribed, and

(*b*) a request in writing that the creditor confirm, in writing, whether or not the creditor consents, for the purposes of this section, to the inclusion of the debt in a Personal Insolvency Arrangement.

(3) A creditor shall comply with a request under *subsection (2)(b)* within 21 days of receipt of the notification under that subsection.

(4) Where a creditor does not comply with *subsection (3)*, the creditor shall be deemed to have consented to the inclusion of that debt in a proposal for a Personal Insolvency Arrangement.

(5) Where a creditor consents or is deemed to have consented, in accordance with this section, to the inclusion of an excludable debt in a proposal for a Personal Insolvency Arrangement, that creditor shall be entitled to vote at any creditors' meeting called to consider that proposal.

(6) Where the debtor concerned is the subject of a protective certificate, and a creditor to whom this section applies brings an application under *section 93(1)* in respect of that protective certificate, the period referred to in *subsection (3)* shall not commence until the date on which the appropriate court determines the application.

(7) An excludable debt shall not be the subject of a Personal Insolvency Arrangement unless it is a permitted debt.

(8) In this Chapter, "permitted debt" means an excludable debt to which *subsection (1)* applies."

Seanad amendment agreed to.

Seanad amendment No. 120:

Section 89: In page 79, subsection (2), lines 1 to 6, to delete paragraph (*e*) and substitute the following:

"(*e*) a schedule of the creditors of the debtor and the debts concerned, stating in relation to each such creditor—

(i) the amount of each debt due to that creditor,

(ii) whether, as respects the debt concerned, the creditor is a secured creditor and, if so, the nature of the security concerned, and

(iii) such other information as may be prescribed;".

Seanad amendment agreed to.

Seanad amendment No. 121:

Section 89: In page 79, between lines 17 and 18, to insert the following subsections:

"(3) An application under this section may be withdrawn by the personal insolvency practitioner at any time prior to the issue of a protective certificate under *section 91*.

(4) Where a personal insolvency practitioner becomes aware of any inaccuracy or omission in an application under this section or any document accompanying such an application, he or she shall inform the Insolvency Service of this fact as soon as practicable and the Insolvency Service shall have regard to any information provided under this subsection for the purposes of its consideration of the application.".

Seanad amendment agreed to.

Seanad amendment No. 122:

Section 91: In page 80, lines 38 to 49, in page 81 lines 1 to 45 and in page 82 lines 1 to 18, to delete section 91 and substitute the following new section:

91.—(1) Where the Insolvency Service, following its consideration under section 90—

(*a*) is satisfied that an application under *section 89* is in order, it shall—

(i) issue a certificate to that effect,

(ii) furnish that certificate together with a copy of the application and supporting documentation to the appropriate court, and

(iii) notify the personal insolvency practitioner to that effect, and

(*b*) is not so satisfied, it shall notify the personal insolvency practitioner to that effect and request him or her, within 21 days from the date of the notification, to submit a revised application or to confirm that the application has been withdrawn.

(2) Where the appropriate court receives the application for a protective certificate and accompanying documentation pursuant to *subsection (1)(a)*, it shall consider the application and documentation and, subject to *subsection (3)*—

(*a*) if satisfied that the eligibility criteria specified in section 88 have been satisfied and the other relevant requirements relating to an application for the issue of a protective certificate have been met, shall issue a protective certificate, and

(*b*) if not so satisfied, shall refuse to issue a protective certificate.

(3) The appropriate court, where it requires further information or evidence for the purpose of its arriving at a decision under *subsection (2)*, may hold a hearing, which hearing shall be on notice to the Insolvency Service and the personal insolvency practitioner concerned.

(4) A hearing referred to in *subsection (3)*, unless the appropriate court considers it appropriate to hold it in public, shall be held otherwise than in public.

(5) Subject to subsections (6) and (7) and *section 109(2)*, a protective certificate shall be in force for a period of 70 days from the date of its issue.

(6) Where a protective certificate has been issued pursuant to *subsection (2)(a)*,the appropriate court may, on application to that court by the personal insolvency practitioner, extend the period of the protective certificate by an additional period not exceeding 40 days where—

(*a*) the debtor and the personal insolvency practitioner satisfy the court that they have acted in good faith and with reasonable expedition, and

(*b*) the court is satisfied that it is likely that a proposal for a Personal Insolvency Arrangement which is likely—

(i) to be accepted by the creditors, and

(ii) to be successfully completed by the debtor, will be made if the extension is granted.

(7) Where a protective certificate has been issued pursuant to *subsection (2)(a)* or extended under *subsection (6)*, the appropriate court may on application to that court extend the period of the protective certificate by a further additional period not exceeding 40 days where—

(*a*) the personal insolvency practitioner has been appointed in accordance with *section 46(7)*, and

(*b*) the court is satisfied that the extension is necessary to enable the personal insolvency practitioner so appointed to perform his or her functions under this Chapter.

(8) A hearing held under subsection (7) shall be held with all due expedition.

(9) The period of a protective certificate may be extended under *subsection (7)* once only.

(10) The registrar of the appropriate court shall notify the Insolvency Service and the personal insolvency practitioner concerned where the court—

(*a*) issues or extends a protective certificate under this section,

(*b*) refuses to issue or extend a protective certificate under this section, or

(*c*) decides to hold a hearing referred to in *subsection (3)*.

(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

(*a*) enter details of the name and address of the debtor and the date of issue of the protective certificate, and

(*b*) where applicable, the extension under this section of the protective certificate, together with such other details as may be prescribed under *section 128(3)(b)*, in the Register of Protective Certificates.

(12) On receipt of a notification under *subsection (10)* of a decision of the court referred to in that subsection, the personal insolvency practitioner shall notify each of the creditors specified in the schedule of creditors of that decision and, in the case of a decision to issue a protective certificate, the notification by the personal insolvency practitioner shall contain a statement—

(*a*) that the debtor intends to make a proposal for a Personal Insolvency Arrangement,

(*b*) of the effect of the protective certificate under section 92, and

(*c*) of the right of the creditor under section 93 to appeal the issue of the protective certificate.

(13) Notwithstanding the provisions of *subsections (5)*, *(6)* and *(7)*, a protective certificate that is in force on the date on which a proposal for a Personal Insolvency Ar-

rangement is approved in accordance with *section 106* shall continue in force until it ceases to have effect in accordance with *section 109*.

(14) A protective certificate issued under this section shall—

(*a*) specify—

(i) the name of the debtor who is the subject of it,

(ii) the debts ("specified debts") which are subject to it, and

(iii) the name of each creditor to whom a specified debt is owed,

and

(*b*) contain such other information as may be prescribed.

(15) In considering an application under this section the appropriate court shall be entitled to treat a certificate issued by the Insolvency Service under *subsection (1)* as evidence of the matters certified therein.".

Seanad amendment agreed to.

Seanad amendment No. 123:

Section 92: In page 82, lines 19 to 43 and in page 83, lines 1 to 16, to delete subsections

(1) to (3) and substitute the following:

"(1) Subject to *subsections (3), (4)* and *(5)*, a creditor to whom notice of the issue of a protective certificate has been given shall not, whilst the protective certificate remains in force, in relation to a specified debt—

(*a*) initiate any legal proceedings;

(*b*) take any step to prosecute legal proceedings already initiated;

(*c*) take any step to secure or recover payment;

(*d*) execute or enforce a judgment or order of a court or tribunal against the debtor;

(*e*) take any step to enforce security held by the creditor in connection with the specified debt;

(*f*) take any step to recover goods in the possession or custody of the debtor (whether or not title to the goods is vested in the creditor or the creditor has security over the goods);

(*g*) contact the debtor regarding payment of the specified debt, otherwise than at the request of the debtor;

(*h*) in relation to an agreement with the debtor, including a security agreement, by reason only that the debtor is insolvent or that the protective certificate has been issued—

(i) terminate or amend that agreement, or

(ii) claim an accelerated payment under that agreement.

(2) Whilst a protective certificate remains in force, no bankruptcy petition relating to the debtor—

(*a*) may be presented by a creditor to whom *subsection (1)* applies in respect of a specified debt,

(*b*) in a case where the petition has been presented by such a creditor in respect of a specified debt, may be proceeded with.

(3) Without prejudice to *subsections (1)* and *(2)*, whilst a protective certificate remains in force, no other proceedings and no execution or other legal process in respect of a specified debt may be commenced or continued by a creditor to whom subsection (1) applies against the debtor or his or her property, except with the leave of the court and subject to any order the court may make to stay such proceedings, enforcement or execution for such period as the court deems appropriate pending the outcome of attempts to reach a Personal Insolvency Arrangement, but this subsection shall not operate to prohibit the commencement or continuation of any criminal proceedings against the debtor.".

Seanad amendment agreed to.

Seanad amendment No. 124:

Section 92: In page 83, lines 36 and 37, to delete subsection (8).

Seanad amendment agreed to.

Seanad amendment No. 125:

Section 93: In page 84, subsection (3)(*a*), line 1, to delete "failing to give such direction" and substitute "not making such an order".

Seanad amendment agreed to.

Seanad amendment No. 126:

Section 94: In page 84, to delete lines 17 to 27 and substitute the following:

"(1) Where a protective certificate has been issued, the personal insolvency practitioner shall as soon as practicable thereafter—

(*a*) give written notice to the creditors concerned that the personal insolvency practitioner has been appointed by the debtor for the purpose of making a proposal for a Personal Insolvency Settlement Arrangement and, subject to *section 97(2)*, invite those creditors to make submissions to the personal insolvency practitioner regarding the debts concerned and the manner in which the debts might be dealt with as part of a Personal Insolvency Arrangement, and such notice shall be accompanied by the debtor's completed Prescribed Financial Statement,".

Seanad amendment agreed to.

Seanad amendment No. 127:

Section 94: In page 84, subsection (1)(*b*)(ii), line 36, to delete "section 98." and substitute the following:

"section 98,

and

(*c*) make a proposal for a Personal Insolvency Arrangement in respect of the debts concerned.".

Seanad amendment agreed to.

Seanad amendment No. 128:

Section 95: In page 85, subsection (2), lines 28 to 48 and in page 86, lines 1 to 25, to delete paragraphs (*c*) to (*e*) and substitute the following:

"(c) where the debtor performs all of his or her obligations specified in a Personal Insolvency Arrangement, he or she shall not stand discharged from the secured debts covered by the Personal Insolvency Arrangement except to the extent provided for under the terms of the Personal Insolvency Arrangement;".

Seanad amendment agreed to.

Seanad amendments Nos. 129 to 149, inclusive, agreed to.

An Leas-Cheann Comhairle: Seanad amendments Nos. 150, 165 to 169, inclusive, and 171 are related and will be discussed together by agreement.

Seanad amendment No. 150:

Section 114: In page 104, subsection (4), line 10, to delete "€1,000" and substitute "€650".

Deputy Alan Shatter: These amendments deal with Chapter 5, Part 3, which provides for offences under the Bill. The purpose of Seanad amendment No. 165 is to provide that section 122, which deals with breaches of a debtor's obligations under a debt relief notice will be broadened to also cover breach of obligations under a debt settlement or a personal insolvency arrangement. Seanad amendments Nos. 166 and 168 are drafting amendments to sections 123 and 124, first to correct cross-references to other sections of the Bill and, second, to prevent any possible erroneous interpretation of those provisions as meaning that a person who commits an offence under those sections can only be prosecuted while the insolvency arrangement remains in effect and not after it ends or is terminated, even if the wrongdoing only comes to light then. Amendment No. 167 aims to provide more clarity as to what is intended to be published by section 124, which deals with fraudulent disposal of property by a debtor.

I ask the House again notes a slight typographical correction to amendment No. 167, which is that the reference in subsection (2) to subsection (4) should in fact be a reference to subsection (3). Seanad amendment No. 150 reduces the amount of credit the debtor may seek without informing the creditor of the fact he is party to a personal insolvency arrangement to €650. This is the same amount as has been provided for in the debt relief notice and debt settlement arrangement. The purpose of Seanad amendment No. 169 is to bring the offence provision in

section 125 into line with those restrictions on a debtor who seeks to obtain credit of more than €650. Seanad Amendment No. 171 is proposed to amendment section 127 to increase the fine for a summary offence under the Bill to a class A fine, which means a fine not exceeding €5,000.

Seanad amendment agreed to.

Seanad amendments Nos. 151 to 191, inclusive, agreed to.

Seanad amendment No. 192:

Section 141: In page 117, before section 141, to insert the following new section:

141.—The Bankruptcy Act 1988 is amended by the insertion, after section 44, of the following sections:

44A.—(1) Subject to subsection (2), where a person is adjudicated bankrupt, and he or she is, or may become entitled to, payments under a relevant pension arrangement, assets relating to the arrangement (other than payments already received by the bankrupt, or that the bankrupt was entitled to receive, under the arrangement) shall not vest in the Official Assignee for the benefit of the creditors of the bankrupt.

(2) Where a bankrupt has an interest in or entitlement under a relevant pension arrangement which would, if the bankrupt performed an act or exercised an option, cause that debtor to receive from or at the request of the person administering that relevant pension arrangement—

(*a*) an income, or

(*b*) an amount of money other than income, in accordance with the relevant provisions of the Taxes Consolidation Act 1997, that bankrupt shall be considered as being in receipt of such income, and such amount of money shall vest in the Official Assignee or the trustee in bankruptcy.

(3) Subsection (2) applies where—

(*a*) the bankrupt is entitled at the date of being adjudicated a bankrupt to perform the act or exercise the option referred to in subsection (2),

(*b*) was entitled at any time before the date of the adjudication, to perform the act or exercise the option referred to in subsection (2), but had not performed the act or exercised the option, or

(*c*) will become entitled within 5 years of the date of the adjudication to perform the act or exercise the option referred to in subsection (2).

(4) Where subsection (2) applies, the Official Assignee or the trustee in bankruptcy may where he or she considers that it would be beneficial to the creditors of the bankrupt to do so, perform an act or exercise an option referred to in subsection (2) in place of the bankrupt.

(5) In this section and in sections 44B and 85D a reference to a relevant pension arrangement means:

(*a*) a retirement benefits scheme, within the meaning of section 771 of the Taxes Consolidation Act 1997, for the time being approved by the Revenue Commissioners for the purposes of Chapter 1 of Part 30 of that Act;

(*b*) an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784 of the Taxes Consolidation Act 1997;

(*c*) a PRSA contract, within the meaning of section 787A of the Taxes Consolidation Act 1997, in respect of a PRSA product, within the meaning of that section;

(*d*) a qualifying overseas pension plan within the meaning of section 787M of the Taxes Consolidation Act 1997;

(*e*) a public service pension scheme within the meaning of section 1 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004;

(*f*) a statutory scheme, within the meaning of section 770(1) of the Taxes Consolidation Act 1997, other than a public service pension scheme referred to in paragraph (e);

(*g*) such other pension arrangement as may be prescribed by the Minister, following consultation with the Ministers for Finance, Social Protection and Public Expenditure and Reform.

44B.—(1) Where, on application by the Official Assignee or the trustee in bankruptcy, the Court is satisfied that the bankrupt, or a person on his or her behalf, has within the 3 years prior to the adjudication made contributions to a relevant pension arrangement under which the bankrupt is, or may become entitled to, payments and which contributions—

(*a*) were excessive in view of the bankrupt's financial circumstances when those contributions were made, and

(*b*) had the effect of—

(i) materially contributing to the bankrupt's inability to pay his or her debts, or

(ii) substantially reducing the sum available for distribution to the creditors,

the Court may make such order in relation to the relevant pension arrangement as it considers appropriate for the purpose of ensuring that the contributions which the Court considers to be excessive or any part of such contributions can be vested in the Official Assignee or the trustee in bankruptcy to be made available for distribution to the creditors.

(2) In considering an application under subsection (1) and in determining whether or not the contributions made by the bankrupt to a relevant pension arrangement

were excessive the court may have regard to all the financial circumstances of the

bankrupt and in particular:

(*a*) whether the bankrupt made payments to his or her creditors in respect of debts due to those creditors on a timely basis at or about the time when the bankrupt made the contribution concerned;

(*b*) whether the bankrupt was obliged to make contributions of the amount or percentage of income as the payments actually made under his or her terms and conditions of employment and if so obliged, whether the bankrupt or a person who as respects the bankrupt is a relative could have materially influenced the creation of such obligation;

(*c*) the amount of the contributions paid, including the percentage of total income of the bankrupt in each tax year concerned which such contributions represent;

(*d*) the amount of the contributions paid, in each of the 6 years prior to the making of the adjudication including the percentage of total income of the bankrupt which such contributions represent in each of those years;

(*e*) the age of the bankrupt at the relevant times;

(*f*) the percentage limits which applied to the bankrupt in relation to relief from income tax for the purposes of making contributions to a relevant pension arrangement; in each of the 6 years prior to the adjudication; and

(*g*) the extent of provision made by the bankrupt in relation to any relevant pension arrangement prior to the making of the contributions concerned.

(3) In this section "relative" as respects a person, means a brother, sister, parent, spouse or civil partner of the person or a child of the person or of the spouse or civil partner.".

Deputy Alan Shatter: I should point out that under Seanad amendment No. 192, Seanad amendment No. 167 is dealt with later in the text. It is important to note that, although we did not speak to that issue. That is a correction of Seanad amendment No. 192. Apparently there is a semicolon out of place and we are anxious to ensure the semicolon is in the appropriate place.

Seanad amendment agreed to.

Seanad amendments Nos. 193 to 197, inclusive, agreed to.

Seanad amendment No. 198:

Section 146: In page 120, between lines 8 and 9, to insert the following:

"(3) A person whose bankruptcy has been discharged by virtue of this section may apply to the Official Assignee for the issue of a certificate of discharge from bankruptcy.".

Seanad amendment agreed to.

Seanad amendment No. 199:

Section 146: In page 120, between lines 22 and 23, to insert the following:

"(3) A person whose bankruptcy has been annulled may apply to the Official Assignee for the issue of a certificate that the bankruptcy has been annulled.".

Seanad amendment agreed to.

Seanad amendment No. 200:

Section 146: In page 120, to delete lines 23 to 49 and in page 121, to delete lines 1 to 3 and substitute the following:

(1) The Court may, on application being made to it by the Official Assignee or the trustee in bankruptcy, make an order requiring a bankrupt to make payments to the Official Assignee or the trustee in bankruptcy from his income or other assets for the benefit of his creditors (a 'bankruptcy payment order').

(2) An application for a bankruptcy payment order may not be made after the bankrupt has been discharged from bankruptcy, but where an application for such an order is made before the discharge of the bankrupt, the Court may make a bankruptcy payment order after the date of discharge as if the bankrupt had not been so discharged.

(3) An order made under subsection (1) shall have effect for no longer than 5 years from the date of the order coming into operation, and where, during the order's validity, the court has varied the order under subsection (5) such variation shall not cause the order to have effect for a period of more than 5 years, and in any event, any order made under subsection (1) or varied under subsection (5) shall cease to have effect on the 8th anniversary of the date on which the bankrupt was adjudicated bankrupt.

(4) In making an order under subsection (1) the Court shall have regard to the reasonable living expenses of the bankrupt and his or her dependants and the Court may also have regard to any guidelines on reasonable living expenses issued by the Insolvency Service under the *Personal Insolvency Act 2012* or by the Official Assignee.

(5) The Court, on the application of the bankrupt or the Official Assignee or the trustee in bankruptcy, may vary a bankruptcy payment order granted under subsection (1) where there has been a material change in the circumstances of the bankrupt.

(6) The court in granting an application under subsection (1) may order any person from whom the bankrupt is entitled to receive any salary, income, emolument, pension or other payment to make payments to the Official Assignee or trustee.

(7) For the purposes of this section, where a bankrupt is, or may become entitled to, payments under a relevant pension arrangement, an asset relating to the arrangement (other than payments already received by the bankrupt, or that the bankrupt was entitled to receive, under the arrangement) shall not be regarded as an asset.".".

An Leas-Cheann Comhairle: Is the amendment agreed?

Deputy Stephen S. Donnelly: No, it is not agreed.

An Leas-Cheann Comhairle: Does the Deputy wish to speak?

Deputy Stephen S. Donnelly: Yes, if I may. I apologise for not being here earlier. The Joint Committee on Finance, Public Expenditure and Reform was speaking with the public interest directors from Permanent TSB and what we heard is relevant to this amendment.

I supported this legislation all the way through, fully support the Minister's intention in its regard and fully appreciate his engagement with the Oireachtas. The amendment at stake concerns the bankruptcy payment order. It states that after the three years of bankruptcy the creditor may apply for an additional five years of payments. By stating the period in question can be no longer than eight years the amendment confirms that this period could last up to eight years.

For me, the single most important part of what the Minister is trying to do in terms of getting good outcomes at the negotiating table so that there is no need to go to court is having a credible threat from the borrower. As the Minister knows, I am particularly interested is distressed mortgages. If the bankruptcy period was three years and the payment order could not exceed that period this would allow for a very credible threat from the borrower. In effect this permits the borrower to say, "If you, the bank, are not willing to engage in the spirit of this legislation as laid out by the Minister, and I agree with how he wants it to work, I am willing to put myself and my family through three very tough years in order to escape this debt. What I want you, the bank, to do is to engage reasonably and in the spirit of the legislation. If you do not, I can suck it up for three years". That is a credible threat.

In my view, what will happen now - those who deal with these situations every day, representing distressed mortgage holders agree - is that when that threat is made the bank will claim the period is not really three years but eight years. In the last week of the borrower's bankruptcy the bank can apply to the court for a payment order and can essentially keep taking money from him or her for another five years. We can debate how that might actually play out and how the Minister's intent for how this might play out, but at the negotiating table where the bank is on one side and the distressed borrower on the other, that threat from the bank will now be able to reference the three paragraphs of Seanad amendment No. 200. I believe the bank will get away with a counter-threat that claims the period is not three years but eight. The borrower's child may be entering primary school this year but by the time the bank is finished with the him or her, that child will be entering secondary school. There are very many men and women in Ireland who desperately need to use this legislation but the banks will successfully stop them from doing so because eight years is no longer a credible threat.

This is backed up by the comments yesterday made by Richie Boucher, the chief executive of Bank of Ireland. Essentially he said his bank would not engage with this legislation, stating, "We are absolutely not going to engage in surrender of debt". He is on the media record, reported as saying that. The committee just spoke to the two public interest directors of Permanent TSB. Deputy Pearse Doherty and I questioned them on what the bank will do in terms of debt surrender, specifically in the context of this legislation. Ray MacSharry stated,"There will be no debt forgiveness - none". He repeated this in various ways. I was shocked. I had not been shocked to hear Richie Boucher say the same, because he is acting absolutely rationally as the chief executive of a private bank in saying his objective is to maximise return to the bank. It is not to better society - that is the objective of the Minister and Members of the Houses. However, I was shocked to hear one of our public interest directors say this. I gave him a specific example, of a borrower who borrowed €400,000 for a house that is now worth €200,000, and who could service a mortgage of €250,000. This is very similar to the example the Minister and I have used. I asked Mr. Boucher if in that case he was stating the position of the bank was that it would not write off, forgive or surrender the €150,000 that would leave the borrower with

a mortgage she can afford, leave her in the house and still leave the bank in a better position because the mortgage is €250,000 versus a market value of €200,000. He refused to answer or engage with the question. This is all on the record and has just happened.

My position has always been that legislation which requires banks to voluntarily surrender debt is not going to work. The comments yesterday by Richie Boucher, and those we just heard from Ray MacSharry, back that up. I never had faith that senior managers and boards in the banks would voluntarily surrender a debt, as it is the Minister's intention they should, in this very well-meaning legislation.

I say this with huge regret because I believe this could be the most important piece of legislation the Minister's Government will produce in its term. In the context of the comments we have heard both just now and from Bank of Ireland, I believe Seanad amendment No. 200 neuters the legislation. Never mind what Ray MacSharry or Richie Boucher said - I believe the other banks will act in exactly the same way because they will be acting rationally if they do so. They are defending the interest of the banks. None of this mattered if the borrower was able to say, "You know what? We appreciate you do not want to surrender any debt but we will walk away. We will give you the keys and go into three years of bankruptcy and we will walk".

The amendment tabled by Senator John Crown in the Seanad would have limited the payment order to the three years of the bankruptcy. I have no problem with a payment order. There might be a person on a wage of €80,000 who could pay the creditor a certain amount during the bankruptcy period. I have no problem with the principle of a payment order but Seanad amendment No. 200 extends that period in real terms. In our minds we can argue the technicalities: if it is not really an eight year bankruptcy period then the five years means something else. However, at the negotiating table the mind of a distressed borrower will see an eight year period. With huge regret, it is my opinion that Seanad amendment No. 200 will render the Minister's excellent intent in this legislation largely defunct, and for that reason I will oppose it.

I know the Minister is not in a position to accept amendments because they would be a change of policy and he would have to go back to the Cabinet. My understanding is that this Bill is meant to go to the Áras tonight so I understand that what I am saying now will not change the legislation. I fully believe in what the Minister was trying to do; I supported him publically and privately on it all the way through the passage of the legislation. At the last hurdle, I will oppose it, with huge regret, because I believe the banks will use Seanad amendment No. 200 to negate what the Bill is attempting to do. For me, as a public representative, I need no greater proof than the comments yesterday made by Richie Boucher, and those made today by Ray MacSharry within the past two hours. I say this with genuine regret.

