

DÁIL ÉIREANN

Dé Máirt, 27 Bealtaine 2014

Tuesday, 27 May 2014

Chuaigh an Leas-Cheann Comhairle i gceannas ar 2 p.m.

Paidir.
Prayer.

Ceisteanna - Questions

Priority Questions

Insurance Industry Regulation

1. **Deputy Michael McGrath** asked the Minister for Finance to set out his views on whether sufficient protection is in place domestically for Irish customers of insurance companies which are regulated here for conduct of business purposes while being prudentially regulated overseas; his further views on the fact that Irish insurance consumers are exposed to inadequate prudential regulation of insurance companies in other countries; his views on whether greater co-operation is required between national regulators in respect of the insurance market; and if he will make a statement on the matter. [23187/14]

Deputy Michael McGrath: The collapse of Setanta Insurance, which left approximately 75,000 policyholders high and dry, has prompted this question. We already had a Topical Issue debate on the matter some weeks ago. My main concern is that Irish consumers and insurance policyholders are potentially exposed to serious risk because they are buying insurance services from firms that are not regulated by the Irish Central Bank. The purpose of my putting down this question is to gain a greater understanding and reassurance in respect of how consumers can be better protected.

Minister for Finance (Deputy Michael Noonan): The current legal and regulatory framework for the provision of insurance in the European Economic Area and the supervision of that activity is prescribed by European Union law in the life and non-life insurance directives. The provision of insurance throughout the EEA on a freedom of services basis and a freedom of establishment basis - that is, establishment of a branch - within this framework is predicated upon the absence of internal market frontiers and the mutual recognition of authorisation of insurance undertakings by member states.

The insurance directives specify particular roles for both the home member state super-

visory authority - that is, the supervisory authority that grants an authorisation - and the host member state supervisory authority - that is, the supervisory authority of the member state where an insurance undertaking conducts business on a freedom of services or freedom of establishment basis - of an insurance undertaking. Insurance undertakings authorised under the insurance directives are subject to solvency and financial reserving requirements, the supervision of which is the sole responsibility of the home member state supervisory authority. The primary objective of these requirements is to ensure that claims made in respect of policies issued will be adequately provided for by the insurance undertaking. Under Article 20 of the third non-life insurance directive, the home regulator is required to notify the host regulator if the solvency margin of an undertaking falls below the statutory requirement. In such instances the home regulator should inform the host regulator of the measures it has taken to address the solvency deficit. Where a non-life undertaking authorised in another member state goes into liquidation and policyholders in respect of risks in this state are affected, under the insurance compensation fund, ICF, the accountant of the High Court can make an application to the High Court on their behalf and, subject to certain exclusions, distribute sums due to such policyholders from the ICF.

Following negotiations completed at European level in November 2013, a new regime under the solvency II directive will commence on 1 January 2016. This will further strengthen the EU regulatory framework. The solvency II EU directive sets out new stronger EU-wide requirements on capital adequacy and risk management for insurers, with the key aim of increasing policyholder protection. The new regime will also ensure greater co-operation between supervisors.

Additional information not given on the floor of the House

Furthermore, EEA insurance regulators are members of the European Insurance and Occupational Pensions Authority, EIOPA, and required to comply with the general protocol relating to the collaboration of the insurance supervisory authorities of the member states of the European Union. This general protocol statement was issued in 2008 and is under review by the EIOPA.

The recent liquidation of Setanta Insurance Company Limited emphasises the need for all EU member states to make a transition to the new solvency II regime to meet the January 2016 deadline. My Department and the Central Bank will be reviewing the circumstances relating to Setanta and reporting to me on what lessons can be learned and how the framework can be strengthened. The European Commission has also indicated that it will review whether any issue raised relating to the regulatory framework requires action.

Deputy Michael McGrath: The key issue is that under EU law insurance firms can be licensed to sell services in Ireland while being fully supervised by their home regulators, which in the case of Setanta Insurance Company Limited was the Maltese regulator. The firm collapsed, leaving more than 70,000 Irish policyholders high and dry and out of pocket. In a reply to a recent parliamentary question the Minister confirmed to me that 744 insurance firms were licensed to sell motor and general insurance in Ireland but that only 112 of these were fully regulated for prudential purposes by the Central Bank of Ireland. That leaves a figure of 600 plus firms. I am not an expert in this regard and do not know whether these are niche insurance service providers or, for example, IFSC operations, but the matter requires further analysis, given what happened in the case of Setanta Insurance. Do we have a handle on the 600 plus firms that are licensed to carry out insurance business in Ireland but not regulated for prudential

purposes by the Central Bank? This poses a risk to consumers, as crystallised in the case of Setanta Insurance.

Deputy Michael Noonan: The role of the Department of Finance is to provide the legislative framework in accordance with EU insurance directives. Direct responsibility for regulation lies with the Central Bank which seems to be confident that it has, as the Deputy put it, a handle on the people trading in Ireland. I explained in great detail in replies to other parliamentary questions the position on Setanta Insurance. So far, however, no one has brought anything to my attention to suggest the authorities in Malta were tardy or did not fulfil their obligations. This seems to be another instance of a firm going under. I will ask the Central Bank - it is aware of my requirements - to inform us if anything untoward appears out of the Setanta Insurance situation, but so far that company seems to be a casualty in the system. There is no suggestion of culpability at the Central Bank as regulator or at the level of the Maltese regulator.

Deputy Michael McGrath: The real question is what lessons can be learned from the collapse of Setanta Insurance. Should we be making consumers more aware of the fact that certain firms licensed to sell insurance services in Ireland are not regulated in Ireland? It is mentioned in the small print and foot notes of the documentation provided, but people make a general assumption that a firm selling an insurance service in Ireland is regulated in Ireland when that is not the case. The Central Bank has confirmed to me that the ICF in Malta will not be available to Irish policyholders suffering as a result of Setanta Insurance's collapse. The Irish ICF will be available and will provide up to 65% of the amount due, but people will still be out of pocket. No one is blaming the Irish authorities, but something went wrong. A further 600 plus firms licensed to sell insurance in the State are not regulated in Ireland. I must admit this was news to me and believe it would be news to a great many consumers. I would like to see a profile of these 600 plus firms to know in which sectors they are operating. Perhaps they are not in the general business of selling insurance to consumers and are brass plate operations in the IFSC. I do not know, but we need to assess the matter further.

Deputy Michael Noonan: I do not disagree with the Deputy. The position on compensation *vis-à-vis* Ireland and Malta is as outlined by the Deputy. However, there is an internal market in Europe and there is a right to establish and trade. There is a free-flow of goods and services and insurance is one of the industries that benefits from the Internal Market. For example, some very large insurance companies operating here trade on the continent of Europe. Zurich is a huge employer here and trades very well. Even though its host regulator is the Central Bank of Ireland, it has various regulators where it trades. In general, the system seems to work.

In terms of the lessons to be learned, the principal lesson to be learned, as in all such situations, is *caveat emptor*, let the buyer beware. I would like brokers to have a more active role in advising customers because not only should they get the best deal for people who seek insurance through brokers, they should also provide a type of prudential service and advice on what they believe are sound companies and so on. Some brokers do this very well but others do not.

Credit Unions

2. **Deputy Peadar Tóibín** asked the Minister for Finance his views on whether the cumulative effect of lending restrictions on credit unions and the lack of clarity in the use of discretion by credit unions in lending is having a negative impact on the credit union movement's ability to advance loans to its members and thereby contribute to economic recovery. [23121/14]

Deputy Peadar Tóibín: As the Minister is aware, the credit union movement is important and unique. It is at the centre of the financial ecosystem in most communities across the island of Ireland. Credit unions have been through a very rough period, but, unlike the banks, they are still held in high regard and respect among their members and wider society and we must commend their professionalism and commitment in that regard. They can play a role in breathing new economic life into the State and encouraging regeneration. This question is about their ability to do this and the State allowing them to do so.

Deputy Michael Noonan: Credit unions have an important role to play in providing credit in local communities around the country and I am supportive of safe and responsible lending by them. Acting as the independent regulator, the Registrar of Credit Unions at the Central Bank has applied lending restrictions to some credit unions. I have been informed that these restrictions are viewed as short-term in the majority of cases and imposed as a means of allowing a credit union to address identified concerns as quickly as possible. Where lending restrictions are imposed, they tend to take the form of a restriction on individual loan size or commercial lending activity and, in some cases, a limit on the total lending permitted each month. At this time fewer than 10% of all credit unions have a restriction in place which limits the total amount of lending within the month, while close to 40% of all credit unions have a restriction on commercial lending activity. Currently, the average loan rate in the sector is just over €6,000 and about a dozen individual credit unions have lending restrictions that limit the amount loaned to less than €10,000. This ensures the vast majority of credit unions can continue to make loans significantly greater than the average loan for the sector. The Registrar of Credit Unions has assured me that restrictions are reviewed on a regular basis.

Under the Credit Union and Co-operation with Overseas Regulators Act 2012, I introduced the right for credit unions to appeal regulatory decisions, including those related to lending restrictions, to the independent Irish Financial Services Appeals Tribunal.

Section 35(2) of the Credit Union Act 1997 permits a credit union to have up to 30% of its loan book outstanding for more than five years and up to 10% for more than ten years. Based on the most recent information provided by credit unions for the Registrar of Credit Unions in the December 2013 quarterly prudential returns, average lending over five years as a percentage of gross loans was some 11%, while average lending over ten years as a percentage of gross loans was about 2%. These figures indicate that, in general, credit unions are well within the limits as set down in the 1997 Act.

Additional information not given on the floor of the House

I have been informed by the Registrar of Credit Unions that with regard to the impact of lending restrictions on the ability of credit unions to lend, it should be noted that data available to the registrar show that there is no material difference between the average loan-to-asset ratio of credit unions with and without restrictions. Also, where individual lending restrictions are imposed, the data show that the majority of credit unions are not lending up to the lending restriction amount, with the majority of loans granted being at lower loan levels.

The Registrar of Credit Unions has informed me that lending restrictions are, in most cases, intended to be short-term in nature and kept in place until the credit union has addressed the issues giving rise to the particular concerns advised to it and the registrar has evidence that the weaknesses in governance, systems and controls are properly remediated and solutions have been fully embedded by the credit union. The Registrar of Credit Unions has advised that a

27 May 2014

credit union that engages proactively in mitigating identified risks will find that the registrar is open to reviewing and, where appropriate, easing lending restrictions.

I am satisfied that the safety of members' savings and the security of the credit union sector as a whole are central to actions taken by the Registrar of Credit Unions.

Deputy Peadar Tóibín: Credit unions play a vital role in everyday life in urban and rural Ireland and those working within them have raised many concerns of which I am sure the Minister is aware. They have outlined these concerns to us and I have spoken to many other Deputies who have also heard them. The movement worked with my party and others in shaping the Credit Union Act. Some of its concerns flow from the imperfections in that Act. Others are more general and could be resolved with political will, I believe.

Section 35 limitations are not working. There is a need for regulations and new rules and this is fully accepted by the movement.

An Leas-Cheann Comhairle: A question, please.

Deputy Peadar Tóibín: Under section 35 the credit unions are being treated like the banks in terms of their being disallowed necessary discretion. Will the Minister allow for a common-sense approach to be taken with regard to the discretion credit unions should use in relation to the extension and restructuring of loans and offering further credit to those who can afford to pay?

Deputy Michael Noonan: We have all heard these objections. However, the facts do not bear them out. On the Deputy's point that section 35 is not working, under section 35, 30% of a loan book can be outstanding for more than five years. The credit unions have, on average, only 11% outstanding. Also, 10% of a loan book can be outstanding for more than ten years, but the credit unions have only 2% outstanding. This suggests to me that the credit unions are operating well within the headroom provided by section 35.

With regard to the impact of lending restrictions on the ability of credit unions to lend, I have also been informed by the Registrar of the Credit Unions that the data available indicates that there is no material difference in the average loan-to-asset ratios of credit unions with and without restrictions. Also, where individual lending restrictions are imposed, this data shows that the majority of credit unions are not lending up to the lending restriction amount, with the majority of loans granted being lower than the loan levels. According to the registrar, while it might impinge on individual cases, it certainly does not impose restrictions on the general work of the credit unions.

Deputy Peadar Tóibín: The information we are receiving indicates that there is a lack of flexibility with regard to restructuring and the provision of additional credit. The figures provided by the Minister paint a clear picture but one in respect of the credit union movement as a whole rather than individual credit unions.

The Commission of Credit Unions was of the view that a three-tier approach would work best, yet the Central Bank has proposed a two-tier approach. Why has the commission's view in this regard been discarded? There is suspicion that some credit unions will be forced to merge to ease the regulatory burden. The impact of the prudent lending circular is also raising concerns in that credit unions are being forced to interpret it in a conservative fashion, thus limiting their lending further. This, I believe, does not empower the credit unions to become

mechanisms of lending into the economy. Will the Minister outline what he proposes to do to address these concerns?

Deputy Michael Noonan: The Central Bank is the regulator, not the Department of Finance. The bank regulates principally to protect the interests of customers and to protect the savings of credit union members. It does not want credit unions to get into financial difficulty. There is a myth that all the banks were bad and all the credit unions were good, but this is not true. There have been credit unions that got into difficulty. The example of Newbridge Credit Union will be fresh in people's minds. Despite our having been told on several occasions how well it was trading and how prudent its lending policies were, it cost a great deal of taxpayers' money to get it out of difficulty. Following examination of the credit union, that did not appear to be the case. There are a small number of credit unions - thankfully, it is a small number - that are in difficulty. ReBo is communicating with the credit unions concerned. While there will, hopefully, be some amalgamations, these are not being driven by considerations other than the solvency and effectiveness of the credit unions. It is proposed to restructure the credit unions so that they can continue to play a vital role in our communities.

Tax Code

3. **Deputy Joe Higgins** asked the Minister for Finance how he reconciles the view that the income tax burden is too high on low and middle-income workers with the Government's policy of imposing new tax burdens on the same cohort, with the property tax on workers' homes and water charges; and if he will report on the income tax increases that would be equivalent to these new burdens for average workers. [23226/14]

Deputy Joe Higgins: Can the Minister reconcile the view that the tax burden on low- and middle-income workers is far too high with the fact that the Government is imposing other savings taxes, including on people's homes and water? Can he explain the contradiction?

Deputy Michael Noonan: In restoring the public finances to a sustainable path this Government has striven to ensure adjustments to taxation are made in as growth-friendly a fashion as possible. At the heart of this endeavour is the principle that the tax system maintains the right incentives for people to work and invest. Research by the OECD has shown that taxes on labour tend to be more damaging to economic growth than taxes on consumption and property. This is due to the disincentive effect it has on decisions made by individuals to work and invest in their education.

Efforts to reduce the budget deficit and increase the stability of the tax system have been guided by the Commission on Taxation, which was established to review the structure, efficiency and appropriateness of the Irish taxation system. As part of its wide-ranging review, published in 2009, the Commission on Taxation recommended the introduction of a property tax and water charges. Property taxes are a valuable component of a tax system on the basis that they offer a stable source of revenue for the State and have limited effects on people's decisions to work and invest.

With the above principles in mind, research by the OECD has shown that Ireland has one of the lowest entry points to the higher rate of tax as a proportion of the average wage within the OECD area. The point at which individuals begin paying tax at the higher rate in Ireland commences at just above the average wage. This reduces the earnings of people at this point in

27 May 2014

the income distribution, contributing to lower economic growth through reduced labour force participation and effort. An increase in the threshold at which people begin paying the higher rate of income tax would lessen the burden on people at this point in the income scale and increase economic activity.

Until the recent introduction of the local property tax, Ireland was one of the only countries in the OECD not to have a property tax. The lack of a stable source of revenue in the tax system during the recent recession placed significant strain on the public finances. The introduction of the local property tax has helped restore sustainability to the public finances while minimising the effects on people's decision to work and invest.

Additional information not given on the floor of the House

Finally, it is important to emphasise that incremental changes to a tax system should not be viewed in isolation from the tax system as a whole. Efforts to reduce the budget deficit by this Government have been guided over the period by the best available research from the OECD, the Commission on Taxation and others to achieve a sustainable budgetary deficit in as growth-friendly a way as possible. Comparing individual aspects of tax policy decoupled from the wider impacts of the existing tax system or the changes made to it over the course of fiscal adjustment can give misleading implications of wider tax policy effects on people and the economy.

As regards the request of the Deputy concerning the income tax increases which would be equivalent to the local property tax and water charges for average workers, it is not possible to be specific. Any required yield to be obtained from the income tax system could be achieved by many routes, including a reduction in personal tax credits, reductions in the standard rate bands, increases in the rates of income tax, reduction of the threshold for the universal social charge, reduction of the bands for the USC or increases in the rates of the USC. If the Deputy wishes to posit a specific alteration to the tax code in order to achieve a certain yield, I will be happy to have my officials, in consultation with the Revenue Commissioners, calculate the relevant outcome.

Deputy Joe Higgins: I am concerned about the effect on the lives of ordinary working people. The Minister has not answered my question on this. The reality is that, for workers on modest incomes, the property and water taxes will in a short period amount to anything from €1,000 upwards. This is a massive new austerity burden on their shoulders. At the same time, the Minister pretends to make a virtue of easing income tax. Does he not understand the total contradiction as far as working people and ordinary people generally are concerned? To obtain the stable revenue the Minister speaks about, why does he not turn instead to the big corporations whose scamming of the taxation system is an international scandal? We should tax the wealthiest in society rather than putting the burden on working people.

Deputy Michael Noonan: One gets less of what is taxed most. If everything is piled on income tax, there will be fewer people working. What I want is to change the tax base in accordance with the best advice available to make it more work-friendly. That means broadening the tax base and introducing taxes such as property tax. The view of anybody who comments on tax is that this is the proper way to proceed. It is not true to say that low-paid workers are totally burdened by the amount of taxes they pay. For example, 850,000 low paid workers pay no income tax at all; therefore, the Deputy's analysis is not correct.

Deputy Joe Higgins: That is pathetic; they do not pay tax because the Minister could not with any decency demand tax from them to allow them to have some kind of a decent life. Those on low and middle incomes do pay tax. I agree with having a progressive income tax system, but, while those on low and middle incomes cannot take any more, the Minister refuses to tax wealth. Based on 2012 figures for the big corporates, for example, and the fact that the effective tax rate has conservatively been estimated at 8%, an extra 1% would bring in €525 million, which would hardly be felt by the big corporates. Equally, a progressive tax on the highest income earners earning over €100,000 or €120,000 and a tax on wealth would yield substantial resources that, when invested, could remake this broken economy and create tax buoyancy generally. Broadening the tax base, away from income tax, through the two taxes the Minister has imposed has left ordinary working people worse off, not better off.

Deputy Michael Noonan: Our tax approach seems to be effective in the labour market because approximately 1,200 net jobs a week are being created and have been created for the past 17 months and the projections are that this level of net job creation will be maintained. It is a long-standing commitment across the main parties that the 12.5% corporation tax rate will be maintained and the Government is committed to it also. This is essential to our job creation programme, the flow of foreign direct investment into the country and something like 300,000 jobs that are dependent on the foreign direct investment. The Deputy is incorrect to say the effective rate of corporation tax is 8%. The most recent study was conducted by Professor Seamus Coffey of UCC, together with officials in my Department. They made an analysis of all the work done in recent years to come up with a figure for the effective rate of tax and their figure is 10.8%, a very high effective rate of tax on a nominal rate of 12.5%.

NAMA Operations

4. **Deputy Michael McGrath** asked the Minister for Finance the position on the ongoing review of the National Asset Management Agency's operations; when the review will come to a conclusion; if he is considering an early wind-up of NAMA; and if he will make a statement on the matter. [23188/14]

Deputy Michael McGrath: Today NAMA issued its annual report for 2013 and it seems to be making good progress towards achieving its objectives. This question relates to the suggestion NAMA will conclude its work ahead of the 2020 timeframe initially set for it. I note that both the chairman and the CEO said today that NAMA was well ahead of schedule in getting its job done and that the Department of Finance was conducting a review of NAMA's operations, with a view to deciding whether it should accelerate the completion of its work. I am looking for an update in that regard.

Deputy Michael Noonan: As the Deputy will be aware, section 227 of the NAMA Act 2009 requires me to complete a review of NAMA every five years. The purpose of the review is to assess the extent to which NAMA has made progress toward achieving its overall objectives and decide whether continuation of NAMA is necessary having regard to the purposes of the Act. As part of this review, my officials will examine NAMA's activity and performance with reference to the purposes of the Act, the purposes of NAMA under the Act and the objectives NAMA has established in regard to these purposes under the Act. While section 227 of the Act intends a review based on activity to the end of 2012 and every five years thereafter, owing to the intervening promissory note transaction and the liquidation of IBRC which was originally

27 May 2014

expected to have a significant and lasting impact on NAMA's operations, the report is being published in 2014 and will consider activity up to the end of 2013 in making its assessments and recommendations.

This first publication of the section 227 report roughly coincides with the first publication of the section 226 report by the Comptroller and Auditor General which I laid before the Houses of the Oireachtas following the Government's meeting on 20 May. As a result, the section 27 report will also benefit from the findings and recommendations of the section 226 report by the Comptroller and Auditor General on NAMA's progress, as well as the soon to be published 2013 annual financial results of NAMA.

The strategy and timing of NAMA's wind-down is one of the areas being examined as part of the review of NAMA being carried out by my Department. In the context of this review, I have asked NAMA to evaluate its disposal timing and strategy in the context of current market demand and explore the advantages and disadvantages of accelerating its disposal strategy. No decision will be taken on this matter until I receive feedback from NAMA on these points and my Department's review has been completed. My review of NAMA under section 227 of the National Asset Management Agency Act is well under way and I intend to lay the report before the Houses of the Oireachtas before the summer recess.

Deputy Michael McGrath: It is welcome that the report will be laid before the Houses before the summer recess because there is a big judgment call to be made on NAMA in the near future. It is clear that it has ramped up its disposal activity, is taking advantage of the more favourable conditions in the property market and ahead of schedule in the disposal of the overall loan and property book it acquired. This judgment call will have significant implications for the property market and the economy generally and it is important that all relevant factors are taken into account and that there is a careful weighing up of the different factors. I know that there are also considerations in respect of AIB's balance sheet which will be important in the Minister's considerations. It is an important judgment call and I would like to know whether the conclusions of the review in the next month or so will result in that decision being made public. Does the Minister intend to examine the possibility of setting a revised date ahead of 2020 for completion of NAMA's work?

Deputy Michael Noonan: I am committed to publishing the review before the summer recess and will make a decision shortly afterwards. The decision on the strategy for the disposal of the residual NAMA assets will be announced publicly. The Deputy is well aware of the considerations involved. First, when one disposes of the assets underpinning the loan books NAMA has, the third party purchasers frequently tend to refurbish their purchase, be it an apartment or office block. That results in additional investment and people being put back to work in the building industry. Therefore, there is a big advantage to the economy in speeding up this activity. Second, a contingent liability is removed from the balance sheet of the State. This is a very important consideration. The contingent risk or liability to the State between NAMA and IBRC was €45 billion. Given what has been done in IBRC's liquidation and to date in NAMA, that contingent liability will be down to €15 billion by the end of the year. Obviously, that is also a big consideration. The point made on the balance sheets of the banks is equally valid.

Deputy Michael McGrath: An additional point is that if the property market is on the way up, NAMA and, by extension, the State stand to be the largest beneficiary and we could lose out in a rising property market if NAMA is forced to wind up early. That consideration needs to be taken into account. My information is no better than that of anybody else on what direc-

tion the property market will take in the next few years, but if the evidence is that it is on the rise and that it is likely to continue to rise for the next few years, this might also influence the Minister's decision. While the National Asset Management Agency Act makes it clear that the primary objective is to repay the senior debt of €30 billion and the subordinated debt of almost €2 billion, we want NAMA to make a profit. I know that the Minister was initially against its establishment, but it is doing very well and seems to be completing its objectives and if it can make a profit and, therefore, make some inroads in the recapitalisation of the banks which was crystallised by the establishment of NAMA, it would be an even better day for the taxpayer.

Deputy Michael Noonan: NAMA is obliged to act in the interest of the taxpayer and that is the Government's obligation and interest as well. Considerations of a play on the property market should not be the primary concern. People who waited for the market to peak during the Celtic tiger crashed out and those who sold at a lesser price took their money with them. It is, therefore, a difficult call but it is not the purpose of governments or a Minister for Finance to play the property market. The purpose of the Government and the Department of Finance is to protect the interests of the taxpayer and to ensure that, at a minimum, no additional liability arises. NAMA is going well under those considerations. It will pay back all its senior and subordinated debt and it looks now, even though it has assets to dispose of yet, that it will show some degree of a surplus. If property prices go up, that surplus might increase; if they go down, there might be no surplus. Everything in markets is temporary. Ireland had approximately 58% of the property transactions in Europe in 2013 in value terms. That will not last either. Nothing lasts; these things never last.

Oireachtas Banking Inquiry

5. **Deputy Peadar Tóibín** asked the Minister for Finance if he will release the letter, dated 19 November 2010, of Jean Claude Trichet or give a firm commitment that it will be available to the banking inquiry; and if he will detail the communication he has with the ECB on this issue. [23122/14]

Deputy Peadar Tóibín: Six years into the economic catastrophe, the people are still seeking the truth about what happened. They want a 360 degree view of what happened and no blind spot should be created by any institution, not least the ECB. People want to know what role the ECB played and the question asks the Minister to indicate whether he will release the letter, dated 19 November 2010, of Jean Claude Trichet to the former Minister for Finance, the late Brian Lenihan, or give a firm commitment that it will be available to the banking inquiry.

Deputy Michael Noonan: In early 2014, when the ECB initially sought my views in the context of its discussion on the possible release of the letter, I indicated that the decision to release the letter was a matter for the ECB. However, it is important for relationships between institutions to be developed and sustained to allow confidential negotiations to take place especially on sensitive issues.

Requests to release the letter have been considered under our own freedom of information legislation on a number of occasions. The decision has been to refuse these requests in line with relevant sections of the FOI Acts and the refusal to release has been upheld on one occasion by the Office of the Information Commissioner.

Separately, the European ombudsman investigated the refusal by the ECB to release the let-

ter under the ECB's freedom of information processes. I understand the ombudsman's office found that the ECB was entitled not to disclose the letter. I understand that when the European ombudsman suggested a "friendly solution" and invited the ECB to disclose the letter, the Governing Council of the ECB came to the view that it was appropriate that the letter would not be disclosed at this time but indicated that it will reevaluate disclosure of the letter at a more advanced stage of post-programme surveillance.

As regards the release of the letter to the banking inquiry, any request which may be received from the inquiry will be considered, taking into account the terms of reference of the inquiry. It would be standard practice and, in line with the principle of co-operation among public institutions, for the ECB to be consulted before a decision is made on its release.

Deputy Peadar Tóibín: I am not clear whether the Minister has answered the question. The ECB responded to a question by my colleague, Ms Martina Anderson, MEP, which stated: "It would be standard practice in line with our principle of sincere co-operation among public institutions for the Irish Department of Finance to consult the ECB on potential release of the letter." It then refers to the Department of Finance and "the potential release of the letter to the Oireachtas in light of the then prevailing circumstances on the basis of the appropriate weighing of relevant European Union interests". This reads like the ECB is seeking a veto over the release of the letter and it seems the Minister is handing that veto to the ECB. The ECB sees its responsibility as weighing the appropriate relevant European Union interests, but the Minister's responsibility is to weigh up Irish interests on this issue. I ask the Minister to stand up for Irish interests in this regard.

Deputy Michael Noonan: The Deputy is well aware that freedom of information requests operate in accordance with the law. They are not ministerial functions. The law is interpreted by a designated official within Departments and agencies. The decision not to release a copy of the letter in Ireland was made under the freedom of information law. In Europe, the decision was made by the European Ombudsman that the European Central Bank was within its legal rights in not releasing the letter. However, the ECB also said, when asked if this could be resolved on a friendly resolution basis, that as time went by its difficulties with the release would diminish. We will see where that stands when the terms of reference of the banking inquiry are brought forward and what happens at that stage.

The issue is that international communications are excepted from freedom of information. Correspondence with another country or with an international agency is treated as exceptional. Personally, I have no problem with whether it is released. It is like the third secret of Fatima - people will be a little disappointed when they see it.

Deputy Peadar Tóibín: The Minister should leave it up to people to be disappointed. Surely people should not be protected by the Minister in this regard.

Deputy Michael Noonan: I am not an actor in this. I explained that to the Deputy.

Deputy Peadar Tóibín: Does the Minister not have any power to release this letter? Do the Irish people not have an entitlement to understand the contents of the letter? This letter is important in the context of a banking inquiry. A banking inquiry should have a 360-degree view of what happened and no blind spots should be created by the Minister or the ECB. It is worrying that the ECB will not commit to providing this letter, but what is more worrying is the Minister's lack of commitment today to providing unfettered access to a complete, unredacted

version of the letter. Will the Minister guarantee that he will make every effort to ensure that all his authority is used, in so far as it can be, to ensure this letter is provided?

Deputy Michael Noonan: It is a typical Sinn Féin approach to ascribe views to people that they do not hold. I have no legal power or authority to overturn the decision of an information officer who is acting under the provisions of the Freedom of Information Act. I have no legal power or authority to overturn a decision by the European Ombudsman, who is acting under her legislation. When the European Ombudsman requested a friendly resolution to this, the ECB refused at that point but said that it might be open to that suggestion later in the time sequence. When the terms of reference for the banking inquiry are established, I have no doubt there will be a request to the Department of Finance for all relevant information. If I have the power, I will deal with the issue at that point.

Other Questions

Tax Reliefs Application

6. **Deputy Billy Kelleher** asked the Minister for Finance the consultations he and his Department have undertaken with the Department of Health with regard to the cap for tax relief on private health insurance introduced in the last budget; and if he will make a statement on the matter. [22577/14]

Deputy Billy Kelleher: Last year in his Budget Statement the Minister announced a cap on the tax relief for private health insurance. At that time he said that only gold-plated private health insurance policyholders would suffer as a result of the €1,000 tax relief cap. Of course, that has not transpired. The vast majority of families who are struggling to pay for private health insurance find themselves facing a huge increase in the cost of that insurance. What consultation did the Minister's Department have with the Department of Health in view of the fact that this policy flies in the face of the Government's intention to move to universal health insurance, whereby everybody will be compelled to have private health insurance?