Deputy Alan Shatter: I thank Deputy Donnelly both for raising this issue and for his constructive contribution throughout to this legislation. I am anxious to ensure there is no misunderstanding about Seanad amendment No. 200. I hope to avoid creating too much boredom in the Chamber but I will repeat something I stated previously and appreciate the Deputy giving me the opportunity to do so. Of course, I have not heard the presentation by Mr. Ray MacSharry to which the Deputy made reference. Let us look at what Seanad amendment No. 200 does and its implications for the legislation. It replicates something that is already in bankruptcy law with which the Deputy will be familiar. With this legislation we are effectively describing a period of three years' bankruptcy. The only circumstances in which bankruptcy is extended, to paraphrase the legislation, is where there has been a fraud on behalf of the debtor or there has been a clear concealment of assets which may lead to the bankruptcy period being extended

for up to eight years. Those are the only circumstances in which the bankruptcy period can be extended. There is no question of this section extending the bankruptcy period from three years to eight years for individuals who have not engaged in fraud and have not concealed assets. It is very important to get across that message. This is not a provision that will turn what is to be a three-year bankruptcy period into an eight-year bankruptcy period and it quite clearly does not do that.

What does the section do? The section contains a provision which allows for the official assignee in bankruptcy to seek a "bankruptcy payment order" by way of application to the court. The circumstances in which the bankruptcy payment order may be sought are where during the course of the three years of the bankruptcy period, the individual's financial circumstances might substantially improve and there may be a valid ground for arguing that post-bankruptcy it is reasonable that he or she continues to discharge some element of the outstanding debt that has not been discharged during the course of the bankruptcy.

The official assignee may be asked to pursue that issue by any creditor - it does not have to be a financial institution. Let us always remember that we are dealing with insolvency legislation. The area about which the Deputy is concerned is of course of particular personal concern to me and to the Government. However, let us start from the perspective that this is insolvency legislation. In the context of insolvency legislation where money is owed to creditors, there may be other individuals who are barely hanging on financially and who during the course of the bankruptcy have not recovered a reasonable portion of the debt that is there, but because of the improved circumstances of the bankrupt there is a fair and reasonable prospect they may get something additional. That could also apply to a financial institution.

The official assignee has discretion, first, as to whether he or she makes that application and, second, as to how much that application is for. It will be for the courts to determine how to deal with these applications and they must deal with them in circumstances in which individuals who have exited bankruptcy no longer have any of the constraints or difficulties of being a bankrupt. The person is free to get on with his or her life, to create another business and to generate income in whatever way he or she chooses. If the person is successful in that, it may be fair and reasonable for the person to discharge some additional portion of debt. There will be circumstances where that is appropriate and there clearly will be all sorts of circumstances where that is not appropriate. From the perspective of a creditor, whether secured or unsecured, a financial institution or another party, there is no guarantee of the outcome of making such an application to the courts.

The official assignee may determine it is not appropriate to make the application. Even when the official assignee makes the application, the courts may determine it is not appropriate to make the order because there is a particular philosophy about this legislation. The particular philosophy is that people are genuinely given a second chance to get on with their lives and exit from their financial difficulties. Of course people exiting bankruptcy must be given an incentive to get on financially successfully with their lives and not to find themselves put into further penury. That is all very important.

As the Deputy correctly says, this legislation is based on a certain approach. It is based on an approach in particular dealing with the personal insolvency arrangement which deals with secured credit where it is perceived there is an incentive for all creditors, including financial institutions with secured debt, to engage constructively with a personal insolvency practitioner to see if an agreement or resolution can be reached. For a range of reasons bankruptcy may

be a very bad alternative, as much for the financial institution or other creditors as it is for the debtor because a debt settlement or personal insolvency arrangement may, over a period of years, create a greater possibility of recouping some of the debt due and may create greater opportunity for the debtor to exit the arrangement. From the financial institution's perspective the bankruptcy would produce an inevitable sale of the home. This may not be something the financial institution wants to achieve for a range of reasons. If it travels the route of repossession as opposed to bankruptcy there may be substantial downsides. The Deputy is aware of those and I will not delay the House by going into them.

This mechanism has been part of bankruptcy legislation in other jurisdictions for some time and it remains part of this structure. However, to suggest it creates a bankruptcy period of eight years instead of three years is incorrect. All of the constraints that come with bankruptcy are lifted from an individual. To some extent how this will work in practice in the context of the new arrangement or how it might impact on discussions and negotiations is greatly a matter for conjecture.

The personal insolvency arrangement arises in circumstances in which we have tens of thousands of people who are in significant personal financial difficulty with home mortgages. There are individuals who might have been part of two-income family households and are now part of one-income family households, individuals who may have been self-employed in businesses that were successful in the early part of the 2000s but are barely eking out a living for today, and individuals whose assets have collapsed. God help them, they might not only be in negative equity but might have invested whatever savings they had in bank shares which have completely gone down the toilet. There are many individuals in this State who, through no fault of their own, are caught in a debt trap. Some individuals are caught in that debt trap through their own irresponsibility. Not everybody is there for reasons beyond their control. However, there are thousands of people who are there for reasons beyond their control. They have been hit by a fiscal and economic tsunami. They are individuals who perceived themselves as being in secure employment and then found themselves unemployed. They are individuals who were running businesses that appeared to be successful, but who, because of the failure of others to pay debt, have found themselves in debt with other businesses, perhaps companies going into liquidation, non-corporate businesses, SMEs or single-ownership businesses that have been wound up. Many people are in trouble.

The issue is that the banks must constructively engage with this legislation. As I have said in the context of the personal insolvency arrangements, there are options for a financial institution with secured debt, be the secured debt a home loan or another form of loan. Based on the individual circumstances of the debtor concerned, arrangements will clearly need to be put in place that are either debt forbearance or involve some aspect of debt forgiveness. There is no doubt we know financial institutions will engage in debt forbearance. We know of in excess of 80,000 home loans where debt forbearance arrangements have been put in place, some of a temporary nature and some of longer duration. There are individuals who have benefited from debt forbearance arrangements and have now worked themselves out of that and are now paying full capital and interest.

The area in focus is that of debt forgiveness. Where individuals are genuinely insolvent and cannot, as opposed to will not, pay their monthly repayments, who are burdened by other debt and may be living in negative equity, to what extent will the financial institutions engage in debt forgiveness and write down? There is no doubt that there are thousands of individuals for whom debt forbearance under the concept of the personal insolvency arrangement will not

resolve the issue. It will not resolve it for either the debtors or the financial institution. There needs to be a constructive engagement by financial institutions with individuals based on their circumstances to recognise that in some instances, debt forgiveness or write off is appropriate. Deputy Donnelly and I have, for the sake of simplicity, regularly used the example of the homeowner who has borrowed €400,000 to acquire a home but whose home is today worth €200,000; is in negative equity by €200,000; his or her personal circumstances and income is depleted; and he or she can no longer make the mortgage repayments and has no other assets. It may be a married couple who are trapped in an apartment with two children - a home that was never constructed to accommodate two children.

For individuals in those circumstances where there is no reasonable prospect in the medium term of their financial position changing, debt write off is crucial for their personal circumstances and to enable them to participate again in the economy of this State and contribute to domestic economic growth. For selfish reasons, the State has an interest in these people exiting from debt. From the financial institution's perspective, it is important that where that is the position, losses are crystallised and an artificial value is not attached to the loan in the bank accounts. Financial institutions have been recapitalised to facilitate addressing this issue, not just in other areas but in the mortgage debt area. They have been stress tested and the time has come for them to recognise that there is a need to deal with this in the manner that is appropriate based on the individual circumstances of someone in serious debt and having regard to the level of that debt in the context of the structure of the personal insolvency arrangement.

As Deputies will be aware, AIB made a very helpful comment about this issue about a week or ten days ago. It made it clear that for some individuals in serious debt of this nature who engaging with it, debt forgiveness is the only route to travel. That does not mean writing off the debt in its totality but writing off a portion of the capital due to recognise the reality based on current values and where an individual stands. We know of a small number of instances where financial institutions have engaged in some level of debt forgiveness that has not been publicised. One or two cases were publicised in recent months. It is not clear what scale it has happened on because clearly the financial institutions, taking Deputy Donnelly's approach, have their own interest in trying to ensure they do not encourage people who can pay not to do so in the hope they may get capital write off. The State cannot afford for that to happen either. Public comment indicates that if there is to be capital write off, it will not happen easily. AIB in recent days have been up-front and said publicly it recognises the need to do this. There is a need to do it for the health of AIB as well in order to get this bank out from under the yoke of uncertainty with regard to the true value of the mortgages they hold.

What about Bank of Ireland and the comments made by Ray MacSharry? I did not hear what he said but I would be of the view that if any public interest director of a financial institution publicly or privately states that his or her institution will not constructively engage with this legislation and in no circumstances will anyone will be afforded the possibility of a capital write off, regardless of the financial difficulties he or she is in, that individual is not acting in the public interest, never mind the private interest of the debtor. It is untenable to publicly state this in the circumstances of this Oireachtas coming together in a united fashion to enact a piece of insolvency legislation intent on trying to assist people in debt difficulties in a constructive way while at the same time, facilitating creditors to recoup at least a portion of what is due to them in a manner that does not involve the expense and complexity of bankruptcy proceedings.

I know Deputy Donnelly would not do this deliberately so I do not want him to take offence but I hope he either mis-reported in some sense what Ray MacSharry said or that what

Mr. MacSharry said was not adequately thought out in the context of the insolvency legislation going through the House this evening. Perhaps we need to remember that this is a position that those on the boards of financial institutions or chief executives have taken up pending the enactment of the legislation and that when the legislation is enacted, they will have to review their position.

Let there be no doubt about it. Regardless of whether it is Bank of Ireland, Richie Boucher or Ray MacSharry, they must ensure their institutions constructively engage under this legislation in the public interest, the interest of those caught in financial difficulties and the interest of their own institutions and credibility. Without putting a tooth in it, we all know and it is no secret that the level of indebtedness people incurred and the property bubble and collapse were dramatically and substantially contributed to by the financial institutions of this State. They failed to undertake appropriate due diligence on individuals' capacity to repay loans they acquired, failed to have any regard to the sustainability of the increase in property values, threw money like confetti at developers to purchase land at inflated prices and contributed to a significant degree to the property bubble and the difficulties many young people are in. Too many young people thought they were being responsible and purchased homes at inflated prices for fear that if they did not purchase when they did, they would never be able to own a home in this State and banks helped to fuel that. None of that solves where we are today but I will be very clear about one thing I keep repeating. If I find within a short period during the operation of this legislation that all or some of the financial institutions are intent on not engaging constructively with the personal insolvency arrangement provisions for whatever reason, I will not be slow to bring proposals to Government to amend the legislation. Let there be no doubt of any description about that. Again, I thank Deputy Donnelly for raising the issue.

I keep saying that we must be careful with this legislation. I am very conscious of its importance to people with family homes in negative equity who are in significant financial difficulty. However, it is insolvency legislation that goes beyond those circumstances and applies to the broad gamut of circumstances in which individuals can get into financial trouble and which do not all relate to family homes. The great benefit of the personal insolvency arrangement is that it affords people in financial difficulty not just the possibility over a period of years of working out of those financial difficulties but the possibility of retaining ownership and occupation of their family homes, which will not occur if they have to resort to bankruptcy.

All I can say to the Deputy is that I am very disappointed to learn of comments made today in a committee of this House. I hope the individual who made them will reflect on them. Once the legislation is enacted, I would expect the fullest co-operation from financial institutions in working carefully and sensibly and with intelligence in respect of the legislation. However, if there are difficulties I will not be slow to amend the legislation, and it is very important this is understood outside the House. The Government has engaged with the financial institutions in the lead-in to the enactment of this legislation. Some weeks ago, because I thought it was a useful exercise to do so, I met AIB and Bank of Ireland, and what I am now saying in the House I said very clearly at that meeting. One of the attendees was Mr. Boucher. I expect he understands exactly where the Government is coming from, what our concerns are and what Bank of Ireland should do in the context of operating the legislation constructively and sensibly, engaging with personal insolvency practitioners and the circumstances of their customers and ensuring appropriate and sensible arrangements are made.

Deputy Donnelly is right, of course, and his point applies to AIB as much as others. Banks have a duty to try to recoup debt owing to them. They also have an obligation to recognise a

debt which is not recoverable, and not maintain a pretence that some part of a debt which cannot be recovered is recoverable. The Bill provides the mechanism for this and I hope we do not find ourselves back here too soon having to amend it. However, I have no doubt all of us, in government and in opposition, will be watching very carefully how the legislation works in the early months of its operation.

Deputy Stephen S. Donnelly: As before I appreciate the Minister's reply and his intent. I encourage him to take a look at the video of the interactions between Ray MacSharry and Deputy Pearse Doherty and myself. He will have to draw his own conclusions, and I appreciate he has not seen what Mr. MacSharry said, but I can quote him. He stated there will be no debt forgiveness and that they will not write off any debt. In my questioning I pointed to the monitor where this conversation was taking place and mentioned this legislation. His view was that the bank would deal with the legislation but there will be no debt forgiveness. To my mind Richie Boucher said the same thing in the public domain yesterday, certainly if the reports I have read are accurate. Mr. Masding, when he came before the Oireachtas Joint Committee on Finance, Public Expenditure and Reform a few months previously, said exactly the same thing. This is publicly stated policy by Richie Boucher, Mr. Masding and Mr. MacSharry. I agree with the Minister's interpretation. I was shocked by what I heard and I believe various members of the committee were also shocked by it.

I fully accept the Minister's statement that he will bring this back and tighten up the legislation if needed, but I am concerned because it could take at least a year before there is sufficient space, momentum and evidence to bring it back. It could then take the Minister and his officials another length of time to reconstruct or amend very complex legislation. There may be a Cabinet reshuffle or a general election before this happens. I hope the Minister remains in his portfolio but we do not know this. It could be a year and a half before sufficient evidence is gathered, there is space in the Oireachtas and time for the Minister, his officials and those in the Office of the Attorney General to construct the amending legislation. The Minister may not be in this portfolio at that stage, and this concerns me. There may be a new government at that stage, and this also concerns me. Were I the banks, it is exactly the game I would be playing, and it seems to be exactly the game they are playing.

The amendment is about three years versus eight years. I agree it is a three-year period and I do not suggest it is an eight-year period. We all know this because we have been living and breathing this for quite some time, the Minister and his officials more than us in opposition. However, those at the negotiating table will not know this. The bank may know it, but the distressed borrowers, whom we all meet, who walk in on their own to these banks and are met with lawyers and accountants and anonymous bank officials, will not know. The real power of the legislation is not, I hope, how it is interpreted by the courts, it is how it plays out at the negotiating table. It is what never gets seen and the deal that gets done. The bedrock for this legislation was a credible threat of bankruptcy.

I was willing to accept the bank veto, and I believe the banks will use their veto as they have publicly stated they will do - perhaps not AIB but Bank of Ireland and Permanent TSB have done so - because ultimately it was superseded by the credible threat of bankruptcy. If not technically, then in real terms at the negotiating table, amendment No. 200 removes this credible threat. Were I acting as the bank I would look through this, point to the five years and further point to the line which states any order under subsection (1) or varied under subsection (5) shall cease to have effect on the eighth anniversary of the date on which the bankrupt was adjudicated bankrupt. I would show this to the man or woman who came in, who has not been

sleeping for months, who is suffering from unbelievable stress and who does not have access to lawyers and accountants. I would show those who came in this line and state they will be free on the eighth anniversary, that they will be bankrupt for three years and if after three years they manage to walk away from the negative equity and distressed mortgage and then try to get on with their life and work hard and earn money and invest in their future and their children's future, that I will take all of that off them for the next five years.

It will not matter at the negotiating table that technically there are all sorts of hoops which must be gone through, and that the official assignee may or may not give it to them, and we do not know what percentage of the income they will give them. What matters is the eighth anniversary and this is what the banks will use. If we go back to our example of the borrower with a debt of €400,000 who can service €250,000 ,how this is meant to work is that the €150,000 is surrendered. However, Richie Boucher, Mr. Masding and Ray MacSharry are stating publicly this is not what they will do. They will use their veto and state they will not write it down but take off the person the amount which services the €250,000 but park the €150,000 and never let the person off it. The bank will use its veto and not care that the person has a personal insolvency professional. It will not have to engage with the legislation because it has a veto. The only credible threat is a voluntary surrender coupled with bankruptcy which will take eight years. Therefore, the person must service the €250,000 and the bank will never let him or her off the €150,000.

I accept what the Minister is saying technically within the legislation, and I believe our intent for the legislation is the same. We differ on how it will play out. As I stated previously, amendment No. 200 removes the single most important part of the legislation, which is the unambiguous bounded three-year period.

Deputy Alan Shatter: I wish to briefly point out to Deputy Donnelly one issue which he has missed, which is that the debtor will not in these circumstances be walking into the bank faced by the bank's lawyers and bank manager pointing out the section, because the personal insolvency practitioner will be the expert and intermediary and will be able to, when speaking to the creditors, deal with any threats that might be made and put them in context. I wish to point this out because it is an important issue. We all know people are intimidated by their bank managers and banks, and they are fearful. They feel very dependent and are very concerned and, on occasion, so stressed they are unable to engage in a way that is of assistance to themselves. This is the importance of the personal insolvency practitioner, an individual who sits down with the debtor and goes through income, assets, liabilities and resources and engages with the creditors and puts together a plan. If a financial institution is unco-operative, it may not be possible to conclude a personal insolvency arrangement. If there is a level of co-operation, however - what I would describe as snarling co-operation over-embedded with threats - it will become apparent at an early stage in this process that is the way financial institutions are dealing with this.

This Government is a lot more resilient than the Deputy is suggesting and I do not think we are going to have a general election in the next one to two years. I cannot predict how long I will be in this post. No Minister should ever predict how long they will be in any post, but I am articulating Government policy, not just my personal preference. It is Government policy that the financial institutions engage constructively and that there has to be, in appropriate circumstances, genuine engagement which may involve debt forgiveness. If we find in the early operation of this legislation that either no financial institution is willing to engage in that manner or that only one or two do so and no one else will, it will not take me 18 months to come in here with amending legislation. It will not happen that way. I wanted to say that because it is

important.

We do have to get experience of how this works for some months at least. We must also see what place creditors, including secured creditors, are in after the legislation is enacted. In the context of the reports the Deputy gives of comments made this afternoon in a committee of this House by one individual, I would find such comments very disappointing and not reflective of the public interest. It is important that individual should give greater consideration to the proper workings of this legislation because if there is a lack of co-operation we have a remedy in this House to deal with that.

Deputy Pádraig Mac Lochlainn: I commend Deputy Donnelly for raising this matter and, in fairness, he has raised it throughout the process. The concern is that we would not have a situation whereby the bankruptcy period would be reduced in real effect. There is also concern about a bank veto and opposition amendments have been tabled to try to curtail that, but they have been resisted.

I have had a chance to read over some of the comments made by Ray MacSharry and his colleague Margaret Hayes who are public interest directors with Permanent TSB. For the record, they have been paid €510,000 in fees since 2008. It is a hell of a lot of money to represent the public interest. I am shocked at what Deputy Donnelly has reported and what I have just read about these comments. It goes against all the debate we have had on debt forgiveness in Irish society in recent years. The Government has had an objective to deal with this issue. Deputy Donnelly has spoken at length about this area of huge concern to people. Not having a reduction in the period of bankruptcy is a very punishing system in this State.

I presume this Bill will be passed tonight and will go to the President for his stamp of approval. We will then need to reassure the public that at last there is some mechanism or process in place for people who were not reckless and believed what they saw in the media from their political leaders, economists and estate agents - that there would be a soft landing if anything went wrong. At the time, they were encouraged to purchase a home and invest. We now know that 24% of home owners are in mortgage distress. It involves approximately 180,000 families and individuals so we have a real crisis on our hands and this Bill is part of the response to that. It is critical, however, that the message comes from Government that if the banks and other financial institutions abuse any element of this legislation to prevent genuine debt forgiveness to families in that situation, the Government will immediately move - as quickly as it pushed through the family home tax legislation last night with a guillotine - to address that issue.

While we have serious concerns, and Deputy Donnelly has outlined his concerns also, we hope the impact of this legislation is to make a difference. Nonetheless, the arrogant comments of Ray MacSharry and Richie Boucher are acting against the public interest. I do not need to remind the Minister that these financial institutions are now under the control of the Irish people, so there needs to be a bit of humility particularly among public interest directors.

My final point throws the whole matter into sharp focus. The Law Reform Commission held an event last week at which one of the main points of focus concerned corporate responsibility and legislation in the area of white collar crime. There were some really interesting contributions. At the end, the eminent national and international experts were asked to define the role of public interest directors and what they have achieved. It was clear from the responses that they were not quite sure. Ultimately, however, they appeared to be still acting in the interests of the banks and their shareholders, even though that is not what they are paid to do.

I appreciate the Minister's immediate response to these comments. He has not had a chance to look at the transcript, but I would invite him to examine those comments. When the legislation is passed, he should act immediately to reassure the public that those outrageous comments are rebuked and confronted. Reassurance should be given that if banks seek to abuse this legislation and do not meet their responsibilities to give people a chance of debt resolution, the Government will move extremely swiftly - as swiftly as it did with the property or family home tax yesterday - to address whatever arises and put this thing straight.

One of the biggest challenges facing our people over the next generation involves mortgage distress, debt resolution and debt forgiveness for families who need a chance to move on. I appreciate that a huge amount of work and deliberation has gone into this legislation. Deputy Niall Collins and I have sat through all of the debate with the Minister. We have serious concerns and if they are quickly vindicated, I urge the Minister to reassure the public swiftly. We cannot have all the work and goodwill that has gone into this legislation torn apart by people who are acting against the interests of the Irish people, yet who are, unbelievably, being paid by the public.

Deputy Richard Boyd Barrett: On behalf of the United Left Alliance, I wish to express our concern and disappointment. In general terms, we all want to achieve some relief for those in mortgage distress or who are otherwise stuck under the burden of significant personal indebtedness. There is a genuine desire across the House to do something about that, but it is disappointing that we have not gone a hell of a lot further in this legislation.

In the amendments we tabled on Committee Stage - pretty much all of which were ruled out of order - we urged a model whereby the insolvency agency the Government intends to establish would have the power to impose fair settlements on banks. It is disappointing that the Government has not taken that road, as is the case in some other countries.

The model the United Left Alliance considered was that which obtained in Norway. It appears as though Norway has many models Ireland could follow on a range of levels when it comes to managing the relationship between the State and private interests. However, the proposal was there would be much stronger legal imperatives completely safeguarding the family home, as well as an independent body that could impose a fair settlement and write-down, where needs be, on the financial institutions, that is, on the banks. This is what should and could have been done and I believe it is the only measure that will resolve this major problem. While legislation of this type to update and improve the law in this regard would be important at any stage, we are not just at any stage. We are at a stage at which the entire economy is suffocated with this stuff and where there is a serious question mark over whether it is possible to talk about anything approaching economic recovery unless this problem is dealt with comprehensively. The concern of the United Left Alliance, which has been expressed by other Deputies, is that will not be achieved with this legislation, because it does not go far enough and still leaves the whip hand with the banks.

This is disappointing, particularly because I attended the meeting of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform to which Deputy Donnelly referred and I heard the Minister's response stating he is disappointed that an individual should display that attitude. However, it is clear that it is not an individual. While the chief executive officer of AIB was slightly more polite in the way he put it, he actually said more or less the same thing. The chief executive officer of Bank of Ireland, Mr. Boucher, was not terribly polite but he was doing what is logical from the point of view of a commercial entity that is a bank. If one is

operating a bank on the commercial basis that such people perceive themselves to be operating it, then what they are doing is logical. It is not of great interest to them whether people are in distress or whether the economy is banjaxed because they do not give significant debt relief. That is not their concern, which is to maximise profits to restore their balance sheet. That is what they do. The question is whether Members will intervene with legislation and other powers to adjust their priorities in order that their priorities align themselves with the public interest to a greater extent. I refer to the interests of distressed mortgage holders, the economy and the public interest as a whole. In Members' conversations with them, it has been clear that they simply do not get that. They think their interests are the public interest. What emerged from the discussions is they think what is good for them is good for us. However, as it is apparent that what is good for them is not good for us, this message must be hammered into their heads in some way.

On the issue of public interest directors, one point to emerge is Members must tell the public interest directors what to do. Members must hold them to account and must instruct them how to represent the public interest on the boards of banks and to go in to bat for the public interest on issues such as distressed mortgages. As I understand it, however, the Minister is stating that under this legislation, if the banks do not do a reasonable deal the threat of bankruptcy will be enough to push them to do sol. However, as Deputy Donnelly has outlined, there is a very serious question mark when one has this eight-year period, rather than three years after which one can walk away.

I would like this legislation to be stronger. I recognise that even with all its limitations and shortcomings - as I might perceive them - this still represents an improvement on the *status quo*, in which people have nothing and are in complete limbo. Consequently, it is not a case of voting against the legislation but I can tell the Minister that at this point, I consider the legislation to be inadequate and that it will not do the job. Members must register that fact with the Minister in some way and the logical way to so do is to vote against this particular amendment, which qualifies and seriously dilutes the threat of bankruptcy that a debtor can use to try to put pressure on the bank.

Question put: "That Seanad amendment be agreed to."

The Dáil divided: Tá, 87; Níl, 44.	
Tá	Níl
Bannon, James.	Adams, Gerry.
Breen, Pat.	Boyd Barrett, Richard.
Butler, Ray.	Broughan, Thomas P.
Buttimer, Jerry.	Browne, John.
Byrne, Catherine.	Calleary, Dara.
Byrne, Eric.	Collins, Joan.
Carey, Joe.	Collins, Niall.
Coffey, Paudie.	Colreavy, Michael.
Collins, Áine.	Cowen, Barry.
Conaghan, Michael.	Crowe, Seán.
Conlan, Seán.	Daly, Clare.
Connaughton, Paul J.	Doherty, Pearse.

Conway, Ciara.	Donnelly, Stephen S.
Coonan, Noel.	Ellis, Dessie.
Corcoran Kennedy, Marcella.	Ferris, Martin.
Costello, Joe.	Flanagan, Luke ‘Ming’.
Creed, Michael.	Fleming, Sean.
Deasy, John.	Fleming, Tom.
Deenihan, Jimmy.	Halligan, John.
Deering, Pat.	Healy, Seamus.
Doherty, Regina.	Healy-Rae, Michael.
Donohoe, Paschal.	Higgins, Joe.
Dowds, Robert.	Kelleher, Billy.
Doyle, Andrew.	Kitt, Michael P..
Durkan, Bernard J.	Mac Lochlainn, Pádraig.
English, Damien.	McConalogue, Charlie.
Farrell, Alan.	McDonald, Mary Lou.
Feighan, Frank.	McGrath, Mattie.
Fitzgerald, Frances.	McGrath, Michael.
Fitzpatrick, Peter.	McGuinness, John.
Flanagan, Charles.	McLellan, Sandra.
Flanagan, Terence.	Moynihan, Michael.
Gilmore, Eamon.	Murphy, Catherine.
Griffin, Brendan.	Naughten, Denis.
Harrington, Noel.	Ó Caoláin, Caoimhghín.
Harris, Simon.	Ó Fearghaíl, Seán.
Hayes, Brian.	Ó Snodaigh, Aengus.
Hayes, Tom.	O’Brien, Jonathan.
Heydon, Martin.	Pringle, Thomas.
Howlin, Brendan.	Ross, Shane.
Humphreys, Heather.	Shortall, Róisín.
Humphreys, Kevin.	Stanley, Brian.
Keaveney, Colm.	Troy, Robert.
Kehoe, Paul.	Wallace, Mick.
Kelly, Alan.	
Kenny, Enda.	
Kenny, Seán.	
Kyne, Seán.	
Lawlor, Anthony.	
Lynch, Kathleen.	
Lyons, John.	
McCarthy, Michael.	
McFadden, Nicky.	
McGinley, Dinny.	

McHugh, Joe.	
McLoughlin, Tony.	
Maloney, Eamonn.	
Mathews, Peter.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Nolan, Derek.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Pádraig Mac Lochlainn and Stephen S. Donnelly.

Question declared carried.

Seanad amendment No. 201:

Section 147: In page 121, before section 147, but in Part 4, to insert the following new section:

147.—Section 123(3)(*b*) of the Bankruptcy Act 1988 is amended by the substitution of "3 years" for "twelve months".".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 202 to 212, inclusive, are related and will be discussed together by agreement. Is that agreed? Agreed.

Seanad amendment No. 202:

Section 147: In page 121, lines 6 to 43, to delete section 147 and substitute the following section:

"CHAPTER 1

General Provisions

147.—In this Part—

"accounting records", in relation to a personal insolvency practitioner, mean the books of account and all other documents required to be kept by the personal insolvency practitioner in accordance with regulations made under *section 161**;

"complainant", in relation to a complaint, means the person who made the complaint;"

"complaint" means a complaint under *section 166***;

"improper conduct", in relation to a personal insolvency practitioner, means—

(*a*) the commission by the personal insolvency practitioner of an act which renders the personal insolvency practitioner no longer a fit and proper person to carry on practice as a personal insolvency practitioner,

(*b*) the commission by the personal insolvency practitioner of a material contravention of a provision of regulations made under *section 149**** or *161**;

"inspector" means a person appointed under *section 164***** to be an inspector;

"investigation" means an investigation under *section 168******;

"investigation report", in relation to an investigation, means a report in writing prepared, following the completion of the investigation, by the inspector appointed under *section 168(1)(b)****** to carry out the investigation—

(*a*) stating that the inspector—

(i) is satisfied that improper conduct by the personal insolvency practitioner to whom the investigation relates has occurred or is occurring, or

(ii) is not so satisfied, as appropriate,

(*b*) if *paragraph (a)(i)* is applicable, stating the grounds on which the inspector is so satisfied, and

(*c*) if *paragraph (a)(ii)* is applicable, stating—

(i) the basis on which the inspector is not so satisfied, and

(ii) the inspector's opinion, in view of such basis, on whether or not a further investigation of the personal insolvency practitioner is warranted and, if warranted, the inspector's opinion on the principal matters to which the further investigation should relate;

"maintain", in relation to a record, includes create and keep;

"major sanction", in relation to a personal insolvency practitioner, means—

(*a*) the revocation of his or her authorisation to carry on practice as a personal insolvency practitioner and a prohibition (which may be a permanent prohibition, a prohibition for a specified period or a prohibition subject to specified conditions) against the former personal insolvency practitioner applying for a new authorisation,

(*b*) the suspension for a specified period of his or her authorisation to carry on practice as a personal insolvency practitioner or, in any case where the period of such suspension (in this paragraph referred to as "the relevant period") sought to be imposed is longer than the period of validity of the authorisation left to run, the suspension of the authorisation during that period and a prohibition for a specified period against the former personal insolvency practitioner applying for a new authorisation, which periods, added together, are equivalent to the relevant period,

(*c*) a direction to the personal insolvency practitioner that the personal insolvency practitioner pay a sum, as specified in the direction but not exceeding €30,000, to the Insolvency Service, being the whole or part of the cost to the Insolvency Service of an investigation of the personal insolvency practitioner, or

(*d*) any combination of any of the sanctions specified in *paragraphs (a)* to *(c)*;

"minor sanction", in relation to a personal insolvency practitioner, means—

(*a*) the issue, to the personal insolvency practitioner, of—

(i) advice,

(ii) a caution,

(iii) a warning, or

(iv) a reprimand,

or

(*b*) any combination of any of the sanctions specified in *paragraph (a)*;

"moneys received from debtors" means moneys received from a debtor or from third parties in respect of the debtor under a Debt Settlement Arrangement or a Personal In-

solvency Arrangement;

"professional indemnity insurance" means a policy of indemnity insurance against losses arising from claims in respect of any description of civil liability incurred by a person arising from his or her carrying on practice as a personal insolvency practitioner;

"Register" means the Register of Personal Insolvency Practitioners established under *section 150*******;

"satisfied" means satisfied on reasonable grounds;

"specified"—

(*a*) in relation to a period, means a period which is reasonable in the circumstances concerned,

(*b*) in relation to a time, date or place, means a time, date or place, as the case may be, which is reasonable in the circumstances concerned;

"terms" includes conditions.".

Seanad amendment agreed to.

Seanad amendment No. 203:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

148.—(1) A person shall not—

(*a*) act as a personal insolvency practitioner,

(*b*) hold himself or herself out as available to act as a personal insolvency practitioner, or

(*c*) represent himself or herself by advertisement as available to act as a personal insolvency practitioner, unless that person is authorised to so act by virtue of this Act.

(2) A person who acts in contravention of *subsection (1)* is guilty of an offence.".

Seanad amendment agreed to.

Seanad amendment No. 204:

Sectino 147: In page 121, before section 147, but in Part 5, to insert the following new section:

149.—The Insolvency Service, with the consent of the Minister, may and, if directed by the Minister to do so and in accordance with the terms of the direction, shall, following consultation with the Minister for Finance and with any other person or body as the Insolvency Service deems appropriate or as the Minister directs, by regulations provide for any of the following, for the purposes of the control and supervision of personal insolvency practitioners and the protection of debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements:

(*a*) the procedures governing—

(i) the authorisation of persons to carry on practice as personal insolvency practitioners; and

(ii) the termination, at a person's request, of his or her authorisation to carry on practice as a personal insolvency practitioner;

(*b*) the standards to be observed in the performance of their functions by personal insolvency practitioners with particular reference to—

(i) the public interest;

(ii) the duties owed to debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements;

(iii) the professional and ethical conduct of personal insolvency practitioners;

(iv) the confidentiality of the information of debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements; and

(v) conflicts of interest;

(*c*) the qualifications (including levels of training, education and experience) or any other requirements (including required standards of competence, fitness and probity and required minimum levels of professional indemnity insurance) for the authorisation of persons to carry on practice as personal insolvency practitioners;

(*d*) the terms on which indemnity against losses is to be available to personal insolvency practitioners under any policy of indemnity insurance and the circumstances in which the right to such indemnity is to be excluded or modified;

(*e*) the records to be maintained and the information and returns to be provided to the Insolvency Service by personal insolvency practitioners; and

(*f*) the circumstances and purposes for which a personal insolvency practitioner may charge fees or costs or seek to recover outlays.".

Seanad amendment agreed to.

Seanad amendment No. 205:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

150.—(1) The Insolvency Service shall establish and maintain a register to be known as the Register of Personal Insolvency Practitioners.

(2) The Register shall be in such form as the Insolvency Service deems appropriate and shall—

(*a*) contain the names of personal insolvency practitioners and such other identifying particulars as the Insolvency Service considers appropriate, and

(*b*) contain such other entries in respect of personal insolvency practitioners (including personal insolvency practitioners whose authorisation is suspended) as the Insolvency Service considers appropriate.

(3) The Insolvency Service shall make the Register available for inspection by members of the public on its website.

4) A copy of an entry in the Register shall, on request, be issued by the Insolvency Service on payment of such fee (if any) as may be prescribed.

(5) In any legal proceedings, a certificate signed by the Director, or a member of the staff of the Insolvency Service authorised by the Director to give a certificate under this subsection, stating that a person—

(*a*) is registered in the Register,

(*b*) is not registered in the Register,

(*c*) was at a specified date or during a specified period registered in the Register,

(*d*) was not, at a specified date or during a specified period, registered in the Register or was suspended from the Register at that time, or

(*e*) has never been registered in the Register, shall, without proof of the signature of the person purporting to sign the certificate or that the person was the Director or a member of the staff of the Insolvency Service so authorised, as the case may be, be evidence, unless the contrary is proved, of the matters stated in the certificate.

(6) The Insolvency Service shall ensure that the Register is accurate and, for that purpose, the Insolvency Service shall make any alteration requiring to be made in the information contained in an entry.

(7) The Insolvency Service shall, as soon as is practicable after doing anything under *subsection (6)*, give notice in writing of that fact to the personal insolvency practitioner to whom the alteration relates.

(8) A personal insolvency practitioner to whom an entry in the Register relates shall give notice in writing to the Insolvency Service of—

(*a*) any error that the person knows of in the entry, and

(*b*) any change in circumstances that is likely to have a bearing on the accuracy of the entry, as soon as may be after the person becomes aware of that error or change in circumstances, as the case may be.".

Seanad amendment agreed to.

Seanad amendment No. 206:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

151.—(1) An individual may make an application in the prescribed form to the Insolvency Service for authorisation to carry on practice as a personal insolvency practi-

tioner unless the individual is prohibited from making such an application by virtue of the imposition on the individual of a major sanction which falls within *paragraph (a)* or *(b)* of the definition of "major sanction" in *section 147** or where an order under *section 167(2)*** is in force suspending that individual from carrying on practice as a personal insolvency practitioner.

(2) An application under *subsection (1)* shall be accompanied by—

(*a*) evidence of the applicant's competence (including any levels of education, training and experience specified by the Insolvency Service, and in particular that the applicant has a satisfactory knowledge of—

(i) the provisions of this Act, and

(ii) the law generally as it applies in the State relating to the insolvency of individuals and in particular statutory provisions relating to such persons,

(*b*) a report in the prescribed form by a duly qualified accountant that appropriate financial systems and controls are or will be in place for the protection of moneys received from debtors if the applicant is authorised to carry on practice as a personal insolvency practitioner,

(*c*) evidence in writing of the availability to the applicant of the required level of professional indemnity insurance if the applicant is authorised to carry on practice as a personal insolvency practitioner,

(*d*) such other documents as may be prescribed by the Insolvency Service in relation to applications for authorisation to carry on practice as a personal insolvency practitioner, and

(*e*) the prescribed fee.

(3) Without prejudice to *section 156****, the Insolvency Service may—

(*a*) require an applicant to provide in the prescribed form, or by statutory declaration, such additional information in respect of the applicant's character, competence and financial position, and it may make such inquiries and conduct such examinations in that regard, as it considers necessary,

(*b*) require the applicant to provide a certificate in the prescribed form by a member of the Garda Síochána not below the rank of superintendent containing such particulars in respect of the applicant as are requisite for the due performance of the Insolvency Service's functions in relation to the applicant.".

Seanad amendment agreed to.

Seanad amendment No. 207:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

152.—(1) Subject to *subsections (3)* and *(5)*, the Insolvency Service may authorise an individual to carry on practice as a personal insolvency practitioner and shall furnish

to that individual the registration number assigned to such person for the purposes of the Register.

(2) When deciding whether to authorise an individual to carry on practice as a personal insolvency practitioner, the Insolvency Service shall take into account any information supplied to it under *sections 151** and *156***.

(3) Subject to *section 153****, the Insolvency Service shall refuse to authorise an individual to carry on practice as a personal insolvency practitioner if—

(*a*) *section 151** has not been complied with as respects the individual,

(*b*) the individual has not furnished sufficient evidence to show that there is available to him or her the required level of professional indemnity insurance,

(*c*) the individual—

(i) is under 18 years of age, or

(ii) is an undischarged bankrupt,

(*d*) the Insolvency Service is satisfied that the individual—

(i) is not a fit and proper person to carry on practice as a personal insolvency practitioner,

(ii) is not competent to carry on practice as a personal insolvency practitioner or does not meet the levels of education, training and experience specified by the Insolvency Service, or

(iii) does not comply with any requirement (not being a requirement referred to in any of *paragraphs (a)* to *(c)* of this subsection) of this Act or of regulations made under this Act applicable to the person.

(4) An authorisation to carry on practice as a personal insolvency practitioner, unless sooner surrendered or revoked or otherwise ceasing to be in force, shall remain in force for a period of one year from the date on which it is issued.

(5) An authorisation to carry on practice as a personal insolvency practitioner is personal to the personal insolvency practitioner concerned.

(6) An authorisation to carry on practice as a personal insolvency practitioner shall not authorise the person concerned to carry on any other form of financial advisory services subject to regulation by the Central Bank of Ireland.”.

Seanad amendment agreed to.

Seanad amendment No. 208:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

153.—(1) Where the Insolvency Service proposes to refuse to authorise a person to carry on practice as a personal insolvency practitioner, it shall give notice in writing to

the person—

(*a*) of the proposal and the reasons for the proposal, and

(*b*) stating that the person may make representations in writing to the Insolvency Service on the proposal—

(i) subject to *subparagraph (ii)*, within 21 days from the date of the issue of that notice to the person,

(ii) within such longer period as the Insolvency Service deems appropriate in the circumstances of the case.

(2) Where the Insolvency Service has given a notice under *subsection (1)* to a person, it shall, as soon as is practicable after the expiration of the period referred to in *subsection (1)(b)(i)* or *(ii)*, as the case requires, and the consideration of any representations referred to in *subsection (1)(b)* made to it—

(*a*) issue to the person the authorisation that is the subject of the notice, or

(*b*) refuse to issue the authorisation that is the subject of the notice and give the person—

(i) notice in writing of the refusal and the reasons for the refusal, and

(ii) a copy of *section 157** if the ground, or one of the grounds, for the refusal falls within *section 152(3)(d)***.".

Seanad amendment agreed to.

Seanad amendment No. 209:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

154.—(1) An authorisation to carry on practice as a personal insolvency practitioner, unless it has been revoked, may, subject to *subsection (4)*, be renewed by the Insolvency Service.

(2) An application for the renewal of an authorisation to carry on practice as a personal insolvency practitioner shall be—

(*a*) in the prescribed form,

(*b*) made at least 6 weeks before the expiration of the authorisation, and

(*c*) accompanied by—

(i) such documents as may be prescribed, and

(ii) the prescribed fee.

(3) Subject to *subsection (4)*, where an application under *subsection (2)* for the renewal of an authorisation is not determined by the Insolvency Service before the au-

thorisation expires, and the application was made in accordance with *paragraph (b)* of that subsection, the authorisation shall continue in force until the application has been so determined.

(4) Subject to *section 155**, the Insolvency Service shall refuse to renew an authorisation to carry on practice as a personal insolvency practitioner if—

(*a*) *subsection (2)* has not been complied with in respect of the person,

(*b*) the application is not accompanied by a report in the prescribed form by a duly qualified accountant that appropriate financial systems and controls are still in place for the protection of moneys received from debtors by the applicant,

(*c*) the applicant does not satisfy the Insolvency Service that there is available to the person the required level of professional indemnity insurance in respect of the authorisation to carry on practice as a personal insolvency practitioner,

(*d*) in the case of an individual, the person is an undischarged bankrupt.

(5) Where an authorisation to carry on practice as a personal insolvency practitioner is renewed under this Act, the period of validity of the authorisation as so renewed shall be deemed to start to run on the day that the authorisation would have expired if no application under *subsection (2)* for its renewal had been made, and irrespective of whether the authorisation is renewed before, on or after that day.".

Seanad amendment agreed to.

Seanad amendment No. 210:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

155.—(1) Where the Insolvency Service proposes to refuse to renew an authorisation to carry on practice as a personal insolvency practitioner, it shall give a notice in writing to the person concerned—

(*a*) of the proposal and the reasons for the proposal, and

(*b*) stating that the person may make representations in writing to the Insolvency Service on the proposal—

(i) subject to *subparagraph (ii)*, within 21 days from the date of the issue of that notice to the person, or

(ii) within such longer period as the Insolvency Service deems appropriate in the circumstances of the case.

(2) Where the Insolvency Service has given a notice under *subsection (1)* to a person, it shall, as soon as is practicable after the expiration of the period referred to in s*ubsection (1)(b)(i)* or *(ii)*, as the case requires, and the consideration of any representations referred to in *subsection (1)(b)* made to it—

(*a*) issue to the person the renewal of the authorisation that is the subject of the

notice, or

(*b*) refuse to renew the authorisation that is the subject of the notice and give the person notice in writing of the refusal and the reasons for the refusal.".

Seanad amendment agreed to.

Seanad amendment No. 211:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

156.—(1) The Insolvency Service may request the Commissioner of the Garda Síochána or the Central Bank of Ireland to provide any information requisite for the due performance of its functions in relation to any applicant for authorisation to carry on practice as a personal insolvency practitioner or any personal insolvency practitioner.

(2) The Commissioner of the Garda Síochána and the Central Bank of Ireland shall comply with a request under *subsection (1)* notwithstanding anything contained in any statutory provision or rule of law.".

Seanad amendment agreed to.

Seanad amendment No. 212:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

157.—(1) A person aggrieved by a decision of the Insolvency Service—

(*a*) refusing under *section 152(3)(d)** to issue an authorisation to carry on practice as a personal insolvency practitioner, or

(*b*) declining under *section 166(2)*** to cause to be carried out an investigation of the matter the subject of a complaint, may, within 21 days from the date of receipt of notice of the decision, appeal to the Circuit Court against the decision.

(2) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit where the appellant ordinarily resides or carries on any profession, business or occupation.

(3) The appeal shall be determined by the Circuit Court—

(*a*) by confirming the decision of the Insolvency Service to which the appeal relates, or

(*b*) by substituting its determination for that decision.

(4) A decision of the Circuit Court under this section shall be final, save that, by leave of that Court, an appeal shall lie to the High Court on a point of law.".

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 213 to 218, inclusive, are related and will

be discussed together.

Seanad amendment No. 213:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

"CHAPTER 2

General Obligations of Personal Insolvency Practitioners

158.—Where a personal insolvency practitioner is appointed by a debtor under *Chapter 2* of *Part 3*, the personal insolvency practitioner shall retain such records as may be prescribed and in such form and manner as may be prescribed of his or her activities in relation to the debtor for a period of not less than 6 years after the completion of the activity to which the record relates.".

Deputy Alan Shatter: These amendments deal with the new Part 5, which makes provision for the regulation, supervision and discipline of personal insolvency practitioners. The insolvency service will be responsible for the direct regulation of personal insolvency practitioners. We will not impose any particular restrictions as to the types of professions of persons who will be licensed to perform this function. Normally, looking at experience in other jurisdictions, such insolvency practitioners tend to be accountants or lawyers but can be also other professionals in the broad financial services sector. Individuals trained as mediators who have financial experience may well prove to be very effective personal insolvency practitioners. In the context of existing professionals, many of these will be already regulated, as appropriate, by the Central Bank, where they are financial intermediaries for the provision of other financial services. This is the approach I intend to take. Suitable persons meeting the normal fitness to practise and competence criteria, who have indemnity insurance, which is important, and meet the other requirements in the legislation will be able to apply for registration on an individual rather than corporate basis.

I will now address the detail of the new Part 5. Amendment No. 202 proposes the insertion of section 147, which provides for the interpretation of certain items used in the new Part.

Amendment No. 203 proposes the insertion of section 148. This new section provides that it will be an offence for a person to act as a personal insolvency practitioner who is not entitled to do so by virtue of this legislation.

Amendment No. 204 proposes the insertion of section 149. This section gives the insolvency service the power to make regulations to provide for matters such as procedures governing the authorisation of persons to carry on practice as personal insolvency practitioners, the standards to be observed by personal insolvency practitioners, qualifications and requirements as to competence, information to be provided to the insolvency service by personal insolvency practitioners and the circumstances and purpose for which a personal insolvency practitioner may charge fees or costs.

An Ceann Comhairle: We are discussing amendment No. 213.

Deputy Alan Shatter: I did not think we had reached amendment No. 202 yet.

Deputy Pádraig Mac Lochlainn: We flew over that amendment to be kind to the Minister.

Deputy Alan Shatter: The Deputies opposite must have nodded it through for me. I was anxious to place on record the background to the provisions but I will be happy, if need be, to proceed to amendment No. 213. Chapter 2, comprising sections 158 to 160, sets out a number of general obligations that will apply to personal insolvency practitioners. Amendment No. 213 proposes the insertion of section 158. This section imposes an obligation on personal insolvency practitioners to keep records of their activities with debtors for a period of not less than six years after the completion of the activity to which the record relates.

Amendment No. 214 proposes the insertion of section 159. Under this section, a personal insolvency practitioner will be required to have a policy of professional indemnity insurance which meets requirements that may be prescribed in regulations.

Amendment No. 215 proposes the insertion of section 160 to provide that a personal insolvency practitioners will not be permitted to charge fees or costs which are not incurred either in accordance with regulations made under section 149 or in accordance with the terms of a debt settlement arrangement or personal insolvency arrangement.

Chapter 3, comprising sections 161 to 163, inclusive, contains important provisions dealing with accounts and related matters. Amendment No. 216 proposes the insertion of section 161. This section empowers the insolvency service to make regulations regarding financial matters, including the rights, duties and responsibilities of a personal insolvency practitioner in respect of moneys received from debtors, the accounting records which must be maintained by a personal insolvency practitioner and verification and enforcement of compliance with regulations.

Amendment No. 217 proposes the insertion of section 162 to provide that the insolvency service may, where necessary, apply to the High Court for certain orders in relation to the banking accounts kept by the personal insolvency practitioner in his or her capacity as such or in relation to the assets of the personal insolvency practitioner.

Amendment No. 218 proposes the insertion of section 162 which aims to address circumstances where a personal insolvency practitioner is no longer authorised to carry on practice as such and the person has not made adequate arrangements for handing over documents relating to his or her practice as a personal insolvency practitioner. In such a case, the insolvency service may issue a notice requiring the production of the documents to the service. Where the person fails to comply with such a requirement, the service may apply to the Circuit Court for an order requiring compliance with the requirement.

Seanad amendment agreed to.

Seanad amendment No. 214:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

159.—(1) A personal insolvency practitioner shall not carry on practice as a personal insolvency practitioner unless there is in force, at the time he or she so acts, a policy of professional indemnity insurance which meets such requirements as may be prescribed from time to time pursuant to *subsection (2)*.

(2) The Insolvency Service may prescribe such matters as it considers necessary in relation to policies of professional indemnity insurance including the minimum

amount of cover which shall apply in relation to each and every claim made against a personal insolvency practitioner.".

Seanad amendment agreed to.

Seanad amendment No. 215:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

160.—A personal insolvency practitioner shall not charge fees or costs or seek to recover outlays which are not incurred—

(*a*) in accordance with regulations made under *section 149(f)*, and

(*b*) in a case where a Debt Settlement Arrangement or a Personal Insolvency Arrangement comes into effect, in accordance with the terms of such an

arrangement.".

Seanad amendment agreed to.

Seanad amendment No. 216:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

"CHAPTER 3

Accounts and Related Matters

161.—(1) Subject to *subsection (2)*, the Insolvency Service may make regulations providing for any of the following matters:

(*a*) the kind or kinds of accounts at banks authorised to carry on business in the State which may be opened and kept by a personal insolvency practitioner for the keeping of moneys received from debtors;

(*b*) the opening and keeping of such accounts by a personal insolvency practitioner and in particular the keeping of moneys received from or for the credit of or on behalf of debtors in a client account maintained specifically for that purpose;

(*c*) the rights, duties and responsibilities of a personal insolvency practitioner in respect of moneys received from debtors, including the transmission of such moneys to creditors and the deduction of fees, charges and outlays due to the personal insolvency practitioner;

(*d*) the receipts or statements to be issued by a personal insolvency practitioner in respect of moneys received from debtors;

(*e*) the accounting records to be maintained by a personal insolvency practitioner, including the minimum period or periods for which accounting records shall be retained by a personal insolvency practitioner during the period of, and following the conclusion of, Debt Settlement Arrangements or Personal Insolvency Arrangements

and the manner in which the lodgement into bank accounts of any moneys received from debtors shall be recorded in the accounting records;

(*f*) the accounting records to be maintained by a personal insolvency practitioner containing particulars of and information as to moneys received, held, controlled or paid by the personal insolvency practitioner in connection with Debt Settlement Arrangements or Personal Insolvency Arrangements;

(*g*) the circumstances and manner in which a personal insolvency practitioner (or a duly qualified accountant on behalf of the personal insolvency practitioner) verifies compliance with the regulations, including the frequency of doing so;

(*h*) the examination by an auditor or an accountant who is a member of a body prescribed for the purposes of this section, at intervals prescribed by the

regulations, of accounting records maintained by a personal insolvency practitioner under regulations made under *paragraphs (e)* and *(f)* and for the making of reports to the Insolvency Service of such matters relating to the keeping of accounts and holding of moneys received from debtors as may be prescribed and such reports shall be in such form as may be prescribed;

(*i*) the enforcement by the Insolvency Service of compliance with the regulations;

(*j*) the imposition of fees on a personal insolvency practitioner in cases of noncompliance where the Insolvency Service, by reason of such noncompliance

has determined that further enquiries should be carried out (such fees not exceeding the cost of conducting such enquiries);

(*k*) the examination, by or on behalf of the Insolvency Service, of the financial circumstances of a personal insolvency practitioner in so far as such circumstances could affect his or her capacity to carry out the functions of a personal insolvency practitioner.