Deputy Michael Noonan: Decisions regarding tax matters are primarily a matter for my Department and the Office of the Revenue Commissioners. However, the budget was agreed by the Government before being announcement on budget day. From 16 October 2013, tax relief for medical insurance premiums has been restricted to the first €1,000 per adult and the first €500 per child insured. Any portion of premium paid in excess of these ceilings no longer qualifies for tax relief. Previously, income tax relief for medical insurance premiums was provided at source on the entire premium amount at the standard rate of income tax, regardless of cost. This meant the State was paying 20% of the cost of all private medical insurance premiums. The cost of income tax relief in respect of medical insurance, which has increased significantly in recent years, was estimated at €404 million in 2011, €448 million in 2012 and €500 million in 2013. Despite the increasing cost of the relief, the number of those insured is estimated to have decreased by approximately 170,000 over the same period. At the same time, the level of medical cover has decreased on some policies. Against this background, the increase in costs was unsustainable. If the relief had remained unchanged while the trends continued, the cost would have increased to approximately €1 billion per annum by 2020.

27 May 2014

Notwithstanding the recent reform, the tax system is still supporting those who can afford private medical insurance to the tune of approximately €400 million per annum. In effect, some taxpayers who could never afford private health insurance or who have had to give up their policies due to personal circumstances are continuing to provide financial support via the tax system to those individuals who can afford such insurance. In its 2009 report, the Commission on Taxation recommended the retention of medical insurance relief but suggested it should be limited. The introduction of an upper ceiling on the amount of medical insurance premiums that will qualify for tax relief achieves this recommendation. The new ceilings ensure continuing support via the tax system for those who purchase medical insurance policies, while reducing Exchequer exposure to more expensive policies.

Deputy Billy Kelleher: The difficulty we have is that the Minister got it spectacularly wrong when he announced that his intention was to introduce a cap on private health insurance that would only affect gold-plated policies. With all due respect to the Departments of Health and Finance, the definition of “gold-plated” leaves a great deal to be desired. The vast majority of ordinary families who struggle daily to purchase private health insurance are finding that the cap on the tax relief is affecting their ability to continue to fund their premiums.

I want to know what discussions the Departments had. Was there an examination of the broader health policy in view of the fact that families will be forced from 2019 onwards to take out compulsory health insurance? The idea should have been to attract more people in to sustain the private health insurance market during the move to universal health insurance. The opposite has been the case with the decision to cap tax relief on ordinary families.

Deputy Michael Noonan: The Deputy should look at the text of my budget speech in which I used the phrase “gold-plated”. It was not as the Deputy is describing it. The tax relief that was provided was a relief at the standard rate of tax of 20%. The cap is at €1,000 per adult. Somebody who pays up to €1,000 per adult continues to get the 20% relief. If it goes over €1,000, the tax break is lost on the balance above that. They will still get the relief on the €1,000. Where somebody has an adult policy of €1,200, 20% of €200, would be €40. The big tax take is from those who have very expensive schemes. That is what I am talking about.

I am acting in line with the report of the Commission on Taxation. Given that 44% of the community has private health insurance, the Deputy’s proposition is to the effect that they should be subsidised without any limit by the other 56%. That is what the relief scheme is about. From where does the Deputy think the money comes? It comes from other taxpayers. If he is talking about equity, he must look at this aspect. It was unaffordable and will not continue. I will not continue with having 56% of the people who cannot afford private health insurance subsidising those who can. As that is what it is about, we limited the figure, which was reasonable and fair.

Deputy Billy Kelleher: The Minister has forgotten that the people who pay private health insurance are subsidising the public health system. It is very much a merry-go-round because many families are making extraordinary efforts to maintain private health insurance and removing the responsibility from the State to provide health care for them. In effect, they are subsidising the public health system by taking out private health insurance. Coupled with this, the Government has decided to charge full cost for private patients in public beds. There is cross-subsidisation. We do not want the State to subsidise gold-plated health insurance policies, but the definition of gold-plated means that ordinary health policies without bells and whistles are being directly affected. The cost increases are exerting major pressure on families, more of

whom are dropping out of the private health insurance market. This is undermining the market. I am referring not to the policies with bells and whistles but to ordinary health insurance policies.

Deputy Michael Noonan: There is no impact on adults with health insurance policies costing under €1,000 gross. There is an impact above that figure. It does not have much of an impact on people with modest health insurance policies but impacts a little on people at the top. I do not disagree with the Deputy that people with health insurance and those on middle incomes are finding it hard to live. He should direct his attention towards the massive increases in costs by the health insurance companies. The cost has increased by 86% in four years. If the Deputy thinks I will automatically link with them and automatically subsidise them as they increase the cost further, that is not the case. We are capping the figure and it has been capped. We will not start to cap it at a lower rate in the next budget. I defend the policy decision taken. It was a very good one because we could not continue to ask the 56% of people who did not have private health insurance to subsidise through their taxes those who did.

An Leas-Cheann Comhairle: Deputy Denis Naughten is not present for Question No. 7.

Question No. 7 replied to with Written Answers.

Mortgage Schemes

8. **Deputy Mick Wallace** asked the Minister for Finance his plans for a mortgage insurance scheme for first-time buyers; and if he will make a statement on the matter. [23047/14]

Deputy Mick Wallace: The Government's document, Construction 2020: A strategy for a renewed construction sector, states consideration will be given to the concept of a mortgage insurance scheme. Specific reference is made to the Help to Buy scheme in the United Kingdom. Will the Minister elaborate on plans in this regard?

Deputy Michael Noonan: The Government recently launched Construction 2020: A strategy for a renewed construction sector. The purpose of the strategy is to underpin the future competitiveness of the country, ensuring we will continue to be well positioned to attract the inward investment that has been so important to our economic development. The strategy includes the Government's desire for a return to sustainable levels of mortgage lending as part of a healthy market. This involves the consideration of measures to stimulate the development of housing. In order for developers to be supported, they need confidence that customers will be capable of accessing finance to purchase new builds. This means mortgage products being available to potential purchasers with an ability to support repayments.

In Ireland's recent abnormal housing market we have seen lending volumes decline dramatically. The banks are highlighting the lack of supply of houses in particular urban areas as a contributing factor in the lack of drawdown of approved mortgage facilities. I look on the development of this initiative as being an aid to encouraging and facilitating the supply of new homes, particularly for young families. In other jurisdictions such as the United Kingdom and Canada mortgage insurance markets have been developed to support bank mortgage lending, particularly to first-time buyers. Mortgage insurance allows banks to share the risk of mortgage lending, either with the public sector or private sector insurance companies, with the aim

of increasing bank lending in general or to target groups. My Department is committed under this strategy to examining the concept of a mortgage insurance scheme and how it might benefit new housing completions in the Irish market. The objective of any scheme would be to ensure adequate availability of mortgage finance on affordable terms for new completions, particularly for first-time buyers, as the economy recovers. In doing so we would aim to provide the certainty needed to support greater levels of investment in new housing, with the associated benefits for the construction sector and ultimately for the consumer.

As the construction strategy mentions, my Department is undertaking an economic impact analysis which will assess the impact such a scheme would have on the Irish housing market, taking into consideration time limits, targeting first-time buyers or owner-occupiers and focusing on new housing. The analysis will draw lessons from mortgage insurance initiatives undertaken in other countries and will include questions as to the appropriateness of a price cap as well as regional or geographical restrictions. Once this analysis has been completed and presented to me, I will consider the next steps.

Deputy Mick Wallace: The Minister would surely agree with me that supply is a bigger problem than demand. He might argue that the sort of incentive he mentioned might indirectly increase supply. However, there is a fear now that any Government moneys spent on increasing demand will only facilitate another property boom and the banks. This is difficult to understand, given that the banks would be out of business but for the help they got from the Government and taxpayers. It beggars belief that we cannot tell the banks what to do at any level. We do not seem to be able to encourage them to lend as much as they should without the provision of some sort of subsidy by the Government. The elephant in the room, and the reason supply is so poor, is that the Government no longer builds social housing. Would the Minister agree that the most positive move the Government could make now would be to start a huge social housing programme?

Deputy Michael Noonan: There are more than 70 recommendations in the construction initiative published by the Government, and through the Cabinet sub-committee the Taoiseach will, on a month-by-month basis, ensure these initiatives are introduced and developed. The Deputy is aware that the housing market and the building industry have been in crisis for many years and that they constitute an impaired sector of the economy. Many good builders have had to go out of business. Deputy Wallace understands that there are fundamental rules but, based on comments they have made, many other Deputies do not understand these rules. First, no builder builds a house unless he knows he can sell it for more than it cost to construct it. We have only barely passed that point in some areas in the past 12 months, but have not reached it yet in some parts of the country. Second, a builder must finance the build.

This initiative is not a demand-side initiative, because we are not applying it to second-hand houses. If we introduce this, it will be for new houses only. The initiative in the United Kingdom has increased the supply of new houses outside London by one-third in the two-year period since it was introduced. It is a supply-side initiative, not a demand-side one.

Deputy Mick Wallace: George Osborne's Help to Buy scheme has cost the British taxpayer £12 billion and has led to a serious increase in the price of housing. The Minister is right that a builder cannot build unless he can make ends meet and the project makes a profit. Does the Minister not agree that the biggest problem in Ireland is the land bank accumulation that goes on? It is not the builders that are accumulating land, but a different type of individual. A very small group of people here control most of the development land. Surely the time has come for

the State to take an active part in controlling the price of development land.

In his response to Deputy McGrath's question on NAMA and bank sell-offs, the Minister said there was good money coming into the country. I suggest to him that the selling off of big blocks at a price of €100,000 or less per unit will prove problematic.

3 o'clock

There are units for which the ordinary individual would have to pay in the region of €230,000 or €240,000. Large investors buying huge numbers of them at a time are getting them for €100,000 or less each. Not only are we selling off valuable assets at a knockdown price, but these people are gaining serious control over the rental market. Never in the history of the State have so few people controlled such a number of units that are available for rent, which is adding to the problem of housing availability and homelessness.

An Leas-Cheann Comhairle: The Deputy is on a different question.

Deputy Michael Noonan: These are considerations that the Government always takes into account. However, we are dealing with a situation in which the whole building industry collapsed for reasons we are aware of. Many good builders can no longer build. We are trying to take initiatives to get it going again. We have succeeded to a great extent by removing the overhang in Dublin through sales of property by NAMA and IBRC, and there are cranes on the skyline again. We are so far away from one of these unsustainable building booms that I do not know why people talk about it. People can only analyse things through the lens of the past. They would want to start looking at the future and ask what we can do to put 25,000 houses a year into this country again when last year we built 8,000. Much of that needs to be done through supply-side measures. I will do an economic analysis on the subject matter of the question, and if I think it can improve supply, I will take action in the Finance Bill; if I think it will not, I will not.

National Debt

9. **Deputy Thomas P. Broughan** asked the Minister for Finance if savings can be made on servicing the national debt next year; the expected interest payments required for the national debt for 2015; his views on the growing burden of interest payments on the national Exchequer; and the measures he will take at a European Union level to have these payments greatly reduced. [22321/14]

Deputy Thomas P. Broughan: My question is premised on concerns held by people in my constituency and elsewhere, which we heard so vociferously in the past six or eight weeks, regarding the desperate impact that the national debt and interest repayments are having on the national budget and how that will constrict whatever efforts the Minister might try to make in October to have a more expansionary budget.

Deputy Michael Noonan: The stability programme update, SPU, published last month, provided an estimate for general Government interest expenditure of €8.45 billion in 2015. This is a reduction of €300 million on the corresponding budget 2014 estimate, primarily reflecting an improvement in the interest rate environment generally.

The interest expenditure projection for 2015 will be further reviewed in the context of bud-

27 May 2014

get 2015 in the autumn and will reflect developments in the interim as well as the outlook at that time, including for interest rates and funding requirements.

As regards 2016 onwards, the SPU shows that interest expenditure is projected to increase in nominal terms over the forecast horizon. This is primarily a reflection of further, albeit decreasing, deficits in the public finances in the coming years, which are driving an increase in general Government debt in nominal terms over the forecast horizon. When measured as a percentage of GDP, however, general Government debt is projected to trend downwards from this year onwards. These reducing deficits are part of the phased correction of the public finances. This policy of phased correction, implemented in as fair and equitable a manner as possible, has allowed growth in the economy to return.

While the continuing Exchequer deficits add to the national debt and the associated interest costs, the size of the deficit is continually decreasing each year. My Department's most recent forecasts show a primary surplus is projected next year, both in Exchequer and general Government terms. This means that, excluding interest costs, revenue will be more than sufficient to meet expenditure commitments. Furthermore, the medium-term budgetary objective of a balanced budget in structural terms is set to be achieved in 2018. This should help to lower interest costs.

Importantly, general Government interest expenditure when expressed as a percentage of total general Government revenue is projected to remain at more or less the same level over the medium term and well below levels seen in the 1980s. It is important to recognise what has already been achieved in reducing the interest burden. In 2011 the interest margins originally charged on the EFSF and EFSM facilities were removed, with significant benefits in terms of reducing interest expenditure. The restructuring of the IBRC promissory notes, delivered last year, also has significant benefits in reducing general Government interest expenditure.

Deputy Thomas P. Broughan: I will deal with the Minister's final point first. The reductions to which he refers to some extent relate to debts that no one ever even attempted to pay down. The reality is that the €8.5 billion in income tax to which he refers equates roughly to the entire education budget. In the past three years the Government of which he is a member has imposed savage cuts in the health budget, which is a little bigger than that for education. The Fianna Fáil-led Administration which preceded the Government also imposed savage cuts in the health sector in the three years prior to 2011. The total figure for the cuts to which I refer is currently running at €32 billion, a phenomenal sum in the context of the national budget. Should the Government not be more robust in its efforts to have some of the overhang relating to the disastrous blanket bank guarantee reduced to a significant degree? The burden with which the people have been saddled is huge. Many economists are of the view that GNP is a better indicator of the level of the burden. When one uses GNP as the method of comparison, it becomes obvious that the country is operating in the shadow of an enormous monolith of debt. I am sure the Minister has read *Plan B: How Leaving the Euro Can Save Ireland* by Cormac Lucey. I am not suggesting the Government is going to adopt a plan B, but some of the figures put forward by Mr. Lucey and others are truly frightening. There may come a point when the Government - not just individual Ministers within it - is long out of office and the nation, as a result of its incompetency, is still burdened with a savage amount of debt.

Deputy Michael Noonan: Most countries have national debts; I do not know of any country which does not have such a debt. If one is running a national debt, one pays interest on outstanding loans. That is the way countries behave if they wish to remain solvent. Ireland's

national debt is just in excess of €200 billion, of which some €64 billion arises from the situation with the banks, while €138 billion relates to the fact that we and our predecessors in government have run deficits. That is why we are obliged to reduce our deficit. On each occasion on which we run a deficit, the national debt increases and the interest burden which the Deputy deplures also rises. If we were to implement what all those who advocate additional expenditure and no cuts in expenditure are seeking, the debt would rise again and we would be obliged to pay more interest on it. It is not possible to have it both ways.

The Deputy has stated the final point I made in my initial reply is not real. Of course it is real. There is no longer a margin on the official debt relating to Europe, which is down to the rate which applies to borrowing. That is of huge advantage to Ireland because it reduces our interest rate.

The Deputy has also referred to the deal on the promissory notes and stated it has had no benefit. Some €30 billion was involved in that regard. The Deputy will recall that up to two years ago a bill of €3 billion in respect of the promissory notes had to be paid each March.

Deputy Thomas P. Broughan: It was not paid.

Deputy Michael Noonan: It was paid in the first year in which we were in government, when the Deputy was still a member of the Labour Party.

Deputy Thomas P. Broughan: It was not paid.

Deputy Michael Noonan: It was not paid after that and we then negotiated our way out of it. The effective rate of interest on all of that money now stands at approximately 1%. The money to which I refer is not of the pretend variety; it is real.

Deputy Thomas P. Broughan: I am not sure the European Central Bank would agree.

Deputy Michael Noonan: The Deputy should not be concerned with that old guff.

Deputy Thomas P. Broughan: At this time last year, other Members and I on the left in this House presented alternative budgets and alternative ways of raising money. However, the Minister informed us that we were crazy. That is the reality. We were prepared to balance budgets and know how to do so. We also indicated that we were prepared to facilitate effective budgets and address the problems relating to the national finances left behind by the disastrous Fianna Fáil-Green Party Government. Unfortunately, for the past three years the Government has implemented remedial policies similar to those put in place by the previous Administration. Earlier today the Minister referred to history judging people. Many future historians will say the Government of which he is a member carried on the policies implemented by the Administration which preceded it and that those in the Labour Party were insane to take power with Fine Gael. The point is, whatever way we look at it, an education budget and a health budget are being spent on interest repayments, ultimately, to refund gamblers in the Irish banking system. This continues to be an outrage.

Deputy Michael Noonan: More than two thirds of the Irish national debt is due to previous Governments running deficits. That is a fact. Less than one third is due to what Deputy Broughan deplures, that is, bust banks that had to be recapitalised and bailed out.

Deputy Broughan should not pretend that foreign bankers imposed this on us. Much of the burden of the debt was done domestically, over two thirds of it in fact. As we continue to run

27 May 2014

deficits - we will run one this year and next year - it increases the debt. As we increase the debt, it increases the amount of interest we have to pay. It is simple economics.

Finally, history will be a good deal kinder to the Tánaiste, Deputy Eamon Gilmore, than to Deputy Tommy Broughan when an assessment of this is made in future.

Deputy Thomas P. Broughan: We will see what the historians say.

An Leas-Cheann Comhairle: The next question is in the name of Deputy Lucinda Creighton. Since Deputy Creighton is not here we will call Deputy Seán Kyne, who has tabled Question No. 11.

Questions Nos. 10 and 41 replied to with Written Answers.

National Payments Plan Implementation

11. **Deputy Seán Kyne** asked the Minister for Finance to outline the steps being taken to prepare for e-day in September, after which Departments and public sector agencies will no longer issue or accept cheques; if this includes local authorities; and if measures are being implemented to ensure continued ease of payment, in particular for the public and small local businesses. [16788/14]

Deputy Seán Kyne: What steps are being taken or have been put in place for e-day in September 2014 in respect of the use or issuing of cheques?

Deputy Michael Noonan: From 19 September 2014, e-day, public sector bodies such as Departments, State agencies and local authorities will no longer issue cheques to or accept cheques from businesses. This is being implemented as part of the national payments plan for Ireland to help reduce cheque usage generally in an effort to tackle late payments, improve cashflow and reduce costs for Irish businesses. E-day only applies to businesses and not to the public at large. For example, it will not impact on social welfare cheques. It applies to all public bodies, including local authorities.

The majority of affected public bodies already offer alternatives to cheques and by e-day they should all be offering some or all of the following payment options: electronic funds transfer, EFT, direct debit, whether single payment or recurring, credit card payments and debit card payments.

On 22 May 2014 my Department issued a reminder to all Departments, Government offices, local authorities and State agencies that e-day comes into effect on 19 September 2014. A press release was issued on 23 May 2014 and related documents are available on the Department's website.

E-day was launched in September last year to give businesses and public sector bodies 12 months to prepare for the smooth transition to electronic payments. Cheque usage has halved in Ireland since 2005 but Irish businesses still write 33 million cheques every year. The particular focus of e-day is to encourage SMEs to migrate from cheque usage.

The Department's reminder letter to Accounting Officers attached a guide produced by the

programme office of the national payments plan setting out several payment options with pros and cons as they relate to the operations of State agencies. Accounting Officers were reminded that any exceptional cases should be kept to an absolute minimum, a timetable should be established for the elimination of exceptional cases and any residual exceptions for which a timetable cannot be established should be identified and reported to the Department of Finance. Accounting Officers were also encouraged to consider the needs of people with disabilities when deciding on what payment options are to be offered.

Additional information not given on the floor of the House

The national payments plan notes that businesses and consumers will benefit when Ireland reduces its dependence on cheque and cash payments in favour of safer and more efficient electronic payments. Cheques are an expensive means of payment for businesses because of bank charges, stamp duty, postage, time spent making lodgements, unpaid cheques and the cheque-is-in-the-post culture of late payments. Businesses in most other EU countries have stopped using cheques. Businesses are advised to prepare for e-day by discussing payment solutions with the relevant contracting Government bodies and banks.

Deputy Seán Kyne: There is concern among some small and medium-sized enterprises, sole traders, community organisations and groups that they may be at a disadvantage. I know this has been an issue. Is the Minister satisfied that enough has been done to make these groups aware?

I am aware that cheques as a method of payment are being removed in the long term in favour of new technology. When is this likely? What has been put in place to advise people of the change?

Deputy Michael Noonan: I welcome the fact that Deputy Kyne has raised the issue because September is not far away. Public attention needs to be drawn to the fact that e-day is coming. Although it does not apply to the public in general or to social welfare payments it will apply to all businesses and State agencies. There needs to be increased public awareness and I hope Deputy Kyne's question gets some publicity to this end.

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 Mick Wallace - the need to include architectural technologists on the construction professionals building regulations list; (2) Deputy Maureen O'Sullivan - the need for an update on issues relating to Magdalen laundry survivors; (3) Deputy Sean Fleming - the decision to no longer carry out school dental screenings in the midlands under the public dental service; (4) Deputies Noel Coonan and Joe McHugh - the delays in vehicle registration tax registration for motorhome vendors; (5) Deputy Billy Kelleher - the financial position of the Health Service Executive; (6) Deputy Clare Daly - the position regarding primary school places for children due to start school in September 2014 in Swords, County Dublin; (7) Deputy Dessie Ellis - the occupation of the Paris Bakery, Moore Street, Dublin 1 by staff; and (8) Deputy Michael McGrath - the locations where one-stop-shop Intreo offices are now open throughout the

27 May 2014

country.

The matters raised by Deputies Mick Wallace; Noel Coonan and Joe McHugh; Sean Fleming; and Dessie Ellis have been selected for discussion.

Business of Dáil

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): It is proposed, notwithstanding anything in Standing Orders, that Oral Questions to the Taoiseach shall not be taken today and that Leaders' Questions shall be followed by the Order of Business.

An Ceann Comhairle: Is that agreed?

Deputy Micheál Martin: Does that apply to Leaders' Questions as well?

Deputy Paul Kehoe: No.

Deputy Finian McGrath: They will be taken at 10 p.m. tonight.

An Ceann Comhairle: Is that agreed? Agreed.

Return to Writ: Dublin West

Introduction of New Member

The Clerk Assistant of the Dáil made the following announcement:

I gcomhlíonadh Bhuan-Ordú 175 de na Buan-Orduithe i dtaobh Gnó Phoiblí, tá orm a chraoladh go ndearnadh, sa Chorrthoghchán a bhí ann an 23 Bealtaine, 2014, de chionn an Teachta Pádraig Mac an Ultaigh d'éirí as, an comhalta seo a leanas a thoghadh don Dáil:-

In compliance with Standing Order 175 of the Standing Orders relative to Public Business, I have to announce that at the By-Election held on 23 May, 2014, consequent on the resignation of Deputy Patrick Nulty, the following Member has been elected to the Dáil:-

Dáilcheantar Bhaile Átha Cliath Thiar Ruth Choipingéir

Constituency of Dublin West Ruth Coppinger

Tá Rolla na gComhaltaí sínithe ag an Teachta de réir Bhuan-Ordú 1.

The Deputy has signed the Roll of Members in accordance with Standing Order 1.

An Ceann Comhairle: On this happy occasion I am sure I speak on behalf of all Members when I extend a warm welcome to Deputy Ruth Coppinger. I hope that your time here will be productive and happy. Today is a special occasion for you and your family and supporters, some of whom are present in the Gallery. They are also very welcome. I wish you well during your period here.

Minister for Finance (Deputy Michael Noonan): I would like to be associated with the Ceann Comhairle's remarks of congratulation to Deputy Ruth Coppinger. I hope she has a long and distinguished career in the House.

Deputy Micheál Martin: On behalf of my party and on my own behalf, I congratulate Deputy Ruth Coppinger on her success in the by-election and welcome her to the Chamber, which is the key national decision-making chamber in our public life. She has demonstrated a long-standing commitment to public matters and public affairs. Irrespective of our different perspectives on politics, participation in politics is fundamentally the glue that keeps us all together. I welcome the Deputy to the Chamber and look forward to many a spirited and engaging debate as matters ensue.

Deputy Gerry Adams: Ar mo shon féin agus ar son Shinn Féin, ba mhaith liom fáilte a chur roimh an Teachta Ruth Coppinger. Le cuidiú Dé, beidh muid ábalta obair le chéile ar son mhuintir an Stáit agus an oileáin seo.

Deputy Joe Higgins: I am sure the days following on will not be as serene and friendly as this moment, but sufficient for this day is the joy thereof. Ar an gcéad dul síos, céad míle buíochas do mhuintir Bhaile Átha Cliath Thiar. I express the deepest appreciation of the Socialist Party and the Anti-Austerity Alliance to the people of Dublin West for sending the former Councillor Ruth Coppinger to Dáil Éireann to represent them alongside myself. I welcome Ruth's family and supporters to the Visitors Gallery. Her late parents would be delighted to be here as well if things had been different.

The now Deputy Coppinger has been a sterling fighter for the ordinary people of Dublin West for a very long time, leading and assisting the crucial campaigns that were necessary, for example, to defend services at Blanchardstown hospital and resist cuts to special needs assistants, campaigning with those desperately in need of homes, campaigning to resist draconian austerity taxes, campaigning with those affected by pyrite, campaigning with those afflicted by private management fees, and, today, campaigning with the Paris Bakery workers scandalously forced to occupy their premises for the unpaid wages and rights to which they are entitled.

On 23 May, the ordinary people of Ireland did not merely speak - they absolutely thundered against the injustices of the austerity burden placed upon them for six years to salvage a degenerate and socially destructive European financial market system. That burden has been borne by the child who has special needs or is acutely ill or the pensioner whose medical card has been callously removed, by low and middle-income workers and the unemployed now threatened with punitive water taxes, and by the young frog-marched into forced labour schemes or forced out of their country. These policies of austerity have been crushingly rejected. The Government is now suspended in mid-air, with no democratic legitimacy for further austerity. Like a pair of schoolyard bullies against whom the schoolyard has finally revolted, Fine Gael and Labour are left politically pummelled and punch-drunk, one sprawled senseless on the floor, the other staggering around in a daze.

(Interruptions).

Deputy Michael Healy-Rae: They are laughing at themselves.

Deputy Joe Higgins: This was a referendum of the ordinary people of Ireland. The people

27 May 2014

have decided. Therefore, forthwith, restore the medical cards, abolish the water tax and build the homes that are desperately needed. By the way, what a crushing indictment it is of this Government that, in 1975, 8,794 homes were built by local authorities, whereas last year 293 were built, with 90,000 families waiting.

As the Labour Party has melted into the capitalist establishment, there is a real thirst in our country for a new political movement that is independent of that establishment. It is a genuine mass movement that represents ordinary people. This means organising to fight for real change, whereby the wealth in society is used and developed not to enrich the few, as now, but to transform the lives of our people and end the suffering of so many.

On Friday, people turned in droves from the Government. Hard questions will be asked of all those to whom they turned, including Independents and Sinn Féin, as to whether they are prepared to lead a movement to break with the disaster of capitalist economics, which has resulted in 26 million people being unemployed in Europe, and capitalist politics, or whether they will take a road that mirrors the Labour Party's unfortunate trajectory.

For Ruth Coppinger, as for myself in this assembly, the great socialist James Connolly, whose statue stands behind us, will be a constant inspiration and reminder that we are here not to serve any personal ambition but to struggle for democratic socialist change to achieve the transformation of our society in a way that can meet the needs of all our people and end the barbarities and cruelty inflicted on so many by the present system.

Leaders' Questions

Deputy Micheál Martin: It is fair to say that one of the issues that had caused the greatest offence to the people we met on the doorsteps in recent weeks, irrespective of whether they were affected by it, was the policy position of the withdrawal of discretionary medical cards from very sick people, children with multiple disabilities and people with life-limiting and life-threatening conditions. To be honest, every Deputy heard shocking stories on doorstep after doorstep that went to the heart of the Administration's insensitivity - for example, of people terminally ill with cancer and brain tumours who had their cards taken from them.

We have been raising these issues with the Taoiseach and the Minister for Health, Deputy Reilly, for more than two years. I have raised them on Leaders' Questions a number of times. We got denial after denial of a change in policy and a lot of bravado from the Taoiseach. We got a metaphorical smacking down, with claims that we were scaremongering and so on. Lo and behold, a week or two ago the Minister for Finance stated that change was on the way but that, because of the looming elections, he would not tell anyone about it lest he be accused of electioneering and that he would tell us all about it in the elections' aftermath.

This issue has offended people's sense of decency. Many who never held medical cards told us that, whatever we did, we should look after those who were sickest first. Will the Minister confirm that the policy of withdrawing discretionary medical cards will stop and that those that have been withdrawn from sick people will be restored? Will new legislation be published to underpin the granting of medical cards to very sick children, irrespective of age, as well as to people with life-limiting and life-threatening conditions?

Minister for Finance (Deputy Michael Noonan): I thank Deputy Martin for his question.

It is reasonable to accept that people want a system of medical cards that is sensitive to families' needs and can operate on a case-by-case basis. The Government will certainly examine this. Taking medical cards from very sick children is not acceptable. This cannot be changed overnight, but the Minister, Deputy Reilly, and Minister of State, Deputy White, will look at some of the issues that have arisen.

Deputy Michael Healy-Rae: They have been looking at them for a long time.

Deputy Michael Noonan: The Government has made clear its commitment to delivering on the implementation of a GP service for the entire population as part of the move to universal health care. Everybody understands, however, that a medical card system that costs over €2 billion a year and where 42% of the population holds a medical card needs to be reviewed periodically. In 2013 alone, the Health Service Executive awarded 100,000 medical cards of which over 23,000 were on a discretionary basis.

The Minister also did a review and an analysis of the medical cards removed from people and it might be interesting, now that the battle on the streets is over, to hear the actual facts.