(2) The Insolvency Service shall, in making regulations under this section, have regard to the need to protect debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements.".

Seanad amendment agreed to.

Seanad amendment No. 217:

Section 147: In page 121, before section 147, to insert the following new section:

162.—(1) Where, as respects a person who is a personal insolvency practitioner, the Insolvency Service determines that it is necessary to do so for the protection of debtors and creditors who are parties to Debt Settlement Arrangements or Personal Insolvency Arrangements in relation to which the personal insolvency practitioner concerned is performing or has performed functions performable by a personal insolvency practitioner under this Act, the Insolvency Service may apply to the High Court in a summary manner for an order directing one or more of the following:

(*a*) that no bank shall, without leave of the High Court, make any payment out

of an account in the name of the personal insolvency practitioner concerned in his or her capacity as a personal insolvency practitioner;

(*b*) that a specified bank shall not, without leave of the High Court, make any payment out of an account kept at such bank by the personal insolvency practitioner or former personal insolvency practitioner in such capacity or former capacity, as the case may be;

(*c*) that the personal insolvency practitioner or former personal insolvency practitioner shall not, without leave of the High Court, dispose of or direct or facilitate the disposal of any assets within his or her possession or control or within his or her procurement;

(*d*) that the personal insolvency practitioner or former personal insolvency practitioner shall not, without leave of the High Court, reduce his or her assets below a specified amount or value.

(2) The High Court may hear an application for an order under *subsection (1)* otherwise than in public.

(3) Where the High Court makes an order under *subsection (1)* in relation to a personal insolvency practitioner, the Court may make one or more of the following

further orders:

(*a*) directing a specified bank to furnish any information in its possession that the Insolvency Service requires relating to any aspect of the financial affairs of the personal insolvency practitioner in his or her capacity as a personal insolvency practitioner;

(*b*) directing the personal insolvency practitioner to swear an affidavit disclosing all information relating to or contained in any account with any bank held in his or her own name, or in the name of his or her business or former business as a personal insolvency practitioner, or jointly with third parties, within a specified duration of time to be fixed by the Court;

(*c*) directing the personal insolvency practitioner to swear an affidavit disclosing all information relating to his or her assets, either then in his or her possession or control or within his or her procurement or which had been but are no longer in his or her possession or control or within his or her procurement, within a specified duration of time to be fixed by the Court, and, if no longer in his or her possession or control or within his or her procurement, his or her belief as to the present whereabouts of those assets;

(*d*) directing the personal insolvency practitioner to make himself or herself available before the Court on a specified date and at a specified time for oral examination under oath in relation to the contents of any affidavit of assets sworn by him or her pursuant to *paragraph (c)*.

(4) Where the High Court makes an order under *subsection (1)* in relation to a personal insolvency practitioner, the personal insolvency practitioner shall forthwith lodge (or cause to be lodged) any moneys subsequently received by him or her to the appropri-

ate account or accounts, unless otherwise ordered by the Court.

(5) Where the High Court is satisfied, on an application being made to it by the Insolvency Service, that there is reason to believe that any person holds or has held assets on behalf of a personal insolvency practitioner or on behalf of his or her practice or former practice as a personal insolvency practitioner to whom *subsection (1)* applies, the Court may order that person to disclose to the Insolvency Service all information as to such assets, either then in his or her possession or control or within his or her procurement or which had been but are no longer in his or her possession or control or within his or her procurement, and, if no longer within his or her possession or control or within his or her procurement, his or her belief as to the present whereabouts of those assets.

(6) A reference in this section to a personal insolvency practitioner includes a reference to a person who is no longer a personal insolvency practitioner.".

Seanad amendment agreed to.

Seanad amendment No. 218:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

163.—(1) Where—

(*a*) either—

(i) the Insolvency Service refuses to renew an authorisation to carry on practice as a personal insolvency practitioner, or

(ii) an authorisation to carry on practice as a personal insolvency practitioner is revoked or suspended under this Act,

and

(*b*) the Insolvency Service is of the opinion that adequate arrangements have not been made for handing over to another personal insolvency practitioner of any documents within the possession or in the control, or within the procurement, of the personal insolvency practitioner or former personal insolvency practitioner, as the case may be,

the Insolvency Service may, by notice in writing given to the personal insolvency practitioner or former personal insolvency practitioner, as the case may be, require the personal insolvency practitioner or former personal insolvency practitioner, as the case may be, or any other person in possession or control of such documents, to produce the documents, to a person appointed by the Insolvency Service for the purpose, at a time and place specified by the Insolvency Service in the notice.

(2) Where a person the subject of a requirement under *subsection (1)* does not comply or fully comply with that requirement, the Insolvency Service may apply in

a summary manner to the Circuit Court, on notice to that person, for an order requiring the person to comply or comply fully, as the case may be, with the requirement within a period to be specified by the Court and the Court may make the order applied

for or such other order as it deems appropriate.

(3) Where the Insolvency Service takes possession of documents produced under this section—

(*a*) it shall serve on the person by whom the documents were produced, a notice giving particulars of the documents and the date of taking possession thereof, and

(*b*) it may make such enquiries as may be reasonably necessary to ascertain the person or persons entitled to the possession or custody of such documents, or any of them, and may thereafter deal with such documents, or any of them, in accordance with the directions of such person or persons so entitled.

(4) Within 14 days from the service of a notice under *subsection (3)* on a person, the person may apply in a summary manner to the Circuit Court for an order

directing the Insolvency Service to return the documents taken by the Insolvency Service to him or her or to such other person or persons as the applicant may require and the Court may make the order applied for or such other order as it deems appropriate.

(5) An application under *subsection (2)* to the Circuit Court shall be made to a judge of that Court for the circuit in which the personal insolvency practitioner the

subject of the application resides or ordinarily carried on within the previous 3 years practice as a personal insolvency practitioner.".

Seanad amendment agreed to.

An Ceann Comhairle: Amendments Nos. 219 to 229, inclusive, and amendments Nos. 243 and 244 are related and will be discussed together.

Seanad amendment No. 219:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

"CHAPTER 4

Complaints, Investigations and Sanctions

164.—(1) For the purposes of this Act—

(*a*) the Director of the Insolvency Service may appoint such members of the staff of the Insolvency Service as he or she deems appropriate to be inspectors for such period and subject to such terms as the Director may determine,

(*b*) the Director of the Insolvency Service may appoint such other persons as he or she deems appropriate to be inspectors for such period and subject to such terms (including terms as to remuneration and allowances for expenses) as the Director, with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform, may determine.

(2) Each inspector shall be given a warrant of appointment and, when performing any function imposed under this Act, shall, on request by any person affected,

produce the warrant or a copy thereof, together with a form of personal identification.".

Deputy Alan Shatter: Chapter 4, comprising sections 164 to 174, provides for a comprehensive system of complaints and investigations where improper conduct by a personal insolvency practitioner is alleged and for the imposition of appropriate sanctions. Amendment No. 219 proposes the insertion of section 164 which empowers the director of the insolvency service to appoint members of the staff of the service or other appropriate persons to act as inspectors for the purpose of the Bill.

Amendment No. 220 proposes the insertion of section 165. This section provides for the establishment of a panel of persons to act on a the personal insolvency practitioners complaints committee. When the insolvency service appoints an inspector to carry out an investigation into a personal insolvency practitioner's conduct, it must request the Minister to appoint a complaints committee from the panel to act in relation to the investigation.

Amendment No. 221 proposes the insertion of section 166. This section provides for the making of written complaints to the insolvency service alleging improper conduct by a personal insolvency practitioner and sets out the procedure for the handling of such complaints by the service.

Amendment No. 222 proposes the insertion of section 167. This section provides that where the insolvency service considers that immediate suspension of an authorisation to carry on practice as a personal insolvency practitioner is necessary, it may make an application to the High Court for an order to suspend the personal insolvency practitioner's authorisation.

In exceptional circumstances where there is an immediate risk of financial harm, the insolvency service may apply to the High Court on an *ex parte* basis for interim suspension of a personal insolvency practitioner's authorisation for a maximum of 14 days.

Amendment No. 223 proposes the insertion of section 168 which provides that an investigation may be carried out by the insolvency service on foot of a complaint or on the service's own initiative. It provides for the appointment of an inspector or inspectors to carry out such an investigation to prepare an investigation report.

Amendment No. 224 proposes the insertion of section 169. This section gives inspectors comprehensive powers to assist them in carrying out investigations, including powers to enter and search premises, carry out examinations and inquiries and conduct oral hearings.

Amendment No. 225 proposed the insertion of section 170. This section sets out the actions to be taken by inspectors and the complaints committee on completion of an investigation. Upon the completion of an investigation, the inspector must submit the investigation report to the complaints committee, which may conduct an oral hearing, if appropriate, for the purpose of observing fair procedure. If the conduct of the personal insolvency practitioner, PIP, is found by the committee to constitute improper conduct, the committee must make a determination with regard to the appropriate sanction and may, if appropriate, impose a minor sanction on the PIP. If the complaints committee determines that the appropriate sanction is a major sanction, the matter must be referred to the High Court. A major sanction is defined in section 147 as the revocation or suspension of a PIP's authorisation or the payment to the insolvency service of up to €30,000 towards the cost of the investigation. The High Court, having given all of the parties an opportunity to make submissions, will impose the sanction it considers appropriate in the circumstances of the case.

Amendment No. 226 proposes the insertion of section 171, which provides that a PIP may appeal to the High Court against a decision of the complaints committee to impose a minor sanction.

Amendment No. 227 proposes the insertion of section 172, which sets out the matters to be considered by the complaints committee or the High Court in considering whether a sanction ought to be imposed on a PIP or the appropriate sanction that might be imposed.

Amendment No. 228 proposes the insertion of section 173, which provides for the publication by the insolvency service of the particulars of convictions and sanctions imposed under this Part.

Amendment No. 229 proposes the insertion of section 174. This provides that the right of access to personal data under section 4 of the Data Protection Act 1988 does not apply to data processed by the insolvency service or an inspector of the complaints committee in the performance of his or her functions relating to investigations.

An Ceann Comhairle: Is it agreed that we conclude the amendment groupings before starting Private Member's business? Agreed.

Deputy Alan Shatter: I am about to conclude. Amendment No. 243 proposes the insertion of a new Schedule 2, which sets out the provisions applicable to oral hearings conducted in accordance with sections 169 and 170.

Amendment No. 244 proposes to insert a new Schedule 3 to make detailed provision for the establishment and membership of the complaints panel and complaints committee. The complaints panel must contain at least seven persons, all of whom must have relevant experience or knowledge. A complaints committee will be composed of at least three persons, at least one of whom must be a barrister or solicitor. This completes the grouping.

Seanad amendment agreed to.

Seanad amendment No. 220:

Section 147: In page 121, before section 147, to insert the following new section:

165.--(1) The Minister shall establish a panel of persons to act on a committee to be known as the Personal Insolvency Practitioners Complaints Committee (in this Part referred to as "the Complaints Committee").

(2) *Schedule 3* shall apply in relation to the panel and the Complaints Committee.

(3) Where the Insolvency Service appoints an inspector under *section 168(1)(b)* to carry out an investigation, it shall thereafter request the Minister to appoint a Complaints Committee from the panel of persons appointed in accordance with *subsection (1)* and *Schedule 3*, to perform the functions of the Complaints Committee under this Part as respects the inspector's investigation of the personal insolvency practitioner concerned.".

Seanad amendment agreed to.

Seanad amendment No. 221:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new

section:

166.--(1) A person may make a complaint in writing to the Insolvency Service alleging that improper conduct by a personal insolvency practitioner has occurred or is occurring.

(2) Where the Insolvency Service receives a complaint it shall--

(*a*) notify the personal insolvency practitioner concerned in writing of the receipt of the complaint,

(*b*) provide the personal insolvency practitioner with a copy of the complaint and a copy of any documents furnished to the Insolvency Service by the complainant,

(*c*) refer the personal insolvency practitioner to any regulations made under *sections 149* and *161* and to any guidelines or codes of practice issued under *section 132*, and

(*d*) request the personal insolvency practitioner to provide a response in relation to the complaint within a time specified in the notification.

(3) Where the Insolvency Service receives a response to the request referred to in *subsection (2)(d)* it shall consider the response and having considered the response it may, where--

(*a*) it is satisfied that the complaint is not made in good faith,

(*b*) it is satisfied that the complaint is frivolous or vexatious or without substance or foundation, or

(*c*) subject to *subsection (6)*, it is satisfied that the complaint is likely to be resolved by mediation or other informal means between the parties concerned,

determine the complaint accordingly and in that case it shall give notice in writing to the complainant and the personal insolvency practitioner to whom the complaint relates of the decision and the reasons for the decision.

(4) Where the Insolvency Service does not receive a response to the request referred to in *subsection (2)(d)*, or having received a response it considers that none of *paragraphs (a)* to *(c)* of *subsection (3)* apply, it shall cause an investigation of the matter the subject of the complaint to be carried out.

(5) Where a complaint is withdrawn by a complainant before the investigation report which relates to the complaint has been furnished by the inspector concerned pursuant to *section 170(2),* the Insolvency Service may proceed as if the complaint had not been withdrawn if it is satisfied that there is good and sufficient reason for so doing.

(6) Where, pursuant to *subsection (5)*, the Insolvency Service proceeds as if a complaint had not been withdrawn, the investigation concerned shall thereupon be treated as an investigation initiated by the Insolvency Service, and the other provisions of this Act shall be construed accordingly.

(7) Where a complaint is not resolved by mediation or other informal means referred

to in *subsection (3)(c)*, the complainant may, at his or her discretion, make a fresh complaint in respect of the matter the subject of the first-mentioned complaint.".

Seanad amendment agreed to.

Seanad amendment No. 222:

Section 147: In page 121, before section 147, but in Part 5, to in sert the following new section:

167.--(1) Without prejudice to *subsection (4)*, where the Insolvency Service considers that the immediate suspension of an authorisation to carry on practice as a personal insolvency practitioner (whether or not the personal insolvency practitioner concerned is the subject of a complaint) is necessary to protect debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements, until steps or further steps are taken under this Part, the Insolvency Service may, on notice to the personal insolvency practitioner, make an application in a summary manner to the High Court for an order to suspend the personal insolvency practitioner's authorisation to carry on practice as a personal insolvency practitioner.

(2) The High Court may determine an application under *subsection (1)* by--

(*a*) making any order that it considers appropriate, including an order suspending the authorisation of the personal insolvency practitioner the subject of the application for such period, or until the occurrence of such event, as is specified in the order, and

(*b*) giving to the Insolvency Service any other direction that the court considers appropriate.

(3) The Insolvency Service shall, on complying with a direction of the High Court under *subsection (2)(b)*, give notice in writing to the personal insolvency practitioner concerned of the Insolvency Service's compliance with the direction.

(4) (*a*) Where the Insolvency Service considers that the immediate suspension of an authorisation to carry on practice as a personal insolvency practitioner (and whether or not the personal insolvency practitioner concerned is the subject of a complaint) is necessary because of the immediate risk of financial harm to debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements, the Insolvency Service may make an application in a summary manner *ex parte* to the High Court for an interim order to suspend the authorisation.

(*b*) The application for such an order shall be grounded on an affidavit sworn on behalf of the Insolvency Service.

(5) (*a*) The High Court may make an interim order to suspend an authorisation to carry on practice as a personal insolvency practitioner on an application under *subsection (4)* where, having regard to the circumstances of the case, the Court considers it necessary to do so for the protection of debtors and creditors who are or may become parties to Debt Settlement Arrangements or Personal Insolvency Arrangements.

(*b*) If an interim order is made, a copy of the order and the affidavit referred to in *subsection (4)(b)* shall be served on the personal insolvency practitioner as soon as is practicable.

(*c*) The interim order shall have effect for a period, not exceeding 14 days, to be specified in the order, and shall cease to have effect on the determination by the High Court of an application under *subsection (1)* for an order to suspend the authorisation to carry on practice as a personal insolvency practitioner.

(6) An application under *subsection (4)* shall be heard otherwise than in public unless the High Court considers it appropriate to hear the application in public.".

Seanad amendment agreed to.

Seanad amendment No. 223:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

168.--(1) Subject to *section 166(2)* and *(4)*, the Insolvency Service--

(*a*) shall, following the receipt of a complaint, or may of its own volition, cause such investigation as it deems appropriate to be carried out to identify any improper conduct, and

(*b*) for the purposes of the investigation, shall appoint an inspector subject to such terms as it deems appropriate--

(i) to carry out the investigation, and

(ii) to prepare an investigation report following the completion of the investigation and to furnish it to the persons referred to in *subsection (4)*.

(2) The Insolvency Service may appoint more than one inspector to carry out an investigation but, in any such case, the investigation report concerned shall be prepared jointly by the inspectors so appointed.

(3) The terms of appointment of an inspector may define the scope of the investigation to be carried out by the inspector, whether as respects the matters or the period to which it is to extend or otherwise, and in particular may limit the investigation to matters connected with particular circumstances.

(4) Where the Insolvency Service has appointed an inspector to carry out an investigation, the inspector shall, as soon as is practicable after being so appointed--

(*a*) if the investigation arises in consequence of the receipt of a complaint by the Insolvency Service--

(i) give notice in writing to the personal insolvency practitioner to whom the complaint relates of the receipt of the complaint and setting out particulars of the complaint, and

(ii) give the personal insolvency practitioner--

(I) copies of any documents relevant to the investigation, and

(II) a copy of this Part,

(*b*) if the investigation arises on the volition of the Insolvency Service--

(i) give notice in writing to the personal insolvency practitioner concerned of the matters to which the investigation relates, and

(ii) give the personal insolvency practitioner--

(I) copies of any documents relevant to the investigation, and

(II) a copy of this Part,

and

(iii) without prejudice to the generality of *section 169*, afford the personal insolvency practitioner an opportunity to respond within 21 days from the day on which notice was given to the personal insolvency practitioner pursuant to *subparagraph (i)*, or such further period not exceeding 30 days as the inspector allows, to the matter to which the investigation relates.

(5) Where an investigation arises in consequence of the receipt of a complaint by the Insolvency Service, the inspector appointed to carry out the investigation--

(*a*) shall, as soon as is practicable, give the complainant a copy of the notice referred to in *subsection (4)(a)(i)* given to the personal insolvency practitioner to whom the complaint relates, and

(*b*) shall make reasonable efforts to ensure that the complainant is kept informed of progress on the investigation.".

Seanad amendment agreed to.

Seanad amendment No. 224:

Section 147: In page 121, before section 147, to insert the following new section:

169.--(1) For the purposes of an investigation in relation to a personal insolvency practitioner, an inspector may--

(*a*) subject to *subsections (13)* and *(14)*, at all reasonable times enter, inspect, examine and search any premises at, or vehicles in or by means of, which any activity in connection with the practice of the personal insolvency practitioner is carried on,

(*b*) subject to *subsections (13)* and *(14)*, enter, inspect, examine and search any dwelling occupied by the personal insolvency practitioner, being a dwelling as respects which there are reasonable grounds to believe records relating to the practice of the personal insolvency practitioner are being kept in it,

(*c*) without prejudice to any other power conferred by this subsection, require any person found in or on any premises, vehicle or dwelling referred to in any of the preceding paragraphs or any person in charge of or in control of such premises, vehicle

or dwelling or directing any activity therein or thereto referred to in *paragraph (a)* to produce any records, books or accounts (whether kept in manual form or otherwise) or other documents which it is necessary for the inspector to see for the purposes of the investigation, and the inspector may inspect, examine, copy and take away any such records, books or accounts or other documents so produced or require a foregoing person to provide a copy of them or of any entries in them to the inspector,

(*d*) require any person referred to in *paragraph (c)* to afford such facilities and assistance within the person's control or responsibilities as are reasonably necessary to enable the inspector to exercise any of the powers conferred on the inspector under *paragraph (a)*, *(b)* or *(c)*,

(*e*) require any person by or on whose behalf data equipment is or has been used in connection with an activity referred to in *paragraph (a)*, or any person having charge of, or otherwise concerned with the operation of, such data equipment or any associated apparatus or material, to afford the inspector all reasonable assistance in respect of its use,

(*f*) require the personal insolvency practitioner, the personal insolvency practitioner's employee or the personal insolvency practitioner's agent to give such authority in writing addressed to such bank or banks as the inspector requires for the purpose of enabling the inspection of any account or accounts opened, or caused to be opened, by the personal insolvency practitioner at such bank or banks (or any documents relating thereto) and to obtain from such bank or banks copies of such documents relating to such account or accounts for such period or periods as the inspector deems necessary to fulfil that purpose, and

(*g*) be accompanied by a member of the Garda Síochána if there is reasonable cause to apprehend any serious obstruction in the performance of any of the inspector's functions under this subsection.

(2) A requirement under *subsection (1)(c)*, *(d)*, *(e)* or *(f)* shall specify a period within which, or a date and time on which, the person the subject of the requirement is to comply with it.

(3) For the purposes of an investigation, an inspector--

(*a*) may require a person who, in the inspector's opinion--

(i) possesses information that is relevant to the investigation, or

(ii) has any records, books or accounts (whether kept in manual form or otherwise) or other documents within that person's possession or control or within that person's procurement that are relevant to the investigation,

to provide that information or those records, books, accounts or other documents, as the case may be, to the inspector, and

(*b*) where the inspector deems appropriate, may require that person to attend before the inspector for the purpose of so providing that information or those records, books, accounts or other documents, as the case may be,

and the person shall comply with the requirement.

(4) A requirement under *subsection (3)* shall specify--

(*a*) a period within which, or a date and time on which, the person the subject of the requirement is to comply with the requirement, and

(*b*) as the inspector concerned deems appropriate--

(i) the place at which the person shall attend to give the information concerned or to which the person shall deliver the records, books, accounts or other documents concerned, or

(ii) the place to which the person shall send the information or the records, books, accounts or other documents concerned.

(5) A person required to attend before an inspector under *subsection (3)*--

(*a*) is also required to answer fully and truthfully any question put to the person by the inspector, and

(*b*) if so required by the inspector, shall answer any such question under oath.

(6) Where it appears to an inspector that a person has failed to comply or fully comply with a requirement under *subsection (1)*, *(3)* or *(5)*, the inspector may, on notice to that person and with the consent of the Insolvency Service, apply in a summary manner to the Circuit Court for an order under *subsection (7)*.

(7) Where satisfied after hearing the application about the person's failure to comply or fully comply with the requirement in question, the Circuit Court may, subject to *subsection (10)*, make an order requiring that person to comply or fully comply, as the case may be, with the requirement within a period specified by the Court.

(8) An application under *subsection (6)* to the Circuit Court shall be made to a judge of that Court for the circuit in which the person the subject of the application resides or ordinarily carries on any profession, business or occupation.

(9) The administration of an oath referred to in *subsection (5)(b)* by an inspector is hereby authorised.

(10) A person the subject of a requirement under *subsection (1)*, *(3)* or *(5)* shall be entitled to the same immunities and privileges in respect of compliance with such requirement as if the person were a witness before the High Court.

(11) Any statement or admission made by a person pursuant to a requirement under *subsection (1)*, *(3)* or *(5)* is not admissible against that person in criminal proceedings other than criminal proceedings for an offence under *subsection (17)*, and this shall be explained to the person in ordinary language by the inspector concerned.

(12) Nothing in this section shall be taken to compel the production by any person of any records, books or accounts (whether kept in manual form or otherwise) or other documents which he or she would be exempt from producing in proceedings in a court on the ground of legal professional privilege.

(13) An inspector shall not, other than with the consent of the occupier, enter a private dwelling without a warrant issued under *subsection (14)* authorising the entry.

(14) A judge of the District Court, if satisfied on the sworn information of an inspector that--

(*a*) (i) there are reasonable grounds for suspecting that any information is, or records, books or accounts (whether kept in manual form or otherwise) or other documents required by an inspector under this section are, held on any premises or any part of any premises, and

(ii) an inspector, in the performance of functions under *subsection (1)*, has been prevented from entering the premises or any part thereof,

or

(*b*) it is necessary that the inspector enter a private dwelling and exercise therein any of his or her powers under this section,

may issue a warrant authorising the inspector, accompanied if necessary by other persons, at any time or times within 30 days from the date of issue of the warrant and on production if so requested of the warrant, to enter, if need be by reasonable force, the premises or part of the premises concerned and perform all or any such functions.

(15) For the purposes of an investigation, an inspector may, if he or she thinks it proper to do so, of his or her own volition or at the request of the personal insolvency practitioner to whom the investigation relates, conduct an oral hearing.

(16) *Part 1* of *Schedule 2* shall have effect for the purposes of an oral hearing referred to in *subsection (15)*.

(17) Subject to *subsection (12)*, a person who--

(*a*) withholds, destroys, conceals or refuses to provide any information or records, books or accounts (whether kept in manual form or otherwise) or other documents required for the purposes of an investigation,

(*b*) fails or refuses to comply with any requirement of an inspector under this section, or

(*c*) otherwise obstructs or hinders an inspector in the performance of functions imposed under this Act,

is guilty of an offence.

(18) Subject to *subsection (19)*, where a personal insolvency practitioner is convicted of an offence under *subsection (17)*, the court may, after having regard to the nature of the offence and the circumstances in which it was committed, order that his or her authorisation to carry on practice as a personal insolvency practitioner be revoked and that he or she be prohibited (which may be a permanent prohibition, a prohibition for a specified period or a prohibition subject to specified conditions) from applying for any new authorisation to carry on practice as a personal insolvency practitioner.

(19) An order under *subsection (18)* shall not take effect until--

(*a*) the ordinary time for bringing an appeal against the conviction concerned or the order has expired without any such appeal having been brought,

(*b*) such appeal has been withdrawn or abandoned, or

(*c*) on any such appeal, the conviction or order, as the case may be, is upheld.

(20) In this section, "records, books or accounts" includes copies of records, books or accounts.

(21) In this section where records, book or accounts are held or maintained in electronic form, the obligation to produce or provide records, books or accounts includes an obligation to produce or provide those records, books or accounts in a legible and comprehensible printed form.".

Seanad amendment agreed to.

Seanad amendment No. 225:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

170.--(1) Subject to *subsection (3)*, where an inspector has completed an investigation, the inspector shall, as soon as is practicable after having considered, in so far as they are relevant to the investigation, any information or records, books or accounts (whether kept in manual form or otherwise) or other documents provided to the inspector pursuant to any requirement under *section 169*, any statement or admission made by any person pursuant to any requirement under that section, any submissions made and any evidence presented (whether at an oral hearing referred to in *section 169(15)* or otherwise)--

(*a*) prepare a draft of the investigation report, and

(*b*) give a copy of the investigation report together with a copy of this section to--

(i) the personal insolvency practitioner to whom the investigation relates,

(ii) if the investigation arose in consequence of the receipt of a complaint, the complainant, and

(iii) the Insolvency Service,

and shall in writing invite those persons to each make submissions in writing to the inspector on the draft of the investigation report not later than 30 days from the date on which the notice was sent to them, or such further period not exceeding 30 days as the inspector allows.

(2) An inspector who has complied with *subsection (1)* following the completion of an investigation shall, as soon as is practicable after the expiration of the period referred to in *subsection (1)(b)*, and, having--

(*a*) considered the submissions (if any) referred to in *subsection (1)(b)* made be-

fore the expiration of that period on the draft of the investigation report concerned, and

(*b*) made any revisions to the draft of the investigation report which, in the opinion of the inspector, are warranted following such consideration,

prepare the final form of the investigation report and submit it, together with any such submissions annexed to the report, to each of the parties referred to in *subsection (1)* and the Complaints Committee.

(3) In a case where the investigation report states that the inspector is satisfied that improper conduct by the personal insolvency practitioner to whom the investigation relates has occurred or is occurring, the inspector shall not make any recommendation, or express any opinion, in the report as to the form of sanction (whether a minor sanction or a major sanction) that he or she thinks ought to be imposed on the personal insolvency practitioner in respect of such improper conduct.

(4) Where the Complaints Committee receives an inspector's report it shall invite--

(*a*) the personal insolvency practitioner concerned,

(*b*) the Insolvency Service, and

(*c*) where the investigation by the inspector arose in consequence of the receipt of a complaint, the complainant,

to make submissions to it in writing regarding the matters the subject of the inspector's report and the submissions furnished to those parties pursuant to *subsection (2)* within 30 days of the issue of the invitation or such further period as the Complaints Committee may allow.

(5) Subject to *subsection (6)*, the Complaints Committee may consider the matter on the basis of the inspector's report and any submissions made to the inspector pursuant to *subsection (1)*, and to the Complaints Committee pursuant to *subsection (4)*, and may also have regard to any documents furnished to the inspector in the course of the inspection.

(6) Where the Complaints Committee is of the opinion that for the purposes of observing fair procedures it is appropriate to do so, it may conduct an oral hearing.

(7) *Part 2* of *Schedule 2* shall apply for the purposes of an oral hearing referred to in *subsection (6)*.

(8) Having completed its consideration of the matter the Complaints Committee shall make a determination as to whether the conduct of the personal insolvency practitioner the subject of the investigation constitutes improper conduct.

(9) Where the Complaints Committee determines that the conduct of the personal insolvency practitioner does not constitute improper conduct it shall dismiss the complaint.

(10) Where the Complaints Committee determines that the conduct of the personal insolvency practitioner the subject of the investigation does constitute improper conduct

it shall determine whether the appropriate sanction is a minor sanction or a major sanction in the circumstances of the case.

(11) Where the Complaints Committee determines that the appropriate sanction is a minor sanction it shall determine which of the sanctions specified in the definition of minor sanction is the appropriate sanction in the circumstances of the case and shall impose that sanction.

(12) Where the Complaints Committee determines that the appropriate sanction is a major sanction it shall determine which of the sanctions specified in the definition of major sanction is the appropriate sanction in the circumstances of the case and in such a case it shall refer the matter to the High Court and make a recommendation as to the appropriate sanction.

(13) In every case where a determination is made under *subsections (8)* to *(12)* the Complaints Committee shall furnish a copy of that determination to--

(*a*) the personal insolvency practitioner concerned,

(*b*) the Insolvency Service, and

(*c*) where the investigation by the inspector arose in consequence of the receipt of a complaint, the complainant.

(14) Where a matter is referred to the High Court it shall determine, having given all the parties an opportunity to make submissions, whether the appropriate sanction is a minor sanction or a major sanction in the circumstances of the case, and

(*a*) where the Court determines that the appropriate sanction is a minor sanction it shall determine which of the sanctions specified in the definition of minor sanction in *section 147* is the appropriate sanction in the circumstances of the case and shall impose that sanction, and

(*b*) where the Court determines that the appropriate sanction is a major sanction it shall determine which of the sanctions specified in the definition of major sanction in *section 147* is the appropriate sanction in the circumstances of the case and shall impose that sanction.”.

Seanad amendment agreed to.

Seanad amendment No. 226:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new

section:

171.--(1) A personal insolvency practitioner the subject of a determination under *section 170* (other than *subsection (12)* of that section) by the Complaints Committee--

(*a*) that the personal insolvency practitioner concerned has committed improper conduct, and

(*b*) that a minor sanction be imposed in respect of improper conduct,

may, not later than 30 days from the date the notice under *section 170(13)* was issued to the personal insolvency practitioner, appeal to the High Court against the decision.

(2) The High Court may, on the hearing of an appeal under *subsection (1)* by a personal insolvency practitioner, consider any evidence adduced or argument made, whether or not adduced or made to an inspector or the Complaints Committee.

(3) Subject to *subsection (4)*, the High Court may, on the hearing of an appeal under *subsection (1)* by a personal insolvency practitioner--

(*a*) (i) confirm the decision the subject of the appeal,

(ii) determine that the conduct concerned does not constitute improper conduct, or

(iii) confirm the determination that the conduct concerned does constitute improper conduct and impose a different sanction on the personal insolvency practitioner,

and

(*b*) make such order as to costs as it deems appropriate in respect of the appeal.

(4) The High Court shall, in considering an appropriate sanction, take into consideration the matters referred to in *section 172*.".

Seanad amendment agreed to.

Seanad amendment No. 227:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

172.--The Complaints Committee and the High Court, as the case may be, in considering whether a sanction ought to be imposed or the appropriate sanction to be imposed shall take into account the circumstances of the improper conduct concerned (including the factors occasioning it) and, without prejudice to the generality of the foregoing, may have regard to--

(*a*) the need to ensure that any sanction imposed--

(i) is appropriate and proportionate to the improper conduct, and

(ii) if applicable, will act as a sufficient deterrent to discourage improper conduct of that or a similar nature in the future,

(*b*) the seriousness of the improper conduct,

(*c*) the extent of any failure by the personal insolvency practitioner to cooperate with the investigation concerned of the personal insolvency practitioner,

(*d*) any excuse or explanation by the personal insolvency practitioner for the improper conduct or failure to co-operate with the investigation concerned,

(*e*) any gain (financial or otherwise) made by the personal insolvency practitioner or by any person in which the personal insolvency practitioner has a financial interest as a consequence of the improper conduct,

(*f*) the amount of any loss suffered or costs incurred as a result of the improper conduct,

(*g*) the duration of the improper conduct,

(*h*) the repeated occurrence of improper conduct by the personal insolvency practitioner,

(*i*) if applicable, the continuation of the improper conduct after the personal insolvency practitioner was notified of the investigation concerned,

(*j*) if applicable, the absence, ineffectiveness or repeated failure of internal mechanisms or procedures of the personal insolvency practitioner intended to prevent improper conduct from occurring,

(*k*) if applicable, the extent and timeliness of any steps taken to end the improper conduct and any steps taken for remedying the consequences of the improper conduct,

(*l*) whether a sanction in respect of similar improper conduct has already been imposed on the personal insolvency practitioner by a court or the Complaints Committee, and

(*m*) any precedents set by a court or the Complaints Committee in respect of previous improper conduct.".

Seanad amendment agreed to.

Seanad amendment No. 228:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

173.--(1) The Insolvency Service shall publish particulars, in such form and manner and for such period as it deems appropriate, of--

(*a*) the conviction of a person for an offence under *section 148*,

(*b*) a decision of the Insolvency Service refusing to renew an authorisation to carry on practice as a personal insolvency practitioner,

(*c*) the suspension under *section 167(2)* of an authorisation to carry on practice as a personal insolvency practitioner, and

(*d*) the imposition of a major sanction on a personal insolvency practitioner under the Part.

(2) The Insolvency Service may publish particulars, in such form and manner and for such period as it deems appropriate, of the imposition of a minor sanction on a personal insolvency practitioner under this Part.".

Seanad amendment agreed to.

Seanad amendment No. 229:

Section 147: In page 121, before section 147, but in Part 5, to insert the following new section:

174.--Section 4 (as amended by section 5 of the Data Protection (Amendment) Act 2003) of the Data Protection Act 1988 shall not apply to data processed by--

(*a*) the Insolvency Service,

(*b*) an inspector appointed under *section 164*, or

(*c*) the Complaints Committee,

in the performance of functions assigned to those persons under this Act in so far as those functions relate to carrying out an investigation under this Part.".

Seanad amendment agreed to.

Seanad amendment No. 230:

Schedule: In page 122, before the Schedule, to insert the following new section:

"PART 6

SPECIALIST JUDGES OF CIRCUIT COURT

148.--The Courts (Establishment and Constitution) Act 1961 is amended--

(*a*) in section 4(2)--

(i) in paragraph (*a*), by deleting "and",

(ii) in paragraph (*b*), by deleting "Oireachtas." and substituting "Oireachtas, and", and

(iii) by inserting the following paragraph after paragraph (*b*):

"(*c*) such number of specialist judges (each of whom shall be styled "Sainbhreitheamh den Chúirt Chuarda" ("Specialist Judge of the Circuit Court")) as may from time to time be fixed by Act of the Oireachtas.",

(*b*) in section 6(1)(*a*), by deleting "President of the Circuit Court or ordinary judge of the Circuit Court" and substituting "President of the Circuit Court, ordinary judge of the Circuit Court or specialist judge of the Circuit Court", and

(*c*) in section 6A (inserted by section 12 of the Courts and Court Officers Act 2002), by substituting the following for subsection (1):

"(1) Where a judicial office within the meaning of section 6 of this Act is vacated by a person in accordance with subsection (3) of that section, the person shall complete the hearing of any case or cases that have been partly heard by the person in the Court in which the judicial office is vacated if, at the request of the

President of that Court--

(*a*) in case the person is appointed to the office of Chief Justice, President of the High Court or President of the Circuit Court, he or she considers it appropriate to do so, or

(*b*) in case the person is appointed to the office of--

(i) ordinary judge of the Supreme Court, the Chief Justice requests the person to do so,

(ii) ordinary judge of the High Court, the President of the High Court requests the person to do so, or

(iii) ordinary judge of the Circuit Court or specialist judge of the Circuit Court, the President of the Circuit Court requests the person to do so.”.”.

Seanad amendment agreed to.

Seanad amendment No. 231:

Schedule: In page 122, before the Schedule, to insert the following new section:

149.--Section 17 of the Courts (Supplemental Provisions) Act 1961 is amended--

(*a*) in subsection (2) (as amended by section 5 of the Court and Court Officers Act 2002), by deleting “A person” and substituting “Subject to subsection (4), a person”,

(*b*) in subsection (2A) (inserted by section 5 of the Court and Court Officers Act 2002), by deleting “A judge” and substituting “Subject to subsection (4), a judge”,

(*c*) in subsection (2B) (inserted by section 5 of the Court and Court Officers Act 2002), by deleting “A county registrar” and substituting “Subject to subsection (4), a county registrar”,

(*d*) by inserting the following after subsection (2B) (inserted by section 5 of the Court and Court Officers Act 2002):

“(2C) A specialist judge of the Circuit Court shall be qualified for appointment as an ordinary judge of the Circuit Court.”,

and

(*e*) by inserting the following after subsection (3):

“(4) Any of the following persons shall be qualified for appointment as a specialist judge of the Circuit Court:

(*a*) a person who is for the time being a county registrar, having held such office for not less than 2 years continuously, and

(*b*) subject to subsection (5)--

(i) a person who is for the time being a practising barrister or a practising solicitor of not less than 10 years standing, and

(ii) a judge of the District Court.

(5) Subsection (4)(*b*) shall come into operation on such day, being not later than 1 January 2014, as the Minister may by order appoint.”.”.

Seanad amendment agreed to.

Seanad amendment No. 232:

Schedule: In page 122, before the Schedule, to insert the following new section:

150.--The Courts (Supplemental Provisions) Act 1961 is amended by inserting the following after section 26:

26A.--(1) Notwithstanding any other enactment conferring functions, powers and jurisdiction on a judge of the Circuit Court, a specialist judge of that court may only perform the functions and exercise the powers and jurisdiction that are conferred upon him or her by this section.

(2) The functions, powers and jurisdiction conferred on the Circuit Court by the *Personal Insolvency Act 2012* may, subject to this section, be performed and exercised by a specialist judge.

(3) A specialist judge may make any order that may be made by a County Registrar under section 34(1) of, and the Second Schedule to, the Courts and Court Officers Act 1995, subject to the following modifications and any other necessary modifications--

(*a*) a reference in the Schedule to a County Registrar shall be construed as a reference to a specialist judge,

(*b*) section 34(2) of the Act shall not apply to such an order,

and

(*c*) the deletion of paragraph 8 of the Schedule.

(4) In performing the functions and exercising the jurisdiction conferred upon him or her by this section, a specialist judge shall have all powers ancillary to those functions or that jurisdiction.

(5) A specialist judge may perform functions and exercise powers and jurisdiction in respect of proceedings to which subsections (2) and (3) apply that are before the Circuit Court only in a relevant circuit.

(6) A specialist judge may, in any place in the State outside a relevant circuit, hear and determine any application which he or she has power to hear and determine within that circuit and which, in his or her opinion, should be dealt with as a matter of urgency.

(7) A specialist judge may adjourn proceedings or any part of proceedings before

him or her to any other judge of the Circuit Court within a relevant circuit.

(8) A specialist judge may make out of court any orders which he or she may deem to be urgent.

(9) In this section--

"enactment" means--

(*a*) an Act of the Oireachtas,

(*b*) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or

(*c*) an instrument made under--

(i) an Act of the Oireachtas, or

(ii) a statute referred to in paragraph (*b*);

"relevant circuit" means, in relation to a specialist judge, a circuit to which he or she is assigned under section 10(3) of the Courts of Justice Act 1947 or section 2A (inserted by *section 154* of the *Personal Insolvency Act 2012*) of the Courts Act 1977.".".

Seanad amendment agreed to.

Seanad amendment No. 233:

Schedule: In page 122, before the Schedule, to insert the following new section:

151.--Subsection (9A) (inserted by section 10 of the Financial Emergency Measures in the Public Interest (Amendment) Act 2011) of section 46 of the Courts (Supplemental Provisions) Act 1961 is amended--

(*a*) in paragraph (*g*), by deleting "and", and

(*b*) by inserting the following after paragraph (*g*):

"(*gg*) to each specialist judge of the Circuit Court, the sum of €140,623, and".".

Seanad amendment agreed to.

Seanad amendment No. 234:

Schedule: In page 122, before the Schedule, to insert the following new section:

152.--The Courts and Court Officers Act 1995 is amended by inserting the following after section 10:

10A.--The number of specialist judges of the Circuit Court shall not be more than 8.".".

Seanad amendment agreed to.

Seanad amendment No. 235:

Schedule: In page 122, before the Schedule, to insert the following new section:

153.--The Courts and Court Officers Act 1995 is amended--

(*a*) in section 12, in the definition of "judicial office", by inserting ", specialist judge of the Circuit Court" after "Circuit Court",

(*b*) in section 16(7) (as amended by section 8 of the Courts and Court Officers Act 2002), by substituting the following paragraph for paragraph (*a*):

"(*a*) When submitting the name of a person to the Minister under this section, the Board shall indicate whether the person satisfies the requirements of--

(i) subsection (2) of section 5 (as amended by section 4 of the Courts and Court Officers Act 2002) of the Act of 1961 (in the case of an appointment to the office of ordinary judge of the Supreme Court or of ordinary judge of the High Court),

(ii) subsection (2) or (2B) of section 17 (as amended by *section 149* of the *Personal Insolvency Act 2012*) of the Act of 1961 (in the case of an appointment to the office of judge of the Circuit Court),

(iii) subsection (4) (inserted by *section 149* of the *Personal Insolvency Act 2012*) of section 17 of the Act of 1961 (in the case of an appointment to the office of specialist judge of the Circuit Court), or

(iv) subsection (2) or (3) of section 29 of the Act of 1961 (in the case of an appointment to the office of judge of the District Court),

in respect of appointment to the judicial office for which the person wishes to be considered and the Board shall not recommend a person to the Minister under this section unless the person satisfies those requirements.",

(*c*) by inserting the following after section 19:

19A.--A specialist judge of the Circuit Court shall take such course or courses of training or education, or both, as may be required by the Chief Justice or the President of the Circuit Court, at such time or times as the Chief Justice or, as the case may be, the President of the Circuit Court may specify.".".

Seanad amendment agreed to.

Seanad amendment No. 236:

Schedule: In page 122, before the Schedule, to insert the following new section:

154.--The Courts Act 1977 is amended by inserting the following after section 2:

2A.--(1) Section 2 shall not apply to the assignment to a circuit of a specialist judge of the Circuit Court.

(2) Where a specialist judge of the Circuit Court is appointed, the Government shall permanently assign him or her to one or more than one circuit.

(3) Any specialist judge of the Circuit Court who is permanently assigned to a particular circuit may at any time, if he or she so consents but not otherwise, be transferred by the Government to another circuit and shall upon such transfer become and be permanently assigned to that other circuit in lieu of the firstmentioned circuit.

(4) Where a specialist judge of the Circuit Court is permanently assigned to a circuit, the Government, at his or her request, may, if they think fit, terminate his or her permanent assignment to that circuit and the judge may at any time thereafter be permanently assigned by the Government to any other circuit.

(5) Where--

(*a*) a specialist judge of the Circuit Court is permanently assigned to two or more circuits, and

(*b*) his or her permanent assignment to one of those circuits ceases under subsection (3) or (4),

nothing in those subsections shall terminate or affect his or her permanent assignment to the circuit or circuits not referred to in paragraph (*b*) or deprive or relieve him or her of any of the privileges, powers and duties vested in or imposed on him or her by virtue of such permanent assignment.

(6) More than one specialist judge of the Circuit Court may be assigned to the same circuit, whether by operation of this section or section 10(3) of the Courts of Justice Act 1947, or both.”.”.

Deputy Niall Collins: Will the Minister clarify whether the specialist judges to the Circuit Court will be appointed from the existing judicial complement or will they be new personnel appointed via the Judicial Appointments Advisory Board, JAAB?

Deputy Alan Shatter: It is envisaged under the Bill that the initial specialist judges will come from the existing cohort of county registrars, who will be entitled to make applications to be appointed as specialist judges to the JAAB. The board will be asked to recommend county registrars to fill the posts initially. It is envisaged that up to eight appointments will be made initially. It may be that we will require only six in the start-up phase. Coming from the cohort of county registrars, the initial appointments will ensure that there is no additional public expenditure of any major extent incurred on the courts' side.

County registrars have particular expertise. They will clearly, like everyone else dealing with this legislation, require training in the legislation and how it works. Although they will operate as independent specialist judges, they will still be able to do some of the court work that county registrars currently do.

Ultimately, future appointments thereafter will be extended as the legislation prescribes to practising solicitors and barristers. The JAAB will be involved in the process.

Deputy Niall Collins: The initial complement will be appointed from the existing body of county registrars. Will they vacate their roles as county registrars?

Deputy Alan Shatter: Yes.

Deputy Niall Collins: Will there be a consequential filling of those vacancies?

Deputy Alan Shatter: We have very well qualified county registrars around the country. A number of them have made the case that they do not have enough work to do, which is interesting in the context of the work and the extensive powers that they have. It is not envisaged that, in the short term, this will require the appointment of replacement county registrars. It is envisaged in the short term that some of the general administrative work of county registrars will be taken over by the existing county registrars and the appointees will operate as specialist judges.

It is also envisaged that the specialist circuit judge will, when the assisted decision making capacity Bill is enacted - we hope to publish it fairly early in the new year; it will result in fundamental reforms of the wards of court structure and a complete change of law in this area to modernise our laws - the Circuit Court will have a jurisdiction under it. We would envisage that specialist judges will also absume some jurisdiction under that Bill as well.

The purpose of this is to ensure we have a cohort of judges who are immediately available to deal with any of the debt resolution mechanisms that have to come before them, that they are approved rapidly where approval is appropriate and that, where there is a need for court applications, they are readily made without undue delay. It would defeat the purpose of the Bill if the court aspect of this in the context of what are primarily non-judicial resolution mechanisms created undue delay in them becoming operational. This is designed to ensure that does not occur and that we do not impose an additional burden on the existing Circuit Court Judiciary to the detriment of dealing with other areas of law.

Seanad amendment agreed to.

Seanad amendment No. 237:

Schedule: In page 122, before the Schedule, to insert the following new section:

155.--Section 10 of the Courts of Justice Act 1947 is amended--

(*a*) in subsection (1), by deleting "by subsections (2), (3), (4), (5) and (6) of this section" and substituting "by this section",

(*b*) in subsection (2), by deleting paragraph (*e*), and

(*c*) by adding the following after subsection (6):

"(8) Subsections (2), (4) and (5) shall not apply to the distribution of the work, or the despatch of the business, of the Circuit Court that is required to be done by or transacted before a specialist judge of the Circuit Court.

(9) The President of the Circuit Court may, from time to time, by order fix, in respect of any circuit the--

(*a*) places therein at which sittings before specialist judges are to be held,

(*b*) times during the year and the hours between which (which may include times and hours other than the times and hours of the sittings of the Circuit Court fixed under subsection (2)) such sittings are to be held,

and, whenever such an order is in force, such sittings within that circuit shall be held--

(i) at the place fixed by the order and not elsewhere, and

(ii) at the times during the year and between the hours fixed by the order.

(10) The President of the Circuit Court may, before exercising his or her powers under subsection (9)(*a*) in respect of a circuit, consult the specialist judge permanently assigned to that circuit.

(11) Where 2 or more specialist judges are for the time being assigned (whether permanently or temporarily) to a particular circuit, the President of the Circuit Court, after consultation with those specialist judges, may, from time to time, allocate the business of the Circuit Court in that circuit that is required to be transacted before a specialist judge amongst those specialist judges.

(12) Where a specialist judge is for the time being assigned (whether permanently or temporarily) to a particular circuit, the President of the Circuit Court may, after consultation with that specialist judge, in respect of any business of the Circuit Court which may be transacted both before a county registrar for a county, county borough or other area within a circuit and a specialty judge assigned to that circuit, by order--

(*a*) direct that such business is to be transacted before a county registrar and not before a specialist judge, or

(*b*) allocate such business amongst the specialty judges and the county registrars concerned.

(13) Every order made under subsection (2), (9) or (12) shall, as soon as may be after it is made, be published in such manner as the President of the Circuit Court may direct.”.”.

Seanad amendment agreed to.

Seanad amendment No. 238:

Schedule: In page 122, before the Schedule, to insert the following new section:

156.--The Courts of Justice Act 1924 is amended by substituting the following section for section 38:

“38.--(1) The following judges shall be addressed in such manner as may be determined by the rules to be made under this Part:

(*a*) all the circuit judges, other than the specialist judges, and

(*b*) all the specialist judges.

(2) All the circuit judges, other than the specialist judges, shall rank amongst themselves according to priority of appointment.”.”.

Seanad amendment agreed to.

Seanad amendment No. 239:

Schedule: In page 122, before the Schedule, to insert the following new section:

157.--The Courts of Justice Act 1924 is amended in section 66--

(*a*) by designating the section as subsection (1), and

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

"(2) Notwithstanding subsection (1), the times at which specialist judges of the Circuit Court may take vacations shall be such times as may be approved of by the Minister.".".

Seanad amendment agreed to.

Seanad amendment No. 240:

Schedule: In page 122, before the Schedule, to insert the following new section:

158.--Section 2(2) of the Courts Act 1973 is amended by substituting the following paragraphs for paragraph (*a*):

"(*a*) under subsection (2) or (2B) of section 17 of the Courts (Supplemental Provisions) Act 1961, as a judge of the Circuit Court,

(*aa*) under section (4)(*b*) (inserted by *section 149* of the *Personal Insolvency Act 2012*) of section 17 of the Courts (Supplemental Provisions) Act 1961, as a specialist judge of the Circuit Court, or".".

Seanad amendment agreed to.