(Interruptions).

Deputy Michael Noonan: The position is that over 77,925 discretionary medical cards were in circulation on 1 March. Their status on 1 March 2014 was as follows: 33% still held the medical card on the discretionary basis, that is, 25,398 people; 49% of those who had a medical card have retained their medical card based on an assessment of means. They still have their card but now on different grounds. That is 37,906 people. Some 19%, or 14,621 people, no longer hold the medical card. That 19% is made up of 3% who, unfortunately, are deceased, that is, 2,521; 7% did not respond to the correspondence from the HSE, that is, 5,145; and 2% did not complete the review process after initially engaging with the HSE, for example, documentation was not provided, that is 1,522 people; and 7% completed the review process and were found to be ineligible for medical cards, that is 5,433. Of the 77,925, 7% lost their medical card on the review system.

Obviously, this is a serious issue. The Government is committed to examining the situation again. I repeat that the Government does not agree with a policy of taking medical cards from sick children. As I said, the responsible Ministers will examine this at the earliest possible date and announce the changes they will make subsequently.

Deputy Micheál Martin: The Minister said the policy will not be changed overnight. It was changed overnight. Legislation was not introduced to take the discretionary medical cards from approximately 30,000 people over recent years. It got so bad the Minister of State, Deputy Alex White, said that there was no such thing as a discretionary medical card. He has said that on the record and now the Minister has come in here and faithfully outlined all the discretionary cards that are again in the system. We either have discretionary medical cards or we do not. The Minister is experienced enough and around here long enough to know that we always had discretionary medical cards, and it was covered under the Health Act 1970. There has been an attempt of late to try to muddy the waters regarding the legislative validity of all that and hence the need to do all these reviews. The Minister of State, Deputy Alex White, stated on the record of the House that there never were discretionary medical cards but of course there were. There is no question that someone took budgetary decisions to get savings in the Department

of Health.

Deputy Michael Healy-Rae: And Government decisions.

Deputy Micheál Martin: Pressure came on the medical card system and the ones that were focused on were the discretionary medical cards.

This issue was raised long before the elections. It was raised over two years ago. The Jack & Jill foundation is saying that in the past two years the policy became particularly vicious, and it deals with children with significant life-limiting and life-threatening conditions. It has been driven to the unprecedented step of writing very strong letters to the Taoiseach and to the Minister for Health. We got indications in recent weeks from the Taoiseach, the Minister, Deputy Noonan, and his colleague that changes would be made. Is the Minister now saying that has been long-fingered again and that that was only said in the past week or two to try to ease the pressure-----

Deputy Michael Healy-Rae: For the election.

Deputy Micheál Martin: -----or will we definitely get change? Will there be a more definitive, clear policy in terms of both holding discretionary medical cards for those who desperately need them and restoring them to those very sick people who need them urgently?

Deputy Michael Noonan: Eligibility for medical cards has been somewhat fraught over the years and it becomes a political issue periodically but despite the review carried out by the HSE with the Department of Health, of all that were reviewed since budget time, 96.4% of those assessed continue to be eligible for medical cards, therefore, 3.6% of those reviewed lost their medical cards.

One of the reasons the economy is growing and people are going back to work again is that the Government has controlled public expenditure. When there is a big block of expenditure, such as €2 billion, on medical cards it is reasonable that would be the subject of a review. The review was carried out and 3.6% of those reviewed lost their medical cards, but Deputy Martin should not be sanctimonious about this issue. He promised a review of eligibility in 2001. He did not do it. He promised it again in 2002 but did not do it. He promised it again in 2003 but did not do it.

Deputy Micheál Martin: I did actually.

Deputy Barry Cowen: The Minister did the review.

(Interruptions).

Deputy Michael Noonan: Fianna Fáil had a commitment to review medical card eligibility in its 2007 manifesto-----

Deputy Barry Cowen: Did it?

Deputy Michael Noonan: -----an election it won, and it did not do it then either.

Deputy Robert Troy: It did not take them from sick children and sick and dying people.

Deputy Michael Noonan: The Deputy does not have to be sanctimonious.

Deputy Barry Cowen: That is getting you plenty of votes.

Deputy Michael Noonan: When that is added to the financial mess his party left behind when it abandoned office, the Deputy should take part of the responsibility.

Deputy Gerry Adams: The Minister said that taking medical cards from very sick children is not acceptable but that this cannot be changed overnight. Why can it not be changed overnight? He also said that 93% of sick citizens had their cards restored but that was after an appeals system, and that very system has many families worn out.

It is very disappointing to come in here and listen to the Minister give the answer he has just given. Obviously, it is business as usual for the Government. Its members hear nothing. They do not pay heed to anybody. They have learned nothing from the election results. Just before the election there was an unprecedented wave of contriteness as opposed to contrariness from Ministers. We saw, on the back of a public warning from Fr. Peter McVerry, an acknowledgement that there was a housing problem despite the fact that members of my party and others had been raising it here for a very long time. The Minister said regarding the crisis over medical cards that the approach to the review of medical cards will have to be changed. Nothing has changed according to the Minister's answer today. We do not need a review. The policy must be ended. Our health spokesperson, Deputy Caoimhghín Ó Caoláin, has prepared legislation to restore discretionary medical cards to those who have had them removed but that should not be necessary. The Government should immediately do the decent thing and restore these medical cards. *Mar a deir an seanfhocal, is fearr an tsláinte ná na táinte.* Having had a chance to reflect for a moment, will the Minister state without equivocation that this Government will stop denying medical cards to citizens who need them?

Deputy Michael Noonan: The Government has heard the concerns raised in recent months, and they were raised in a more magnified way in the past few weeks. The economic recovery we are working very hard to achieve is succeeding and we need to continue with stable conditions to ensure the economy grows and that we get our people back to work. In that context we must protect the most vulnerable in society but as I said, the Government does not stand over a situation where medical cards are taken from very sick children. I have also committed that the relevant Ministers, the Minister, Deputy Reilly, and the Minister of State, Deputy White, will address all the issues that have been raised and come up with proposals shortly.

Deputy Adams is addressing the situation as if it was Sinn Féin policy that everybody in the country, regardless of means or illness, should get a medical card. Some 42% have medical cards already, but we do not agree with the Deputy that everybody should get a medical card because the country simply cannot afford that. There must be eligibility for medical cards both on a means basis and an assessment of medical need. We are trying to move to that position. In 2013, 100,000 additional medical cards were granted. There are approximately 2 million medical cards in circulation, which means that there are now more in circulation than ever before. Some 42% of the population have a medical card. During the review of medical cards, 3.6% of 79,000 people lost their medical card. That is the position. I know there are hard cases and some dreadful ones have been pointed out to all of us. The HSE will be told that the withdrawal of medical cards from sick children is no longer an acceptable option.

Deputy Gerry Adams: The Minister states the Government does not stand over the withdrawal of medical cards from very sick children, but that is what it does every day. Today there are children who will be refused the help, attention and treatment that they deserve as citizens.

27 May 2014

The Minister says he disagrees with Sinn Féin. Thanks be to God that he does. I am an Irish republican and citizens have rights. Vulnerable citizens, including the sick, the aged, the young and those whom society needs to protect should be afforded these basic elementary rights. As I said, it is disappointing to come into the House following the recent elections which caused the resignation of the Tánaiste - I wish him and his family well and understand there is trauma in all of this for him and his family, but this is not about personalities, rather it is about policies - and to hear the Minister once again reinforce this policy and say the Government is to stand over it. He has said we cannot afford this, but we can afford to pay big bankers, ministerial salaries and so on. It is almost as if he has his head buried in the sand. On his reference to "hard cases," what does he mean by this? Why does the Government not act intelligently and in a swift manner restore citizens' entitlements to medical treatment on the basis of medical need rather than personal wealth?

Deputy Michael Noonan: I am not impressed by the Deputy's proclamation of the new republic because it appears that he is committed to unrestrained public expenditure on all fronts-----

Deputy Gerry Adams: It is about minding the sick.

Deputy Michael Noonan: -----and the piling of taxation onto the shoulders of ordinary taxpayers, which will lead to people losing their jobs and, thus, increased unemployment. That is what will happen if we follow Sinn Féin's policies. I asked the Deputy a simple question.

(Interruptions).

Deputy Gerry Adams: The Minister should answer my question.

An Ceann Comhairle: Please, Deputy.

Deputy Michael Noonan: Currently, 42% of people in Ireland have a medical card.

Deputy Peadar Tóibín: Due to crushing poverty caused by the Government.

Deputy Sandra McLellan: They are poor.

Deputy Aengus Ó Snodaigh: They are poor. The Government has left them impoverished. It has not provided jobs for them.

Deputy Michael Noonan: Is Deputy Gerry Adams saying the percentage should be 100%? If not, what eligibility criteria would he set? I am saying the most vulnerable children should retain their medical cards which should not be withdrawn in any review. Sick children should not be deprived of medical cards.

Deputy Aengus Ó Snodaigh: They have been under the Government's watch.

Deputy Sandra McLellan: It is happening every day.

Deputy Michael Noonan: We have not yet heard Sinn Féin's eligibility criteria. To whom would it not award a medical card?

Deputy Seán Crowe: The Government is providing for them to be given to those who do not need them.

Deputy Michael Noonan: Would Sinn Féin give them to everyone?

Deputy Róisín Shortall: That is what is done in most other countries.

(Interruptions).

Deputy Clare Daly: The big question on everybody's lips is, given that the Government no longer has a mandate, when does it propose to do the decent thing and resign? However, we all know the answer to that question. Rather than focus on that question, I propose to drag the Government back to the real world of families who are trying to raise their children and earn a living and who do not have the luxury of sitting around and wondering who the next Leader of the Labour Party will be or how the spoils of that party are to be divided. These families want to know what the Government proposes to do to improve their lives. The message to the Government following the recent elections is that what it has been dishing out to citizens can no longer continue.

The Taoiseach has told us that he will listen to people. I put it to him that the first test in this regard, with which the Government will be faced in the next two to three days, concerns the imminent strike action by Aer Lingus cabin crew. Some 1,000 cabin crew members have made a last ditch cry for help in their decision to take to the picket lines this bank holiday weekend, including at Shannon Airport, in a dispute over rosters, which dispute, contrary to the expensive and inaccurate propaganda by the company in blaming the IMPACT trade union and staff, is the sole responsibility of management. Management has, insultingly, sought to portray the strike as staff seeking an additional 32 days off, despite that it knows full well that no proposal would result in any staff member working fewer hours or gaining additional time off. All the staff are asking for is that time off be given in a planned and family-friendly manner, as is the case in respect of pilots and across all other Irish and EU airlines. Why has this matter not been resolved? The only conclusion one can draw is that this is not about rosters, rather it is a declaration of war against the workforce. Normally, Fine Gael would love this; it is usually right up its street, and one wonders whether the recent election results have caused it to rethink its position. Perhaps its friends in the Labour Party will jolt it. Given that the Government holds a 25% shareholding in the company, which, when taken with the staff shareholding, equates to a majority shareholding, does the Minister believe it is acceptable in a modern economy that workers should be shackled to rosters that can change with two, three or four hours notice? Does he believe it is acceptable for a company with a Government shareholding to refuse to negotiate or engage with the Labour Court and that it can spend company money on advertisements against its staff and on a legal action? If he does, the Government is more out of touch than we thought. If not, what does the Government propose to do about it? It only has two or three days in which to do something.

Deputy Michael Noonan: Deputies on all sides will be pleased to hear that we are not planning an election.

A Deputy: The people are.

Deputy Mattie McGrath: We want one.

Deputy Sandra McLellan: These things are never planned.

(Interruptions).

Deputy Michael Noonan: Members opposite should not pretend; most of them would run a mile.

Deputy Mattie McGrath: Any time.

Deputy Michael Healy-Rae: Government backbenchers are afraid of an election.

Deputy Michael Noonan: Arising from Deputy Clare Daly's remarks, I pay tribute to the Tánaiste, Deputy Eamon Gilmore. I believe history will be very kind to him. He stood by the people and the country in the worst crisis since the Famine.

Deputy Aengus Ó Snodaigh: He stood by the Fine Gael Party.

Deputy Michael Noonan: I am proud to have served with him.

Deputy Mattie McGrath: He abandoned the people.

Deputy Noel Coonan: Unlike the Deputy, he did not run away.

(Interruptions).

Deputy Patrick O'Donovan: Deputy Mattie McGrath should remember who he backed, former Taoiseach Bertie Ahern.

Deputy Michael Healy-Rae: The Government might get its answer soon enough.

An Ceann Comhairle: This is Leaders' Questions. I ask Members on both sides to stay quiet and listen to the answers.

Deputy Michael Noonan: The matter raised by Deputy Clare Daly is an important one. It is a great pity that there is an impending strike at Aer Lingus to be held over the June bank holiday weekend. An awful lot of ordinary working people like to take a break over the June bank holiday weekend and many families want to see their children return home and their relatives come to visit. The proposed strike is a big imposition to place on the ordinary people of Ireland. There are differing views on the merits of it. I argue that both sides should use the mediation machinery of the State to try to resolve the issue. We are all aware of how the people have suffered. Are they to be made suffer again over the June bank holiday weekend? It is unfair and a lesser initiative should be taken. I appeal to both sides to come together and use the mediation machinery of the State to resolve the matter.

Deputy Clare Daly: On the election, the Minister's words might come back to haunt him. On the strike and the Minister's remark that it is a pity, those for whom it is the greatest pity are the workers who have sought over a period of three years to have an acceptable rostering arrangement put in place to allow them to have a family life. It is the biggest step for them to have to take. It is only as a last resort. The Minister's answer actually displays an appalling lack of knowledge of the situation on the ground. For three years now, the management of the company, in which the State holds a 25% shareholding, has refused to engage with the cabin crew committee. It is a fact that in recent times it has failed on six successive occasions to attend the Labour Court. Management has issued an instruction to its cabin crew that it will refuse to implement a Labour Court recommendation in that regard.

The Government has the shareholding. Combined with the staff, the Minister has an influence greater than anyone else. Will his answer to this and every other matter be to shrug his shoulders and let somebody else deal with it? Alternatively, will he use his influence to call management to account and allow the workers to work in a decent job that allows them to rear their families and earn a living without being treated as a commodity as part of a race to the bottom, and without being driven out of their jobs because of a lack of family-friendly rosters only to be replaced by casual labour? The Minister probably likes this prospect because it seems to be pretty much akin to Fine Gael policy.

Deputy Michael Noonan: With regard to industrial relations problems, while everybody respects the rights of workers, those rights have to be exercised in a proportionate way. I am simply pointing out that many other workers who were looking forward to a break this weekend will have their plans totally demolished by the action. I appeal to both sides. I am sure there are faults on both sides, although Deputy Daly sees only one side of the spectrum. I would like the conciliation machinery of the State, of which there is a lot, to be used to bring the two sides together to determine whether the strike can be averted-----

Deputy John Halligan: Can the Minister intervene then?

Deputy Michael Noonan: -----and whether the issue can be resolved in due course.

Order of Business

Minister for Finance (Deputy Michael Noonan): It is proposed to take No. 5, Employment Permits (Amendment) Bill 2014 - Order for Second Stage and Second Stage. It is proposed, notwithstanding anything in Standing Orders, that Private Members' business, which shall be No. 49, Garda Síochána (Amendment) (No. 2) Bill 2014 – Second Stage, shall, if not previously concluded, be brought to a conclusion at 9 p.m. on Wednesday, 28 May 2014. Tomorrow's business after Oral Questions shall be No. 5, Employment Permits (Amendment) Bill 2014 - Second Stage (resumed).

An Ceann Comhairle: There is one proposal to be put to the House, namely, the proposal for dealing with Private Members' business. Is that agreed? Agreed.

Deputy Micheál Martin: Can the Minister indicate whether we will need a Supplementary Estimate for health this year given that the Minister for Health has made it clear he does not believe he can make the savings outlined in the Haddington Road agreement under the health Vote? Acute hospitals are indicating that they will be significantly in deficit and spending more than they were provided with. There are considerable pressures on acute hospitals across the system now. We have heard about the €100 million excess concerning medical card probity. The Minister for Finance initiated this and it is causing huge strains regarding medical cards and has caused great distress. All in all, the circumstances with regard to health suggest the centre cannot hold as matters stand. I would like the Minister for Finance to confirm whether we are likely to see a Supplementary Estimate for the Department of Health.

Can the Minister confirm when the hospital insurance fund, as promised by the Government, will be introduced? It is to assist hospitals in more remote locations that may not have a large throughput of patients in providing important local services. Could the Minister indicate when the legislation for the establishment of universal hospital care insurance will be available?

27 May 2014

When are we likely to see the completion of the review of the fair deal system of financing home care and the development of what the programme for Government states is a secure and equitable system of financing for community and long-term care that supports older people in staying in their homes?

Deputy Michael Noonan: We have no legislation on the insurance fund. I will have to get back to the Deputy on that.

The fair deal review is not really a matter for the Order of Business, so I suggest that the Deputy submit a question to the Minister for Health-----

Deputy Micheál Martin: It is in the programme for Government.

Deputy Michael Noonan: -----so as to obtain the details on it.

On the Deputy's first question, we are only four months into the budgetary year. We are coming towards the end of the fifth month. The Deputy will know from his experience of government that Supplementary Estimates would not be considered this early in the year.

Deputy Gerry Adams: Ba mhaith liom ceist a chur ar an Aire maidir le Bille atá fógartha, the workplace relations Bill, which was announced in 2012 and promised for 2013 and which seems to have disappeared. All the while, workers' rights are being undermined. We put forward legislation to close a loophole, the Protection of Employees (Amendment) Bill 2012. This was to allow workers to have access to the State's insolvency fund, but the Government voted it down. When will the workplace relations Bill be published? Will it have a provision to make the non-payment of workers' wages by an employer a crime? Will the Government take urgent steps to ensure that the Paris Bakery workers will be able to gain access to the fund?

Deputy Michael Noonan: Tá súil againn go mbeidh sé foilsithe i rith an tseisiúin seo.

Deputy Michael Healy-Rae: With regard to the health care initiative Bill, I want to put on the record of the Dáil the case of Diarmuid Doyle of Ashgrove, Kenmare.

An Ceann Comhairle: The Deputy will not put it on the record of the Dáil.

Deputy Michael Healy-Rae: He has suffered from multiple sclerosis for 30 years.

An Ceann Comhairle: The Deputy should not act the maggot here again.

Deputy Michael Healy-Rae: He has given me his permission. For 30 years, he has suffered from multiple sclerosis.

An Ceann Comhairle: This is on promised legislation.

Deputy Michael Healy-Rae: His medical card was taken away last week.

An Ceann Comhairle: Will the Deputy please resume his seat?

Deputy Michael Healy-Rae: He has had multiple sclerosis for 30 years.

An Ceann Comhairle: Will the Deputy please resume his seat and table a parliamentary question?

Deputy Michael Healy-Rae: He cannot do anything for himself.

An Ceann Comhairle: I will not be calling the Deputy in future if he does not adhere to the rules in the House.

Deputy Michael Healy-Rae: The Ceann Comhairle would make the same point if he were in my shoes.

An Ceann Comhairle: But I would not do it on the Order of Business.

Deputy Michael Healy-Rae: I am raising it under the health care initiative Bill.

An Ceann Comhairle: The Deputy is quite entitled to-----

Deputy Michael Healy-Rae: Under the initiative, can the Government do something-----

An Ceann Comhairle: Will the Deputy please resume his seat?

Deputy Michael Healy-Rae: -----to deal with the issues raised earlier? It is a very fair point.

An Ceann Comhairle: There are plenty of other ways of raising these issues.

Deputy Michael Healy-Rae: Will the Minister answer the question on the health care initiative Bill? Is it promised? What will the Government do about it?

Deputy Michael Noonan: We do not have a publication date for that legislation.

Deputy Ray Butler: When is it expected that the criminal justice (proceeds of crime) Bill, which is to strengthen the powers of the Criminal Assets Bureau in regard to the forfeiture by criminals of the proceeds of crime, will be published?

I thank the Minister for organising the introduction of a new dye to counteract the laundering of diesel. I am sure Sinn Féin will welcome the fact that this will stop a lot of criminality in this area.

Deputy Aengus Ó Snodaigh: We do.

Deputy Michael Noonan: Consultation is still ongoing between the relevant Department and the Criminal Assets Bureau. There is not yet a date for the publication of the Bill but the consultation is proceeding satisfactorily.

Deputy Joe Carey: I wish to establish when the family law Bill is due for publication.

Deputy Michael Noonan: That will be published later this year.

Deputy Mattie McGrath: I have questions on two items, one of which concerns the Eir-Grid Bill. Will the Minister for Communications, Energy and Natural Resources now listen to the people? He did not listen to their submissions but I hope he listened to their votes. Will the Minister for Finance give us a date for the publication of the EirGrid legislation and stop the plundering of our country with pylons?

The water services (No. 3) Bill is to deal with a number of ancillary items relating to the transfer of water services functions to Irish Water. A colleague in Tipperary announced the signing of a contract two days before the election. I have confirmation from a company, Glan Agua, that no contract was signed. We all know that even in a marriage two people sign a con-

tract.

An Ceann Comhairle: That does not arise on the Order of Business.

Deputy Mattie McGrath: It is terrible to be depending on favours to get votes.

Deputy Michael Healy-Rae: It happened in Kerry also before the election.

Deputy Michael Noonan: The EirGrid Bill will be published next year. The services Bill to which the Deputy referred will be published later this year.

4 o'clock

Deputy Sandra McLellan: I want to ask about proposed legislation for the strategic banking corporation of Ireland which the Minister announced last week. What is proposed is not the strategic investment bank that was promised in the programme for Government three years ago. This new institution will lend money to existing banks rather than directly to SMEs, and there are concerns that the banks will only use the funding to be provided by the strategic banking corporation for their own purposes and not for improving the provision of credit to small and medium enterprises. What safeguards will the Minister introduce to ensure funding can get through to the smaller businesses that are most hard-pressed?

An Ceann Comhairle: We cannot discuss the content of the Bill.

Deputy Sandra McLellan: When will the legislation be introduced?

Deputy Michael Noonan: It was agreed at Government level and has gone for drafting.

Deputy Bernard J. Durkan: On promised legislation, to what extent is that old friend of mine, the bail Bill, progressing? Has it achieved any further progress and when is it likely to come before the House?

Deputy Michael Noonan: The draft heads are at an advanced stage in the Department but, as yet, no date is set for publication.

Deputy Seamus Kirk: With regard to taxation of the agriculture industry, I take it that if there are to be changes, effect will have to be given to those changes. Will this involve legislation or will it be dealt with in the forthcoming finance Bill?

Deputy Michael Noonan: I announced a review of taxation of agriculture and the agrifood industry in last year's budget in the same way as I previously announced reviews of taxation of research and development and taxation of the film industry. The intention is to enhance these areas and make sure tax measures actually achieve their purpose, which is to encourage productivity. The review is under way, with a lot of submissions coming in. When the review is finalised, if there are changes to be made, they will be made in the finance Bill which will follow the budget.

Deputy Mary Mitchell O'Connor: When will the criminal justice (victims rights) Bill be published? This is the Bill that will strengthen the rights of victims of crime.

Deputy Michael Noonan: No date is set for publication.

Topical Issue Debate

Building Regulations Qualifications

Deputy Mick Wallace: As the Minister will be aware, I have some serious reservations about the new regulations introduced in March this year. Before I deal with the issue of architectural technologists, however, I want to say that I still believe the Government is missing the point and that independent supervision by people working for the State is the best way forward. I still insist that it cannot possibly work to have members of the Royal Institute of Architects in Ireland, RIAI, signing off on projects unless they have somebody present on the site. At the moment, those allowed to practise as assigned certifiers are persons registered with the RIAI, chartered engineers registered with Engineers Ireland, and persons registered with the Society of Chartered Surveyors Ireland, SCSI. The Minister is telling me that a quantity surveyor who comes under the SCSI is more qualified to sign off on work than an architectural technologist. This beggars belief. I spent 35 years in the industry. I can tell the Minister that while there are plenty of architects who are familiar with the technological dimension of putting schemes together, there are also many architects who are not.

An architect's primary job is to design. The job of an architectural technologist is to make sure that the building is put together properly and will stay up. However, these are the people the Minister is omitting from consideration as assigned certifiers. It does not stack up. The Minister said he is worried about situations similar to Priory Hall, which happened to be signed off by an RIAI member, although that is irrelevant at this stage. For the people who are most technically capable and most technically involved, this is their bread and butter. The architect, who is the designer, is actually employing these people to make sure the building will be constructed properly, will meet building regulations and will stand the test of time.

I do not understand the Government's thinking in omitting these people from the list of assigned certifiers. I cannot help but feel the Minister is being dictated to by the RIAI, which can be a bit of a club. He is protecting a protected profession at the expense of an awful lot of people who work day in, day out, and who are responsible for making sure things are done right. It does not stack up.

As I heard just before I came to the House, there is now an online petition asking the Minister to prepare a register in order that architectural technologists can be included. While I do not know what sort of information the Minister is getting, my experience is that I have employed design architects to do work for me, and there were times when I also had to get an architectural technologist to make sure all the building regulations were met. Architects are wonderful at design, and this country has some wonderful architects, but guaranteeing that the building is going to stay up and meet building regulations is a different game. These are the people the Minister is excluding. He needs to have a rethink on this issue.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank Deputy Wallace for raising this important matter. The Deputy knows the Building Control Act 2007 is not working satisfactorily for the people we are all trying to help, namely, the person who is going to be the owner of the property and the consumer. There are hundreds of problems around the country arising from the implementation of the present building control regulations, although, of course, Deputy Wallace chose to ignore that.

27 May 2014

The statutory certificates of compliance prescribed under the Building Control (Amendment) Regulations 2014 must be signed by a registered professional. At present, this is a person who is included on the statutory registers of architects, building surveyors or engineers, as the Deputy mentioned. Neither I nor my Department have a role in the assessment or validation of professional qualifications. That is a matter for professional bodies in their roles as registration bodies under the Acts and as competent authorities for the purposes of the mutual recognition of professional qualifications in line with EU and national law.

The statutory registers prescribe and maintain the standard of competence that is required for each of the professional groupings subject to the protection of title. Inclusion on the registers is not restricted, however, to members of the professional bodies recognised in law as a registration body. Depending on their personal circumstances, it is open to architectural technologists who possess the requisite experience and competence in the design and survey of buildings to seek inclusion on one of the statutory registers. It has been difficult to do this up to now. Architectural technologists who consider that they possess the requisite competence in the design and survey of construction works should identify the route to registration most suited to their own individual circumstances.

There is no question of persons who are not included on the statutory registers being permitted to sign the statutory certificates of compliance. The services of architectural technologists will, of course, continue to be in demand. Currently, architectural technologists who do not pursue inclusion on the statutory registers may continue to provide services in support of the role of an architect or other professional bodies and sign off on their work by way of ancillary certificate.

It should be noted that due to my concern, as outlined by Deputy Wallace, that it was difficult for people who had been involved in work as draughtsmen or architectural technologists to get recognition from statutory bodies, I commissioned an independent review. Upon publication of the report, I confirmed that I intended to implement the 20 recommendations in full. I am glad to say that a number have already been progressed to improve the technical assessment route to ensure that people are registered in the particular prescribed body. A number of recommendations will require legislative change, which will be effected as soon as possible. I will try to do so in this session.

I should also mention that my Department has engaged with the Chartered Institute of Architectural Technologists, CIAT, in respect of its desire for recognition of its chartered members. My Department has outlined a number of options open to CIAT that will observe the Building Control Act 2007, but it is also open to some of the suggestions that have been made by CIAT. This engagement has led to CIAT presenting separate cases for recognition of its chartered members under both the surveyor and the architect registers based on benchmarking the competence of its chartered members against the existing routes to registration.

As indicated earlier, neither I nor my Department has any role in the assessment or the validation of professional qualifications, and I cannot pre-empt the outcome in either case. However, I assure him that I am very conscious of what he is saying and that I have an open mind in respect of the correspondence and submissions that were made by CIAT last week where it indicated that it now wishes to see instead a stand-alone statutory register of architectural technologists instead of a situation in which architectural technologists apply to become members of existing professional bodies. I am examining this at the moment and have an open mind in respect of whether this possibility can be pursued in order to ensure we have competition in the

marketplace for the assigned certifier role while also catering for the many people who have built up much experience and competence over the years, as outlined by the Deputy.

Deputy Mick Wallace: There is no doubt that unless a structure is formed whereby architectural technologists can constitute a statutory registered body on their own, architectural technologists will be second-class citizens. The Minister's new regulations insist on the submission of working drawings before work begins. I would have no problem with that. I always waited too long to get them from architects. It is not a bad idea. It is the architectural technologists who actually do the working drawings, but they are not allowed to sign off on them. Architectural technologists carry out the site visits but they are still not allowed to sign off on them. These people are being put in an inferior position compared to that of the architect. This is unfair and does not stack up on the ground.

The people who work in the industry know who does what. The architectural technologist is vital to guarantee that buildings are designed properly and meet fire safety and building regulations and that things are done the way they should be done. As the principal individual driving how the building is designed, the architect has a different role. One might as well have a hairdresser service one's car. It is completely different. This is not an insult to any architect, because his or her role relates more to design than to making sure building regulations are complied with. The architectural technologist has a far stronger involvement and link with the chartered engineer who designs the building to ensure it does not fall.

Aside from competition and rising costs, from the perspective of the health of industry, the Minister must have a rethink. I am very concerned that he is being fed the wrong information by some leading institutions. If one talks to the people on the ground, one finds that the architectural technologist is vital to a healthy industry in the years ahead.

Deputy Phil Hogan: I thought I gave a reasonable and positive response to the Deputy. I said I was prepared to examine these issues. I am concerned about the fees that are being quoted by some existing members of the statutory bodies, particularly for self-build projects. It seems they have developed into a cartel, particularly in rural areas where they are actually talking to each other about the level of fees, which are 10% of the cost of the project in many cases.

Deputy Mick Wallace: And 12%.

Deputy Phil Hogan: I am surprised that these professional bodies have done that, because all we are trying to do here is protect the consumer from some of the practices the Deputy knows about, which I have dealt with in many cases. The building regulations will ensure that these issues will not arise again in so far as I have anything to do with it. I am dissatisfied with the level of fees being quoted. I am certainly conscious of the competitive issues and am also conscious of the good people out there who can provide themselves with the work about which the Deputy is speaking if they pursue the route to registration with the changes I have made in recent times. However, sometimes people do not like to take that route. They feel that the existing statutory bodies and their representatives are not exactly generous in respect of the level of competence they have built up over the years through the individuals mentioned by the Deputy.

I am keeping this matter under review and looking at the submission that has been made recently by CIAT. I will make a decision very shortly about whether architectural technologists will be recognised. They are recognised through the UK process and it would be no difficulty for both of us to agree that we can have an Irish solution to a British problem, or the other way

around.

Vehicle Registration

An Ceann Comhairle: The next request is from Deputies Coonan and McHugh to the Minister for Finance regarding the delays in vehicle registration for motor home vendors. I do not see Deputy McHugh here.

Deputy Noel Coonan: I must apologise for Deputy McHugh, who cannot attend as he has been delayed in traffic. He has asked me to speak on his behalf on this matter. I thank the Ceann Comhairle for selecting this item. This is the high season for camper vans. If we look at the statistics that the Minister has supplied, we can see that their numbers are steadily declining, from a peak of 1,014 in 2009 to 126 last year. Part of the reason for this is the delay in registering motor homes. I will cite the most recent example that comes to mind. Last week, somebody sought to purchase a camper van from Pat Horan Motors, which was anxious to sell it. The vehicle had to go through the vehicle registration process and was eventually booked in on Friday evening after much pressure. Yesterday, the office was on a two-day week and one person failed to turn up, so there was nobody there in the morning. While somebody came in the evening, this added to the delay. Donaghey Motorhomes told me, through Deputy McHugh, that on 11 March it tried to book a date for a VRT test but received one 14 days later on 25 March. Both sales were lost, which is a loss to the Revenue Commissioners from a VAT perspective. On a sale of €82,000, the VAT lost is in the region of €15,337. What is happening basically is the middle man is holding up the show. The Minister is interested in creating jobs and we are interested in protecting jobs but the customer service being offered to these dealers is appalling. What does the Minister plan to do to remedy this? Is he prepared to accept the unnecessary delays both in booking a registration and in having to forward documentation to Rosslare? When it eventually reaches Revenue officials, they are efficient in dealing with it. There is a problem and I would like the Minister to deal with it. I am anxious to hear his response to the problem.

Minister for Finance (Deputy Michael Noonan): Since 2011 Revenue has provided a service where motor dealers can avail of a pre-registration examination at NCTS centres. The examination provides for a vehicle to be pre-inspected, entered onto the Revenue database and then registered online through the Revenue Online Service as sales are made. This pre-examination service is specifically designed to facilitate motor dealers and to provide them with a speedy registration option especially given the surge in vehicle registrations since the beginning of the year, which is reflected in both new and used car sales.

Revenue has to value many of these vehicles on a case by case basis and provide a vehicle specific valuation code to be used when registering the vehicle because of a lack of volume in motorhome registrations - 228 registrations in 2013 and 84 so far in 2014 - and significant variation in vehicle specifications. The codes had a lifespan of 50 days and it was brought to Revenue's attention earlier this year that the time limit was too short and that, as a result, dealers were experiencing delays in registering motorhomes. Following a review, Revenue has extended the period of validity of the codes to 150 days.

Where a motor dealer does not use the pre-examination facility they will have to book an examination slot at an NCTS centre. The surge in vehicle registrations this year means that there are also spikes in demand at NCTS centres and this will not always suit a motor dealer. The pre-examination system provided by the Revenue is designed so that dealers do not have

this inconvenience. The availability of the pre-registration service and the recent changes to the period of validity of the valuation codes should ensure that registrations can be completed without delay. I am informed by the Revenue that any dealer with questions about valuation codes for motorhomes and their online registration should contact the Office of the Revenue Commissioners, Central Vehicle Office, Rosslare Harbour, Rosslare, County Wexford.

The Deputies' concerns are related to specific cases in their respective constituencies. I am informed that the extension to the period of validity to 150 days should deal with the matter in one of the Deputy's constituency - direct contact was made by Revenue with this dealer. The issues arising in the other Deputy's constituency may be related to the dealer not availing of the pre-examination service in the first instance. However, the Revenue can be contacted directly by the dealers on these issues.

Deputy Noel Coonan: I thank the Minister for his reply. It was difficult to hear him but I am sure I will get the written version of it.

The problem is somebody who wants to buy a motorhome will not hang around for two or three weeks to go through the registration process. They are going outside the country and that means business is being lost. The extended delay experienced by Donaghey Motorhomes and other dealers across the country with vehicle registration is having a negative effect on their businesses and it is likely to create problems for the people they employ. Donaghey Motorhomes has spent €20,000 upskilling its employees and the company has been informed that it not completed all necessary requirements and that is putting jobs at risk. Will the Minister make direct contact with the motorhome companies to resolve this issue and to deal with the difficulties? Previously, the motor dealer could go directly to Revenue. It was an inconvenience but not a problem.

Why does Revenue not have a library of prices similar to that for cars? Why is a company that has a TAN number, a VAT registration number and employing 16 people, which deals directly with the Revenue, not allowed to register motorhomes, as was previously the case? This is about basic customer service. We got a lesson in that from the electorate over the weekend. One must deal directly with people and give them proper customer service. This is not happening in this instance. Will the Minister simplify the process and resolve the issue in order that a better service can be offered to those involved in the motorhome trade? Trade peaks on occasion during the year but it is limited and dealers should be dealt with promptly. Will the Minister meet representatives of the companies affected to sort out this issue to their satisfaction?

Deputy Michael Noonan: Revenue has taken action to address potential delays in vehicle registration requirements. Since 2011 Revenue has provided a service where motor dealers can avail of a pre-registration examination at NCTS centres. There was a difficulty where the period of validity for codes ran out after 50 days but Revenue has extended this to 150 days and that will address the difficulty. Officials have examined the two cases brought to their attention by Deputies Coonan and McHugh. In one case, they contacted the dealer directly and that seems to have been resolved while they have invited the other dealer to contact them directly to see if that case can be resolved. I may be missing something and, therefore, I will bring the Deputy's submission to the attention of Revenue to see if further action is required.

27 May 2014

Dental Services Provision

Deputy Sean Fleming: I thank the Ceann Comhairle for selecting this issue and I also thank the Minister of State at the Department of Health for taking it. This is a long-standing issue in the midlands, especially in County Laois where I live and where I meet many students. There is a long orthodontic waiting list for school children in my constituency. It is particularly bad in County Laois. Tremendous work was done a few years ago by the HSE when it set up a clinic in Portlaoise on Saturday mornings. It ran for a long time and the backlog was cleared but the situation seems to have deteriorated again.

The issue has come into focus in recent months. I tabled a parliamentary question a month or two ago and I subsequently received a detailed reply from HSE midlands dated 4 May. I asked when the school dentist would visit Killeshin national school in County Laois, which is near Carlow town and the reply stated:

The public dental service in the midlands no longer carries out school dental screenings. Service provision for the last 15 years has been structured through screenings carried out in the dental surgery. The children in specific classes are invited to their public dental clinic for a full dental examination. Dental services in Laois screen and treat the sixth classes in national school in one academic year

This is the problem. I received a letter from the parents committee of Killeshin national school. I cite the school because the source of its problem is it is located only a few miles from Carlow town. A dental service regulation was passed in 2000 to deal with this issue.

The school dental screening programme dentists should visit primary schools each year to see children in second, fourth and sixth class. I do not mind whether the dentists come to the schools or the students are sent to the clinic by appointment. That is not the issue. I am categorically informed that in the neighbouring county of Carlow screening is carried out in second, fourth and sixth classes. The pupils are examined and treated in a fair manner.

However, that does not happen across the border in the schools in County Laois, where a number of the schools have confirmed to me that the children are 12 years of age and almost finished primary school in sixth class before they get their first screening. There is zero prospect in practically all cases of any treatment being given to them in that year. Essentially, the established practice in County Laois is that children just get a screening before they leave primary school and they are several years into their secondary school education before they get any follow-up treatment. If the Minister's information is different from mine, the information he has been given is not accurate. In many of the schools in Laois children get their first screening just before they leave at 12 years of age and many of them are between 14 and 16 years of age before they get their first dental treatment following that screening.

I presume this is due to a staffing issue. For some reason there is a big geographical divide in the country when it comes to dental screening and treatment. Children are sometimes long past doing their junior certificate before they get their first dental treatment. That is not the intention of the regulation, but that is what is happening.

Minister of State at the Department of Health (Deputy Alex White): I thank the Deputy for the opportunity to address the issue of dental services for children in the midlands.

The public dental service of the HSE provides dental services for children up to 16 years of

age and persons of all ages with special needs through its dental clinics. All HSE dental clinics prioritise emergency care for children up to 16 years of age, treatment for special needs patients and screening of children aged from 11 to 13 years, including referral for orthodontic services where necessary. Eleven to 13 years of age is a key age for dental assessment, since the child's permanent adult teeth have erupted, allowing a preventive sealant to be placed if necessary, and it is the usual age to refer for orthodontic and other secondary care. Other services, including screening of children of six to eight years, are provided but may be deferred in clinics where there is pressure on resources.

Usually when a child has been screened they are provided with care for their permanent primary teeth. In some cases it may be necessary to place a child, who has been examined through the school screening service, on a treatment waiting list. Treatment for a child who receives emergency care is generally confined to the relief of pain and sepsis. The aim is to ensure that all children receive equal access to screening and care at key developmental stages. However, staff retirements and the moratorium on recruitment in the public services have had an impact on the services that are provided. The HSE has had to reduce its levels of service while maintaining a priority service to emergencies, persons of all ages with special needs, orthodontic assessments and children between the ages of 11 and 13 years old.

Children who attend school in the midlands area, that is, Laois, Offaly, Longford, and Westmeath, are contacted by the HSE dental service through their school and are offered screening. For reasons related principally to quality, efficiency and effectiveness such children are usually examined in a dental surgery environment rather than in the school. This has been the case for many years in respect of all children throughout the midlands.

In the past two years the public dental service in the midlands has lost three dental surgeons. The dental services to children have therefore been reduced. The service in the Midlands generally screens and treats sixth class children in the one academic year. In some instances screening for such children may run into the following academic year. Some clinics may also get to screen younger children from other classes. Approval has been granted to recruit an additional dental surgeon for the area, which will help with service provision.

A three year project to develop a new national oral health policy is currently under way. Since the introduction of the dental health action plan in 1994 there have been changes to the oral health of the population. While the oral health of the general population has improved, inequalities remain. The vulnerability of some groups, linked to low income and-or disabilities, is of particular concern. The new policy will aim to set out how services can be best integrated with general health services and aligned with the current and future needs of the population. In developing a new national oral health policy there will be an exploration of the ways that oral health services can be provided for both adults and children.

Deputy Sean Fleming: Unfortunately, the Minister has confirmed my worst fears in his statement that in the past two years the public dental service in the midlands has lost three dental surgeons. That is the issue in a nutshell. That is why the children in the midlands are losing out. This is unfair. I realise it is fashionable to knock the HSE as a national body, but the purpose of the HSE is to ensure that there is equal treatment for people across the regions and that treatment will not be based on geography. This is not just about my area. The Minister mentioned four counties in the midlands but for people who live beside Counties Kildare, Carlow and Tipperary it is not right that children from the same village are getting different treatment according to what school they attend. That is unfair.

27 May 2014

I ask the Minister to refer back to the HSE on this issue. In cases where children in one county must go to the screening clinic in a neighbouring county, that is not a big deal. Their parents will happily do that because sometimes they are obliged to drive 20 or 30 miles to a clinic anyway. It is not fair that screening is taking place for some children a couple of times before reaching 12 years of age. The Minister has confirmed that assessments are carried out when children are aged between 11 and 13 years of age, aside from emergencies to deal with pain relief and sepsis. Children are therefore approximately 12 years old when most of them are assessed, which is just before they leave the service. I have a long list of cases in my office and I have tabled parliamentary questions on a regular basis regarding children waiting 14, 15 and 16 years for their first treatment. They are screened before they leave primary school but wait several years for treatment.

The Minister used the phrase that the children get the assessment and treatment in the one year. They get the assessment but, given that the service is down three dental surgeons, they are not getting the treatment, as the Minister is being led to believe. I am pleased that a dental surgeon is being recruited but perhaps some arrangement can be put in place for a period just to clear the backlog, as happened previously. Clinics could be opened in an area and staffed by dentists from neighbouring counties or regions to conduct a number of Saturday clinics. This happened successfully in the past. I realise there is a cost, but it would be less than the cost of having to employ a dental surgeon. I ask the Minister to consider that.

Deputy Alex White: The Deputy makes some helpful suggestions. As he acknowledged, I have not sought to deny the fact that there have been reductions in staffing as a consequence of the general cuts in health services. The Deputy is well aware of the background to that with regard to the overall spending it is possible to make available to the health services. It has been a real problem. I am glad to report that a decision has been made to recruit an additional dental surgeon. The post has yet to be filled but I am hopeful it can be filled in early course.

What the Deputy said generally about the need for dental services, treatment and checks is well taken. I am very conscious of the point he makes about teenage children. He is absolutely correct about its importance and I will take on board the suggestion he made towards the end of his contribution. We do not want to have anomalies arising between different counties if they can be avoided.

Industrial Disputes

Deputy Dessie Ellis: I welcome the workers and union representatives who are in the Visitors Gallery. The Paris Bakery on Moore Street has closed its doors. This type of event is always a sad occasion. People are out of work and wondering from where the next pay cheque will come or how they will pay the next bill or even put bread on the table. For the workers in the Paris Bakery these concerns have been to the forefront of their minds for over three months. That is how long the employees of Ruth Savill and Yannick Forel have been without wages and working for free, in the hope that ultimately matters would be resolved and they would receive their remuneration.

When the owners of the Paris Bakery decided to lock the doors and lock their workers out it became all too apparent to these mainly young migrant workers that they had a fight on their hands. Staff are owed over €55,000 in unpaid wages. The owners profited from their free work. It is said that the owners also owe approximately €200,000 in unpaid taxes and a PRSI payment

as well. One of the owners has a stud farm, which is the type of business that already pays a tiny level of tax. Some of the staff have already been made homeless due to the refusal of the owners to pay wages. Others, having lost everything, were forced to borrow money to leave the country. They are now in debt outside this country due to the bad practice of the owners of the Paris Bakery.

The workers who remain decided that drastic action was necessary and began to occupy the premises of the Paris Bakery to protest against and highlight their mistreatment. It is bad enough that we demean and mistreat those who cannot find work and exploit young people with JobBridge scams, but the State cannot allow workers in employment to be mistreated so severely. The fundamental premise of an economy is that a fair day's work deserves a fair day's wage, which is exactly what these workers are being denied having given their labour in good faith. What the owners of the Paris Bakery have done should be a criminal offence and they should be liable to be arrested and charged.

The Minister for Social Protection, Deputy Joan Burton, met the workers last night, which I welcome. I ask that the Government do all it can to offer help and support to these workers and bring a resolution to the problem. The State has a responsibility to intervene in such cases of abuse and unjust behaviour by employers and business owners. Owed wages should be paid and workers compensated for the hardship they have had to endure over recent weeks and months. It is not good enough to go off and establish another business while leaving a trail of misery and deprivation behind. We must ensure that people get what is owed to them, whether it is redundancy payment, wages, holiday pay or another benefit. We call ourselves a modern society, but have antiquated laws and need the proper workers' rights the Government promised. When will this happen? We need actions and solutions, not ministerial visits with no follow-up. I call on employers to do the right thing and I call on the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, to intervene due to the hardships these workers have endured.

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I thank Deputy Ellis for raising the matter. I share his concern at the worrying situation that has evolved. I hope the concerns of the employees can be addressed to their satisfaction quickly and that they can end the sit-in. NERA met with representatives of the employees last Friday and informed them of their rights, entitlements and means of redress. NERA has also provided continuing contact details and is in active contact not only with the employees but with the employer to resolve the situation.

Deputy Ellis raised the issue of workers' rights. Ireland has a significant body of employment rights which are enshrined in legislation, including the Payment of Wages Act 1991, which contains protections for employees and provides a means of redress for employees who have not received their full wages from an employer. Non-payment of wages or any deficiency in the amount of wages properly payable by an employer to an employee on any occasion will be regarded as an unlawful deduction from wages unless the deficiency or non-payment is attributable to an error of computation. The Payment of Wages Act 1991 provides for a right of complaint to a rights commissioner for any employee who has not received his or her wages or who has had an unlawful deduction made. A complaint must be presented to a rights commissioner using the prescribed form within six months of the deduction or non-payment giving rise to the complaint. I understand that at this point no such application has been made in this case.

A number of other employee rights come into play in the circumstances of the closure of a business, including minimum notice and redundancy rights. Under the Minimum Notice and

Terms of Employment Acts, an employee with a minimum of 13 weeks' service with an employer is entitled to notice of termination of employment. The length of the notice to which an employee is entitled is dependent on length of service and can range from one week's notice for an individual with less than two years' service up to eight weeks' notice where an employee has more than 15 years' service. Where an employer is unable or fails to provide the appropriate notice, such employer may make a payment in lieu of the notice. An employee who does not receive the minimum notice to which he or she is entitled may take a case to the Employment Appeals Tribunal.

Under the Protection of Employment Act 1977, companies proposing collective redundancies - i.e. those in which at least 20 people are employed - must enter into consultations with the employee representatives at least 30 days before anyone receives notice of redundancy. They must also notify the Minister for Jobs, Enterprise and Innovation of the proposed redundancies at least 30 days before any employee receives notice of redundancy. Consultation with the employee representatives and the notification period for the Minister can run concurrently. I understand that no notice of redundancy has been served by the employer in this case.

In accordance with the Redundancy Payments Acts 1967 to 2012, employees who have at least two years' continuous service with an employer are generally entitled to a statutory redundancy payment in the event of being made redundant. The administration of the redundancy payments legislation is within the remit of my colleague, the Minister for Social Protection, who has advised that it is the responsibility of the employer to pay statutory redundancy to all eligible employees. However, where an employer can prove to the satisfaction of the Department of Social Protection that he or she is unable to pay statutory redundancy to his or her eligible employees, the Department will make lump sum payments directly to those employees. Such payments are made from the Social Insurance Fund and result in a debt being raised against the employer which the Department of Social Protection will seek to recover. Where an employer either fails to comply with his or her redundancy payment obligations or where there is a dispute regarding redundancy entitlements, claims may be referred by the employee to the Employment Appeals Tribunal.

Where an employer is legally insolvent and, as a result, defaults on payment of wages and other entitlements, an employee may also be entitled to seek redress from the State under the insolvency payments scheme. These payments also cover overtime, holiday pay, sick pay, etc. In these circumstances, redundancy payment entitlements may also be met from the Social Insurance Fund. I have been informed by the Minister for Social Protection that she has received no formal notifications from the company. A company may be put into liquidation by its members. An alternative is that the company's creditors may apply to the courts to have the company put into liquidation. Employees owed wages or other payments count as creditors and would be entitled to apply to have the company put into liquidation.

If the employees and the employer agree that conciliation or another form of intervention might assist in resolving some of the difficulties they are facing, the State's industrial relations machinery is available to assist in this dispute if required. Often, what appear to be the most intractable disputes are capable of resolution where both sides engage constructively and in good faith in this voluntary process. The principle of good faith implies that both sides in a dispute make every effort to reach an agreement and endeavour through genuine and constructive negotiations to resolve their differences. Ireland's system of industrial relations is, essentially, voluntary in nature, and responsibility for the resolution of industrial disputes between employers and workers, whether in redundancy or other collective disputes, rests with the employer, the

workers and their representatives. However, the State provides an industrial relations dispute settlement mechanism to support parties in their efforts to resolve their differences. All of the agencies and bodies under the remit of my Department remain available to the parties should this be of assistance.

Deputy Dessie Ellis: I thank the Minister for his reply. It is clear that this employer has not engaged with either the employees or the Departments. It is very clear from what the Minister said. It is outrageous that workers should be treated like this. Many of them have even left the country. Some do not have bread on the table, cannot pay their rent and are living like homeless people. It is a scandal that it should happen in this day and age.

There is now an onus on the Minister to adopt a far more hands-on approach and to push these employers. It is not the first time we have seen this. It has happened on a good number of occasions. The way the workers have been treated in this case is the worst example we have seen. It is high time the Minister tells these employers that they must live up to this. It is very strange that the company is supposed to be moving to another premises. Those involved have money to go off and set up a new business elsewhere while at the same time the employees are punished. It is scandalous. We need intervention and pressure to be brought to bear on these companies. That we do not have proper workers' rights is very clear from the way these employers have handled the case. We are behind in terms of workers' rights. We need to strengthen that and put it up to these employers. They cannot be allowed to treat people like this - it does not matter who they are. They should not be allowed to do it.

Deputy Richard Bruton: The Deputy has raised a number of points about this disturbing situation. I cannot comment on the veracity of some of the points made by the Deputy. If there is a serious case of unpaid taxes, it is a matter for the Revenue Commissioners. The Revenue Commissioners have extensive powers in respect of any company that fails or has unpaid taxes, including the power to put such a company into liquidation.

NERA is the enforcement agency on behalf of the Department and is engaging with both sides and it has certain powers. As outlined in my reply, there are ways in which justifiable unpaid wages can be pursued through the Rights Commissioner Service or, in certain cases, through the Employment Appeals Tribunal. That route exists and, to date, it has not been activated.

Deputy Dessie Ellis: There are time factors.

Deputy Richard Bruton: None of the triggers that can be pursued have been activated. As creditors, the employees have the power to initiate an action to seek to get the company to wind up. I recognise the difficulty with payment where a company does not actively declare insolvency. Under the current legislation, the insolvency fund can be triggered only in the event that the company approaches the Department or is insolvent. That issue is being examined by the Department of Social Protection in respect of whether changes need to be made. In this situation, NERA is engaging with both sides and none of the mechanisms, either redundancy or the rights commissioner mechanism, have been activated. The services of my Department continue to be available through NERA or, if necessary, through the Labour Relations Commission to assist in the case. I hope we can come to a solution. The agencies are actively engaged. The Deputy may want to add material in light of the statements he made in respect of the Revenue Commissioners.

27 May 2014

Employment Permits (Amendment) Bill 2014: Order for Second Stage

Bill entitled an Act to amend the Employment Permits Act 2003, to provide a defence to a foreign national in certain proceedings under that Act, to provide for civil proceedings to recompense certain foreign nationals for work done or services rendered in certain circumstances; to amend and extend the Employment Permits Act 2006; to make further provision for the grant of employment permits; to amend the Taxes Consolidation Act 1997; and to provide for related matters.

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I move: “That Second Stage be taken now.”

Question put and agreed to.

Employment Permits (Amendment) Bill 2014: Second Stage

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I move: “That the Bill be now read a Second Time.”

I am pleased to have the opportunity to introduce this Bill to this House. The employment permits system is intended to act as a conduit for key skills required to develop enterprise in the State for all of our benefit, while simultaneously protecting the balance of the labour market and the employment rights of migrants who come to work here. In particular, the momentum of the development of the ICT sector, with its expansion into every aspect of our professional and personal lives, creates a skills demand that must be met in part by attracting migrants with expertise across the whole range of ICT occupations. In the context of ICT careers, Ireland is part of a global race for talent - we are increasingly competing for inward investment and export opportunities on the basis of the quality of our workforce. Ireland is likely to face an average increase in demand for high-level ICT skills of around 5% a year out to 2018, with the employment of ICT professionals anticipated to rise to just over 91,000. The recently inaugurated ICT skills action plan 2014-18 looks to meet the challenge of increasing the availability of ICT expertise across the economy through education, upskilling and conversion, but also through inward migration of appropriately skilled personnel. One of the ambitions is to increase the proportion of those skills that can be provided from our education institutions from 40% in 2011 to 74%. It is an ambitious programme to increase the output of qualified ICT experts from our colleges.

The specificity and the flexibility that will be built into this Bill and subsequent regulations will contribute to the positioning of Ireland as a locus where a highly skilled and highly remunerated workforce employed by cutting edge enterprises can be recruited. Retaining relevance in the fast-moving, globalised and technically innovative enterprise environment of the 21st century requires not only the fostering of indigenous talent but the ability to attract the innovators and the experienced from elsewhere to deepen the skills pool here, with the knock-on effect that will have on the extent and the reach of enterprises located in Ireland. From my experience working with companies that invest, it takes a dynamic pool of a mixture of talents from abroad, with deep domain expertise in certain areas, combined with domestic talent. This makes a hub that can transform the performance of particular enterprises. We seek to be such a hub and a centre of excellence.

The categories of employment permits envisaged by this Bill will provide for a range of types of migrant workers to enter employment legally in the State. Key among these for the purpose of developing the skills capacity of the labour force will be a replacement for the green card currently issued for specified highly skilled occupations. This category of permit, to be known as the critical skills employment permit, seeks to attract highly skilled non-EEA workers in occupations where there are acknowledged skills shortages, often on a global scale, by waiving a number of the requirements otherwise applying to the issue of employment permits, and providing a route to immediate family unification, fast-track residency and the availability of employment permits to spouses, dependants or partners where this might be required. The advantages such an employment permit confer on its holder are commensurate with the contribution such personnel can make to the development of the enterprises for which they choose to work, a benefit that ultimately feeds more broadly into our society through the dissemination of expertise among colleagues and through enterprise growth.

The arrival of highly skilled individuals to fill capacity gaps here in the short to medium term is to be welcomed. In the longer term, while we expect to increase the numbers of appropriately skilled graduates in sectors such as ICT where there are skills shortages, there will always be a cohort of knowledge leaders, or those with a novel combination of skill sets that it would be advantageous to attract to work in Irish based enterprises. Data analytics is a good example. Ireland is now beginning to build up a reputation in data analytics, with a number of investors. Today, SAP, an innovative company with a significant hub for data analytics, is expanding on the basis of the skills base it has created, which shows its relevance and importance. The capacity to analyse data will become a key shaper of what businesses succeed and what businesses can exploit the information at their disposal. To see Ireland emerge as a centre of excellence for the development of such a skill base in a company of the scale of SAP shows the importance of what we are doing in the education sphere and of having this legislation in place.

The Bill also accommodates the contemporary workplace by acknowledging the different types of employment situations which arise for enterprise. It furnishes a general employment permit for shorter term employment contracts for highly skilled occupations and, subject to a labour market needs test to establish that there are no viable local or EEA applicants for the employment, for other occupations outside of a list of occupations designated ineligible for employment permits. It also establishes employment permits for intra-company transfers and contracts for service, acknowledging the global and interconnected ways that enterprises now interact. We will have the high skills permit and areas for which we cannot issue permits, such as areas in which there are no skills shortages. There will be another category where an application can be made but the case must be established that the skill is necessary and the position cannot be filled by applicants within the EEA.

5 o'clock

This legislation has been devised to assist Ireland's participation in what is essentially a global skills market. Equally, its drafting has been informed by the fact that the labour force has been through some turbulent years and that preference must be given, wherever possible, to Irish and EEA nationals in the awarding of contracts of employment. This priority is protected by the inclusion of a number of conditions for the issue of an employment permit, chief among which are the labour market needs test and the 50:50 rule. The labour market needs test makes it a condition of grant that an employer must prove to my satisfaction that he or she has in the first instance made the employment in question available to Irish and EEA nationals and that no viable candidate was found from this process. The 50:50 rule requires that any enterprise

wishing to employ a non-EEA national must have a staff comprising more than 50% Irish or EEA nationals. This 50:50 rule is only waived for start-up companies and, even then, only for a limited period where one of the enterprise development agencies has supported such a waiver. Often the first few employees will be the team from headquarters establishing the operation in Ireland. There are further protections for the labour market provided for in the Bill such as minimum remuneration thresholds and limits to the duration of various permit types.

This amendment Bill rebalances and updates earlier legislation in order to support the complex and evolving market for skills. At the same time, it ensures both employers and employees are held to a series of standards in regard to the particulars of the employment and rights guaranteed to the employee in the context of the employment. While acknowledging the value of the Bill in growing the economy, we must also affirm the importance of protecting vulnerable migrants who often do not have the personal support networks or the familiarity with employment practices here to protect their own interests. The Bill amends the 2003 Act to provide a defence for a migrant who is in breach of employment permit legislation, despite his or her efforts to work in line with statutory requirements.

The amendments address the Younis case judgment delivered on 31 August 2012, in which Mr. Justice Hogan overturned a decision of the Labour Court to award Mr. Younis, an immigrant, back pay and other moneys. The High Court found that the contract of employment was unlawful by reason of his failure to have an employment permit. As a result of the proposed amendments, provision is made to prevent an employer from benefiting from a contract of employment that is unenforceable for the lack of an employment permit at the expense of a migrant worker. It will be open, under this statute, for the employee or, in certain circumstances, the Minister on the employee's behalf, to seek recompense in such a situation via the courts.

More generally, the Bill establishes a category of employment permit to assist those migrants who have fallen out of the employment permits system through no fault of their own to return to employment. From a policy perspective, such foreign nationals may be at risk of entering the hidden economy and-or becoming a burden on the State's welfare system if not permitted to work. These permits will be known as reactivation employment permits and they will be issued, subject to the approval of my colleague, the Minister for Justice and Equality, in cases where there is a genuine situation meriting consideration of an employment permit, whether it be humanitarian considerations, linkages with the local community or family or other circumstances affecting the individual involved and where it is not counter to the public interest to grant such an employment permit.

A number of criteria will apply to the granting of such permits, including that the foreign national originally entered the labour market legally with an employment permit, is not working illegally and has a real offer of employment. However, in order to maintain an employment environment which is consistent with the employment rights regime pertaining in the State and to retain coherence with the general employment permits system which is in place to benefit the State, it is envisaged that some of the strictures generally applying to employment permits will remain in place, including the 50:50 rule. In addition, to prevent abuse, the Bill gives the Minister the power to restrict the number of such permits and refuse such a permit if the applicant has used the scheme before and that it is in the public interest to refuse.