Seanad amendment No. 241:

Schedule: In page 122, before the Schedule, to insert the following new section:

159.--Section 14(2) of the Law Reform Commission Act 1975 is amended by substituting the following paragraphs for paragraph (*d*):

"(*d*) under subsection (2) or (2B) of section 17 of the Courts (Supplemental Provisions) Act 1961, as a judge of the Circuit Court,

(*dd*) under section (4)(*b*) (inserted by *section 149* of the *Personal Insolvency Act 2012*) of section 17 of the Courts (Supplemental Provisions) Act 1961, as a specialist judge of the Circuit Court,".".

Seanad amendment agreed to.

Seanad amendment No. 242:

Schedule: In page 122, before the Schedule, to insert the following new section:

160.--(1) The continuity of the administration of justice shall not be interrupted by--

(*a*) the coming into operation of any provision of this Part, or

(*b*) the assignment of a specialist judge of the Circuit Court to a circuit, whether permanently or temporarily, under section 10(3) of the Courts of Justice Act 1947 or section 2A (inserted by *section 154* of the *Personal Insolvency Act 2012*) of the Courts Act 1977.

(2) A specialist judge of the Circuit Court may perform the functions and exercise the powers and jurisdiction conferred on him or her by *section 150* in proceedings before the Circuit Court, notwithstanding that those proceedings may have been pending at the date of coming into operation of that section.".

Seanad amendment agreed to.

Seanad amendment No. 243:

Schedule: In page 122, after line 3, to insert the following new Schedule:

SCHEDULE 2

PROVISIONS APPLICABLE TO ORAL HEARINGS CONDUCTED PURSUANT TO *SECTIONS 169* AND

170

PART 1

ORAL HEARING CONDUCTED BY INSPECTOR PURSUANT TO *SECTION 169(15)*

1. The inspector conducting the oral hearing for the purposes of an investigation may take evidence on oath, and the administration of such an oath by the inspector is hereby authorised.

2. The inspector may by notice in writing require any person to attend the oral hearing at such time and place as is specified in the notice to give evidence in respect of any matter in issue in the investigation or to produce any relevant documents within his or her possession or control or within his or her procurement.

3. Subject to *paragraph 4*, a person referred to in *paragraph 2* may be examined and cross-examined at the oral hearing.

4. A person referred to in *paragraph 2* shall be entitled to the same immunities and privileges in respect of compliance with any requirement referred to in that paragraph as if the person were a witness before the High Court.

5. Where a person referred to in *paragraph 2* does not comply or fully comply with a requirement referred to in that paragraph, the inspector may apply in a summary manner to the Circuit Court, on notice to that person, for an order requiring the person to comply or fully comply, as the case may be, with the requirement within a period to be specified by the Court, and the Court may make the order sought or such other order as it deems appropriate or refuse to make any order.

6. The jurisdiction conferred on the Circuit Court by *paragraph 5* may be exercised by the judge of that Court for the circuit in which the person concerned ordinarily resides or carries on any profession, business or occupation.

7. The oral hearing shall be held otherwise than in public.

PART 2

ORAL HEARING CONDUCTED BY COMPLAINTS COMMITTEE PURSUANT TO *SECTION 170(6)*

1. The Complaints Committee, in conducting the oral hearing for the purposes of assisting it to make a determination under *section 170* or for the purposes of observing fair procedures, may take evidence on oath, and the administration of such an oath by any member of the Complaints Committee is hereby authorised.

2. The Complaints Committee may by notice in writing require any person to attend the oral hearing at such time and place as is specified in the notice to give evidence in respect of any matter in issue in the making of the decision under *section 170* or to produce any relevant documents within his or her possession or control or within his or her procurement.

3. Subject to *paragraph 4*, a person referred to in *paragraph 2* may be examined and cross-examined at the oral hearing.

4. A person referred to in *paragraph 2* shall be entitled to the same immunities and privileges in respect of compliance with any requirement referred to in that paragraph as if the person were a witness before the High Court.

5. Where a person referred to in *paragraph 2* does not comply or fully comply with a requirement referred to in that paragraph, the Insolvency Service may apply in a summary manner to the Circuit Court, on notice to that person, for an order requiring the person to comply or fully comply, as the case may be, with the requirement within a period to be specified by the

Court, and the Court may make the order sought or such other order as it deems appropriate or refuse to make any order.

6. The jurisdiction conferred on the Circuit Court by *paragraph 5* may be exercised by the judge of that Court for the circuit in which the person concerned ordinarily resides or carries on any profession, business or occupation.

7. The oral hearing shall be held otherwise than in public unless--

(*a*) the personal insolvency practitioner to whom the investigation concerned relates or, if the investigation arose in consequence of the receipt of a complaint, the complainant, makes a request in writing to the Insolvency Service that the hearing (or a part thereof) be held in public and states in the request the reasons for the request, and

(*b*) the Insolvency Service, after considering the request (in particular, the reasons for the request), is satisfied that it would be appropriate to comply with the request.".

Seanad amendment agreed to.

Seanad amendment No. 244:

Schedule: In page 122, after line 3, to insert the following new Schedule:

"SCHEDULE 3

COMPLAINTS PANEL AND COMPLAINTS COMMITTEES

1. Subject to *paragraphs 2* and *3* of this Schedule, on the coming into operation of *section 165* of this Act, the Minister shall, with the consent of the Ministers for Finance and Public Expenditure and Reform, establish and maintain a panel which shall be composed of at least 7 persons.

2. Each of the persons appointed to the panel referred to in *paragraph 1* of this Schedule shall be a person whom the Minister considers to have relevant experience or special knowledge which will enable the persons appointed to carry out their functions under this Act.

3. At least two of the persons appointed to the panel referred to in *paragraph 1* of this Schedule shall be a solicitor or a barrister.

4. Subject to *paragraph 6* of this Schedule, a person shall remain on the panel established under this section for such period as may be specified on appointment unless he or she sooner dies or requests the Minister that his or her appointment be revoked, but unless he or she has died shall be eligible to be appointed to the panel for a further period or periods.

5. A vacancy in the membership of the panel may be filled by the Minister in the same manner as is specified in *paragraphs 1* and *2* as respects the appointment of persons to be members of the panel.

6. A person who has been appointed to be a member of a Complaints Committee as respects a particular investigation shall continue as a member of the panel and of that Complaints Committee until the conclusion of the deliberations of that Complaints Committee as respects the matter concerned notwithstanding that the period for which the panel was appointed has expired.

7. A member of the panel appointed to a Complaints Committee shall be paid such remuneration and allowances for expenses as the Minister may determine with the consent of the Minister for Public Expenditure and Reform.

8. A Complaints Committee shall be composed of no less than three persons at least one of whom shall be a barrister or solicitor.

9. The Minister, with the consent of the Minister for Finance, may at any time remove a member from the panel for stated misbehaviour.

10. A Complaints Committee shall be independent in the discharge of its functions.

11. The Minister shall make available to a Complaints Committee such services, including staff, as may be reasonably required by that Committee.".

Seanad amendment agreed to.

Seanad amendment No. 245:

Title: In page 9, line 39, before "AND" to insert the following:

"TO PROVIDE FOR THE APPOINTMENT, FUNCTIONS, POWERS AND JURISDICTION OF NEW JUDGES OF THE CIRCUIT COURT TO BE STYLED SPECIALIST JUDGES OF THE CIRCUIT COURT AND, FOR THAT PURPOSE, TO AMEND THE COURTS (ESTABLISHMENT AND CONSTITUTION) ACT 1961 AND THE COURTS (SUPPLEMENTAL PROVISIONS) ACT 1961 AND CERTAIN OTHER ENACTMENTS, TO PROVIDE FOR THE REGULATION, SUPERVISION AND DISCIPLINE OF PERSONAL INSOLVENCY PRACTITIONERS,".

Seanad amendment agreed to.

Deputy Alan Shatter: Before we conclude, there are some typographical errors to which I need to draw the attention of the House for completeness. I ask that the House note some slight typographical corrections to the amendments made by the Seanad in the case of the following points. I have referred to them in passing as we have gone through them, but it is important to ensure that, when the Bill is published, they are clearly addressed.

In amendment No. 23, the reference to "Insolvency Services" in section 3(*d*) should read simply "Insolvency Service". In amendment No. 167, the reference in subsection (2) to "*subsection (4)*" should be to "*subsection (3)*". In amendment No. 192, within the inserted section 44B, in subsection (2)(*f*), there should be no semi-colon after "arrangement". Finally, I ask the House to note the requirement for a slight correction of alignment in amendment No. 40 such that in subsection (10), the text after paragraph (*d*) will be aligned to subsection level.

An Ceann Comhairle: Are the corrections noted? Noted. Agreement to Seanad amendments will be reported to the House and a message will be sent to Seanad Éireann acquainting it accordingly.

Deputy Alan Shatter: I thank Members on all sides of the House for their very constructive engagement, which has contributed meaningfully to the development of the legislation. I thank the members of the Joint Committee on Justice, Defence Equality and its Chairman, Deputy David Stanton, for their careful deliberation on the heads of the Bill, which likewise was of substantial benefit in its development. I also thank my departmental officials for the extraordinary work they have done on this very complex measure. It is a measure that is designed and intended to provide substantial assistance to those who find themselves in major debt difficulties.

The Taoiseach was asked, quite properly, by Deputy Micheál Martin this morning about the coming into force of this legislation. I take this opportunity to comment briefly in that regard. Mr. Lorcan O'Connor has been appointed director of the new insolvency agency and a number of staff are already recruited. Remaining staff will be recruited as part of an ongoing process. It is envisaged that the guidelines to be published by the insolvency agency will be completed in the first quarter of next year. These will deal with some of the issues we have covered today such as what is meant by reasonable expenses and so on.

Regulations will be prepared with regard to the licensing of personal insolvency practitioners. Software is being put in place for the electronic exchange of information under the legislation and the delivery of information between personal insolvency practitioners, the insolvency agency and the Courts Service. It is a target of the insolvency service to have its website up and running by 1 March to provide the maximum information and guidance to the general public with regard to the mechanisms available to deal with debt resolution processes. Docu-

mentation is being prepared setting out the information applicants must provide in respect of a debt relief notice, debt settlement arrangement and personal insolvency arrangement. It will be possible for all of these data to be filled in online. It is anticipated, once the regulations have been published, that the licensing process in respect of personal insolvency practitioners will proceed during April and May.

In short, our objective is to have the measures set out in the legislation operational as soon as possible. As I said, the insolvency service intends to have its online functionality up and running as early as possible in March. If our targets are met, the insolvency service will have completed within months of the enactment of the Bill what took two years to complete in Northern Ireland and three years in the United Kingdom. I am hopeful that the maximum information will be available to the public as early as possible. My Department will do what it can to ensure it is available. In the meantime, the insolvency service has established an ongoing liaison with the Money Advice & Budgeting Service and other bodies engaged in assisting individuals with debt relief. I thank Members again for their constructive contributions and my officials for their exceptional work in putting together this comprehensive and radical piece of reforming legislation.

Seanad amendments reported.

Private Members' Business

Care Services: Motion (Resumed) [Private Members]

The following motion was moved by Deputy John Halligan on Tuesday, 18 December 2012:

That Dáil Éireann:

recognises:

— the vital contribution carers make to the economic and social life of the nation, and further acknowledges this by providing them with adequate income supports;

— that carers are real and equal partners in the provision of care at every level of public sector planning and service delivery, from designing a service to individual care planning;

— that carers are the backbone of the Irish health care system;

— that although family carers in the majority of cases are on call 24 hours per day and 365 days per year, they do not earn the national minimum wage and are not entitled to, *inter alia*, sick pay or holiday pay as are equivalent PAYE workers;

— that family carers provide €4 billion worth of care each year, which is five times the actual cost to the Department of Social Protection;

— that carer's allowance is a direct support for caring duties; and

— the home as the centre of care and the need to protect the household benefits package and free travel pass;

acknowledges:

— that full-time family carers are expert care partners and as such should be treated with the dignity and respect they deserve;

— carers' rights to have their own health needs met;

— that transitional arrangements need to be put in place to facilitate long-term carers successfully re-entering the work force;

— the necessity to ring-fence funding for the housing adaptation grant scheme to ease the burden on local authorities who have had to suspend schemes in their areas; and

— the need for a nationwide personal care traineeship scheme using existing labour to be developed as an additional basis for home help support; and

calls on the Government to:

— immediately reverse the cut announced in budget 2013 which will reduce the amount of the respite care grant;

— make provisions from within the special delivery unit budget allocation to incorporate carer induction training and needs assessment prior to a patient being discharged;

— eliminate the current backlog of carer's allowance applications by early 2013;

— provide free general practitioner care to full-time family carers;

— conduct a detailed review of the income supports available to family carers and engage agencies such as the Carers Association to provide their expert opinion;

— establish a working group to properly identify the needs of carers, including any unmet needs, to gather information about policies, practices and services that affect carers and to set out an integrated strategy for future action;

— establish a statutory entitlement for family carers and people in care to avail of care supports provided by community based services;

— pay carers such statutory entitlements as the national minimum wage, sick pay and holiday pay; and

— ensure that the relevant Departments draw up and put in place a programme of work to promote the adoption of good practice in carer-friendly employment."

Debate resumed on amendment No. 1:

To delete all words after "Dáil Éireann" and substitute the following:

"notes that:

— carers make a vital contribution to the economic and social life of the nation;

— the income supports which are available to carers from the State are among the highest rates of income support in Europe;

— the income disregard and means test for carer's allowance is the most generous in the social welfare system;

— a person getting certain qualifying payments and also providing full-time care and attention to another person can keep their main social welfare payment and get a half rate carer's allowance as well and that these rates were fully protected in budget 2013;

— carers also receive a free travel pass at an annual cost of €6 million and carers who reside with the care recipient are eligible for the household benefits package at an annual cost of approximately €30 million;

— carers are entitled to an extra half-rate carer's allowance if they care for more than one person and a respite care grant for each care recipient;

— the respite care grant is available to all full-time carers regardless of their means;

— the Government had to make very difficult decisions in the course of budget 2013 in order to protect core weekly payments which people receive such as pensions,disability, jobseeker's and carer's allowances;

— the revised rate of the respite care grant of €1,375 will still be more than what it was in 2006 at the height of the economic boom when the rate was €1,200 and more than twice what it was in 2002 when it was set at €635; and

— the estimated expenditure on carers in 2012 is over €771 million: €509 million on carer's allowance, €24 million on carer's benefit, €135 million on the respite care grant and €103 million on domiciliary care allowance and that this represents an increase of almost €20 million on expenditure in 2011;

welcomes:

— the publication of the National Carers' Strategy in 2012 which, for the first time at national level, recognises the value and contribution of carers to society;

— the roadmap for implementation in the strategy and the commitment to progress these elements of the strategy within the limits of existing resource constraints; and

— the Government's plans to reform the current public health care system by introducing universal health Insurance with equal access to care for all and to introduce, on a phased basis, general practitioner, GP, care without fees for the entire population within its first term of office; and

acknowledges that:

— additional funding has been provided to meet the needs of the people receiving GP care and prescription drugs under the general medical services scheme, which now stands in excess of 1.8 million medical cards, representing an increase of 24% since the start of 2010;

— approximately 97% of persons over 70 years of age are provided with free GP and hospital services, as well as subsidised prescription drugs subject to a capped fee per item;

— stable public finances are an essential prerequisite to long-term economic growth and job creation;

— the State will only be able to access the markets successfully in the long-term if the markets believe we have a credible fiscal strategy and agree that our debt is sustainable;

— this Government continues to face a daunting challenge in repairing the economy and the public finances and that difficult decisions are still required; and

— the Government has shown in budget 2013 that it is committed to meeting that challenge, and is determined that through good governance it will lead Ireland back to independent funding and sustainable growth in living standards and in employment."

- (Minister of State at the Department of Health, Deputy Kathleen Lynch).

Deputy Brian Stanley: I propose to share time with Deputy Jonathan O'Brien.

An Ceann Comhairle: That is agreed.

Deputy Brian Stanley: The budget brought forward by Fine Gael and the Labour Party on 5 December has been branded anti-family, anti-children and anti-women. The cuts to the respite care grant in particular give credence to the claim that there is an anti-women agenda. The statistics speak for themselves in that 64% of carers are women. As such, the reduction in the respite care grant will impact disproportionately on women on low incomes. These women might well be part of the workforce and earning a good wage but because they are committed to caring for their loved ones, they are instead on call 24 hours per day and 365 days per year for less than the minimum wage. Carers provide some 900,000 hours of care every day, saving the State some €11 million per day or more than €4.7 billion every year. That annual contribution is five times what the Government pays out to the people who perform this caring service. In this miserly budget, however, the Government had the heartless cheek to cut the respite care grant cut by a massive €325, from €1,700 to €1,375.

In July of this year the Minister of State, Deputy Kathleen Lynch, launched the national carer's strategy. This was rightly seen as a very positive step and was welcomed as such by Sinn Féin. At the launch of the strategy the Minister of State said, "The publication of this strategy sends a strong message to carers that Government recognises and values their selfless hard work and compassion, which enhances the health and quality of life of thousands on a daily basis." One of the main goals of the strategy, she explained, was to empower carers to participate as fully as possible in economic and social life, with respite breaks identified as an important element in that regard. Within five months, however, the same Minister of State had voted to cut the very respite grant she previously applauded. I cannot tell whether this was a case of hypocrisy or political expediency.

This cut comes on top of a host of other cuts and charges, including a reduction in the household benefits package and the imposition of the unjust family home tax. The pain of these attacks will hurt the disabled and families of carers more than most of us can imagine. At the

same time, those earning €200,000 and above will lose only €5 per week in additional PRSI liability. Where is the justice in that? I applaud each and every one of the 187,000 carers in this State. In my own constituency of Laois-Offaly the reduction in the respite care grant will affect nearly 7,000 people and their families. The saving of €26 million that the cut will yield is very small in the context of overall expenditure and adjustments. In response to the decision, carers have organised themselves and launched a very fine campaign. They are angry but determined. These people are not for turning and they have my full support.

I take this opportunity to highlight the plight of a constituent of mine in Laois called Teresa. As a full-time carer to two uncles who are blind she receives an income of €306 per week. One of her uncles also has Parkinson's disease and both have a mental disability. One can only imagine the pressure she is under providing her loved ones with the round-the-clock care they require. Her reward from the Government is a mean, Scrooge-like cut in her respite care grant. Teresa has asked me to highlight her circumstances and to ask the Minister to reverse this cut. She loves her uncles dearly but she needs a break like anyone else. The Government is denying her that break, however, because it is more concerned with avoiding taxing the wealthy.

It is within the gift of the Government to retain the full respite care grant. Sinn Féin put forward a range of alternatives in advance of the budget. Our proposal for wealth taxes, for example, based on figures from the Department, would yield €800 million. A standardising of discretionary tax reliefs would have brought in a further €969 million, while a third income tax rate of 48% on earnings above €100,0000 would have raised €365 million. I ask the Government to do the honourable thing. It should reverse the heartless cut, reinstate the full respite grant and help people who are in dire straits but who are providing a great service to their families, the community and the State.

Deputy Jonathan O'Brien: I had expected the Minister of State, Deputy Kathleen Lynch, to be present and had intended to appeal to her to look into her heart and revisit her conscience. However, the Minister of State, Deputy Brian Hayes, is present and there is not much point in appealing to him to look into his heart. I do not know if he has one. I do not mean that in a bad way, but we have seen some of the contributions from Ministers over the past week on the respite care grant and carers. One issue that gets lost in all of this-----

Deputy Brian Hayes: I would not presume anything if I were the Deputy.

Deputy Jonathan O'Brien: You seem to presume an awful lot.

Deputy Brian Hayes: I do not. I made no personal remarks about you, Deputy.

Deputy Jonathan O'Brien: If I could continue without interruption-----

Deputy Brian Hayes: I made no personal remarks about you and it is ill becoming of you to make such remarks about me.

An Leas-Cheann Comhairle: Let us calm down a little.

Deputy Brian Hayes: It is presumptuous. It ill becomes you.

Deputy Jonathan O'Brien: I will not take lectures from the likes of-----

Deputy Brian Hayes: You started it.

Deputy Jonathan O'Brien: Can I finish?

Deputy Brian Hayes: You started it. I did not make any charges against you.

Deputy Jonathan O'Brien: This is not a playground.

Deputy Brian Hayes: You are the one who made charges. Substantiate it.

An Leas-Cheann Comhairle: Calm down and allow Deputy O'Brien to continue.

Deputy Jonathan O'Brien: I substantiate it with the fact that the Minister is heaping misery on tens of thousands of carers through the cuts he made last week. That is all the evidence I need to realise where you are coming from.

Deputy Brian Hayes: You referred to my heart or my lack of heart, with respect.

Deputy Jonathan O'Brien: With respect to the carers listening to this debate, behind every carer there is the individual for whom he or she provides care. That individual has rights.

Deputy Brian Hayes: And I know nothing about that?

Deputy Jonathan O'Brien: Did I say you did not?

Deputy Brian Hayes: You did, actually, in your initial remark.

An Leas-Cheann Comhairle: Let us continue with the debate.

Deputy Brian Hayes: My apologies, a Leas-Cheann Comhairle. I was provoked by the remarks of my colleague.

An Leas-Cheann Comhairle: There is very little time for contributions.

Deputy Jonathan O'Brien: There is no need to apologise to me or the House. The Minister should apologise to the carers.

Deputy Brian Hayes: The sincerity is dripping from you.

Deputy Jonathan O'Brien: The Minister should listen, for once, to what people have to say.

Deputy Brian Hayes: You attacked me.

Deputy Jonathan O'Brien: If the Minister would just listen for a moment, he might get an understanding of what people are going through.

Deputy Brian Hayes: I listen to people out there, not to hypocritical yokes like you dripping with hypocrisy.

Deputy Jonathan O'Brien: If you listened to people out there, you would not be coming in here to vote for cuts to respite care grants.

Deputy Brian Hayes: You are dripping with hypocrisy.

An Leas-Cheann Comhairle: Let us get back to the debate.

Deputy Jonathan O'Brien: I know what it is like.

Deputy Brian Hayes: So do I.

An Leas-Cheann Comhairle: Deputy O'Brien, please speak through the Chair.

Deputy Jonathan O'Brien: Up to last August, my mother was a full-time carer for my father, who passed away from motor neuron disease-----

Deputy Brian Hayes: I make no assertions, Deputy.

Deputy Jonathan O'Brien: -----so do not tell me what carers do.

Deputy Brian Hayes: I made no assertions against you.

An Leas-Cheann Comhairle: There can be no more interruptions.

Deputy Brian Hayes: It was a personalised attack without any justification.

Deputy Jonathan O'Brien: I just justified it.

Deputy Brian Hayes: Your head is dropping with the weight of hypocrisy.

An Leas-Cheann Comhairle: Speak through the Chair, Deputies.

Deputy Jonathan O'Brien: I just justified it. You come in here and talk about the role of carers and how-----

Deputy Brian Hayes: I have said nothing about carers, with respect.

Deputy Jonathan O'Brien: In the past you have.

Deputy Brian Hayes: When?

Deputy Jonathan O'Brien: You are a member of this Government and it has implemented cuts which are absolutely devastating tens of thousands of families-----

Deputy Brian Hayes: When?

Deputy Jonathan O'Brien: -----throughout this State. I will not take any lectures from you in here.

An Leas-Cheann Comhairle: I ask the Deputy and Minister to both please-----

Deputy Jonathan O'Brien: It would be more in your line to go out and speak to the carers whose respite care grants you have cut.

Deputy Brian Hayes: I have, constantly.

Deputy Jonathan O'Brien: That is an even worse reflection on you. You have spoken to those carers and I presume the Minister claims to understand them.

Deputy Brian Hayes: I do.

Deputy Jonathan O'Brien: If you did, you would not proceed with the implementation of those cuts.

Deputy Brian Hayes: Churchill said there are a hundred thousand contradictions in a good man's life, and in a bad man's life there are too many to count.

An Leas-Cheann Comhairle: I ask the Deputy and Minister to continue with the debate. There is very limited time.

Deputy Jonathan O'Brien: I have heard members of your party-----

An Leas-Cheann Comhairle: The Deputy should speak through the Chair.

Deputy Jonathan O'Brien: -----today in the Seanad criticising political figures for raising this issue.

Deputy Brian Hayes: Who?

Deputy Jonathan O'Brien: Senator Hayden.

Deputy Brian Hayes: Saying what?

Deputy Jonathan O'Brien: She said that Opposition politicians who dare raise the issue of cuts to respite care grants are doing so for their own political purposes.

Deputy Brian Hayes: She can answer for herself.

Deputy Jonathan O'Brien: I did not say she could not.

An Leas-Cheann Comhairle: Deputy O'Brien, you have only half a minute left. Please stay on the carers issue.

Deputy Brian Hayes: Indeed.

Deputy Jonathan O'Brien: I will. I refer to a particular point in the motion tabled by the Technical Group. I commend it to the Minister. Perhaps he will discuss it with the Cabinet. It is the need to put in place transitional arrangements to facilitate people who are long-term carers and who, due to the death of a loved one, wish to return to work or education.

In my mother's case, she cared for my father for so long that when he passed away she was at a loose end and did not know what to do with herself. In addition to trying to deal with the grief of losing a husband, there were no supports in place to help her through that difficult period. She was caring for somebody for 24 hours each day, seven days a week, and had a house full of people calling to visit, as well as public health nurses and people from Marymount Hospice and the Irish Motor Neurone Disease Association calling to see my father to give him the supports he required. When he passed away she found herself living alone, with an unbelievable sense of grief. She is now seeking to do something more with her life, but there is little opportunity for her to do so. She and thousands of other carers have saved the State hundreds of millions of euro through the service they provided for their loved ones. Unfortunately, however, when the loved ones die, those individuals are left to one side. They get no thanks, although they are not looking for any. However, the least they could get from the Government is the support to help them to integrate back into society. It should give them support to enable them to access education or training, or provide some form of support to enable them to get over that grief.

The Minister is sitting there but he is not really paying any attention.