Other employment permit types will be established by the legislation to accommodate social and cultural development in the State. To this end, the Bill provides for a sports and cultural employment permit to allow persons from the spheres of sports and culture to take up employ-

ment in the State; an exchange agreement employment permit to enable non-EEA citizens to participate in various reciprocal exchanges; and an internship employment permit which will allow students of foreign institutions to gain short-term employment experience in occupations on the highly skilled occupations list where the internship is integral to their degree course. The number of permits annually in these categories is small.

I will now outline the main provisions of the Bill which consists of four Parts and 33 sections. For the convenience of Deputies, a detailed explanatory memorandum has been published and it provides a synopsis of the provisions included in the Bill.

Part 1 contains the Short Title, collective citation, construction and commencement provisions and interpretation. Part 2 amends the Act of 2003 and addresses issues raised by the *Younis* case. Section 3 amends section 2 of the Act of 2003 to provide a defence for a foreign national to the charge of having been employed without an employment permit that the foreign national took all reasonable steps to ensure compliance with the section, similar to the defence provision in respect of the employer. Section 4 amends the Act of 2003 by inserting an additional section 2B to further deter employers from employing foreign nationals without an employment permit by permitting the foreign national to take a civil action for compensation against the employer, notwithstanding the illegality of the contract. This is in addition to potential criminal prosecution of the employer. The Bill provides that a foreign national who can satisfy a court that he or she took all reasonable steps to comply with the requirement of having an employment permit may take a civil action for compensation against the employer for work done or services rendered. The compensation for such work or services is to be calculated by a court by reference to the national minimum hourly rate of pay or any other rate of pay which is fixed under or pursuant to any enactment. Also, the compensation paid shall not be treated as reckonable emoluments. This is to avoid any entitlement to claim for State benefits on the part of the foreign national concerned because it remains the case that this is an illegal contract of employment. The compensation paid does not fall outside the tax net. A new section 124A, to be inserted in the Taxes Consolidation Act 1997 by section 31 of the Bill, will put the taxation of the compensation beyond doubt. Additionally, the Bill provides that the Minister may take a civil action on the foreign national's behalf, as well as the responsibility for the costs of such action. The power to make an application for compensation on behalf of the foreign national is at the Minister's discretion and in addition to and separate from existing prosecutorial powers.

Part 3 amends the Act of 2006 to provide for the employment permit system and give a clear legal basis for having different types of employment permit for different purposes and additional criteria and rules in determining whether to refuse or grant an application for an employment permit; to strengthen the requirement for employers to consider EEA nationals before foreign nationals by removing the existing distinction between applications by foreign nationals and applications by employers; and to focus on the particular needs of start-up companies, provide necessary flexibility within key sectors of economic growth and make provision for the role IDA Ireland and Enterprise Ireland play in enterprise development and job creation.

Section 6 inserts new sections 3A, 3B, 3C, 3D, 3E and 3F into the 2006 Act. Section 3A sets out the different purposes for which employment permits can be granted. Section 3A(2)(a) provides for the purpose of what is currently the green card scheme. This type of employment permit is intended to attract those foreign nationals with skills that are in short supply in Ireland and which are critical to our economic success such as ICT skills. It is intended that such employment permits will in the future be called critical skills employment permits.

Section 3A(2)(b) provides for the purpose for what is currently called the spousal or dependant employment permit. It is intended that such employment permits will in the future be called dependant, partner or spouse employment permits. This type of employment permit is intended to attract foreign nationals to apply for the critical skills employment permits by making provision for members of their immediate family to work in the State. This employment permit type is also designed to provide for the family members of certain types of researcher under Council Directive 2005/71/EC which provides for the admission of Third Country researchers to EU member states for the purpose of carrying out research.

Section 3A(2)(c) provides for the purpose for what is currently called the work permit. While this employment permit currently covers a range of sub-categories, for example, contracts for service providers and sports professionals, the Bill clarifies that this type of employment permit will be provided for persons with skills of a more general nature where it is proved, among other things, that the employer was unable to fill the position from the labour market. It is intended that such employment permits will in the future be called general employment permits. These permits will also issue for occupations on the highly skilled occupations list where the employment contract is for less than the two years required for a critical skills employment permit.

Section 3A(2)(d) provides for the purpose for the intra-company transfer employment permit. This employment permit facilitates transfers between branches of a company for a specified duration and project. Such employment permits are particularly important in start-up FDI situations where often the first few employees will be the team from headquarters establishing the operation in Ireland.

Section 3A(2)(e) provides for the purpose for what is currently a type of work permit dealing with contracts for service providers. These facilitate the temporary employment in Ireland of foreign nationals working in a company based outside Ireland. Such companies typically have won a contract for services with an Irish company.

Section 3A(2)(f) provides for the purpose for what is currently a type of work permit dealing with applications routed through Migrant Rights Centre Ireland on behalf of foreign nationals who entered the labour market with a valid employment permit but who have subsequently fallen out of the system for a variety of reasons, including redundancy, exploitation and ignorance.

Section 3A(2)(g) provides for the purpose for what is currently a type of work permit dealing with reciprocal international arrangements where opportunities are afforded to Irish nationals in exchange for opportunities afforded to foreign nationals, for example, trade agreements which include labour transfers, exchange agreements concerning researchers or student work experience. It is intended that such employment permits will in the future be called exchange agreement employment permits.

Section 3A(2)(h) provides for the purpose for what is currently a type of work permit dealing with applications related predominantly to sports professionals. It is intended that such permits will in the future be called sports and cultural employment permits. Section 3F permits the Minister to consult other bodies in this regard.

Section 3A(2)(i) provides for the purpose for what is currently a type of work permit dealing with applications related to student internship programmes involving work experience in employments on the highly skilled occupations list. It is intended that such employment permits

will in the future be called internship employment permits.

Section 3B provides for a new provision in the Act of 2006 which recognises the role IDA Ireland and Enterprise Ireland currently play in giving advice on applications made by their client companies and provides for the Minister to consider their recommendations without being bound by them.

Section 3C sets out the conditions applying to dependant, partner and spouse employment permits. These permits are provided for the spouses, civil partners or dependants of holders of critical skills employment permits and researchers and dependent on the continued permission of the critical skills employment permit holder and researcher to be employed in the State.

Sections 3D and 3E provide for minimum periods of employment of foreign nationals with the foreign employer prior to applications for employment permits in respect of intra-company transfers and contracts for service agreements.

Section 3F permits the Minister to consult those whom the Minister considers to have knowledge or expertise in respect of a sports and cultural employment permit application.

Section 7 amends section 4 of the 2006 Act. The amendments relate to applications for employment permits made in respect of contracts for service agreements and intra-company transfers. The amendments provide that the contractor in the contract for services situation or the connected person, the linked company in the State into which an employee is transferred under an intra-company transfer arrangement, will apply for an employment permit. The section also ensures every application will specify the purpose for which the employment permit is sought and sets a minimum job offer period of two years for employment permits under section 3A(2)(a), the critical skills employment permit. In addition, the section provides for the spouse, dependant or partner of a “green card” holder in force immediately prior to the commencement of the Bill to apply for a dependant, partner or spouse employment permit after enactment.

Section 8 replaces the current sections 6 and 7 of the 2006 Act concerning information to be provided with an application. It ensures the Minister can require a broad range of documents and other supporting information. Later the Bill enables the refusal of an application where such information is not forthcoming.

Section 9 amends section 8 of the 2006 Act which sets out what permission the employment permit grants to the foreign national in terms of his or her employment in the State, as well as the duration of the employment permit. The amendments update the references to other sections and provide for different durations for the specified types of employment permit.

Section 10 amends section 9 of the 2006 Act which concerns the type of information to be included in an employment permit. The amendment permits the Minister to include any additional information considered appropriate.

Section 11 amends section 10 of the 2006 Act which provides powers to restrict the granting of an employment permit on the basis of what is commonly known as the labour market needs test and the 50:50 rule. The labour market needs test is dealt with in the new section 10A to be inserted by section 12.

The 50:50 rule requires employers seeking to hire foreign nationals on an employment permit to have at least 50% of their workforce from Ireland or the EEA. This policy underpins the

Government's employment creation objectives by requiring employers in the State to hire in a balanced manner from the local labour market and fulfils our EU obligations regarding Community preference under the treaties. The amendment requires the 50:50 rule to be applied in all situations, except in the case of a start-up company, that is, a company registered with the Revenue Commissioners within the two years preceding the application, where an enterprise development agency recommends the granting of the employment permit and where the Minister is satisfied that to do so would help to develop the potential for further employment. Often, start-up companies, including those arising by reason of foreign direct investment, will initially be made up solely of foreign nationals from the company's headquarters sent to Ireland to set up and establish operations. It would be counterproductive to insist that they meet the 50:50 rule from the outset. Section 21 provides for safeguards by imposing a limit on the duration of the renewed permit. If the company has not reached the 50:50 ratio at renewal stage, it must meet the 50:50 rule within one year.

Section 12 amends the Act of 2006 by inserting a new section 10A to deal with the labour market needs test. The amendments will ensure such tests will apply to relevant applications for employment permits, irrespective of who makes the application. The labour market needs test seeks to ensure an offer of employment is first made to people already in the local and EEA labour markets before an application is made for an employment permit to employ a non-EEA national. This supports Government policy that those currently in the labour market, be they employed or unemployed, are the first cohort employers should consider. The labour market needs test will, subject to the specified exceptions, apply to general employment permits and employment permits relating to contracts for service agreements. In effect, this will increase the current proportion of employment permit applications undergoing a labour market needs test after enactment. Section 10A also provides that the Minister may make regulations for the requirements of the labour market needs test.

Section 13 amends section 11 of the 2006 Act which concerns the matters to which the Minister must have regard when considering an application. The amendment adds a provision in order that consideration will include the purposes specified in section 3A(2) to be inserted by section 6.

Section 14 amends section 12 of the 2006 Act which provides the grounds for refusing to grant or renew an employment permit. There are two classes of amendment: those relating to issues identified in the operation of the current Acts and those which are consequential on the amendments to the Acts made by the Bill and, in particular, section 3A. Some of the amendments introduce new grounds, while others broaden the scope of existing grounds.

Section 15 amends section 13 of the 2006 Act to give the Minister the power to review a refusal to grant a permit. This provision is considered necessary to address a situation that gave rise to judicial review proceedings, whereby the employer, as the applicant, had refused to appeal a decision not to grant a permit.

Section 16 amends section 14 of the 2006 Act which provides the Minister with regulation-making powers to provide for each type of employment permit and regulate for different requirements to apply, depending on the type of employment permit and the different circumstances involved.

Section 17 inserts a new section 14A into the Act of 2006, which ensures that when making regulations in respect of remuneration, the Minister can: take into account the going rate in

the marketplace for such employments and other benefits provided by an employer in respect of the remuneration package; and refuse to grant a permit if the remuneration offered is less than the minimum annual remuneration specified in regulations in respect of the employment concerned. The refusal ground to which I refer is regardless of whether the hours of work for the employment concerned are equal to or fewer than 39 per week. If the weekly hours of work for the employment concerned exceed 39, the minimum annual remuneration must be increased *pro rata*. This underpins the public policy prerogative that a foreign national should be earning sufficient remuneration to prevent his or her recourse to the social welfare system.

Section 18 amends section 15 of the Act of 2006, which identifies the criteria the Minister may consider in regulating under section 14. The section already provides for criteria such as the sectors that are important for economic and social development and labour market surpluses and shortages. The amendments strengthen the provisions of the 2006 Act by providing regulation-making power in respect of the experience of a foreign national as a criterion. The amendment to which I refer tidies up the section on foot of other amendments. Section 19 amends section 16 of the Act of 2006 by providing for additional grounds for the revocation of an employment permit.

Section 20 amends section 19 of the Act of 2006 by deleting the distinction in that Act in respect of applications by foreign nationals. Various other sections of the Bill make similar deletions, including sections 23 and 24. This will have the effect of ensuring that all applications, be they from employers or employees, will be treated on an equal basis and will be subject to the same rules when being considered for an employment permit.

Section 21 amends section 20 of the Act of 2006, which deals with the renewal of employment permits and sets out the circumstances in respect of which a permit may or may not be renewed. Importantly, the amended section 20 applies the 50:50 rule to all renewal applications in respect of permits issued following enactment. This is consistent with, and further to, the policy as set out under section 11 of the Bill. Nonetheless, the section exempts renewal applications of existing pre-enactment permits from the 50:50 rule on the basis that, at the time the initial application was made, neither the employer nor the foreign national could have foreseen this new requirement. In addition, the amendment provides the Minister with an opportunity to verify that the waiving of the 50:50 rule for start-up companies has not resulted in a negative effect in terms of the balance of the workforce concerned. I am obliged to refuse to renew employment permits if the employer has not reached the 50:50 rule threshold within two years of the first employment permit being granted, unless an enterprise development agency has made a recommendation under section 3(B) and I, as Minister, am satisfied that the renewal of the employment permit will contribute to further development of employment in the State. If the Minister renews a permit on foot of such a recommendation, the renewal will be for a period of one year. If, within that year, the employer achieves the 50:50 balance, a further renewal of two years may be granted.

Section 22 inserts three new sections - 20A, 20B and 20C - into the Act of 2006. These give an additional six months to a foreign national who has been made redundant to find employment and apply for a new permit. They also exempt a foreign national from certain rules that would otherwise apply such as, for example, the labour market needs test and eligibility criteria in respect of the job.

Sections 23 and 24 amend sections 23 and 24, respectively, of the Act of 2006 by removing references to applications by foreign nationals. This will ensure that all applications, be they

27 May 2014

from employers or employees, will be treated on an equal basis and will be subject to the same rules when being considered for an employment permit.

Section 25 tidies and updates the provisions of section 27 of the Act of 2006 in relation to the requirements on an employer to retain records for inspection. Section 26 amends section 28 of the Act of 2006 concerning the type of information that the Minister may retain in respect of the operation of the employment permit system. The current legislation includes terms such as “employers”, “foreign nationals” and “contractors” whereas the new legislation provides for other parties including “relevant person”, who is the person who has entered into a contract with a service provider, and “connected person”, who is the linked company in the State into which an employee foreign national is transferred under an intra-company transfer arrangement. This section updates the provision to include these new terms, where relevant.

Section 27 amends section 29 of the Act of 2006, which provides for regulations setting out the process and information requirements for the making of an application for an employment permit. Section 28 amends section 30 of the Act of 2006, which sets out further provisions concerning regulations. Section 29 amends section 31 of the Act of 2006 to allow for the issue of notices or documents by ordinary prepaid post instead of registered prepaid post. Section 30 amends section 37 of the Act of 2006 to provide for the sharing of information with the Garda Síochána that the Minister holds in addition to those already specified in the section.

Part 4 of the Bill makes an amendment to the Taxes Consolidation Act 1997, repeals a number of provisions of the 2006 Act and provides for transitional arrangements in respect of employment permits already in force. Section 31 amends the Taxes Consolidation Act 1997. Section 31(a) inserts a new section 124A in the 1997 Act and seeks to impose an income tax charge on any payments made under a court order under new section 2B of the Act of 2003 and to have the PAYE system applied to the payments. Section 31(b) puts beyond doubt that the exemption provided for in section 192A of the 1997 Act does not apply to payments made under a court order under section 2B of the Act of 2003.

Section 32 repeals a number of existing provisions, primarily in order to remove the distinction between applications by foreign nationals and employers. It also repeals section 35(2) of the Act of 2006, which provides for evidence given in proceedings for an offence under the Act to be video recorded. This is necessary because video recording is no longer required. Section 33 provides for transitional arrangements and savings in respect of employment permits that are in force immediately before the coming into operation of this section.

I would be happy to expand on any of the provisions during the course of this debate, if Deputies wish to raise any particular issues. We will have an opportunity to examine the Bill in detail on Committee Stage.

Acting Chairman (Deputy Olivia Mitchell): Before the Minister concludes, may I just check whether the Bill was the subject of pre-legislative scrutiny by the Joint Committee on Jobs, Enterprise and Innovation?

Deputy Richard Bruton: The Bill predates the legislative scrutiny requirement.

Acting Chairman (Deputy Olivia Mitchell): So it was not required.

Deputy Richard Bruton: The heads of the Bill were published prior to the relevant date.

Acting Chairman (Deputy Olivia Mitchell): That is fine.

Deputy Richard Bruton: I look forward to the contributions of Deputies during the debate and to the co-operation of the House in securing the legislation's early enactment.

I commend this Bill to the House.

Acting Chairman (Deputy Olivia Mitchell): I call Deputy Troy who has 30 minutes - should he require them - for his contribution.

Deputy Robert Troy: I will not require 30 minutes. I am here in place of Deputy Calleary who cannot be present. I welcome the opportunity to contribute to the debate on the Bill. While Fianna Fáil broadly supports its provisions, we will bring forward amendments on Committee Stage.

We are all acutely aware of the importance of the information and communications technology sector to the economy. If the sector is to thrive, it is important that it have the best possible range of skilled people available to recruit. It is worth highlighting that the expert group on future skills needs report, published in November 2013, projects that there will be more than 44,500 potential job openings for ICT professionals in Ireland during the period from 2013 to 2018. These include almost 20,400 potential job openings for both new graduates and skilled professionals between 2013 and 2015. Fianna Fáil fully supports the idea of making Ireland the Internet capital of Europe. Many of the firms which operate so successfully in the ICT field first began their Irish operations during the lifetime of the previous Government. It is important that the growth of the sector should not be impeded by a lack of available suitably skilled staff. In this regard, the reduced processing time for permit applications is to be welcomed. When launching the Bill, the Minister stated, "Our ambition ... is to fill as many of those [the 44,500 potential openings to which I refer] as we can from the Irish-based education system – 75 per cent is our target." That is a very ambitious target. The role of the Department of Education and Skills is critical in this regard as it must ensure there are sufficient numbers of Irish graduates with the required skills to take up these roles as they become available. I am unconvinced that we are as far down the track as we should be in this regard. The design and delivery of information and communications technology courses at university are critical to success in achieving this target. We need to hear from the Minister for Education and Skills on how he intends to achieve this target and what he has done to date. The history of third level courses in this country suggests they have been slow to adapt to market needs and we must ensure that does not happen in this case. Every support should be given to persons who are willing to go back to the education system, retrain and make themselves available in this sector. Supports should be in place for them and it is critical that the target the Minister has set himself, that is, for 75% of vacancies to be filled through the workforce, is met.

I am pleased that the Minister is addressing the issues raised in the Younis case. In this case an employee had his claim for €96,000 in compensation granted by the rights commissioner overturned by the High Court on the basis that he did not have a valid work permit and, therefore, was not entitled to protection under Irish legislation. There was widespread fear that this ruling would see employers exploit this deficiency in the legislation by hiring workers without work permits and paying them less than the minimum wage. This was an appalling case and it is unfortunate that it has taken the Minister two years to address what is an obvious deficiency in the law. We support the provisions to close off this loophole.

27 May 2014

We also welcome the new category of employment permit for spouses, civil partners and dependants to enable family members of holders of critical skills employment permits and researchers to work in the State. When someone is making a decision to relocate and take up an employment opportunity, he or she must consider many other factors, including whether his or her family can travel with him or her. This is an overdue reform which should help to underpin the other provisions.

When discussing the issue of making it attractive for people to come to Ireland to take up employment opportunities, there are issues to consider besides the provision of employment visas. In particular, the cost of living is an increasing factor that influences people's decision on where to locate. In the Grand Canal Dock area of Dublin there is a large population working in the ICT sector with firms such as Google, Facebook and eBay who are located in the vicinity. I have heard reports that many newly arrived persons looking to take up employment locally have encountered considerable difficulty in obtaining suitable accommodation at a reasonable price. While this issue is outside the scope of the Bill, it is nonetheless an important factor in ensuring we can meet the demand for ICT employees. Just as we need to get employment legislation correct, including the law relating to permits, we also need to ensure those filling vacancies enjoy an appropriate quality of life and standard of living. This may prove increasingly difficult in years ahead if we do not address issues around the cost of renting and other cost of living issues, including the marginal rate of tax.

While the issue of attracting highly skilled employees in the ICT sector is the focus of this legislation, it would be remiss of us not to give consideration to the plight of persons not in the high skills arena. Migrant Rights Centre Ireland has highlighted the fact that many in the low-pay sectors of the economy who are the holders of employment permits are potentially subject to exploitation by employers. It has stated:

Binding a worker to one employer under the current employment permits system is a leading factor in the exploitation of migrant workers. Denying workers the freedom to change employer is also a major cause of workers becoming undocumented.

This is a valid opinion, one that I am keen to see the Minister address.

I welcome the Bill which is an important reform of employment legislation. I look forward to my colleague, Deputy Dara Calleary, bringing forward constructive amendments on Committee Stage.

Deputy Peadar Tóibín: I wish to raise an issue related to this legislation, the ongoing crisis in Paris Bakery. Shockingly, six years into the crisis we are still confronted with workers who, through no fault of their own, are not being paid for work done and who are not granted holiday and redundancy entitlements, etc. by unscrupulous employers. We are still faced with a regulation and legislation gap and a result fail to uphold their rights. A wall of redundancies has hit the State during this period. Each of these situations - tens of thousands of people are affected - is a fiercely traumatic experience and leads to income insecurity, reductions in standards of living for those involved and their families, as well as the associated stress of meeting financial commitments. There is a particular sharpness to the experience of a subset of this group, amounting to thousands of workers, because they are left with nothing. They are left with no safety net to prevent them falling as they lose their jobs. That is why some 24 months ago I tabled legislation in the Dáil which would have prevented the experience of the staff of Paris Bakery and safeguarded their rights. Simply put, I sought to ensure workers would get what

they were entitled to. That is why it is difficult for people when they hear the words of Fine Gael and the Labour Party on this issue. These words ring hollow because two years ago the Government opposed legislation tabled by Sinn Féin which would have resolved these issues. I call on the Minister to ensure the necessary safeguards are put in place as soon as possible and that we will not be subjected to hollow words from the Government on this issue in the future.

The Employment Permits (Amendment) Bill is important legislation, specifically because of the inequity in workers' rights. In 2012 Mr. Justice Hogan found that existing employment permits legislation left undocumented migrant employees of rogue employers in a precarious position. Under the 2003 Act, these singularly vulnerable workers are automatically guilty of an offence for taking up employment without a permit. In short, the existing legislation automatically prohibits any defence or recompense where wrongdoing by an employer has occurred. Let us not forget the dire circumstances of the man at the centre of the case in question after he arrived to Ireland from Pakistan in 2002. Muhammad Younis worked seven days a week for pocket money in his cousin's restaurant until in 2009 he sought the assistance of Migrant Rights Centre Ireland. During this seven year period his employer did not regularise his employment and retained his passport. The Labour Court found in his favour and he was awarded €91,000 in compensation and back pay, yet when his reprobate employer sought a judicial review, it was found that the current legislation provided no saving clause, as noted by Mr. Justice Hogan, for this most vulnerable migrant worker.

Naturally, this was not a legislative revelation to either this or previous Governments. Migrant Rights Centre Ireland has been highlighting this loophole in the legislation since 2006. That said, the Minister's action to ensure a rogue employer will no longer be able to benefit in the courts from a situation in which he or she has exploited an undocumented worker is welcome. Enabling undocumented migrant workers to take a civil action for compensation, notwithstanding the illegality of their contract, is an important deterrent and will service society and the economy well.

It would be helpful if the Minister set out why the legislation limits the compensation to be paid to the minimum wage or rates of pay fixed under or pursuant to any enactment. Let us suppose the employer in such a case has paid his or her waiting staff above the minimum wage, for example, €10 an hour. Why legislate for the payment of compensation based on a lesser amount? While the Bill provides for a minimum level of compensation, this is already provided for as employers cannot pay below the minimum wage. If an employer is found not only to have conned a migrant employee into thinking his or her employment status was regularised but also to have paid less than the minimum wage, surely the employer has fallen foul of two legislative requirements. While I accept that this compensation will not be treated as reckonable payment within the meaning of social welfare legislation and entitlements, this section highlights a particular concern. If an individual is not allowed to work, and on the basis that a civil action can take some time, we can conclude that he or she would not have the necessary supports to feed his or her family, pay rent and so on while seeking to expose wrongdoing. If this Bill is to act as a real deterrent, it must facilitate those who are brave enough to expose wrongdoing. If it disempowers them from raising their concerns and being able to use the legislation, surely it is not worth the paper it is written on, and we will simply see the practice continue.

While the business representative groups have not yet set out their response to the legislation, the American Chamber of Commerce Ireland has welcomed its provisions. Broadening the eligibility for highly skilled occupations will, the chamber claims, boost companies with a heavy reliance on niche skill sets, including fluency in less common languages. Accelerating

recruitment processes by reducing bureaucracy and enabling senior executives to be based in Ireland for the initial stages of a start-up will aid foreign direct investment, FDI. Introducing such flexibility into the system makes sense.

A dual objective of these flexibilities is to strive to arrive at a place where such recruitment requirements could be met from our own graduate pool. Departments do not work together properly when it comes to shared objectives. Our economy and society are becoming more complex, and policymakers need to respond. We do not object to the Government's response to emerging employment needs in areas such as ICT and languages, but we question its ability to ensure that these needs can and will be met by Irish graduates. As a small, open economy, we will never be able to meet exactly the specifications of every possible job that enters the country, but with 388,559 people currently on the live register, the Government and policymakers need to set about matching industry needs with graduates and workers while ensuring that such persons have the necessary skills to fill the majority of those jobs.

This legislation acknowledges that we have skills deficits in some areas. The situation needs to be addressed urgently. It is my strong view that this can be done in part by a deeper integration of senior departmental officials and Ministers in an environment that vigorously pursues shared policy objectives and encourages flexible problem solving. It does not appear that the Government or senior Department officials have radically changed their approach to management since the crisis began. This is a concern. Things change quickly outside this House and the Government. If the Government benches are not sufficiently flexible to meet those needs, they are not fit for purpose.

It is also worth noting that, on publishing this Bill, the Minister claimed that three out of four vacancies in the ICT sector would be filled by graduates from Irish colleges by 2018. In effect, he is indefinitely conceding that 25% of the requisite workers will come from outside the State. Setting aside the Government's penchant for recycled announcements, the Minister's Action Plan for Jobs update is not adequately ambitious to get us to where we need to be. Austerity is slowing down the recovery. It is that simple.

Forfás identified the need to increase ICT skills supply to meet demand. The Minister claps himself on the back for completing a report confirming what Forfás has already told him, with a limited target of increasing ICT graduate supply by 14% over the next four years. He has offered no explanation as to why he has limited his targets or, indeed, the resource allocation necessary to address this shortfall.

A number of provisions in the Bill will improve the existing legislation. This is to be welcomed. Changing the name of the green card permit to the "critical skills employment permit" makes sense, as does providing for families where such permits are awarded. In addition, the legislation provides for the family members of third country researchers, as instructed by Europe. The sectors in question have extremely specialised needs and it makes sense to remove unnecessary obstacles.

Facilitating transfers between branches of a company has been identified as a need by foreign investors, particularly, as noted by the Minister, in the case of start-ups. It is also welcome that the Government has positively responded to the need to acknowledge migrant workers who have fallen out of the permit system for a number of reasons. I commend the efforts of the Migrant Rights Centre Ireland in this regard.

Internships have become a contentious area of the employment market. Of course a Fine Gael Minister is going to advocate for work without pay. Many of the electorate voted for the Labour Party in 2011 to soften the hard, extreme edges of Fine Gael, yet Fine Gael and the Labour Party have pursued work-without-pay measures with equal zeal over the past three years. There is far too high an incidence of highly educated young people finding themselves on rolling internships, unable to get permanent positions. The Government is one of the worst offenders. Last year, more than 220 young people were taken on across various Departments, yet none was offered a full-time position. Instead, the Government took on other interns to fill those positions. No matter how the Government tries to spin it, this is displacement of workers and a mechanism by which the Government is attempting to deal with the negative impact of its recruitment moratorium.

Facilitating student internship programme permits is not in itself wrong. Indeed, such programmes are valuable to third level students specialising in certain highly skilled occupations. That said, we need to ensure that interns from Ireland and elsewhere are not being exploited.

Sinn Féin's youth affairs spokesperson, Senator Reilly, recently published an excellent policy document entitled "Youth Matters - Not for Export". I urge the Minister to familiarise himself with it. Languages are cited by FDI companies as an expertise for which they often need to recruit from outside Ireland. Senator Reilly has proposed that the Government establish a public sector internship programme with other EU states, encouraging young people to improve their language skills within the workplace.

As an aside, the document also calls for all labour activation schemes to be income-proofed - this is important - to ensure that the State is not facilitating the growth of at-work poverty levels. When we discuss internship programmes, we must acknowledge that somebody other than the employer is paying for a person who is doing unpaid work - for example, parents. Often, this can only be afforded by wealthier parents. Parents from lower income brackets are unable to fund their children working free for the State or anyone else.

This legislation will be welcomed by advocacy groups, particularly as it relates to employment permits in exceptional circumstances for carers who are medical professionals caring for people with severe medical conditions or when a person has developed a high level of dependence on a migrant worker.

Before concluding, I will speak briefly on a matter that is not addressed in this legislation, yet is relevant to the debate. As the Minister is aware, there is increasing concern about the working environment and rights of au pairs in this country. Traditionally, au pairs were young people who took part in a cultural or language exchange programme for a limited period of time. However, the Minister is aware that, increasingly, au pairs are being recruited as carers of children, the elderly or people with disabilities, or for domestic work. While protected under existing employment legislation, most au pairs are not aware of the rights afforded them, and most employers are not aware of their responsibilities to them. Approximately 10,000 au pairs are employed in this State each year. That is a sizable group of very vulnerable workers who are increasingly exploited, paid below the minimum wage, and are not receiving basic entitlements. Demand for au pairs has been on the increase as working families are finding it impossible to pay for child care.

While the Code of Practice for Protecting Persons Employed in other People's Homes was introduced and placed on a statutory footing in 2007, it is not being enforced and does not

27 May 2014

provide in full for the experience of au pairs. In addition, their work is extending beyond traditional child care into caring for people with disabilities and elderly people. In part, this is again because many families simply cannot afford the costs of institutional or professional privatised care.

We recognise that Government has a number of policy objectives to consider when considering a revision of the employment permit system. However, where anomalies arise in the labour market arising from Government policy, these irregularities cannot go unchallenged or unchecked. The Government is due to sign the International Labour Organization Convention on Decent Work for Domestic Workers. That provision will enhance protections, and the National Employment Rights Authority will also amend its oversight and enforcement procedures.

Sinn Féin supports the call by the Migrant Rights Centre for an immediate and co-ordinated response by the Department of Jobs, Enterprise and Innovation and the National Employment Rights Authority to ensure that the employment rights of au pair workers are upheld and enforced, with a particular emphasis on recruitment agencies and direct employers. The Minister must work with his Cabinet colleagues also to deal with the reality that families unable to afford child care or the care of elderly or disabled family members are turning to au pairs to fulfil that work.

Cuirim fáilte roimh an mBille seo. Tá a lán rudaí maithe sa Bhille seo agus cabhróidh siad le daoine atá ag obair sa gheilleagar ag an mbomaite seo. Tá súil agam go mbeidh an tAire oscailte maidir le leasuithe ar Chéim an Choiste, mar beidh Sinn Féin ag cur leasuithe chun cinn.

Acting Chairman (Deputy Olivia Mitchell): I call Deputy Finian McGrath, who I understand is sharing his time with Deputy Mattie McGrath.

Deputy Finian McGrath: I am sharing 15 minutes of my time with my colleague Deputy Mattie McGrath.

I welcome the opportunity of speaking on this new legislation, the Employment Permits (Amendment) Bill 2014. I welcome this debate, as exploitation of workers should never be tolerated in any country or humane society. We need to update all legislation and make these Bills relevant to people's daily lives and their particular jobs.

This is a relevant issue, particularly in view of what we have seen in recent days with regard to the rise of the extreme right across the European Union. All of us must be vigilant, as racism and exploitation can never be tolerated. As Members of the Oireachtas we all have a duty to lead on this important issue. We have seen what sectarianism has done in the North, and all of us have a statutory duty to build an inclusive and respectful workplace. This legislation is part of that wider debate, and I will put forward my arguments for that later.

The Employment Permits (Amendment) Bill seeks to update the existing legislation, including permit types, to take account of recent case law. Issues identified include ensuring flexibility within the system and preventing the exploitation of workers who do not have an employment permit. That is at the core of the legislation. We must examine closely the issue of exploitation of workers and staff. Specifically, the legislation updates and expands the types of permit available. It also provides a system of compensation up to the minimum wage level for employees who are working illegally but not paid properly by their employer. That is what is at the heart of this Bill.

It is important also when dealing with this legislation and the broader debate that we get the facts and the information right and examine what is really happening here and in the broader economy. We must face up to the reality that we need highly skilled people to come to this State and assist us in improving our skills. It is important that we state that and not run away from the issue or hide behind other arguments.

The number of permits issued has decreased annually since the peak in 2003, when 47,551 were issued. In 2013, 3,863 permits were issued. The top nationality of people granted permits was India, the figure for which was 1,410, followed by the United States, at 583, the Philippines, at 211, and China, at 208. Google was the top company sponsoring permits, with 137, followed by Tata Consultancy Services and the Health Service Executive, HSE, the figure for which, interestingly, was 94. These are the people we are talking about in the legislation.

There is an economic rationale for this measure, which is important when we are discussing growth in this country. The Minister, Deputy Bruton, constantly talks about jobs and getting directly involved in job creation, but we must have an economic rationale for the employment permits system, because we also learn from that. There is a hugely positive side to employment permits about which we never hear in this House or in the broader media. The first and most significant channel is the labour market. The immigration of highly skilled workers has the potential to substantially improve cost competitiveness and expand GNP more than the increase in population. Second, where there are economies of scale in production, increased employment through migration can boost GNP per head. Third, in addition to their impact on costs, there is potential for immigrants to enhance GNP per head through creativity and expertise. That is the real economic world. There are a variety of other possible influences, including immigration as a source of entrepreneurship and a stimulus to new trade connections. That is something we must develop. We started it with regard to China, but we have to broaden it out to include the Middle East and the Arab countries also. We do not hear that reality mentioned, particularly the economic side. When highly skilled and motivated people come to our country they assist us in upskilling and add to the productivity and commercial activity of this State. We know that from our history. When our families emigrated to America, Australia or England they were very poor, but when they got to those countries they worked very hard, educated their children and had a major impact on the economies of those countries. We can see the fruits of that when we meet our cousins, second cousins and other relations who visit us from different countries.

The negative comments, including the “taking our jobs” comment we hear regularly, should be challenged and dealt with. I have put forward the economic arguments which stand up to any objective analysis. I do not accept much of the negative spin.

6 o'clock

There is also an element of racism involved that needs to be challenged. As I stated earlier, this should not be tolerated.

In discussing the employment permits system in Ireland we should focus on the facts rather than the myths. Those who do not require an employment permit include Irish citizens, European Union citizens, EEA citizens and Swiss citizens. Citizens of all other countries require an employment permit, except full-time students, who are limited to 20 hours of work per week per term, or persons who have been granted permission to remain in Ireland exempting them from requiring a permit - namely, spouses or partners of Irish citizens and refugees. There is also a working holiday authorisation, WHA, to allow young people from certain countries to

fund an extended holiday in Ireland through temporary work. To avail of this, the young person needs to apply for a WHA from their nearest Irish embassy or consulate or relevant organisation. This system is regulated by the Department of Foreign Affairs and Trade, as opposed to the Department of Jobs, Enterprise and Innovation. There are four types of permit, including work permits, green cards, spouse or dependant work permits, and intra-company transfer permits.

In regard to skilled workers, there is regular commentary regarding the need for ICT professionals, health-associated professionals, professional engineers and technologists, researchers and natural scientists and business and financial professionals and associate professionals in our modern society. It is important in terms of the identified deficit of these skills in Ireland that such professionals are utilised in upskilling our own people. We need to get our act together in this regard. The educational system also needs to get its act together and deal with the deficit. We must ensure that our people are constantly learning and upskilling.

The spouse or dependant employment permit allows family members of green card work permit holders to also work in Ireland, which I welcome. This type of permit is available to spouses, recognised partners and eligible dependant children. It does not attract the same requirements as a work permit or green card in that a spouse or dependant can apply for a job in any sector, work for a minimum of ten hours per week and earn less than €30,000 per annum. The person is, however, expected to remain with one employer for the first year. Also, there is no application fee in respect of this permit. Where a person is married to an Irish or EU citizen, he or she does not apply for a spouse or dependant employment permit; rather, he or she applies in the first instance to the Irish Naturalisation and Immigration Service, INIS, for residency permission, which usually allows for employment.

It is important to refer to the strong economic arguments for work permits. The view that mass immigration is undesirable and is more a cost than a benefit is totally wrong. Immigration should be viewed as an opportunity to be embraced rather than a cost to be minimised. Non-Irish workers have played an important role in the evolution of the Irish economy and continue to make essential contributions to the labour market, particularly in filling skilled vacancies. Our liberal policy towards immigration in Ireland during the boom years primarily reflected economic necessity. There is significant potential for growth in ethnic entrepreneurship, provided the right environment is created and support offered. This is often forgotten. We need to develop ethnic entrepreneurship because it is these people who can assist us in our hour of need. There is little evidence to date to show that immigrants would be more likely than Irish nationals to avail of jobseeker's benefits. These are all issues that need to be highlighted in this debate.

Not all jobs can be filled from domestic sources. The permit system should adequately facilitate recruitment of non-EU workers where necessary. However, we need to also constantly upskill our workforce. The top ten companies sponsoring employment permits include Google Ireland Limited, with 137 permits; Tata Consultancy Services Limited, with 154; the HSE, with 94; IBM Ireland Limited, with 84; Ernst & Young, with 79; Dell Technology & Solutions Limited, with 78; and Intel Ireland Limited, with 69; and various other companies sponsoring 57 or 58 permits. It is important in the context of discussing and updating our work permits system that we seek to protect and develop our domestic labour market. Cheap labour in any market should never be an option. Concerns have been expressed about internships and the exploitation of young people. We have many talented young people in this country, some of whom are unemployed. I have been told on many occasions by young people that they would work for

nothing to get into the system. We need to ensure that those at whom this legislation is targeted have sustainable jobs which will result in their being able to contribute to the tax system and, thus, through spending, the development of the wider economy.

The Minister needs to keep his eye on the ball. Upskilling is important. It is the name of the game. Let us hope this Bill will make a major contribution to the overall reforms currently under way in the employment permits area. This Bill codifies and clarifies the law in this area so as to make the system more transparent and the obligations of businesses and other stakeholders clearer. It also makes the system more flexible and responsive to changing economic circumstances so that our employment permits system can respond quickly and allow our economy to benefit from emerging opportunities. I want to see this country develop. This is not only what I want but what needs to happen. Let us ensure that in addressing this issue of employment permits we address the needs of those who come to this country and assist us in developing our economy. We will only emerge from the current crisis by developing our economy and looking to new ideas in terms of job creation. Many of the people about whom we are speaking have the new ideas and skills we require and can teach them to us too. It is important that is acknowledged in this debate.

Deputy Mattie McGrath: I, too, welcome the opportunity to contribute to the debate on this Bill. It is timely that we are amending and extending the 2003 and 2006 Acts and that the provisions in respect of employment permit schemes are being updated in line with policy and economic development since 2007. There have been many and varied changes since 2007, at which time there had also been many changes which were perhaps not encompassed in legislation. This Bill also provides flexibility to deal with changing labour markets, work patterns and economic development needs, which often require a rapid response. As an employer in a traditional industry, I know that change is happening on a daily basis. I am sure the Minister and his officials are well aware of this. We must ensure we have in place a robust employment permit regime and address the deficiencies identified in previous legislation, thereby allowing employers to benefit from those changes. The market in which we are currently operating is very pressurised. It is also IT-driven, which is a far cry from the situation that pertained in business when I first got involved in 1982. We now live in a vastly different society and a time of next-day or hourly delivery of services. It is hard to keep up with the Googles of the world in terms of technology. This loosening of the permit system to meet needs and challenges in terms of employment is overdue. It will allow employers to enter into contracts. Most contracts now include a completion date, delivery time and so on. There are punishment and penalty clauses if one does not deliver on time. While it may have been necessary to introduce this, it is very hard on employers. When seeking markets and work contracts, employers need to have flexibility to employ staff with a variety of skills from within and outside the State.

We used to say Ireland is a small place, but the world is now a small place, given the nature of the modern economy and technology and the access we have to various locations by air and sea. If we are to continue recovering in Ireland, it is vital that we be able to adapt to new challenges, everyday needs, changing needs and the fast pace of change.

I welcome most aspects of the Bill but wonder whether it goes far enough in certain areas. According to the explanatory memorandum, Part 3, for instance, amends the Act of 2006 to “Further provide for the Employment Permit system and give a clear legal basis for having different types of employment permits for different purposes, and additional criteria and rules in determining whether to refuse an application for an employment permit or to grant it”. This is vital if we are to meet the needs and listen to the cries of the drivers of industry, including

27 May 2014

manufacturers and the service industry. Quite clearly, we must have different horses for different courses and a more flexible approach to gaining access to the required skills. I refer to the qualifications, education, passion and vision required by the employer. Obviously, we must always have respect for native employees, who are entitled to certain rights according to certain regulations. These rights must be respected, but when certain skill sets are not available among the Irish, we need to have a tailor-made scheme to allow staff to be recruited from abroad and granted permits almost immediately. This would allow employers to fulfil their contracts.

The proposed section 3A sets out the different purposes for which employment permits can be granted, and can be regarded as the Bill's principles and policies. This is the right approach but I hope the various legislative provisions and regulations are not too cumbersome. As we know, many provisions seem fine until they are put into law. The legislation we are amending is from seven years ago. The change is long overdue. What we are now legislating for could fast become out of date, perhaps in 15 or 18 months. That is the nature of the beast as it evolves. It is very hard for the Department of Jobs, Enterprise and Innovation and its officials to keep pace with needs of those at the coalface. While we engage in consultation and ask for submissions, I honestly believe, without disrespect to any Minister or official in any Department, that we need to engage more ordinarily with the companies, big and small, at the coalface and ask them for their input. They are always very busy and under pressure. Perhaps, heretofore, engagement was with State agencies and the Revenue Commissioners, thus resulting in a them-and-us scenario. That is a pity. We need to change the culture and have the companies as partners with a major input into the amendment of legislation. At any stage, one should be ready to pick up the telephone to support companies and give them information so they will not have to go from one department to the next and so they will not have to spend money they may not be able to afford on legal expertise and consultants to interpret legislation we pass in this House. Everything now seems to be consultant-driven.

Previous speakers have asked whether there is racism in Ireland and whether we are against certain races that may not be Irish or EU citizens. I do not believe so. I believe we had a problem in this country, even during the boom. More than 100,000 people were unemployed during the busiest and craziest hazy days of the boom. We must determine why this was the case. We are slipping in some cases. I am sad to say that there are some families who have not worked in a job for three generations. While it is fine that we have various schemes, etc., we must examine the fundamental issue as to why people are not job-ready. I understand that circumstances have changed from ten or 20 years ago. It is hard to make a silk purse out of a sow's ear regarding IT skills for older people. People over my age were not brought up in the IT era and must try to grapple with it. Perhaps we should focus more on this area.

We ought to have a fundamental review of our education structure, from kindergarten to third level, in order to learn why we do not have the skill sets that we must import from abroad. I have no problem with bringing in staff. It is great to have outside people. My daughter works with the Kerry Group. People of all nationalities have moved to Ireland with the group and are working very successfully here. They are playing a huge part and a very important role. However, we must be able to produce the skill sets that are needed and meet the challenge. I have heard various industries and Americans in the US embassy saying quite clearly that when American companies announce jobs here, they cannot recruit the staff they want here in Ireland. They have been saying this for nigh-on seven years, or since I came to this House and had an opportunity to meet them in various settings. I am sure the Minister is well aware of this. We must ask ourselves why this is the case.

The status of our universities was second to none. I am not here to knock the universities but am saying we need to re-examine and refocus and ask whether we are training students so they will have the right skills mix. Are we over-training in some areas and consequently unable to change and meet the challenges that arise? I blame the Department of Education and Skills and the Department of Jobs, Enterprise and Innovation. Since the inception of the State, they have been doing great work, but we need to change and adapt. The permanent government needs to do so if it is to understand and meet the various challenges. Our universities should and must focus more on listening to companies such as Google and the ICT professionals about whom we are talking. The health sector is recruiting a large number of such people from abroad. We need them in the area of finance also. Our education sector, therefore, is lagging behind and slacking.

Many of our forefathers and families went all over the world and were accepted. I acknowledge that they worked hard with basic skills - there is no substitute for hard work. They engaged in huge projects all over the world and integrated into their respective communities. Perhaps they were not as welcome as they should have been at the time, but we are now in a different era. We must be ready for the challenge.

I had the very pleasant experience recently of having an intern from an African country. It was a pleasure to have her in the Houses with me for nearly eight months. She interacted very well. She was brought here through Crosscare along with a number of her colleagues. I only hope I was able to give her the benefit of some of my experience of the political system here. Certainly, I gained valuable experience from having her in my office for the period in question. I learned an awful lot, including about racism and the perception of racism. I asked her on the first day how I should introduce her. She said I should introduce her as a black woman. She said we had a problem with that, but that she and her colleagues did not have a problem with being called black. Honestly, I was told this. Perhaps those in the media and those of us in the House are too shy and too concerned about racism. While racism cannot be tolerated in any shape or form, maybe we are too afraid to have people of all colours of skin working and involved here. Many of them are up and at it, and I dealt with many in the last couple of weeks during the election, including in two companies which I dealt with regarding postering and sign-writing in Tipperary. In both companies, which are local Clare-based companies, the main staff are from countries other than Ireland. One could not meet finer people to work with; they met their deadlines and were hugely professional. I suppose we all need to change and to refocus.

With regard to the question of agencies, I want to refer to the National Employment Rights Authority, NERA, which was dealing with employment regulation. As I have said for years, since the start of the recession, NERA is too focused on employment rights. Its name should be changed, along with its focus, and it should become an employment support agency. It should go out and help employers, not come in flashing the card all the time. It should be sent out to businesses which are struggling and which want to be listened to. It should be used as an agency that deals with the feelings, depressions and challenges that employers face, and bring this information back to the Department, instead of being a national employment rights body. While the employment rights side is necessary and legislation must be observed, I believe that either NERA should be disbanded or its role should be changed to that of a national employer support agency, as well as having the remit of looking after employment rights. I am certainly not saying employers should abuse any employee, but the focus must be changed. NERA was over-staffed and over-zealous in the good times. Its staff are still there and it still has regional offices all over the country because we got carried away with ourselves. We need to refocus

27 May 2014

NERA and tell it how to assist business people. We must assist employers all the time rather than having the Revenue Commissioners and everybody else sending them letters and demands. Small, indigenous employers will be the backbone of our recovery. If we do not have them, we will kill the entrepreneurial spirit, which we have killed to a large extent through NERA and the plethora of health and safety agencies. I agree with all of that, but it has gone over the top. Some people in these agencies have never created a job and would not know how to run a business. More of these officials should come from the business sector, where they have walked the walk and talked the talk, as they will be able to give support to companies.

I welcome many aspects of the Bill, which is long overdue. This area has to be loosened and we have to be more effective. Above all, whether workers come from another country or from Ireland, work has to be worthwhile, with a fair day's pay for a fair day's work. It cannot cost people to go into employment, because that does not make sense. There are expenses around being at work. Work must be profitable and people must have a reasonable reward for a fair day's work, no matter what country they come from.

Acting Chairman (Deputy Bernard J. Durkan): Deputies Seán Kyne and Joe O'Reilly are sharing time.

Deputy Seán Kyne: As we look at the election results from across Europe, we can see the success of many anti-immigration parties. Whether or not this is born of frustration with economic conditions, which often fuels anti-immigrant attitudes and sentiments, it is unfortunate. In this country there is often a negative and unrealistic perception of immigration, which is ironic considering the number of Irish people who themselves live abroad.

The reality is that work permits are only given in this country where jobs have previously been advertised without suitably qualified individuals being found, and clear guidelines are laid down for this whole area. The restrictions are also based on the sectors in which permits may be granted and the skills shortages in certain areas. In 2013, 3,868 permits were issued, and the top nationalities were as follows: 1,400 to India; 583 to the United States; and 211 to the Philippines. Obviously, the US and India are no surprise, because many multinationals have operations both in this country and in India or the United States, and companies such as Google and organisations such as the HSE have many requirements for work permits based on specific skills shortages.

The spirit of the European Union is based on the free movement of goods, capital, services and people. Member states had the ability to temporarily restrict the movement of labour following enlargement. For example, despite the accession in 2007 of Romania and Bulgaria, it was 2014 before full rights to work in this State were given. Despite this, on the recent canvas, someone argued to me that this was not the case and that full rights had been given from day one. Obviously this was wrong, but, again, perceptions and reality are quite different.

The number of people in the direct provision asylum system in this country have, thankfully, decreased since the highs of the so-called Celtic tiger years prior to the citizenship referendum. Great work was being done by the former Minister, Deputy Shatter, in regard to reducing numbers, but there is still a need for more to be done in terms of processing applications more quickly and providing definite answers on residency applications. The citizenship ceremonies were another welcome change made by the then Minister in terms of recognition of what should be the pride and enthusiasm of recipients about gaining Irish citizenship.

In my own constituency of Galway West, thankfully, we have many multinational companies which provide badly needed employment and are great employers. A number of managers have contacted me in recent years regarding the importance of flexibility within the work permits system, given the delays and frustrations in terms of being able to hire individuals with the necessary skills where there is an evident skills shortage. One such manager stated there had been consideration of moving his whole company division to the Czech Republic, such were the problems in gaining work permits. Therefore, I very much welcome the initiative to provide intra-company transfer employment permits and also the spouse, civil partner and dependant employment permit to enable family members of holders of critical skills to have employment permits. It is a very important section of the Bill and one I very much welcome.

The importance of this legislation in protecting vulnerable people is highlighted by the 2012 High Court case in which an employee was not being paid the minimum wage and had his rights abused. He took the case, with the result that the judges of the High Court brought the matter to the attention of the Minister to ask that this legislation be put in place in order to change the system. It also provides for updates on the provisions for employment permits in line with the policy on economic development since 2007, based on the specific jobs and skills shortages. It provides for a system of compensation up to a minimum wage level for employees who were working illegally but who were not paid by their employers. It also addresses skills shortages, specifically within the ICT sector. It is a very important and necessary Bill, which I certainly welcome.

Deputy Joe O'Reilly: I welcome the opportunity to speak on the Bill. The Employment Permits (Amendment) Bill is a long-overdue update of the existing Employment Permits Act 2006, which at that time was a reforming Bill. In 2012, the Amjad Hussein v. the Labour Court and Mohammad Younis case unearthed a serious discrepancy in our work permit laws. There was damning evidence of serious exploitation taking place, with Mr. Younis reportedly working seven-day weeks with no holidays and a wage that was well below the minimum and legal levels. However, while Mr. Younis was successful in his compensation claim in theory, because he was not a legally permitted employee, he was unable to sue for compensation. Given the loopholes that exist, there is the potential for exploitation while a person is awaiting a permit. That is what the Bill sets out to deal with. Mr. Justice Hogan, who spotted the anomaly, referred the legislation back to both Houses of the Oireachtas. The Government made a commitment to draft an amendment to the existing permits legislation. I am happy to see this legislation, which is long overdue and very much welcome, before the House today.

Apart from legislation, it was also becoming clear that we needed rules which were more flexible and able to move with the ever-changing trends in the labour market. As a result of the over-reliance on the construction industry in the past decade, we ended up with a severe skills gap in various sectors of our labour market, most notably the ICT sector. The ICT action plan, which was published this year, was a collaboration between the Departments of Education and Skills and Enterprise, Jobs and Innovation. This plan identified that any future job creation strategy in this country needed to have a strong ICT enterprise base at its core. We are no longer competing in a European market. Ireland is now competing on a global scale and our policies need to reflect that. The action plan predicts that by 2015 we will see a shortage of up 864,000 ICT professionals across Europe, which is a staggering figure. In Ireland, it is predicted that we will see an average increase in demand for high-level ICT skills of around 5% out to 2018. Following on from that, the employment of ICT professionals in Ireland is predicted to rise to just over 91,000, and four out of five vacancies in the ICT sector will be filled by Irish gradu-

27 May 2014

ates. Meeting the continuing strong domestic demand for ICT professional skills will require an increase in the number of high-quality computing and electronic or electrical engineering graduates.

At the same time, we need to realise that it takes time to nurture these graduates and that in order to remain competitive, we need to enhance the skills pool here through attracting appropriately skilled professionals from across Europe and beyond. I know that this year the Government published its plan to fill 44,500 jobs for ICT professionals by 2018. Part of that figure will be reached through the decision to issue up to 2,000 work permits per year to ICT professionals. This represents a strategic use of work permits and is targeted at continuing inward investment - the maintenance of existing inward investment and attracting further inward investment. I commend the Minister and his Department on the comprehensive work it is doing in this regard. They are unquestionably successful in this sphere.

I was happy to learn that there will be an increased focus on awarding permits to recent Irish emigrant families and EEA nationals as a result of this legislation. Since this Government took office, job creation has been the cornerstone of almost every action we have taken. It has been slightly lost in the very recent narrative over the past few weeks that all of our strategies around the financial adjustments and budgetary constraints were geared at making us competitive so that our people could work again and we could halt emigration. They are not part of some savage plan, as they have been portrayed by some cynical and careless commentators who do not bother to analyse the matter properly. What we had to do by way of very difficult measures and reductions in income, which we did not enjoy doing, was predicated on the need to create jobs and the conditions for job creation. That has been lost in the very recent narrative. Regardless of whether it is lost or not, we are committed to that project and it is the kernel of everything we do. It is only abstract economics until it comes to the question of people working. That is what it is about. It is about making sure that our people would have the dignity of work and that their families would have all the benefits of work in terms of quality of life and everything that goes with it. We are not about anything else. All of the Government's strategy is predicated upon building a society where people work and where there is equality of opportunity.

This legislation is another clear signal that we are making strides in this regard. Today, we had the announcement that 380 jobs will be created at Ericsson and SAP, benefiting the counties of Athlone, Dublin and Galway. The CSO also released figures that showed there was an annual increase in employment of 2.3%, or 42,700 jobs, in first quarter of 2014, bringing total employment in the country to 1,888,200. This represents 800 jobs per week. I commend the Minister and his Department on this wonderful achievement, given the background to it and given where we were. That is what we are about. We are about putting people into work. That is what this legislation is about as well. Not only does it give an opportunity to people whose skills are indispensable to us; it also ensures that, through their presence, inward investment will be maintained.

I will briefly touch on Part 2 of the Bill, which removes the current loophole that gives little or no protection to exploited employees who are working in this country without a permit but who have taken every step possible to ensure compliance. I have already referred to the *Husein v. Younis* case, which was the initial stimulus for this legislation, but, sadly, this case is not an isolated one. The Migrant Rights Centre of Ireland has previously stated that our current work permit system makes it easy for employers to benefit by exploiting their migrant employees and denying them their basic rights. This is due to the fact that migrant workers with a valid work permit must stay with their employer for at least a year before they can change employ-

ment and the fact that in order to change they must reapply for a new permit, with the associated high cost. There are also criticisms that the time it takes for a new permit to be processed is inordinately long - sometimes as long as three months, which is an unacceptable length of time to wait. The applicant is not allowed to work while he or she is waiting and, in theory, has no income. What this tends to do is to encourage applicants to seek work without a permit, thus exposing them to other risks. The new legislation will ensure that there is a 58% reduction in the processing time for employment permits and significant improvements in the appeals process, which is a welcome move.

Under section 4, which provides for the insertion of section 2B into the Employment Permits Act 2003, in cases where exploitation exists, the Minister of the day may institute civil proceedings to recoup any monies owing for services rendered. Having the machinery of the State on the side of workers is very empowering and a progressive element of the legislation. This will not only ensure that anybody who enters this State to work will not have their rights exploited in any way, but will also act as a deterrent to further exploitation. All this is in addition to potential criminal prosecution which is already in existence. Employers have a responsibility to all their employees, be they Irish citizens or non-nationals. It is important that there are no doubts about this. One of the things that this legislation seeks to achieve is to make our work permit law more transparent, allowing for no lack of clarity.

Part 3 of the Bill gives us a clearer and more defined legal basis for the different types of permit that will be in operation, and the rules and regulations around how they are granted will also be copper-fastened. It also clearly lists the nine types of permit and the conditions that they can be granted under. The critical skills permit, which replaces the old green card system, will be a key contributor to our overall job creation strategy, ensuring that we as a country remain competitive in attracting inward investment. As Deputy Kyne said, permits are not thrown around like confetti at a wedding; they are used strategically and with due discretion. The criteria are built in to address economic need, inward investment and skills shortages.

Historically, there was always confusion around the term “green card”, as links were made to the US green card application system, which achieves a different objective from our version. This newly named permit will be an integral part of the overall objective to drive our economy forward by linking the jobs we create to the skills that are needed. The spouse or dependant employment permit will tally well with the new critical skills permit and will ensure that highly skilled permit holders who have a spouse, partner or dependant will look on Ireland as an attractive place to work, given that they will be able to relocate with their families. That is a fundamental right for the family. This can only further increase our competitiveness on the global market.

Section 11 ensures that the 50:50 market rule and the labour market needs test applies to all employers who are seeking to hire non-nationals as employees. The balance must be maintained between domestic workers and work permit holders, irrespective of the skills issue. The legislation guarantees that 50% of their workforce must come from within the EEA before companies seek to apply for permits for any future employees. It also provides for a special exemption in specific cases for foreign start-up companies, especially those that arise as a result of FDI. If a company from India or Asia sets up and brings a set of skilled workers, that could be accommodated. Such flexibility is needed to expand the workforce. If this was not provided for, it would lessen our attractiveness and, therefore, I welcome the exemption.

Section 17 states that the Department will refuse to grant a permit to an employer if he or she

27 May 2014

is not offering employees at least the national minimum wage and normal overtime remuneration. We do not want another *Hussein v. Younis* case. That is what the legislation is predicated on. It is fundamentally important that we, as a civilised republic and democracy, value and cherish people and ensure non-exploitation. That is a core belief of our society, and even in the worst of times we have not lost that. It is inherent in the legislation, and that is achieved for people during the process of applying for a permit, when they hold a permit and during the renewal process.

This is progressive legislation that is part of the feverish efforts of the Minister and his Department, which have continued apace since the Government took office, to achieve the conditions for job creation, to increase skills sets, to develop a more vibrant economy and to give our young people an opportunity to work here and our emigrants an opportunity to return. I am delighted by the ICT initiatives and I hope our young people will grasp their gigantic potential. They have the ability and flexibility to do that. I believe in a more generalist view of background education. People should not just be educated for one sector. While ICT skills are critical, people need to have general all-round skills as they will need to move a few times in their careers.

I welcome this progressive, reforming legislation. It will be tested in the furnace of reality in the coming months and years.

Deputy Anthony Lawlor: I welcome the Bill, which has been talked about for a long time. It leads on from legislation introduced by the former Minister for Justice and Equality, Deputy Shatter, to provide for a visa link-up with the UK. It means people coming into the UK from China and so on can travel on to Ireland freely because of the visa arrangements. This legislation is another step along the way. It also reflects positively on our employment prospects that legislation has to be brought forward to fast-track green cards and work permits in sectors of our economy for which we do not have sufficient workers within the State. Senator Clune has mentioned this a few times. I welcome the fact that the Minister listened to us on the backbenches when we brought forward ideas. This proposal was made by Senator Clune.

Opposition Members might ask why we are bringing this in and why we are not looking after our own citizens. FDI companies and some of their feeder companies have employment opportunities but they cannot recruit suitable Irish candidates. I hope the Minister will strengthen the regulations. If a job is taken up by someone who needs a green card, I am concerned to ensure the job is well advertised in order that the opportunity is available for our own suitably qualified citizens. It should also be advertised in a way that ensures people must be eligible for it rather than companies laying down criteria they know people here cannot meet, which means they have to go elsewhere.