An Leas-Cheann Comhairle: The Deputy is over time.

Deputy Jonathan O'Brien: The Minister is more interested in his telephone than in this Deputy's contribution.

Deputy Brian Hayes: No, you have more interest in your heart issue.

Deputy Jonathan O'Brien: Is the Minister more interested in his telephone than in listening to this contribution?

Deputy Brian Hayes: I am listening simultaneously.

An Leas-Cheann Comhairle: Thank you, Deputy. I must call the next speaker.

Deputy Jonathan O'Brien: There are no hypocrites in this House besides the Minister and his Government.

Deputy Brian Hayes: We will see about that.

Deputy Jonathan O'Brien: We will, and I will take no lectures from the likes of you.

Deputy Brian Hayes: You started it.

Deputy Jonathan O'Brien: You did. You were like a six year old.

An Leas-Cheann Comhairle: Minister and Deputy, it is the week before Christmas. Allow Deputy Buttimer to speak.

Deputy Jerry Buttimer: I am glad I was not heckling.

This Private Members' motion is extraordinary, to say the least. It does not address in any way the core problem the nation has of how to rectify our economic situation while recognising that the Government is spending an inordinate amount of money to fund our public services. We borrow €42 million per day. The Government has delivered a difficult and tough budget which ensures that those who can pay the most will pay the most. A total of €500 million extra will be paid by the high earners. This has not been recognised by the Members on the other side of the House. I have great respect for Deputy O'Brien, as he knows, but when Sinn Féin Members speak about social welfare or social protection, they fail to recognise that the Northern Ireland Government is doing the opposite to what they say. That is the reality, and the facts speak louder than-----

Deputy Brian Stanley: The rates are set in London.

Deputy Jerry Buttimer: The same applies here. We no longer have our economic sovereignty.

Deputy Brian Stanley: The rates are set here.

Deputy Jerry Buttimer: I am glad that, for once, the Deputy recognises that we must go to the troika, the EU and the IMF. That is the reality.

The Fianna Fáil Party cut €16.50 from core social welfare payments. It baffles me to hear Deputy Martin speak on the Order of Business, given that he sat in Cabinet for 14 years and acquiesced to and supported the McCreevy-Ahern economic model. He was a cheerleader for

them. The Government protected core social welfare payments and ensured income tax rates remain the same. Yesterday's economic figures indicate that light is emerging in a very dark period of our lives. There is much focus on the cut to the respite care grant, which is one many wish was not made. The grant is a once-off payment and is being reduced to the level paid in 2006 and 2007. I would prefer if the grant was not reduced but I recognise we have maintained the half rate carer's allowance and the full carer's allowance. This is to be commended. In addition, there is an increased tax take from high earners through an unprecedented means. Property tax will ensure those who are more wealthy will pay more than their fair share and unearned income will be hit for the first time. This is an unprecedented economic situation and there is an acknowledgement by the Government that the budget is difficult on everyone. We must ensure people are in jobs and we must create and retain jobs.

For the first time, the Government has published the national carers strategy, which recognises the valuable contribution of carers. We must acknowledge, pay tribute to and thank carers. This is a Government of renewal and it will create a roadmap for economic prosperity for the country. It will not be like the past, which was built on a false premise of property. The budget is about ensuring good governance and a new way of doing business, which will create jobs through attracting foreign direct investment. Those who can pay more will pay more.

Repairing and rebuilding our economy requires a sacrifice from all of us. We should show leadership from the top to the bottom. It is happening in our society. Some 40% of our budget is spent on social protection, which is an acknowledgement that the Government must protect and support some people. The budget is about getting our country back to work. I would rather see people in a job than idle and unemployed.

Deputy Joe McHugh: I propose to share time with Deputies English and Regina Doherty. In the time available I will not have the opportunity to speak at length on this important topic. In the context of an emotive debate on carers, politicians are tempted to give extreme examples from their experience. No two examples are the same and it is very complex for any individual household dealing with the daily life of caring. It is important to give extreme examples because the manner in which we treat extremes defines us as a society. One example from my constituency is a mother of a 23-year-old man. She changes his nappies regularly during the day, which is a 24/7 job. She gets respite through day services five days a week. In the days before the budget, I raised the cut to the respite grant to flag my concern about future service reductions in respite care for people with disabilities. I am thinking of the extreme example, the 24/7 parent of young adults. The work is so intense that we cannot understand it unless we live it. It is difficult for people in that situation to articulate what it is like without being angry all the time. The issue becomes muddied in that case.

The bus collects the son at 9 a.m. and he returns at 4 p.m. In that time, the mother has respite, relief and downtime and she lives her life in that period. In that time, she mops the floor, washes the dishes and does the clothes. Living her life involves doing those chores. During care of her son, whether at 2 a.m. or 4 a.m, she or her husband must go into the bedroom to ensure the quilt has been pulled up around their son because he is unable to do it himself. I am attempting to get into the head of someone and describe what it is like but it is futile because I do not know what it is like. To a degree, I and my colleagues can empathise. People with children, changing nappies on a daily basis, can also empathise. For them, there is light at the end of the tunnel because the nappy changing stops at the age of three years. What happens to the parent of the 23-year-old, the 26-year-old or the 32-year-old who continually changes nappies? The parents' concern is who will do the job when they pass away. We define ourselves

as a society in terms of how we treat these individuals.

I am trying to articulate that service plan reductions will be made by the HSE. I am calling on unions, civic leaders and those who have a good conscience within the HSE to examine other ways to make 3% or 5% cuts in the service plan for people with severe disabilities. The services are vital to people who require the services in their daily lives. I call on unions and leaders in the HSE to address this. We are all too quick to blame the administrative end, saying that civil servants are doing desk jobs and that their jobs are protected. However, these people are in leadership positions to define and decide where cuts will be made. I am calling on them to use all their resources. The HSE is not an autonomous and independent body but it has varying degrees of independence and autonomy and there must be ways of protecting the most vulnerable in society. The way we treat the most vulnerable and the way we map out a process where we look after the most disadvantaged is significant. If we take away day services from those who receive respite care, the parents will not have the physical or mental capability to deal with their children in the house on a 24/7 basis. In an economic context, it will cost more in the long run.

Deputy Damien English: I welcome the opportunity to speak on the motion, which covers a wide range of services, needs and desires of carers. I agree with much of the motion. Regardless of what happened in the budget, this area needs serious investigation. The motion refers to designing a tailor-made plan for each individual who needs care, help and support. "Design a service" are the actual words used. We need to design a plan for each person.

We must look at the overall spend on caring for people with disabilities, the elderly and people with various ailments. We can do more with the available money. The people who need the money spent on them, around them, with them and on their carers could get more from the State without an increase in the spend. There are many areas where we could reform and rearrange how we spend. We must look at all the budgets and not pit one Department against another. Even within Departments community care vies with other care budgets, for example.

I have worked in the accounts end of the old health boards and I have seen all the categories, cost centres and places where money is spent. There is not much joined-up thinking across those sectors. That is the reform the Government must tackle. Everyone must become involved in that reform.

In a debate on another issue last week, I said we need to use our imagination but we also need to hear from everyone in the service how things can be done better. Money is going to waste and some systems are not right.

I will focus on a number of key areas. At the time of the budget some carers came to my office to protest. I met 15 or 16 carers, along with 15 or 16 activists from Sinn Féin who joined in for political reasons. It is a pity they were there, but that is what they do. Nevertheless, we had a chance to discuss the issue at length with the carers. Most of them had been to my office over the years. Whether I am in Opposition or in Government I recognise what they do for the country and for their loved ones. We could never pay them enough. Thousands would not be enough for the work they do. Most of them talked to me, not so much about money as about services for their loved ones.

The majority of people who have contacted me on this issue, and I have spoken to hundreds, are people with disabilities and their carers. I accept that care for the elderly is vital and their carers also need the respite grant. The majority who are affected, however, are people who

care for children, sometimes adult children, and loved ones who have a disability. They need the respite care grant, the domiciliary care grant and all the other payments purely to add to the pot to buy extra for the person they are caring for. The respite grant is no longer used solely to provide a break for the carer. It now provides the means to buy extra services. Our discussion was about getting services for their loves ones, getting more help, more hours tuition for a child with autism, physiotherapy or swimming lessons. Respite has become a much broader area.

This convinces me even more that me must look at the overall package. There is a duty on all of us, even with tough budgets, to find ways to get people the services they need. Respite care needs to be dealt with through community services and by the HSE, which does provide respite care for some but not everyone. We must completely rethink how we do this, and do it very fast. I accept that this cut is very harsh on people and will put them under great difficulty, but we can move fast to close the gap. I gave a commitment to the people who came to my office that I will work on this issue and that we will rearrange how we do things to make up the difference in the money.

Respite has become expensive in the last number of years, and it should not be so. The overall package and services are what concern people.

We do not listen sufficiently to parents and carers. Not enough common sense is built into our systems and this has been building up over a long number of years. We must bring back common sense. It is common sense to make a decision about carer's allowance, not in one or two years, but in a reasonable timeframe. Do we make decisions on domiciliary care allowance in a reasonable timeframe? I believe 12 weeks is the target. That may not be realistic in the current climate but two years is not good enough. A year and six months is not good enough either. We must come up with a solution.

There are plenty of staff working in the public sector who could be switched over to the areas where there are backlogs, whether in medical cards, domiciliary care allowance, carer's allowance or whatever. It is not good enough that carers, who have enough problems and enough to do with their time, should have to worry and spend time chasing paperwork and filling in forms to get the help they need.

I said when I was in opposition and I say now that we must provide a single place where a carer can go to find services. A carer of a child with a disability should be able to go to one place and access all the services and help that is needed. That place should fight for carers. We have done this for small businesses. We have provided a single place that will deal with nearly 50 or 60 licences and requirements. The same needs to be done for people who need State help to raise and mind their loved ones.

We have a duty to do more. It is not just about money. It is about reforming our systems and getting them right. I hope this debate will feed into that. We will get there if we continue to focus on this issue.

An Leas-Cheann Comhairle: There are 13 minutes to be shared by Deputies Regina Doherty and Áine Collins. I suggest eight minutes for Deputy Doherty and five for Deputy Collins. Is that agreed? Agreed.

Deputy Regina Doherty: Ireland's 161,000 family carers play a vital role in our health and community care sectors. Carers contribute about €11 million every day, providing 900,000 hours of care daily and saving the State more than €4.7 billion every year. The recent 2011 cen-

sus found we have a 16% increase in the number of carers since 2006. They put in an estimated 3.5 million hours every week, saving the State €2.1 billion per annum.

We all know it is about much more than just that. They are our invisible army. I try to be positive most of the time but I found it a little disingenuous of some members of the Opposition to present themselves as having a monopoly on caring. There is not a person in the House who is not affected in some way, through someone they know, love or care about, by the issues that have been raised recently by the budget cuts.

We must remember it was the previous Government that scrapped the National Carers' Strategy in 2009. In July of this year, the current Government kept its commitment and published the National Carers' Strategy, signalling the Government's commitment to recognising and respecting carers as key care partners and responding to their needs across a number of policy areas. This strategy complements reforms occurring or being considered in community care across aged care, disability, mental health, primary health care and our hospital systems. The Carers Association welcomed the strategy as an important first step and noted that this is the first time a Government has recognised that carers are key players and providers in our health system.

The Minister of State, Deputy Kathleen Lynch, said recently that she hopes carers will now be recognised, supported and empowered. The strategy says the value and contribution of carers should be recognised and their inclusion in decisions relating to the person they are caring for should be promoted.

Caring touches, or will touch, every family in Ireland. I would like sufficient supports to be in place to enable carers to have lives of their own alongside caring. Many carers feel strongly about their contribution to society, which they feel is still underestimated and unrecognised. Instead of being supported, they often find their needs are overlooked, they have to fight go get support or that the available supports are insufficient or of poor quality. Carers say caring can be rewarding, giving relatives the best care possible, giving back to relatives and close friends who provided care themselves, and giving them a strong sense of family, community and friendship.

The cost to them, however, is considerable. One in five carers gives up work to care. Carers are twice as likely to suffer from ill-health and many struggle to make ends meet. We have a duty to support our carers in managing their physical, mental and emotional health, as well as their well-being. Through the provision of adequate information, training and services, they should be empowered to participate as fully as possible in economic and social life.

This means that, as a society, we need to think differently about how care is provided and how we support families who decide to provide that care. Just as increased participation of women in the labour market led to more and better provision of child care, so care services should and must be seen as an enabler as our population ages.

The Government has pledged to strengthen awareness of the role of carers and recognise their needs through income supports. The strategy also commits to supporting the development of supports and services and to protecting the physical, mental and emotional well-being of carers. It aims to provide better training and access to the labour market for carers and give them access to respite breaks.

The role of care organisations and the voluntary sector is universally highly praised. We

need to recognise the importance of building the capacity of the voluntary sector and the potential benefits of care representative organisations, combining their efforts to ensure that views of carers are communicated more effectively at a national level. A major challenge for the future is how to enable people to balance care and their other responsibilities, including work. There is an urgent need to increase awareness among employers and the representative bodies of the contributions made by carers. Caring is an expression of care, respect and affection for another person and, as such, the true value of care, and the support provided by carers, cannot be fully, objectively quantified. I pay tribute to the invisible army of carers, who day in, day out sacrifice their lives to support their loved ones. They are special people and they deserve our support to ensure they feel valued and supported in managing their caring responsibilities with confidence and are empowered to have their own lives outside of the care they give.

Deputy Áine Collins: Every Deputy in this House recognises the huge contribution carers make to our society. They care for the most vulnerable in our society, and our society will ultimately be judged on how we care for the most vulnerable. Every Deputy in this House also recognises that apart from the social and humanitarian aspect of their work, carers contribute a great deal to the economy. The money spent on the carer's allowance and respite grants, and many other supports, provides huge savings to the Exchequer, compared to the real costs of hospitals and nursing home care.

Unfortunately, we live in very difficult financial times since the current crisis began, a crisis that bankrupted the State. Fianna Fáil originally cut carer's allowance from €220 per week to €204 per week, a cut of €850 per year per carer. This Government recognises the economic situation necessitated some cutbacks in every Department. The Government made a conscious decision that maintaining weekly rates at a guaranteed level was the most effective way to ensure all carers were fairly treated. We concentrated on maintaining the weekly allowance of €204 per week, which had previously been cut to that level by Fianna Fáil.

There was a substantial cut in the respite grant and I appreciate this will have a significant effect on some carers and their patients. I have no hesitation in saying there are people in our society who could badly do with a substantial increase in respite and carer's allowance. I am equally convinced there are certain people receiving respite grants who could manage well without them. Next year we must look at ways of dealing with this issue. Means testing is an obvious route but even in carers' payments, the payments should be increased or reduced depending not only on the means of the carers or their patients but also on the amount of care required by each person requiring care. The Exchequer money available could and should be better targeted, with much more help for those vulnerable people in dire circumstances and less for those with less serious conditions. Getting the resources available to the most vulnerable and maintaining the core payment was the best way to use resources this year.

Of course, any reduction is regrettable. Sinn Féin, which held the social welfare portfolio in Northern Ireland should know that administration only pays carers £58 per week, the equivalent of €72, compared to €204 per week in this jurisdiction, or €239 for carers over 66. In addition, carers in this State who are caring for two people will get €358.50 per week.

It amazes me Fianna Fáil has the audacity to speak on this motion. It was Fianna Fáil that reduced the carer's allowance from €220 per week to €204 per week, an annual loss of €850 per year per carer. Expenditure on carers has increased significantly in the past ten years. The estimated expenditure on carers in 2012 is over €771 million. There are more than 51,000 people receiving the carer's allowance and 22,000 of them getting a half rate allowance in addition to

another social welfare payment at an annual cost of €90 million. As a result, expenditure on the carer's allowance scheme has increased in the past ten years by 220%.

This is not about political point scoring. Most people in this House regret any reductions that affect the vulnerable. As a Government, we must strive in coming years to ensure that whatever money is available is fairly targeted and spent properly. Some reassessments of claims must be carried out. This will inevitably lead to further reductions for some but will also allow the Minister to greatly increase allowances for those carers and patients in the most serious medical and financial need. We have a duty in government to use our scarce resources more efficiently and effectively to ensure substantial care for the most vulnerable in our society.

Deputy Thomas Pringle: I congratulate Deputy Halligan on tabling this motion on behalf of the Technical Group. It is also timely this should be discussed after the debate on the cut in the respite care grant last week. The motion provides for supports, both in income and in other ways, that would recognise carers and would show clearly we as a society and as a State value them and the work they do.

It has been widely stated in the House the contribution carers make to the State but it is worth saying again. Carers save the State more than €4 billion annually and the expenditure of €771 million in support pales into insignificance when compared to this saving.

The Government amendment last night started off by crowing about the Government view that the financial supports provided in Ireland are far greater than elsewhere in Europe. Is that meant to be some great comfort for carers? The reason supports might be the highest in Europe is that successive Governments have refused to provide any services worth talking about for citizens in need of care. Governments have decided the easier option is to provide money to carers, rather than providing support for patients, and the reason for that is explained in the savings the State accrues from the care the carers provide.

The Minister of State, Deputy Kathleen Lynch, also stated the respite care grant is higher now than it was in 2002. That is really something to be proud off; ten years on, carers should be able to expect the grant would recognise the increased costs they face and the fact it goes to providing much needed resources for their loved one. It is telling that only 5,000 of the 76,000 people in receipt of the grant are not receiving another carer's payment. This shows the grant is an income support and should not have been cut in such a callous way.

The Minister of State said our budgetary challenges did not preclude the publication of a national carers strategy. It is good to know the Government can still produce reports in these difficult times. The vision statement of the strategy is worth outlining in the House. It states carers will be recognised and respected as key care partners and they will be supported to maintain their own health and well-being and to care with confidence. It goes on to say they will be empowered to participate as fully as possible in economic and social life.

Apart from the complete lack of any concrete commitments in the strategy that could be seen as clear deliverables, the vision statement itself shows the strategy will fail, and is failing, carers. There are not many carers in our society who feel recognised and respected. Where was the consultation with carers about their needs in the run up to this budget? The strategy states they will be supported to maintain their own health and well-being. How can that be squared with the cut to the respite care grant? Yesterday on the radio, I listened to a woman who returned from England to look after her mother who cannot get any support because of the

habitual residence condition. They must both live on less than €200 per week. Surely this will affect their health and well-being, having to survive on so little and fight a bureaucracy that will not respond to their clear needs.

One of the national goals of the carers strategy is to provide for the training needs of carers. The Minister of State really had to search to find this one. Clutching at straws, she had to go back to 2008 to find some evidence of support for training, citing the Dormant Accounts Fund allocation of €1.8 million for training. One group received €10,000 to train carers five years ago. How can the Minister of State even think about putting that into her contribution?

We were then treated to a lecture about how the markets determine our policy and that we must placate them to be able to borrow on them again. To imply this was done in response to the markets because the Government had no option but to do this is disingenuous in the extreme. As if the markets will look at how we support carers and decide on the viability of our economy on that basis. The only thing that matters to them is whether they will be repaid. They probably have not been able to believe their luck, in that this Government has continued the policies of Fianna Fáil, ensuring it gives back every penny. Societies that have a greater measure of social cohesion, such as the Scandinavian economies, are far more likely to be able to continue to pay their bills. In general, the economic crisis has not shown in those countries in the past five years. That is the type of society we should be trying to build, rather than pander to the so-called markets.

Deputy Shane Ross: I find this matter particularly puzzling because although so little money is involved it causes so much damage, hurt and pain to so many people who are doing so much good. The cut of this sword, which saves €26 million, could hardly be taken by human beings who consider the needs of their fellow human beings. There is a tendency in the cuts imposed that make some of us believe they have been made by civil servants somewhere, who can see figures - cuts here, possible savings there - but cannot see human beings at the other end of those figures. If one wanted to save €26 million, there are thousands of other ways to do it besides hurting people who are doing so much good.

I am not some sort of bleeding heart socialist. I do not believe that books should not be balanced.

A Deputy: You are heading that way.

Deputy Dinny McGinley: Nobody ever suspected Deputy Ross of being that.

Deputy Shane Ross: I thank the Minister of State. I do not for one moment believe we should go out and complain about all the cuts. I believe the books should be balanced. Why, in the name of God, if the Government wants to save €26 million, can it not look elsewhere? Why can it not do something about the quangos about which this Government promised so much but has done so little? There is waste in the semi-State companies which could be cut at the drop of a hat. The idea that the Government cannot save another €26 million elsewhere, thereby saving so much trouble to the carers and those whom they look after, is unbelievable.

What about the high echelons in the Civil Service about which we have talked so much? Why could the Government not have saved €26 million there? Why could it not have saved €26 million in increments? We simply cannot afford them at this time. I am sick and tired of mentioning this but why can the Government not save €26 million from the pension fund industry? One and a half years ago I asked the Taoiseach to look at this and he promised to do so. I asked

him why he was taking 0.6% from the pension funds when he could take hundreds of millions from the industry, which exploits the pensioners and earns enormous sums of money. Nothing is being done about this because a quango, the Pensions Board, sits at the top of that industry protecting it. Although it could save €26 million there and at the drop of a hat, the Government takes it from people who are vulnerable and unable to defend themselves. What is so ugly about this particular cut is that the carers are the last people in this country who can defend themselves because they are on the job, perhaps 24-7, perhaps not. Everybody knows they cannot walk off the job and that is why this is so odious. These guys cannot walk away and leave their family or loved ones alone, unprotected and not looked after. The Government might as well have taken €50 million from them because it would have got the same reaction and the carers would not have been able to do very much about it.

On the general issue, I accept the Government has a point although it is wearing a bit thin, but on this issue fingers should be pointed at Fianna Fáil too, for that party also made cuts. Of course it did. On this issue, the Government should come forward and state the real reason it made this cut. I cannot understand it. I can understand a civil servant doing it because civil servants are paid to take a look at a few figures and cut €26 million here or there. However, I cannot understand why politicians would do this and cause so much mayhem and suffering for so little money. These carers earn their social welfare. There are many people who do not earn their social welfare although they get it for a very good reason. However, the carers are very special people because they are actually doing a job and are being paid for their social welfare. It is still politically unpalatable to say so but there are areas where social welfare could make savings. There are dole dodgers. There are people exploiting social welfare and there does not appear to be the political will to stop that. It is the easy option that is being taken here, the cowardly and ugly option.

Deputy Luke 'Ming' Flanagan: This is a little baffling. We hear constantly we must balance the books. That is all that is important. I understand that and understand we must make things add up. The Government is answerable to the troika and must do what it is told. If that is the case, perhaps the Government should explain the situation about carers to the members of troika. If it is about money, it should explain the equation to them.

Imagine that I am a carer. The Government gives me a tenner. What do I give back to the State? I give €50 back in the service I provide. I get this €10 note; I give the State this €50 note. It is fairly simple and I imagine the troika might understand it. I do not know whether I am allowed to hold up this money.

An Leas-Cheann Comhairle: No, Deputy, even though it is the week before Christmas.

Deputy Mattie McGrath: I will take it.

Deputy Luke 'Ming' Flanagan: I have no respect for this money anyway. We should never have left our currency.

An Leas-Cheann Comhairle: It is not for display.

Deputy Luke 'Ming' Flanagan: The reality is that even if the Government did not give a damn about carers, did not care that it is nice to stay at home with one's family where one might live longer and be happier, where everything would work out better for society, and even if the Government ignored all of that and just looked at the money equation, then it is a fairly good deal. It is all about money; nothing else matters. I have been hearing that ever since I came to

this House. The Government gives the carers a tenner and they give €50 worth of value to the State. That is a really good deal. One would imagine if there was a chance of getting a deal like that from somebody, one would hold that person high, praise them and cheer them on and say: "Keep doing it because we are getting a good deal here." What do the carers get instead? They get told they should be damned well thankful for getting what they do. Look at what people get in Northern Ireland. I do not give a damn what they get in Northern Ireland. I do not care what they get in Afghanistan or China or the USA. What I care about is whether what they get is enough to survive here. When Government speakers talk about what people get in the North, that is irrelevant. What matters is what it takes to survive here. The State is getting good value but it does not seem to appreciate this.

One would imagine also that if the Government was getting a good deal from somebody, it would not make it difficult for them to strike a deal. I will give an example of a person who wants to strike a deal with the State, who is prepared, for €10, to give €50 worth of value to the State. My secretary wrote to me today to tell me the torture she is going through with this, saying that in regard to the carer's allowance, applications from last December are now being dealt with. That means the average waiting time is 12 months from the date of application. We have had numerous people asking us about the carer's allowance, the most recent application dated 18 December, which is just being dealt with. There are people who want to do this great deal with the Government, those from whom it gains financially, but it will not even deal with them. Nobody, or no Government, could be that incompetent. In a year, it could not get things together to pay somebody for the deal. One would have to conclude there is a policy of hoping these people will go away and stop annoying the Government. That appears to be the policy. This example of an individual would prove that as far as I am concerned. A lady, who has appealed her decision for a carer's allowance, contacted me. We were told that this week she had failed to pass the medical side of things again. She has cared for her partner full time for more than 18 months and she is in an awful state. Her partner has had prostate cancer since 2007. He underwent radiotherapy where his bowel was damaged and as a result it bleeds on a continuous basis. He has had five operations in St. Vincent's University Hospital and will go for another one in January. His clothes need to be changed constantly and he basically needs 24-hour care. He is only 69 years of age and also has other conditions, including asthma, a heart condition and a major kidney problem. Yet he is refused on medical grounds. The Government should recognise a good deal when it sees one. If it is all about money, it should recognise it. It should forget about the people, we know that has happened. The Government should just think about the money because €60 is a good deal.