The speed at which work permits and green cards are processed has improved. This morning, the backlog dated to 6 May and, therefore, if someone applied on 6 May, he or she will receive the work permit shortly, which is welcome. It is quicker to secure a green card than to get a response from Irish Water. Perhaps the departmental staff can be transferred to Irish Water.

The Bill also deals with the *Hussein* judgment. During the Celtic tiger era, almost 40,000 green cards and work permits were granted annually and many of them were given to people in low-wage jobs, who were exploited. The move to accommodate the judgment is positive. I am supportive of the Bill, which is a necessary step forward.

Deputy Bernard J. Durkan: I am delighted to welcome the Bill. The Minister and I have had a few exchanges of views in this regard over the past number of years. Many immigrants have come to the country, just as many Irish people have left and travelled abroad. We would all like to see that those who visit us, be it for work, immigration or to seek asylum, are treated in the way we would wish to be treated if we went elsewhere. Irish people have gone to all corners of the world over the years, some out of necessity, some out of a sense of adventure, some because it was convenient to do so and some because they had particular skills that were required in other jurisdictions. They made a serious contribution to their adopted economies. Similarly, many people have come to this island, initially on the basis of work permits. However, they have found themselves in a type of no-man's-land because on the transition from one employer to another they understood there was an ongoing entitlement to a work permit, which was not exactly the case, whether that was because of a difficulty with language or a difficulty with an employer. In many cases, when a person with a legitimately awarded work permit moved to a subsequent employer, and perhaps had to move for a variety of reasons, and then moved onto a third employer, they found that when the work permit expired they had no continuity. This has affected many people, particularly from Latin America, in the meat industry and in the catering industry. A significant number of people now have no work permit, have no entitlement to one and have been illegally employed for some time. I hope this Bill proposes to address that issue. Otherwise, it would be very unfair for people who have made a contribution to our economy, paid their taxes and PRSI, worked in this economy for up to ten years and fulfilled every other obligation except compliance with the immigration laws. The Bill proposes to deal with that issue, and rightly so. I hope it deals with every aspect of it and encompasses the issues for people who are in that type of situation and were initially employed legitimately.

I have dealt with cases, and I am sure other Members have dealt with such cases, where people initially came to this jurisdiction on foot of a work permit and have been employed for up to ten years. They have never been unemployed and have never applied for unemployment assistance. Despite being continuously employed they have found themselves without entitlements on the grounds of a work permit. I strongly urge that all aspects of such situations be fully examined with a view to meeting their accommodation needs.

Another situation that has come to my attention on more than one occasion is one in which a person arrives into this country on a student visa and works part-time for the required number of hours within the law. Such people may then remain in the country illegally. Generally, their employers want to keep them on. I have never encountered an employer who did not wish to keep the person on, and it is only because they are good employees that an effort is made by the employer to obtain a work permit for them and keep them in the jurisdiction. Bear in mind also that in many of these cases the people now have families. It is a ten- or 12-year period in some cases, and they have families, they have entered into relationships and they have commitments within the State. It would be unfair to discriminate against them on the basis that they had, for whatever reason, failed to fulfil their obligations in respect of entitlement to a work permit. This is not catered for in the Bill but I believe it should be considered.

People have also been working in the catering sector, which I mentioned earlier. I acknowledge that there is a danger of exploitation in this area. People might have been working legitimately for many years in the same or similar positions but ultimately find themselves with no entitlement in respect of permission to remain in the State. I believe that the contribution they have made over a number of years must be taken into account in a positive way. They made a major contribution to the many sectors in which they were employed. That is without referring

27 May 2014

to the ethnic restaurant business, in which many people are also employed.

Another area where non-EU nationals have made a major contribution is the health sector. There have been countless cases of people coming from India and the Philippines, often with their families, and taking up employment in our health services - in fact, in some of the cases I have dealt with they were employed by the HSE - but it was deemed that they were not entitled to remain in the country because they did not have appropriate authorisation in respect of a work permit. Fortunately, the then Minister managed to resolve some of those cases, but a type of no-man's land has developed over the years for a number of people who have made a major contribution to our economy and society and who have made commitments and entered into contractual relationships and so forth. I believe they must be catered for in a sympathetic way with a view to granting them status or granting them an amnesty and a period within which they can make an application. In allowing them to make an application, it should not be under a condition with which they cannot comply. We all know about situations that people might be offered, but in order to qualify under some of the conditions one would have to be an escapist. It should not be that rigid.

Incidentally, there are a number of cases in which people have been self-employed. It is extraordinary. The people have been in this country for at least ten years, self-employed and never out of work. They kept the family and family home going over all that time. Initially they came here on a work permit that expired and was never renewed. As a result they are still here and they are still making their contribution. I accept that this area is a little vague because it is a possible area of exploitation of foreign nationals. There is a tendency in some cases to pay less than the norm. I have encountered numerous employers who have the height of respect for the people they have employed, not knowing, because they inherited them, that they were not here legally. They did everything possible to ensure they could remain in their employment. Not only do they have the height of respect for the employee, but the employee also has the height of respect for them. It is great to see that.

The people of this nation have sought employment and their fortune all over the globe. In some places they were welcome, in some they were not. Sometimes they were branded and in some cases they were ostracised. We did not like that at the time. I remember from when I was a great deal younger the types of slogan that used to apply, even in respect of various vacancies advertised in the island next door. We did not like it and we were right to object to it. Thankfully, those days are gone. However, as time has passed we find we are in a position in which we can welcome people to our island. In the great majority of cases we extend a warm welcome to people who come to our shores and try to help them. Many of the indigenous population of this country have gone out of their way to facilitate and assist in every possible way those who they think require help, because they remember our situation. Many have been immigrants themselves and experienced at first hand the kinds of things that can happen.

7 o'clock

I do not wish to delay proceedings. The legislation can be progressive and I hope it will be. Its interpretation is all-important. That is why I am particularly anxious to follow up and see how the regulations and directives in respect of its implementation will affect the immigrant population in Ireland. We can do a great service to those who have been disadvantaged or find themselves in disadvantageous positions by virtue of residency status. We should be big enough to do so. We should also encourage those countries in which Irish immigrants live. I will not go into the obvious one but note that there are Irish people who have been abroad for up

to 20 years in some jurisdictions who have no rights or residency status. That is something we should try to address in every way possible. While we recognise that each country is entitled to run its affairs as it sees fit, we have gone abroad in the knowledge that we have nearly always been welcome and had a contribution to make. We have made that contribution all over the globe. In view of that, we must encourage those in other jurisdictions who are in a position to do so to respond positively.

I hope the legislation is of benefit to the categories of people we have referred to. I have spoken about the meat processing sector, some of the workers in which have extended entitlements in terms of residency while others do not. Some find themselves in a twilight zone and have been forced to return to their own countries, which is a bit sad.

My last point concerns families. Many immigrants to our shores have children who have been born and reared here. The children in some cases are ten or 12 and speak with Irish accents, of course. They have known no other life. While their parents have been providing for them, they are too young to understand the vagaries of the system. It would be a terrible tragedy if we were to ignore the possibility of regularising their status in such a way as to allow them to continue to make a contribution to this economy and jurisdiction. They have shown their ability and willingness to do so.

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I thank the Deputies who contributed, including the Acting Chairman, Deputy Robert Troy. This is an important Bill. There were a number of anomalies in the legislation as it prevailed in 2006 and it is timely to deal with them. The general tone of the debate has been very positive. People recognise that we are competing in a very global environment. Companies who come to locate here as well as Irish companies seeking to succeed globally need a diverse selection of people. It is not a question of just having one group; diversity is required. One of Ireland's strengths in recent times has been its diverse labour pool. We can find people who are conversant in languages and who have technical expertise. We have been able to form teams of people, making Ireland a hub in important and dynamic sectors, including, as I mentioned earlier, data analytics and big data. That will be a driving force, and one needs a mixture of talent from home and abroad to create the necessary environment.

We must develop legislation which deals effectively with the needs of the economy. Equally, we must recognise that we have very high unemployment and outward migration. Clearly, any system of offering opportunities to work in Ireland must be conscious that there are many people with skills who must get a fair crack of the whip. We have dealt with that fairly by creating the three separate categories. There are sectors which have been entirely excluded and for which we will not give permits. Deputy Tóibín, who is not here at the moment, raised his concern in the context of au pairs and domestic workers. We do not give permits for domestic workers and there will be other categories where we know positions can be easily filled by Irish or EU nationals. Then there will be the high-skills areas where, clearly, there is a skills shortage. Those areas have been categorised not by an individual Minister but according to hard analysis to determine where we have genuine skills shortages and a need to amplify the skills available at home.

A number of Deputies, including Deputy Troy, raised the issue of whether we should have greater ambition and asked whether our educational institutions have been too slow to respond. To be fair, ICT is an area in which the institutions of higher education have stepped up to the plate. They have come under increasing pressure not only from the Minister for Education and

Skills, Deputy Quinn, and me, but also from the industrial sector. One of the things that has been remarkable about the coalition behind the ICT plan has been the huge involvement across the spectrum from representative bodies, individual companies, higher education institutions and various associations driving software development. We have had a useful collaboration. It is a model for other sectors as we seek to build on strengths and training. We now have the emergence of SOLAS as a new training body. The model which has been successful in the ICT area is one we should develop, whereby industry becomes more involved in taking responsibility for the supply chain of skill. The two companies in respect of which we announced expansions today - Ericsson and SAP - support specific degree courses in the universities and take in up to 70 interns from colleges every year as part of that. We must see that level of engagement from other sectors which have the ambition to grow to ensure that higher education institutions respond. As the Deputy said, they can be a bit tardy at times or at least be seen to be so by employers. If we can get that level of engagement, it can be a win-win situation for both sides.

Deputy Troy also raised the issue of an employee's right to move from one employer to another. The provisions in the Bill reflect the expectation that an employee will spend at least one year with the employer that recruits him or her. It strikes a reasonable balance. Clearly, it is a reasonable period where an employer invests in training and arranging the permit to bring the employee in. We are not trying to create a situation of indentured labour. Where a person loses a job, we are providing for a period of six months during which he or she can find other employment. That also seeks to strike a balance.

Deputy Lawlor has left, but I wish to recognise the role of the Joint Committee on Jobs, Enterprise and Innovation, of which he is a member. It put a great deal of work into the Bill. Senator Clune was the rapporteur. The approach advocated by the committee is, largely, the one we have adopted to make the system more friendly while recognising the need to focus, in an environment in which many people are out of work, on areas in which skills are genuinely scarce.

Deputy Tóibín raised the Younis case and compensation and asked whether sticking to the minimum wage was being too mean in failing to provide sufficient opportunity for a person to enforce his or her rights. The difficulty is that where a person has not been operating on a contract or where there has been an illegal contract, the national minimum wage is the fallback position. That was the thinking behind the selection of the national minimum wage.

Deputy Peadar Tóibín raised the concern that there was not enough engagement with industry in meeting challenges at political and official level. To be fair, this is a case in which such criticism cannot be levelled. The Department has worked closely with industry and is responding to industry demands that we need a more user-friendly system for permits in areas of high growth opportunity. A number of prominent employers such as Sean O'Sullivan have publicly advocated the need for change. We sat down with those people and have been open with them in seeking to redesign the process. I agree that we need more open engagement, which is always desirable, but criticising this development on those grounds is unfair. My Department and others have responded openly to the challenges in the area. A feature of the Action Plan for Jobs has been based on much closer engagement between policymakers and officials and industry in its various forms. We have tried to open up the doors. We have regular consultation with our industry partners and we are trying to get closer to our clients. It is right that Deputy Peadar Tóibín advocates the idea, but it is not fair to criticise us as failing. We can do better and it is our ambition to continually do better.

Deputy Bernard Durkan raised the issue of how far to go in allowing people to use the retrospective permit process. The bedrock is that the person must have entered the country legally in the first place. For one reason or another, people may have fallen out of the system by having been made redundant, but this is the line we observe. Allowing people who do not come in legally to avail of a system to become legal may undermine the whole process. We must strike the right balance.

Many people have spoken about the need for skills in growing sectors, and I am pleased to say the Department has responded and cut the waiting times for decisions on permits dramatically. It has been reduced from 36 days to 15 days over the past 18 months. We are responding to the pressure. It is significant that there is a major increase in the proportion of permits issued to those with ICT skills. This is an area the committee recognised as one we had to respond to. We are creating a user-friendly process and we hope to move to a situation where we can make it more user-friendly and efficient for companies promoted by the IDA and Enterprise Ireland. That is the right way to approach it because Enterprise Ireland and the IDA deal with companies competing in the global environment. That is their mandate and we must recognise that where companies are getting support from IDA and Enterprise Ireland we must be supportive of their development.

I thank those who participated in the debate and I look forward to the debate on Committee Stage, when we can debate the issues in greater detail. I thank the officials who worked on the Bill over the past 18 months in developing a response. It is a major challenge and it is important to get it right.

Question put and declared carried.

Employment Permits (Amendment) Bill 2014: Referral to Select Committee

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I move:

That the Bill be referred to the Select Committee on Jobs, Enterprise and Innovation pursuant to Standing Orders 82A(3)(a) and 126(1) of the Standing Orders relative to Public Business.

Question put and agreed to.

Sitting suspended at 7.15 p.m. and resumed at 7.30 p.m.

Garda Síochána (Amendment) (No. 2) Bill 2014: Second Stage [Private Members]

Deputy Mick Wallace: I move: “That the Bill be now read a Second Time.”

We decided to bring forward this Bill again in light of the recent U-turn in Government policy. It is regrettable that the newly discovered policy direction is reactionary rather than genuinely reforming. It has taken a stream of emerging Garda crises to pre-empt even minimal proposals recognising the need for reform in this regard. Reform proposals arising from such origins and prioritising political expediency tend to lack any meaningful and considered commitment and risk producing the weakest legislative structure to underpin that reform. Although

reform proposals are often easier to introduce from the top, sustained change is more likely when it is supported and demanded by the public, as this promotes accountability and transparency. The Government is ambitious in its plan to establish an independent police board by the end of the year and we are resubmitting this Bill as a working draft to assist this process. If it is accepted on Second Stage, it can then form the basis for discussion, debate and amendment at a later Stage.

The Bill establishes a Garda Síochána independent board, with monitoring, supervisory and oversight functions over An Garda Síochána. The board's functions include the human rights proofing of all Garda policies, procedures and practices and the provision of detailed codes of practice for all key operational policies and procedures, to include effective compliance measures. The United Nations handbook on police accountability, oversight and integrity states:

An effective police accountability system should include an independent body that has complete discretion in the exercise of its functions and powers, has a statutory underpinning and independent and sufficient funding, reports directly to parliament and whose commissioners and staff are transparently appointed based on merit rather than any affiliation, such as an affiliation with a political party.

In order to effect real reform and de-politicisation of the An Garda Síochána structure, it is imperative that the proposed board is strong and independent in terms of its functions and powers and that there is a clear transfer of accountability of the Garda Commissioner from the Minister to the board. Responsibility for the appointment of senior gardaí, including the Garda Commissioner and Assistant Commissioner, must be transferred from the Minister to the board. There must be real and meaningful commitment by the Government to replace the current unsatisfactory medium of accountability through the Dáil to the more direct method of accountability of gardaí to the independent police board, supported by a newly invigorated system of community policing.

The Bill proposes a 16-member board, to include two Irish human rights and equality commissioners, four members of the Oireachtas, the Ombudsman for Children, the Data Protection Commissioner and the chief inspector of the Garda Inspectorate. It is proposed that the remaining six members be chosen from citizen bodies, with a reserved place for a member of the Traveller community. We believe that consideration should be given to the inclusion of two Garda representatives from the low and middle ranks. This may go some way towards improving Garda morale and involving the Garda Síochána in the process of reform. This would allow the rank and file and middle ranking gardaí more involvement and input in developing Garda policy than under the current hierarchical arrangement.

The Garda Inspectorate, which can look at practices, policies and procedures of the Garda, should be answerable to the new police board rather than the Minister and should have greater powers of investigation, and its reports should be published promptly. The local joint policing committees, JPCs, must become a more meaningful forum for engagement between communities and the Garda Síochána. The JPCs should feed into the board, and given that they would be answerable to the independent police board, it is expected that we would see more of an appetite for engaging, from both sides.

The reforms of GSOC contained in our Bill recognise that its remit was always intended to be investigatory, rather than one of review and oversight. As the United Nations office on drugs and crime has pointed out: "Independent police complaints bodies must have investiga-

tive powers, be able to initiate investigations of their own accord and intervene in investigations conducted by the police.”

Under current legislation, GSOC is inhibited in this regard, a shortfall which has been highlighted by UN Special Rapporteur, Ms Margaret Sekaggya. A few years ago, the Ombudsman asked the permission of the then Fianna Fáil Minister for Justice to investigate policing at the Corrib gas project under section 106, but was refused. In 2013, we appealed to the then Minister, Deputy Shatter, again to allow GSOC to use section 106 to look at policing at the Corrib venue, and also to examine the allegation of racial profiling by the Garda at the time of the Roma children episode. Again, the Minister for Justice and Equality refused. In this Bill, section 106 of the Garda Act is amended to address this.

The Bill also proposes the extension of section 102 to include sexual assault, under the title of “serious harm”. It provides for the mandatory supervision by GSOC of all investigations arising from complaints, strengthens the obligations of the Garda Síochána to comply with protocols to provide information and provides a statutory basis for access to PULSE. All the reforms proposed in this legislation have long been called for by GSOC and others. If the Bill is allowed to progress to Committee Stage, I would like to introduce further amendments in order to give GSOC the power to investigate the Garda Commissioner and to allow serving members of An Garda Síochána to make complaints to the ombudsman. Garda covert surveillance, which is dealt with in other legislation, must also be addressed.

The Bill amends many sections of the Garda Síochána Act 2005, with the aim of de-politicising the police force. It increases the autonomy and independence of An Garda Síochána from central government and from direct ministerial control. The Bill removes excessive powers from the Minister to request information or documents from the Garda Commissioner and removes the direct accountability which currently exists between the two. This third element to the Bill, the effort to de-politicise An Garda Síochána, was completely overlooked by Government speakers, including the former Minister, when it was debated last July. Events since then have demonstrated the need to address the unhealthy relationship that exists between the Garda Commissioner, the Minister for Justice and Equality and the Government.

In regard to Sergeant Maurice McCabe’s complaint against the Garda Commissioner, the Guerin report comments: “The process of determining Sergeant McCabe’s complaints went no further than the Minister receiving and acting upon the advice of the person who was the subject of the complaint.” The then justice Minister simply accepted the Garda Commissioner’s response without question. Over the past 18 months, our offices have been inundated with cases of alleged Garda malpractice, from members of the public as well as from former and serving gardaí. We need to have a detailed discussion about how to address these issues. These people have a right to be heard. Government action is required for justice to prevail.

This legislation is submitted as a working draft to stimulate debate and is not proposed as a panacea to all ills. We are now at a stage where we have so many reports and investigations. What all of these point to is the need for a fundamental root and branch review of An Garda Síochána. As Professor Dermot Walsh has pointed out, it is less than a decade since the Morris tribunal reported. He said:

There is no reason to believe that the recent and prospective inquiries will be any more effective in delivering lasting reform. There is a systemic malaise in the Garda organisation that can only be tackled by the establishment of a Patten-style Commission with the remit

27 May 2014

and resources to conduct a thorough root and branch review of what we want from policing and how we should deliver policing in this country.

It is also crucial that any legislation put forward by Government is accompanied by the political will to actually use it; otherwise there will be no change. Speaking of no change, Sergeant Maurice McCabe is not at work today nor was he there yesterday. He is suffering from harassment and abuse. He has been told by senior officers that he has destroyed the force. He has reported the abuse through the proper channels and still there is no change, which is very disappointing. It is hard to believe that a man who has been so selfless and relentless in the pursuit of justice could still be treated like this, given all we now know.

If the Government is serious about real and meaningful reform of An Garda Síochána, it has much work to do. Placing an independent police board on top of the existing Garda structure will not solve the problem and would merely give a false gloss of legitimacy to a dysfunctional police force, which does not amount to a service. The Government could demonstrate its commitment by allowing this Bill to proceed past Second Stage - and not just parking it there, by committing to a strong police board, by publishing the Roma children report immediately, by investigating properly within one of the proposed reviews the allegations of Traveller racial profiling, and by committing to the publication of all Garda codes.

If the new Minister is genuinely committed to a new and reforming approach, I ask her to immediately permit GSOC to open a section 106 inquiry into Corrib Gas. What happened to the people there beggars belief. An Garda Síochána has always been at the mercy of the Minister for Justice and Equality and the Government of the day, accountable to them, and under their influence, when it suited Government members. Professor Dermot Walsh has warned that such “a huge concentration of police power in the hands of central government in the absence of adequate constitutional checks and balances is uncomfortably close to the arrangements associated with a police state”. Professor Walsh’s warning is hugely important, given An Garda Síochána’s monopoly on legitimate use of force in civil society. The citizen has a right to protest peacefully, but that is not what happened at Rosspoint, where democracy was suspended to facilitate the interests of Shell. Civil liberties were eroded, and repression, criminality and a lack of accountability became the order of the day. The people of Corrib deserve justice. The people of Ireland also deserve justice.

I wish the Minister the very best in trying to bring us the police force we need. I have no doubt that it will not be easy but where there is a will there is a way. We can introduce all the legislation we like, but without the political will to make it happen, nothing will change.

Deputy Clare Daly: In a certain sense it is an indictment of the Government that we are still here discussing this matter. When we raised these issues last year we were laughed out of court with a stream of backbenchers lining up to say how great everything was in the force and how we were somehow undermining it. The people who were in the Visitors Gallery are back again a year on. Nobody in the media wanted to listen to their stories or the horrendous injustices they had experienced. Yet here we are almost a year later and thanks to the persistent and heroic efforts of Sergeant Maurice McCabe and Mr. John Wilson the ideas which were laughed at last year are being accepted by the Government and in some ways nearly promoted as its own. While it is good that the Government will not oppose tonight’s Bill - or so we believe - it is meaningless unless it is advanced to Committee Stage and we can begin to get our teeth into it. The principles of an independent police board have now been established. The dogs on the street know that is what we need.

As Deputy Wallace said, putting such a board on top of the existing Garda Síochána will not make a blind bit of difference; much more is needed. We are at a crossroads in terms of policing in this State. We need a Patten-style commission where we look at everything. The days when An Garda Síochána was constituted at the foundation of the State were completely different from the modern Ireland. We do not need a police force, but a police service for the modern era. We need to look at dealing with its goals, objectives, recruitment, promotions, transparency, accountability, etc. While it will take time, the Minister will be judged on whether she is serious about it by how the issue progresses in time because this goes much deeper.

The Morris tribunal report referred to a few very unruly gardaí and there has been much talk about a few bad apples. The reality is that there are many more than a few. They are still the minority, but it is an institutional problem and the measures put in place did not deal with it. The only reason the bad apples got away with it is because their colleagues and those in authority refused to deal with it and covered it up, which allowed it to continue. This did enormous damage to many of our citizens.

It is well known that many of those gardaí, who participated in the appalling crimes associated with what was known as the “heavy gang” in the 1970s and 1980s, ended up being promoted in later years. As Deputy Wallace said, the current treatment of Sergeant Maurice McCabe shows that ethos. It is interesting that when his access to PULSE was restored thanks to the Minister’s intervention, the letter he got informing him was at best begrudging. It contained pages reminding him of his responsibility under the Data Protection Act, very like what the former Commissioner, Mr. Callinan, did in order to tell Mr. John Wilson and Sergeant Maurice McCabe to button it at the time that the penalty points issue first came out.

The Minister may think that some of the public statements being made by the acting Garda Commissioner about welcoming a new approach and an open culture are true, but I do not believe them to be true. We have had testimony from serving members of the Garda indicating that behind the public door they are being told to shut it, not to shoot their mouths off and not to participate in this. Last week senior members of the Garda undermined GSOC by saying that GSOC was not a body gardaí should go to under some spurious excuse. Based on information I have used here before, it is our very clear understanding that the former Commissioner, Mr. Callinan, contacted all the Garda representative organisations and asked them to issue public statements undermining GSOC. This is a systemic problem and we need to look beyond just patching it up.

Over the past week I have received two letters from serving and retired gardaí, who have 50 years of service between them. I will read an extract from one of them. This garda sergeant stated:

I have been in the force for over 30 years and I am letting you know that interviews are currently being held for the promotion to the rank of sergeant and inspector and that the competition is in its final stages...

The method of choosing the successful candidate is the same as it’s been for years - who you know, play golf with, the chief or the super, or have a super or a chief in the family. I am not saying everybody got promoted in this way, but a large number did. I believe this system has led to where we are today - some fine members have been overlooked year after year and they eventually give up and become disillusioned.

27 May 2014

Some of the people being promoted this year will be the future chiefs and commissioners. I think this competition should be brought to a halt until an independent authority is set up to oversee the organisation.

I agree with that. If we are serious we have to look at that and we have to look at recruitment from the bottom as well. We have previously made the point that it is hard to see how anybody currently at the rank of assistant commissioner or higher could possibly be part of the leadership of a new force because much of the information on the problems that have emerged were not just given to the former Commissioner and former Minister; many among the senior ranks of the Garda were well aware of them also.

I wish to mention a few cases. The first one relates to Mr. Ian Bailey, which is central to many of the allegations around the tapes and so on. There was a horrendous fitting up of a citizen and his partner. Yet we know, because we mentioned it here last year, that in 2001 a report done by the former DPP stated that the behaviour of the gardaí was outrageous. Mr. Bailey's team has reckoned that it has cost the State €40 million to €50 million in trying to fit him up in the intervening 18 years since this started. It is not just a financial cost, it is a human cost to him and his partner. It is also a human cost to the family of Sophie Toscan du Plantier. There is also the fact that there is a murderer at large. However, the State continues to defend the case being taken by Ian Bailey.

In the course of Mr. Bailey's litigation and prior to a Supreme Court hearing on his appeal against a High Court decision to extradite him it emerged that the French authorities were acting on the basis of a flawed European arrest warrant prepared on foot of information supplied by gardaí who had been named in the Director of Public Prosecution's report as having behaved improperly. One could not literally make this stuff up. We highlighted this matter in the Dáil last year and no one even batted an eyelid. In short, it did not cause waves. Subsequently, other information emerged and media outlets recently reported that three former senior officers, in the context of the case to which I refer, had used improper influence on a former Director of Public Prosecutions via Malachy Boohig, State solicitor for west Cork, in order to bring about the prosecution of Ian Bailey. Mr. Bailey's legal team has been informed that these officers are former Chief Superintendent Dermot Dwyer of Bandon, the State's most senior detective at the time, former Chief Superintendent Seán Camon and the former assistant commissioner for the south-west division Martin McQuinn. Evidence given by the former Director of Public Prosecutions, Mr. Eamonn Barnes, indicates that pressure was exerted in order to force a prosecution in the Bailey case. In addition, Mr. Boohig has stated he was informed by a garda that he was aware that he had attended college with the former Minister for Justice, Equality and Law Reform, John O'Donoghue, and that he was directed to talk to him in order to have a prosecution pursued.

This is an extremely serious issue. What makes matters worse for me is that the names I have just mentioned are not new. Former Chief Superintendent Dermot Dwyer's name also popped up in a dossier produced by former garda Jack Doyle who was the subject of a television programme in 2001 and revealed that gardaí were involved in selling drugs and allowing criminals to get their hands on some of them. The dossier to which I refer which was presented to Mr. Michael McDowell contains allegations to the effect that the individual in question who has also been named in the Ian Bailey case was given tens of thousands of pounds by a major criminal gang. A root and branch review is required.

An Leas-Cheann Comhairle: I am loath to interrupt, but I must point out that Members

should not comment on or criticise people outside the House.

Deputy Clare Daly: The point is that these matters run deep. The Minister is in possession of correspondence from a former garda involved in the Baiba Saulite case which was also provided for the Taoiseach. The former officer in question indicated that he was shocked when the former Garda Commissioner stated there were only two whistleblowers within the force. The individual to whom I refer had approached the confidential recipient and made reports to the effect that the abduction of Baiba Saulite's children had not been handled properly and that if this had not been the case, she might not have been killed.

Yesterday I met another former garda who had been driven out of the force in the 1990s having suffered severe harassment and persecution. That individual also compiled a dossier of very serious crimes which were not dealt with. In the intervening years the said individual has come into possession of evidence which suggests there is someone in prison for crimes which they could not possibly have committed and who identified the actual perpetrator as a person about whom the garda in question had made the original report in the 1990s. Deputy Luke 'Ming' Flanagan, now an MEP, has also referred to stories related to him by serving gardaí.

I am referring to gardaí, but what about ordinary citizens such as the family of Patrick Nugent, a banqueting manager at Bunratty Castle who allegedly was the victim of a heart attack at 23 years of age at a party attended by two gardaí? The record of the verdict at the inquest into his case in 1985 stated that while it was an accidental death, the jury had attached a rider to its findings as a result of the suppression of evidence by witnesses to the event. The jury was far from satisfied about the circumstances in which Patrick Nugent had sustained the injuries which caused his death. Accordingly, it issued a request to the then Minister for Justice to have the matter investigated because Mr. Nugent's right to life had not been protected. Almost 30 years have passed and it still has not been investigated and Mr. Nugent's family has not received justice. In the context of this matter, I also refer to Marie Maxwell whose mother, Dolores, died in very sinister circumstances; Tom Kennedy who has evidence that he paid for land which he purchased from his brother but that he was conned out of it by a rogue solicitor, Kevin Tracey; and the Smith family from Cavan who were the subject of malicious complaints and serious Garda harassment for trying to defend their rights.

The question that arises relates to what is going to be done to bring closure in the various cases to which I have referred. Vague references have been made to establishing a forum to deal with them. As Deputy Mick Wallace pointed out, our offices cannot deal with the scale of what is involved. There is a need for a commission of investigation similar to that which investigated the matters relating to the Magdalen laundries to be established in order that people might, as a first step, have their stories heard and obtain an acknowledgement of the wrongs done to them. Such a commission might also lead to their obtaining justice. We can discuss the concept of a new police service for a modern Ireland, but unless we deal with the crimes and injustices of the past, we can never move on. As I informed her on an previous occasion, the Minister has an unenviable task. However, she also has a major opportunity to make matters better for the good gardaí who joined the force for the right reasons and want something more and for those citizens whose respect for the force has been crushed as a result of the way in which they have been treated. Those to whom I refer want an opportunity to obtain justice and we need to find ways to give it to them.