Deputy Mattie McGrath: I am delighted to be able to speak on tonight's motion and I compliment Deputy Halligan on tabling it and the Technical Group on supporting it. I am slightly concerned about Deputy Ross and the seating arrangements here because we had confusion last night over the votes in the House. I am worried to see Deputy Tom Fleming and him sitting between the two hard left Members and he is supposed to be on the hard right, but I know he is not on the hard right either. I am sure we will sort that out later. I compliment him on his understanding of the carers' situation. None of us needs to claim credit - the carers do a tremendous job 24 hours a day and seven days a week.

It is not me for to lecture Deputy Áine Collins and the Ministers of State, Deputies McGinley and Perry or anything else. The carers are a special group who work 24 hours a day and seven days a week, and represent great value for money. I am a member and I proudly wore the badge until someone from their organisation pulled it off me outside the gate last Thursday.

I wear the badge with honour and respect. Councillor Richie Molloy, an Independent councillor and manager of services for Tipperary carers, and all those involved in the committee are tremendous people. They organise treasure hunts on St. Stephen's Day and on the August bank holiday, coffee mornings and table quizzes. We all know what they have to do to supplement the few bob carers get.

The real carers are in the home and caring for the people such as the person Deputy Luke 'Ming' Flanagan mentioned. Goodness knows, any one of us could be one of those soldiers any time soon and we could need care. Then we will know about the harsh system where people must wait 12 months for an application to be processed and two years for an appeal, which is downright disgraceful. We cannot allow this. In a modern country that calls itself a democracy, this is a charade. It is a blockage and amounts to telling them to go away, as Deputy Luke 'Ming' Flanagan said. While we certainly need to make cuts and balance the books, we are only talking about €26 million here. The €1,700 allows carers to take a break once a year and, by God, they are entitled to it. Often they do not get the break because sometimes they bring the person for whom they care with them and other times they spend the time phoning home because they are attached and really do care.

The Government has also cut the home help so that people are getting half an hour instead of an hour and a half. The home-helper would not have the key turned in the front door to come in before the time would be up. What happens is an insult to the dignity of human beings. People can say what they like about the last crowd - I was one of them - but they protected the carers at all costs because they had some bit of connectivity with the ordinary people. We lobbied hard at all times for the carers and fought for them.

Last year the Government rowed back on the decision on the DEIS schools which involved a larger amount of money. I appeal to the Government to find the €26 million elsewhere, because it can be done. It could be done if the Minister of State looked to his right and talked to the mandarins in the Department of Finance. They can come up with figures out of the sky such as the €500 million from property tax. They do not care where it comes from once it does not come from them. The Government should go after those people. It should go after the increments it is paying them - not the lowly civil servant or the lowly man with a shovel on the road or working at the front desk, but the fat cats in the Department who advise the Minister of State and send replies to parliamentary questions to Deputy Áine Collins, me and others stating that the Minister has no responsibility in the area. It is a charade and it is time they were found out and dealt with. The Government should take it where it can get it and not be demonising the carers who are proud people who do so much work for their families, relations and loved ones. They save a fortune in hospital bills and save people waiting on trolleys and waiting for beds.

There is something morally wrong and corrupt with the system when we penalise these people and let off the people who should be taxed. The Department will claim it cannot do a means test for child benefit, which is a lie. It is a lazy, inept, unenergetic fallacy that they are portraying. It is time they were woken up and told to take the money where it can be got and leave alone people who are giving so much to their families and saving the State so much money. It has gone badly wrong. It happened with the previous Government, is happening with this Government and will happen with the next Government. The permanent government needs to be dealt with and called aside. Those people do not need increments because they are well cushioned. I hope they will not need carers because they will get very poor care.

Deputy Seamus Healy: I quote:

> Carers will be recognised and respected as key care partners. They will be supported to maintain their own health and well-being and to care with confidence. They will be empowered to participate as fully as possible in economic and social life.

That comes from the National Carers Strategy 2012. What has happened in the budget is very far from respecting carers as key care partners. They have been targeted in a blunt and brutal way for an attack on their incomes and their families. They do tremendous work 24 hours a day, seven days a week and 365 days a year. In many cases it is not possible for carers to use the respite care grant for respite because they need to use it to pay for normal day-to-day bills particularly heating, which is vital for the elderly people for whom they care. Far from allowing them to take a holiday, the respite care grant is being used to fund the day-to-day expenses of the family of the person being cared for.

This brutal and vicious cut will only save approximately €26 million, which at 0.14% of a €20 billion budget is a drop in the ocean. In the general election campaign both Government parties claimed that the most vulnerable would be protected, but this is exactly the opposite. Both parties are reneging on yet another commitment. There were choices and the Government could have achieved savings elsewhere or could have imposed tax increases elsewhere. I repeat what I have said in this House on numerous occasions. The wealthiest 5% of people in this country have €239 billion in assets. The same people over 2009 and 2010 increased their assets by €46 billion - these are not my figures but CSO figures. The wealthiest 10% of people in this country increased their income over the recession by 6%. These are people who doing well out of the recession but the Government will not take a ha'penny from them. Why is there not a wealth tax or an asset tax as in other countries? Such a tax was introduced by a Fine Gael Minister years ago in the 1970s. If that tax was in place today it would be bringing in approximately €2 billion a year and there would be absolutely no necessity for these cruel and miserly cuts on people who are working above and beyond the call of duty for every minute of every day of every year.

I want the Minister of State to address this question. I have been dealing with applications for carer's allowance for many years. The Department of Social Protection has been given a political instruction to refuse carer's allowance.

Deputy Luke 'Ming' Flanagan: Hear, hear, dead right.

Deputy Seamus Healy: I have seen it over the past 25 years and I know that two years or 18 months ago, people who were being refused now would have got it without any difficulty. They should be getting it and I want the Minister of State to address that point. There has been a political instruction to the Department to change the criteria for carer's allowance so it can be refused.

The delay in applications is another disgrace. I heard a case recently where it took 51 weeks to get a decision for a carer looking after a quadriplegic, wheelchair-bound child whose application should have been approved within six to eight weeks if right was right. The Minister of State should address that issue urgently.

Deputy Tom Fleming: Thousands of family carers are propping up Ireland's fragile health system, yet recent policy developments highlight the expanding role they will play in the future with fewer patients in our hospitals, shorter hospital stays and an increasing focus on community care. The contribution of family carers to the economy has been estimated to be worth in

excess of €4 billion each year, yet the delivery of this highly valuable service to our older and vulnerable adults and children with special needs does not come without significant personal cost to carers. Research has consistently identified that carers are an at-risk group for negative well-being as they have higher than average rates of depression, chronic illness, injury and poverty due to the physical, emotional and financial demands of caring.

In census 2011, the statistics showed that in respect of health, disability and carers, 595,335 people, representing 13% of the total population, had one or more disabilities and 106,270 disabled people, representing 18% of all disabled persons, lived alone at the time of the census, which was April 2011. The census also showed that 187,112 persons, or 4.1% of the total population, provided unpaid assistance to others in 2011. These are very significant statistics as these people providing intermittent, casual care are not receiving remuneration from the State. Therefore, substantial savings are accruing to the State through the often unrecognised and invisible form of support. What these people provide and contribute is unrecognised.

Carers who are in receipt of social welfare protection payments and on call 24-7 have suffered an average cut in income support of 5% in the budget, which is more than twice the average cut in income support for other recipients of social protection payments. I believe this is working out at approximately 1.8%. The Government claims it has protected core payments for family carers in the budget, but the respite care grant is a core payment for family carers that allows them to buy home and residential respite care occasionally as well as meet everyday additional costs of caring in the home. As Deputy Healy remarked, an adjustment of the required €26 million to rescind the cut and return to the pre-budget situation works out at 0.14% of a budget of approximately €20 billion in total, so it is a minute amount. It is within the capacity of the Government to readjust the budget, right the wrong and enable and assist these families to give a quality of life to their loved ones and to get a reasonable break and rest time. Many of these carers are under extreme pressure and are vulnerable to negative elements in respect of their health and well-being. It is astounding that many of the carers whose applications are being refused for the carer's allowance may have to wait 12 months for their appeals to be heard, which is ridiculous. A total of 50% of refusals are overturned and carers eventually receive it after waiting 12 months.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): Listening to the various contributions to the debate, I was reminded once again how close to home the issue of carers is. Each individual carer mentioned represents the thousands of carers from every family in every parish in every corner of Ireland who receive no awards, often little recognition and sometimes not even the awareness of those for whom they care. People need help and support and this Government is committed to supporting family carers as much as we can.

The income supports that carers receive from the Department of Social Protection are among the highest rates in Europe and remain so after this budget. We had to reduce the respite care grant but the revised rate of the grant, at €1,375, will still be more than twice what it was in 2002, when it was €635, and higher than it was in 2006 at the height of the economic boom, when it was €1,200.

Deputy Mattie McGrath: Fine Gael wanted more then.

Deputy John Perry: The other supports for carers - the carer's allowance, the carer's benefit, the half-rate carer's allowance, the domiciliary care allowance and the disability allowance

- were all untouched by the budget. In very difficult circumstances over the past two years, this Government has had to make difficult decisions and reassess priorities. In the face of enormous economic pressures, the Government has chosen to continue supporting carers to the maximum extent possible. We have retained the half-rate carer's allowance, which I know is of great value to carers, both financially and in what it represents. We have retained the respite care grant, although at a reduced rate, including for people who do not otherwise qualify for other income supports. We have retained the principle of paying the grant in respect of each person being cared for.

This year, the expenditure on carers in the Department of Social Protection is in excess of €771 million: €509 million on carer's allowance, €24 million on carer's benefit, €135 million on the respite care grant and €103 million on domiciliary care allowance. This represents an increase of almost €20 million on expenditure in 2011. The weekly carer's allowance payment is almost 20% higher this year than in 2006 and more than 147% higher than in 1997. We have approximately 55,000 carers in receipt of carer's allowance or benefit and 26,000 in receipt of the domiciliary care allowance.

A number of Members referred to delays in processing applications for carer's allowance. While I acknowledge that current processing times are unacceptable, measures are being taken to address the issue. At the end of November 2012, there were about 9,000 claims awaiting decision. Following the completion of a major IT modernisation project, an in-depth business process improvement project was completed for the carer's allowance scheme. This project focused on improving output and customer service and the reduction of backlogs. A total of 14 additional staff were assigned to assist with the backlog and the processing of new claims. Implementation of the plan commenced on Monday, 3 September 2012 and is being closely monitored and managed to ensure it achieves its objectives. A noted increase in the number of new claims processed has been achieved in recent months where claims processed have substantially exceeded claim intake. However, it will take a number of months before the backlog is reduced to an acceptable level.

The national carers strategy sets out a vision to work towards an ambitious set of national goals and objectives to guide policy development and service delivery so as to ensure carers feel valued and supported to manage their caring responsibilities with confidence and are empowered to have a life of their own outside of caring. The strategy also contains a road map for implementation, which outlines the actions that will be taken to deliver on the goals and objectives of the strategy. The road map also outlines the timelines and the Department with responsibility for their implementation. Each Department will produce an annual report on progress, which will be published on its website. A progress report on the overall implementation of the strategy will be produced on a periodic basis over the lifetime of the strategy and presented to the Cabinet Committee on Social Policy. Each Department has appointed a senior official to take responsibility for its actions and for the provision of ongoing up-dates to the Cabinet committee.

The Government continues to face a daunting challenge in repairing the economy and the public finances. Difficult decisions are still required. As we have shown in budget 2013 we are committed to meeting this challenge, and are determined that through good government we will lead Ireland back to independent funding and back to sustainable growth in living standards and in employment. We are facing the future in a positive light. We have seen a total transformation in only 12 months. Today, markets and foreign lenders are lending once again to Ireland and to Irish businesses. This will help our businesses and our economy to continue its path to

recovery. This was the context in which the Government took the hard decisions in the budget.

The Government has a vision for carers, a vision of an Ireland which recognises and respects the valuable role of carers in society by providing them with support, where necessary, to assist them in their caring role and to enable them to participate as fully as possible in economic and social life. This is our vision, and is what guides us.

An Leas-Cheann Comhairle: I call Deputy Boyd Barrett who is sharing time with Deputies Stephen Donnelly and John Halligan.

Deputy Richard Boyd Barrett: I thank Deputy Halligan for tabling this motion and recognising in it the incalculable service which carers provide to our society and to some of the most vulnerable in it. I must say I am a bit bemused, and with no personal disrespect to the Minister of State, as to why the Minister of State with responsibility for small business is taking a motion on carers. One would have expected at the very least either the Minister herself, the Minister for Health or even a Minister of State at the Department of Health. Frankly, I do not understand why someone whose brief is very different from this is taking the issue.

Deputy John Perry: It is all about caring in the community and social enterprise.

Deputy Mattie McGrath: Closing down businesses.

Deputy Richard Boyd Barrett: That is a very telling comment-----

Deputy Mattie McGrath: An insult.

Deputy Richard Boyd Barrett: -----which in a way reinforces one of the main points I want to make. There is no economic rationale or logic to justify making life worse for carers and consequently making life worse for those for whom they care, some of the most vulnerable people in our society. There are no words anyone in the House can say to do justice to the heroic and selfless work done by carers. The working week, the working day and the working year never end for a carer; they are on call 24-seven. They may not be always working, but they are on call all of these hours. If any other worker in any profession had to work the hours with the level of intensity which carers have to do and be on call at that level to carry out the type of work and service they provide to the people they love and to our society and economy, they would be paid multiples of what carers receive.

I say again nothing - no economic rationale, no talk of the troika and no talk of difficult decisions confronting the Government - can justify making life worse for those carers, and without question these cuts to the respite care grant and the absolutely unacceptable delays and refusals in terms of carer's allowance applications, delays which have trebled on the Government watch, are unconscionable and absolutely without justification. It is preposterous to speak about how generous the regime is. The generous ones are the carers. Nothing could be more generous or selfless than what they do for the people they care for and for our society and economy. They give back four or five times more to our economy than they take from it. The Minister of State should be down on his bended knees thanking them and not making life worse for them.

People in the Government say rightly that money is not the issue for carers, and it certainly is not because they would not be doing it if it was given the amount they receive, but the Government states somehow this would be compensated by the review of services. Please do not make us laugh or insult the intelligence of the carers. These services are being cut. Only weeks ago

I brought dozens of parents of children with severe intellectual disabilities into the Gallery to point out to the Tánaiste that respite care day services and 24-seven services have been slashed. He stated in that engagement that he would meet with the service provider, they will look at it and sort it out. They got nothing. Those services were slashed, end of story. The Minister for Health, Deputy James Reilly has put through a total of €780 million worth of health cuts in the budget and we do not even know what exactly they will mean, but they will definitely mean further cutbacks in day and respite services. Do not give us the economic claptrap. There is no justification for this. Even a small bit of extra income tax on those earning more than €100,000, cutting the pay of some of the top CEOs in semi-State companies or a wealth tax would have covered this very easily. It is appalling and the Government should back off from it.

Deputy Stephen S. Donnelly: I wish to address the 20% cut to the respite care grant which is being introduced by the Cabinet in the budget for 2013. I will not dwell on the meanness of this cut. I will not dwell on how unnecessary it is in the context of troika targets. I will not dwell on the hardship the cut will cause throughout the country. All of this has been covered with passion and eloquence by many other Deputies.

I want to demonstrate how technically flawed the cut is and how it will in all probability not save the State a single cent. The Carers Association tells us 180,000 carers are in Ireland. We know 77,000 of these are in receipt of the respite care grant. It is estimated this care saves the State, or is worth, €4 billion so on average 180,000 carers provide €22,000 worth of care per year. The figure we are told this cut will save is €26 million, but of course it is not because this money gets taken out of the economy. Using the Government's multiplier, the saving would be €16 million.

Of course, this is not where this ends, because while many carers will continue to provide the level of care they do regardless of the cut some will not be able to do so. Some will not be able to provide the €22,000 worth of care which they currently do. Here is the maths. If just one in 100 of those 77,000 carers can no longer provide the care and passes the cost on to the State it will wipe out the entire €16 million. The question one must ask from a policy perspective is how many of the 77,000 will be forced to do this because of financial constraints. We do not know because the Dáil has not been provided with any technical appendix or analysis for this cut. However, one in 100 does not seem that far fetched. If this happens, if one in 100 carers can no longer provide the care, the Cabinet will have achieved three things. It will not have saved a penny, it will have made lives more difficult for 77,000 carers and those for whom they care, and it will have shown a total disregard for the House by not providing it with the time to debate the legislation or the data needed to interrogate it properly. I compliment Deputy Halligan on bringing this motion before the House. I am proud to have signed it and will be voting in favour of it shortly.

This is bad legislation and bad policy, which goes against our values as a society. Two days after the budget announcement, I was knocking on doors in Wicklow and the single most common thing I heard from people on low, middle and high incomes was not to bring in a cut that affects carers. Those on middle and high incomes said they would reluctantly pay higher taxes. They said that if the choice was between taxing them or making cuts that affected carers, they should be taxed. Those on lower incomes said they would pay the tax if they could, or else we should find other ways of doing this rather than bringing in this cut of €26 million.

We know without a shadow of a doubt that this will cause hardship. We also know it is mean-spirited and financially unnecessary, but we do not know if it will save the State a single

cent. This cut should be reversed.

Deputy John Halligan: I thank my colleagues in the Technical Group for their valuable contributions and, indeed, all those who have contributed to the debate over the past two days.

The opening lines of the motion state: "That Dáil Éireann recognises the vital contribution carers make to the economic and social life of the nation ... that carers are real and equal partners in the provision of care at every level of public service ... that although family carers in the majority of cases are on call 24 hours per day and 365 days per year, they do not earn the ... minimum wage [and] are [not] entitled to ... sick pay or holiday pay ... [and] that family carers provide €4 billion worth of care each year, which is five times the actual cost to the Department of Social Protection." I would have thought that those lines would at least have been seen as reasonable, fair and just. That is what society is about - people being reasonable and fair to one another, and calling for a just society.

Yesterday, I spoke about how we gallantly protected senior civil servants' pensions and ministerial pensions, while we pay carers the equivalent of one cent an hour for 24-7 care. I also said that carers are the only people in the system who work full-time for their social welfare. They work seven days a week without earning the minimum wage and without sick pay or holiday pay such as PAYE workers would get. No civilised society would tolerate such modern-day slavery.

I want to speak about two people, Mary and Stephen. Mary's father had a severe stroke six years ago and her mother was diagnosed with emphysema. Mary lives with her parents, while her siblings live with their own families. Mary weighs seven stone. She decided not to put her father or mother into care. She said that they had loved her and she would love them for their rest of their lives. So began an ordeal of love, despair and stress: love for her mother and father, despair of seeing them constantly ill, and the stress of having to get up and turn her parents - it is my father and mother I am speaking about - four or five times during the night. I know how she works so hard. Mary does not go on the radio or television to talk to Joe Duffy, Pat Kenny or Vincent Browne. She does not speak to the newspapers either because she does not have time. She sees this as a commitment she made to my father, although my mother has since died. She made that commitment to them as they had committed their care and love to her.

Stephen is 26 years of age and his wife is 24. His wife went completely blind two years ago. She had six minor strokes and is on dialysis. They have a two and a half year old child. Stephen is now committed to caring for his wife and child 24 hours a day. When he contacted me, I wondered why a 26 year old who only lives a few streets away from my office could not come down to see me there. It was because he could not leave the house.

Would it not be fair to pay people like Mary and Stephen and all the other carers a reasonable rate of pay? Is it unreasonable to ask for that? Are these people not heroes of the State? How would it be if the Taoiseach or the Minister for Finance went to Angela Merkel, the troika or any of the bondholders we are going to pay and said: "We are not going to give you any more money"? How would it be if, the next day, they stood before Mary and Stephen and said: "We are going to give the money to you"? If they did that, irrespective of what the consequences would be, every man, woman and child would stand behind the Taoiseach, the Minister for Finance and everyone else in this Parliament.

The heroism that carers display is not so much towards those they care for or because carers

become ill and distressed quicker than many others and over a shorter period. It is the heroism they show to this State by saving it so much money every year. All they ask in return is to be treated justly, fairly and with respect. Will they get what they deserve? Carers do not demand. They never do and never will. They humbly request.

Amendment put:

The Dáil divided: Tá, 83; Níl, 47.	
Tá	Níl
Bannon, James.	Adams, Gerry.
Breen, Pat.	Boyd Barrett, Richard.
Butler, Ray.	Broughan, Thomas P.
Buttimer, Jerry.	Browne, John.
Byrne, Catherine.	Calleary, Dara.
Byrne, Eric.	Collins, Joan.
Carey, Joe.	Collins, Niall.
Coffey, Paudie.	Colreavy, Michael.
Collins, Áine.	Cowen, Barry.
Conaghan, Michael.	Crowe, Seán.
Conlan, Seán.	Daly, Clare.
Connaughton, Paul J.	Doherty, Pearse.
Conway, Ciara.	Donnelly, Stephen S.
Coonan, Noel.	Dooley, Timmy.
Corcoran Kennedy, Marcella.	Ellis, Dessie.
Costello, Joe.	Ferris, Martin.
Creed, Michael.	Flanagan, Luke ‘Ming’.
Deasy, John.	Fleming, Tom.
Deenihan, Jimmy.	Halligan, John.
Deering, Pat.	Healy, Seamus.
Doherty, Regina.	Healy-Rae, Michael.
Donohoe, Paschal.	Higgins, Joe.
Dowds, Robert.	Kelleher, Billy.
Doyle, Andrew.	Lowry, Michael.
Durkan, Bernard J.	Mac Lochlainn, Pádraig.
English, Damien.	McConalogue, Charlie.
Farrell, Alan.	McDonald, Mary Lou.
Feighan, Frank.	McGrath, Finian.
Fitzpatrick, Peter.	McGrath, Mattie.
Flanagan, Charles.	McGrath, Michael.
Gilmore, Eamon.	McGuinness, John.
Griffin, Brendan.	McLellan, Sandra.
Harrington, Noel.	Martin, Micheál.
Harris, Simon.	Moynihan, Michael.
Hayes, Tom.	Murphy, Catherine.

Heydon, Martin.	Naughten, Denis.
Howlin, Brendan.	Ó Caoláin, Caoimhghín.
Humphreys, Heather.	Ó Fearghaíl, Seán.
Humphreys, Kevin.	Ó Snodaigh, Aengus.
Kehoe, Paul.	O'Brien, Jonathan.
Kelly, Alan.	O'Dea, Willie.
Kenny, Enda.	O'Sullivan, Maureen.
Kenny, Seán.	Pringle, Thomas.
Kyne, Seán.	Ross, Shane.
Lawlor, Anthony.	Smith, Brendan.
Lynch, Ciarán.	Stanley, Brian.
Lyons, John.	Wallace, Mick.
McCarthy, Michael.	
McFadden, Nicky.	
McGinley, Dinny.	
McHugh, Joe.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Nolan, Derek.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Rabbitte, Pat.	
Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	

Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Catherine Murphy and John Halligan.

Amendment declared carried.

Question put: "That the motion, as amended, be agreed to."

The Dáil divided: Tá, 84; Níl, 46.	
Tá	Níl
Bannon, James.	Adams, Gerry.
Breen, Pat.	Boyd Barrett, Richard.
Butler, Ray.	Broughan, Thomas P.
Buttimer, Jerry.	Browne, John.
Byrne, Catherine.	Calleary, Dara.
Byrne, Eric.	Collins, Joan.
Carey, Joe.	Collins, Niall.
Coffey, Paudie.	Colreavy, Michael.
Collins, Áine.	Cowen, Barry.
Conaghan, Michael.	Crowe, Seán.
Conlan, Seán.	Daly, Clare.
Connaughton, Paul J.	Doherty, Pearse.
Conway, Ciara.	Donnelly, Stephen S.
Coonan, Noel.	Dooley, Timmy.
Corcoran Kennedy, Marcella.	Ellis, Dessie.
Costello, Joe.	Ferris, Martin.
Creed, Michael.	Flanagan, Luke 'Ming'.
Deasy, John.	Fleming, Tom.
Deenihan, Jimmy.	Halligan, John.
Deering, Pat.	Healy, Seamus.
Doherty, Regina.	Healy-Rae, Michael.
Donohoe, Paschal.	Higgins, Joe.
Dowds, Robert.	Kelleher, Billy.
Doyle, Andrew.	Lowry, Michael.

Durkan, Bernard J.	Mac Lochlainn, Pádraig.
English, Damien.	McConalogue, Charlie.
Farrell, Alan.	McDonald, Mary Lou.
Feighan, Frank.	McGrath, Finian.
Fitzpatrick, Peter.	McGrath, Mattie.
Flanagan, Charles.	McGrath, Michael.
Gilmore, Eamon.	McGuinness, John.
Griffin, Brendan.	McLellan, Sandra.
Harrington, Noel.	Martin, Micheál.
Harris, Simon.	Moynihan, Michael.
Hayes, Tom.	Murphy, Catherine.
Heydon, Martin.	Ó Caoláin, Caoimhghín.
Howlin, Brendan.	Ó Fearghaíl, Seán.
Humphreys, Heather.	Ó Snodaigh, Aengus.
Humphreys, Kevin.	O'Brien, Jonathan.
Kehoe, Paul.	O'Dea, Willie.
Kelly, Alan.	O'Sullivan, Maureen.
Kenny, Seán.	Pringle, Thomas.
Kyne, Seán.	Ross, Shane.
Lawlor, Anthony.	Smith, Brendan.
Lynch, Ciarán.	Stanley, Brian.
Lynch, Kathleen.	Wallace, Mick.
Lyons, John.	
McCarthy, Michael.	
McFadden, Nicky.	
McGinley, Dinny.	
McHugh, Joe.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Nolan, Derek.	
Noonan, Michael.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Mahony, John.	
O'Reilly, Joe.	

O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Rabbitte, Pat.	
Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Catherine Murphy and John Halligan.

Question declared carried.

The Dáil adjourned at 9.40 p.m. until 10.30 a.m. on Thursday, 20 December 2012.