Deputy Finian McGrath: I welcome the opportunity to contribute to the debate on this new and radical legislation, the Garda Síochána (Amendment) (No. 2) Bill 2014. I thank Dep-

27 May 2014

uty Mick Wallace for bringing forward the Bill which I will be strongly supporting because it should be a major part of the reform agenda. The people are crying out for change, reform and accountability. They are also crying out for professionalism in the police service. I thank Deputies Clare Daly, Mick Wallace and Luke 'Ming' Flanagan for the work they have done on the whistleblower issue. They were the first to highlight it, as well as the scandals in the justice system. The role of Independent Deputies is to challenge, reform and change the system and the legislation before the House is part of that process. The *status quo*, the system and politics must all change. In that context, politics must change radically. The Government and all political parties in the Dáil should support this important Bill.

We recently lost a Minister for Justice and Equality and a Garda Commissioner. This is the time for the Government to put up or shut up. It should support the Bill 100%. We need to stop pussyfooting around and get on with the so-called democratic revolution. All we have had up to now is talk and plámás. The Bill would make a difference and we owe it to the citizens of the State to have it enacted. We also owe it to the victims of cases in which there have been gross miscarriages of justice to have the legislation enacted. The families in question need answers and the truth. Above all, however, they require justice. On previous occasions reference has been made to the case of Shane O'Farrell, the cases brought to light by Dr. Richard O'Flaherty of Limerick and the many cases publicised by the great journalist Gemma O'Doherty, the Shane Tuohey case and the Preston case. In addition, there is the case of James Sheehan in County Kerry, in which gardaí illegally planted a gun and destroyed his life and good name. I met him and I am convinced that what he says is an accurate reflection of what happened.

I was absolutely shocked and horrified by what Deputy Mick Wallace indicated was still going on in respect of Sergeant Maurice McCabe. It is an absolute disgrace that the bullying and intimidation are still happening. Where are the Association of Garda Sergeants and Inspectors and the other representative organisations which should be defending Sergeant McCabe? Where is the acting Garda Commissioner when all of this is going on? I commend the other whistleblower, John Wilson, for the magnificent work he has done on all of these cases. The agenda pursued by Sergeant McCabe and Mr. Wilson is designed to try to provide a policing service we can trust and support. It is not, as some have stated during previous debates, anti-Garda in nature. We all have brothers, sisters, cousins, etc., who serve in An Garda Síochána.

8 o'clock

We want a meritocracy. We want the good gardaí to be protected and to be able to get on with the job. These are the gardaí who want to be accountable to the citizens of the State and obey the law of the land. That is why the Garda Síochána (Amendment) (No. 2) Bill 2014 is important legislation.

The Bill aims to strengthen the independence and impartiality of the Garda Síochána Ombudsman Commission and provide for the establishment of a Garda Síochána independent board with monitoring, oversight and supervisory functions over An Garda Síochána. The legislation would create a power-sharing arrangement between the board, the Minister for Justice and Equality and the Garda Commissioner. For me, that is common sense and a part of the reform agenda. The establishment of a Garda Síochána independent board with monitoring, supervisory and oversight functions over An Garda Síochána would be an important step in strengthening the democratic accountability of An Garda Síochána. This is necessary to promote public confidence and trust in the force but it is something we have ignored. In the debate in recent months Government parties and other major parties have failed to listen to the whistleblowers

and Independent Deputies and in so doing have damaged trust in the Garda. The Minister must act now. We need reform to build up trust because many good people are suffering. I gather the Minister will accept the legislation and this is positive but as well as accepting legislation we need reform and support for good honest whistleblowers in the Garda Síochána.

Deputy Thomas Pringle: I welcome the opportunity to contribute to the debate on the Garda Síochána (Amendment) (No. 2) Bill. I pay tribute to Deputy Wallace for bringing forward this legislation. As we know, similar legislation was brought forward last year. The families of the many people throughout the country who have suffered grievous wrongs at the hands of gardaí and Garda malpractice attended the House for the debate last year. Yet, here we are 12 months on debating another Garda (amendment) Bill. The same families will come to the House tonight and tomorrow night. It is wrong and the process should not have taken this amount of time.

I understand the Bill may be accepted by the Government. I hope that is the case because then perhaps we can begin to see the necessary changes.

Too many people throughout the country have suffered. Too many families have suffered and continue to suffer because of wrongdoing, malpractice and illegality carried out by gardaí. This is a symptom and the result of an organisation having unaccountable power. This is at the root of the problem and this is what the legislation seeks to end or achieve. Any organisation, no matter what, in any state which has vast amounts of power and which is unaccountable will behave in such a fashion. It is an institutional problem within the Garda. This is a problem because individuals within the Garda believe they can act with impunity or in a way that impinges on citizens' rights. This, in turn, destroys citizens' lives and forces families to suffer for years afterwards because of certain events.

I know one such family personally and I have discussed their case. I am referring to the family of Shane Tuohey. He died many years ago in Clara, County Offaly. It appears he was assaulted and fell into a river or was thrown in. A search for his body lasted several days. The Garda actively hindered the search for his body.

I have participated in several tragic searches for people who were lost in Donegal. The Garda has facilitated those searches, co-ordinated them and provided personnel for them. Whenever I hear of a tragedy in the country involving someone's body going missing or lost in a river I think of Shane Tuohey's family because gardaí actively hindered that search and, after his body was found, they hindered getting to the facts of what had happened. That wrong continues to this day. The Minister must create a situation whereby families such as the Tuoheys can have their stories heard, secure a proper investigation and receive some closure following the events. There are too many families like them throughout the country and too many individuals who have suffered in the same way.

I submitted to the previous Minister, Deputy Shatter, evidence of a District Court judge who used confidential information provided by the Garda to secure an injunction against individuals in Donegal 16 years ago. That is still in place and they cannot get it removed. What was the response of the then Minister, Deputy Shatter? In one of his last days in office he wrote to me hiding behind constitutional provisions and stated that he could not investigate the matter or have any input into the case of a complaint against a District Court judge. However, he could investigate what the Garda did to provide the information to the judge which allowed him to make the injunction. These things need to be dealt with. I will resubmit the evidence to the

27 May 2014

current Minister and I hope she will consider it in a more open manner. These are the type of issues that must be addressed.

For too long in this country there has been a tendency to attack the messenger. We have seen whistleblowers attacked and we have heard of the ongoing attacks on Sergeant Maurice McCabe over the allegations he has made, allegations which have proved true and which have led to the formation of a commission of investigation. We see this all the time and we have seen it too many times.

In Donegal we had the Morris tribunal. When the Morris tribunal was running the whole concern within the Department of Justice, Equality and Law Reform, officialdom and the political hierarchy in this House and in the country was to ensure that the matter was contained within Donegal. The view was that it was a Donegal problem, it was up there and up there they are different and such things only went on up there. However, we know now that these things went on throughout the country.

An opportunity was lost with the Morris tribunal to deal with the matter once and for all and to do so properly. Now, we have an opportunity to deal with it again. I call on the Minister to ensure that the matter is dealt with properly, to ensure that we have a Garda service and a police service in this State that people can be proud of, one that the members who serve can be proud of and one that is accountable to an independent body and to every citizen in the State. That is vital and it is what is needed at this stage.

This legislation addresses all the things that have been highlighted as being wrong with An Garda Síochána. It provides for the appointment of an independent Garda Síochána board. It strengthens the role of the Garda Síochána Ombudsman Commission. Deputy Wallace has said that the Bill needs amendment on Committee Stage, if it is accepted, to strengthen the provisions further. That is vital. The situation whereby GSOC must use gardaí to investigate allegations against gardaí must end. GSOC must have its own investigators and investigative powers and must be totally independent of the Garda when it is investigating allegations of wrongdoing.

We need to increase the autonomy and independence of An Garda Síochána and this is provided for in the Bill. A power-sharing arrangement between the board, the Minister and the Garda Commissioner is proposed. We must have direct accountability of the Garda Commissioner to the board rather than to the Minister. We must break the political links we have seen in the House, those used by the former Minister, Deputy Shatter, in making allegations against Deputy Wallace and used to make public confidential information that he was provided with by the Garda Commissioner.

These things must end and things must change from now on. That is not an easy task and I realise it will take time. However, this legislation has been introduced and it can provide a road along the way. Deputy Clare Daly suggested we need a commission along the lines of that which dealt with the Magdalen laundries, whereby people and their families have the opportunity to tell their stories and have their stories recognised and investigated. That is the only way to bring closure and to bring an end to the pain that these families have suffered. We have the opportunity to do that now and we should ensure it happens.

Throughout the past year when the issue was debated all the Deputies on the Government side trotted out to say how great everything was and how wrong we were. They attacked Inde-

pendent Members for raising such difficult issues. I am pleased to see that this has changed. I hope the Government side will come out tonight and tomorrow night and support this legislation. They should recognise and acknowledge everything that has gone on in the past year and what we now know. This includes revelations from the whistleblowers, the penalty points fiasco, the GSOC bugging fiasco and allegations of racial profiling within the Garda. Furthermore, we have seen the Guerin report and the subsequent commission of investigation. We need to ensure that works and is carried out properly. I hope everyone on the Government benches will support this legislation.

The Labour Party has highlighted how it published a document in 2000 calling for a Garda authority. It has now published another document, but it did nothing while all of these allegations were being made or during the House's debates. It stood by its man when the former Minister, Deputy Shatter, defended himself in the House when it should have asked whether there was an issue that needed to be examined. For too long, the Labour Party has been the lapdog in government, standing back and letting such things happen. That can no longer be the case.

Deputy Fitzgerald has made many right statements since becoming Minister. She mentioned that she would address many of these issues. This legislation will help her along that road. It has been drafted and is ready to go. I call on her to ensure this legislation is passed, that we get an independent Garda board, that the Garda Síochána Ombudsman Commission, GSOC, be changed so that it might operate independently and that we get what we need, namely, a fully and democratically accountable Garda service and, for the betterment of everyone, an end to the days of people holding unaccountable power.

Deputy Finian McGrath: Hear, hear.

An Leas-Cheann Comhairle: I understand the Minister is sharing time with Deputies Connaughton, McHugh and Feighan. The Minister has 15 minutes.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I welcome the opportunity to respond on this Bill, which has been introduced by Deputy Wallace. The Bill's tabling comes as debate continues on the various matters addressed in the report to the Government by Mr. Sean Guerin and other recent issues of concern, which have been well articulated by Deputies. We discussed these issues most recently two weeks ago in the course of the statements on the Guerin report.

The Government and I are committed to a programme of reform of the Garda Síochána and the justice system generally. Deputies Clare Daly and Finian McGrath mentioned that good gardaí and policing exist. It is important that I comment in that regard. When I last discussed the Guerin report, I mentioned that I had attended the Garda memorial day in the Dubh Linn Gardens at Dublin Castle to honour the memory of members who had been killed in the line of duty. I again wish to acknowledge the substantial contribution that many members of An Garda Síochána have made in preserving the security of the State. I am sure other Deputies would agree.

It is essential that members of the public have full confidence in how the Garda carries out its functions, which include the exercise of extensive powers and responsibilities. Currently and regrettably, however, that confidence has been undermined. As the Minister for Justice and Equality, it is my objective to restore confidence in the work of An Garda Síochána and to support the men and women of the Garda in fulfilling their duties in keeping our communities

and country safe.

The Guerin report contains deeply disturbing findings. Following its discussion by the Cabinet, the Government immediately announced its intention to establish a commission of investigation to examine the specific items identified for further investigation by Mr Guerin. He found that almost all of the cases he examined warranted further investigation. The range of issues that emerged are being referred to the commission.

The Government has also initiated a comprehensive programme of reform to address the wider systemic failings that have emerged from the report. Clearly, there are systemic issues. Many of the Deputies who have contributed referred to them. When the Morris tribunal report was published, people wondered whether the issues identified related to Donegal alone. When the Guerin report was published, people wondered whether just those counties were involved or whether it could be assumed that wider issues similar to those discovered in the previous report were at play. While Mr. Guerin was not definitive on this question in his report, he commented on the wider, possibly systemic, issues.

The spectrum of issues that must be addressed is complex and deep rooted, ranging from high-level issues such as oversight, change management and the role of whistleblowers to local administration and internal communication as well as to clear matters of basic policing, performance and human resources. Cultural issues must also be addressed and a change of culture is required. The Acting Garda Commissioner has stated this as well. She is committed to the kind of change that we need.

Many cases have been mentioned during this debate. I acknowledge the importance and necessity of seeking justice, resolutions and answers for those families that have experienced injustice. Deputies will appreciate that I cannot comment on the individual cases to which they referred, but I am prepared to have the relevant matters fully pursued. I ask the Deputies to provide me with the relevant details. Quite a number of cases have been already referred to the Department of Justice and Equality or to the Department of the Taoiseach and other cases are outstanding. I am actively pursuing specific measures to ensure these complaints are properly and effectively addressed. I will comment further on this matter in the near future.

This is not about change for change's sake. Rather, it is about comprehensive and sustained corrective action to address all relevant matters. A range of initiatives is required to deal with the spectrum of issues most recently raised in the Guerin report. If we do not do this, we will not achieve the objective to which Deputies have referred, namely, providing the country with the police force it needs, operating to the highest professional standards and ready to meet current and emerging challenges.

Everyone acknowledges that there are good gardaí, effective investigations and good work being done by the Garda around the country. However, this debate is focusing on those areas where there are serious problems that need to be addressed. As I advised the House two weeks ago, the necessary reforms include such measures as opening up to competition future appointments to the position of Garda Commissioner. Advertisements for the position will begin in July. The Garda Inspectorate is to carry out a comprehensive inquiry into serious crime investigation, management and operational and procedural issues arising from the findings of the report by Mr. Guerin, taking into account the implementation of the recommendations that the inspectorate made in earlier reports and work it already has under way. I have met the Garda Inspectorate and held a detailed discussion with it. I have written to it requesting it to carry

out the work required following the Guerin report and to make recommendations. There will be an independent expert review of the performance, management and administration of the Department of Justice and Equality. I will make further announcements in this regard in the near future.

Amendments to the Protected Disclosures Bill 2013 will be enacted to enable a Garda whistleblower to report his or her concerns to GSOC. Furthermore, with specific reference to GSOC, I can confirm to the House that a new Bill will be introduced at an early date during this Dáil term to strengthen the remit and powers of the Garda Síochána Ombudsman Commission. Some of the measures being considered here are bringing the Garda Commissioner within the scope of the complaints that can be referred to GSOC, the capacity of GSOC to initiate reviews of Garda practice and procedure without reference to the Minister for Justice and Equality, and the police powers it can exercise when conducting investigations.

The Government's programme of reform also involves the establishment of an independent Garda authority, which is the subject of the Bill before the House. The Government has signalled that the new body is to be operational by the end of the year. That is an ambitious target but one we want to meet. This development will bring about the most fundamental change in governance arrangements for An Garda Síochána since its foundation.

As Deputies will appreciate, such a significant reform requires equally significant deliberation and consideration. A new Cabinet committee on justice reform, chaired by the Taoiseach, has been established to oversee the development of the proposals for the independent Garda authority and other associated reforms of the policing and justice systems. As part of its activities, the Cabinet committee has initiated a public consultation process inviting views on a range of issues, including the new authority and matters relating to GSOC, and I will initiate further public consultation in the weeks ahead. In addition, the Members of this House will appreciate that the Oireachtas Joint Committee on Justice, Defence and Equality is undertaking work along similar lines. It has had the hearings. There will be more tomorrow, and its members will visit neighbouring jurisdictions to examine how independent Garda authorities work in other countries. I strongly support the need for the full engagement of Members of both Houses of the Oireachtas in this programme of deliberations.

I want to make it clear that the Government supports the underlying principles behind the Bill introduced by Deputy Wallace tonight. This Bill provides an early opportunity to reflect on some of the key questions involved in establishing the authority, for example, matters relating to the composition of the board. Without wishing to express any definitive opinion on the question of the membership of the oversight body to be established in respect of the Garda Síochána, I would have some concerns, in terms of some of the proposals in the Bill, that officeholders whose functions could involve the scrutiny of policing activities should also have a significant role in directing An Garda Síochána, as proposed in the Bill.

While I appreciate the sentiment behind the approach the Deputy has adopted in his Bill, the potential for conflicts of jurisdiction is obvious, and I do not believe that some of the individual officeholders named in the Deputy's Bill should be placed in a position where such conflicts could arise. I make that comment by way of observation of some of the elements of the Bill.

The Members of this House will appreciate that An Garda Síochána is also the security and intelligence service for the State. This is a further issue I believe has to be the focus of particular attention. It goes without saying that it is a vital area for the country and for everyone in it.

27 May 2014

Under the Deputy's Bill, the functions of the proposed policing board would extend to the security field. This is one of a number of specific topics currently being addressed by the Cabinet committee on justice reform. Pending the consideration of its conclusions by the Government, I do not propose to express a view on the approach that should be adopted with regard to security matters. However, I would emphasise that it is a very important matter that requires detailed examination with reference to any new Garda oversight legislation.

As I have indicated, the Government has made an absolute commitment to bring forward legislation as a matter of urgency to establish a new independent Garda authority. That is why the Government has decided it will not oppose this Bill on Second Stage, as it is broadly aimed at the same objective. However, it is critical that, in what will be the most important development in the governance and oversight of the Garda Síochána in its history, we get this right. I am sure every Deputy here would agree with that. This is a fundamental review and change in the structure and organisation and we must consider very carefully the approach that should be taken regarding the composition and appointment of the authority, its powers and functions, its relationship with the Minister for Justice and Equality and Government and, more generally, its accountability. These are serious issues that require the most serious deliberation and this is a process that is under way, under the guidance of the Cabinet committee on justice reform, which is chaired by the Taoiseach, and in a number of other arenas also.

We are treating these issues, therefore, with the seriousness and the urgency they deserve. This will see the introduction of two Bills, one to enhance the powers and remit of GSOC and one to establish the independent Garda authority, and I look forward to debating these proposals with Deputies. I cannot comment on the individual cases mentioned earlier but we need to put a process in place to deal with the particular issues raised by Deputies regarding the cases mentioned. I have also heard what was said tonight in regard to Sergeant McCabe, and I will raise that matter directly with the Garda Commissioner.

The Government is not opposing the Bill as it is broadly aimed at the same objective of the Government. I look forward to further discussions with Deputies in this House, and in a range of arenas, on the precise issues that need to be worked out as we move towards the establishment of an independent Garda authority.

Deputy Paul J. Connaughton: I thank the Leas-Cheann Comhairle for the opportunity to speak briefly about the Bill. I congratulate the Minister on her new role. She has been thrown in at the deep end, so to speak, at a very serious time for An Garda Síochána and the Department of Justice and Equality. I want to mention also the former Minister, Deputy Shatter, who admitted that mistakes were made in this area in recent weeks but who did very fine work in his role as Minister for Justice and Equality over the past three years.

It is important to acknowledge the role Opposition Deputies played in consistently highlighting this issue in recent years. I admit that as a backbench Deputy I did not fully acknowledge the extent of many of the issues raised over an extended period. It was only when I got an opportunity to hear from Sergeant McCabe at a Committee of Public Accounts briefing that I understood many of the concerns he was raising. Not only was he raising very serious concerns, but there was methodology in the way he was presenting them. He could prove how this was happening, back it up with factual information, and show that the problem was extensive. That is the first time I realised the seriousness of the issue. Sergeant McCabe has done the service some good, despite the claims made earlier about his current treatment, but we now must attempt to rebuild confidence in the Garda Síochána.

A point made repeatedly here is about the number of gardaí who are very good at their jobs. That is the case because 95% of them do a sterling job on a daily basis, and we depend on them for our safety and security. It is important that while this work goes on they are allowed to do their jobs.

I want to briefly touch on the area of discretion, which is an issue that arose when Sergeant McCabe spoke to us. In fairness, he did not have an issue with that because all gardaí must be able to exercise discretion at some level, particularly those who work in small rural communities. In terms of their ability to work with local people they know and understand, gardaí must be given that discretion to allow them to do their jobs, but if we take that from them we make their job nigh on impossible. Sergeant McCabe did not have an issue with Garda discretion but with the way it was being abused by other people in the force, and that is something we must acknowledge.

The Bill brought before the House by Deputy Wallace makes a good deal of sense on the basis that the Government is broadly agreeing with many of its proposals. The objectives of the board as stated were to promote public trust and confidence in An Garda Síochána, which is hugely important. As politicians, we all know there is a level of cynicism around everything we do, regardless of whether it is good or bad. We cannot allow that to happen in our Garda force for the foreseeable future considering the role its members play.

The aim of the Bill is to provide an independent means of oversight, monitoring and supervision of An Garda Síochána. That should be welcomed. Gardaí play an important role in society but that does not mean they can work at their own whim and take action as they see fit. It is important they are accountable not only to this House, but to a board made up of different people and organisations. One part of the Bill states that they should come before the Committee of Public Accounts, which they and the Garda Commissioner do already on a regular basis, but it is important that they can come forward and explain the way appointments were made, decisions taken and policies rolled out. I welcome the timeline set out by the Minister, which is hugely ambitious. Much of what has arisen in the past six months is as a result of a culture that has existed for some time and will not be fixed overnight. Many of the people involved will remain in the Garda force for a number of years. More than anything else, a cultural sea change is needed. We can provide an independent board with the powers to do this. We must also support the Garda Síochána Ombudsman Commission in its role. It is important that there is a healthy friction between the force and GSOC. There is no point in their agreeing on everything because that would mean somebody was not doing their job. There must also be a healthy friction between the Minister and the Garda Commissioner. This will ensure both are doing their jobs right.

Deputy Wallace is correct in saying that if we are serious about bringing about public trust and confidence in the Garda Síochána then this Bill must progress to Committee Stage as soon as possible. This Bill, or another similar to it, was brought before us a year ago. As I stated earlier, I did not perhaps at that stage understand the seriousness of some of the issues that would arise. I believe the Government now fully understands the seriousness of these issues. It is important that the timeline as set out is adhered to and that most of the institutions required are established prior to Christmas, thus restoring trust and confidence in the Garda Síochána.

Deputy Joe McHugh: I welcome the opportunity to contribute to this debate. I agree with the previous speaker that in terms of our exploring all avenues and possibilities in the creation of a new independent authority, time is critical. This should include examination not only of

27 May 2014

best practice in Northern Ireland, which I know the Minister will be looking at, but internationally. We must also be conscious of what can happen when an independent authority is established too quickly. The Health Service Executive was set up far too quickly. It was ill-thought out and unplanned. In my view, many of the failures of the HSE resulted from a lack of clarity, preparation and clear thinking in terms of how it should operate. It is important that we learn from our mistakes.

I believe that the current Minister, Deputy Fitzgerald, in terms of her track record in setting up a new Department, is the right person with the right credentials to establish the new authority. Her experience in that regard will be critical in the development of the new authority. I have some reservations about the new authority in terms of where the line of responsibility lies with respect to the Garda Síochána and the Minister. Obviously, this will be teased out as the Bill progresses. I agree that there are whistleblowers who have legitimate concerns. A more recent issue that has been raised is whether there is a need for whistleblowers for these whistleblowers. All of these issues need to be ironed out. In the consideration of these issues by the various committees, time is critical.

I have learned from conversations I have had with gardaí that the biggest crisis within the Garda Síochána is its inability to respond. As with all other sectors, the Garda Síochána was hit by cuts, including in respect of the replacement of its aging fleet, leaving many gardaí patrolling areas in Fiesta vans. There is a great deal of country terrain in my constituency. The Coast Guard fleet, in terms of its ability to access rough terrain, is a fabulous asset to our communities. The Garda Síochána also operates in tough terrain. Consideration should be given to investment in a new fleet that can adapt to different terrains throughout the country.

In terms of resources, there is no sergeant in Raphoe Garda station. There are many gaps within the force. In my view the real crisis is the difficulty of response by the Garda Síochána owing to a lack of personnel. While the embargo in respect of recruitment has been lifted, it will be some time before new gardaí are appointed. We must look at what can be done now. For example, consideration could be given by the Minister to deploying young single gardaí, male or female, in administrative functions in the larger Garda stations from Dublin to Donegal. Perhaps if they come to Donegal they will find a reason to stay. We should look at incentivising gardaí to move to more rural areas.

It would be remiss of me not to refer to Border areas such as Muff, Killea and Carrigans, which are small, sleepy towns located close to the urban sprawl of Derry city, which has a population of 120,000. Despite all of the sophistication of modern communications systems and IT and the very positive involvement with the PSNI, the greatest asset to a garda in a rural or urban area is knowing his or her community. This is difficult to do with limited resources and minimum gardaí on the periphery of a city such as Derry. The message must go out to small communities such as Muff, Killea, Carrigans, St. Johnston and Quigley's Point that consideration will be given to allocating even one additional garda to the stations in those areas.

An Leas-Cheann Comhairle: Thank you, Deputy.

Deputy Joe McHugh: We got an important message from the electorate last weekend. Rural Ireland is crying out for something to be given back. We could respond by addressing the shortfall in Garda resources in rural areas. We must take on board the message from the electorate. Many good councillors got caught up in the crossfire of last weekend's elections and have lost their jobs through no fault of their own. It is important that we heed the message and

that we also remain conscious of the people caught in the crossfire.

An Leas-Cheann Comhairle: The Deputy has strayed far and wide and must conclude now.

Deputy Frank Feighan: More than 90 years ago a young man named James Feely was one of the first recruits to the Garda Síochána, which defended the institutions of this State. This young man was a Sinn Féin councillor and commander of the IRA in Roscommon who went on hunger strike. He was also my mother's father. I come from a family that have had huge confidence in the Garda Síochána. I come from a community that always looked to the Garda Síochána with respect. The Garda Síochána secured the safety of this State and ensured that communities and the country were safe.

I have always had and continue to have huge confidence in the brave men and women of the Garda Síochána. They have a difficult job to do. This Bill is to be welcomed. I thank the Minister for supporting it. It is important to acknowledge the job being done by An Garda Síochána. My grandfather was from Ballina, where my mother was born. They later moved to Cahir, County Tipperary and then to Rush, County Dublin. As a garda, my grandfather's responsibilities included checking that people had lights on their bicycles. The men and women of the Garda Síochána now have a much more complicated job to do.

I agree on the need for reform of the Garda Síochána. There have been many system failings. I thank the whistleblowers for bringing these failings to the attention of the authorities. I believe there is a role for whistleblowers but that their concerns should be brought to the attention of the Garda Síochána Ombudsman Commission, GSOC. I do not believe that these important matters should be the focus of television or radio programmes. There should now be an independent review of how best to manage these concerns.

I agree with the strengthening of the functions of the Garda ombudsman and the establishment of a body to be known as the Garda Síochána independent board which is to have monitoring, oversight and supervisory functions. I thank the Minister for not opposing this Bill on Second Stage. The Government, politicians and rest of the country have a lot of work to do to regain the full support of the men and women of the Garda Síochána. The public certainly has to have full confidence in how the Garda carries out its functions.

Deputy McHugh mentioned the Good Friday Agreement. We can work at a cross-Border level in this regard to ensure the Garda works in co-operation with its counterpart in the North.

The men and women in the Garda Síochána have been kicked about. Sometimes the fight is not what it should be about. There are issues that have arisen that have been out of the control of the Garda. As a politician, I will stand shoulder to shoulder with the members of the Garda Síochána. Whether circumstances are good or bad, one will not hear me criticising them. I value their job. They defended our country when there were people trying to undermine the stability and democracy of the State. I, for one, will stand shoulder to shoulder with them, and I will not undermine the Garda Síochána. I thank the force for the work it has done since the foundation of the State. It has one supporter here in Frank Feighan, Teachta Dála for Roscommon-South Leitrim.

Deputy Niall Collins: We welcome the intent of the Bill. My party supports the principle of the establishment of an independent policing authority. We have discussed that recently in regard to the Guerin report.

27 May 2014

I have some comments that are relevant to the Bill. We have just had a local election that gave us all an opportunity to engage more with the public than we ordinarily do outside an election period. The Minister's colleague, Deputy McHugh, made a point on Garda stations in rural communities. I echo this point because it came home to me quite forcibly when canvassing in parts of my rural constituency that people, particularly the elderly living in isolated places, are most concerned about crime. It would be very beneficial for us all if the new Minister took a position on the closure of Garda stations. We have had a long-running and quite contentious debate in this House on the programme for the closure of stations across the country. As the Minister knows, up to 140 have been closed. We need to rethink this and the Government needs to adopt a position on it.

The Government needs to give serious thought to the effect of early retirement from the force. Some of those who are retiring have the option to work for another couple of years. Most leave the force at the first available opportunity, which poses a fierce challenge. While I acknowledge that recruitment and training have recommenced and that it will take a while for this to have an effect on the system at the intake point, I must draw attention to the large exodus of ability, experience and intelligence. This is hampering the capacity of the force to investigate crime, protect victims of crime and, I hope, help these victims to achieve justice through the criminal justice system. This needs to be factored into the approach of the Government. There is a very multifaceted approach to An Garda Síochána at present. Everybody in this House supports it. We are all on the one page and that is to be welcomed.

With regard to the establishment of the proposed independent policing authority, we support the Bill. I have noted that the Minister has stated the Government is not opposing the legislation, which I welcome. As the Minister knows, the justice committee is undertaking work in this regard. She alluded to the fact that we are travelling to Belfast and Scotland. The trip is scheduled for the second week of July. We are to meet the Police Ombudsman for Northern Ireland and representatives of the PSNI, and then we are to meet the two relevant bodies in Scotland. This will go a long way towards informing me and other members of the committee about how exactly we should structure the board of the new independent policing authority. Tomorrow we are to have another round of hearings. The acting Garda Commissioner and Ms Nuala O'Loan are to present their views tomorrow and I look forward to that engagement.

We have a great opportunity to reinvigorate the force. The engagement I have had with the Garda over the past three to four weeks, since the broad acceptance of the principle of the establishment of an independent policing authority and its being placed on top of the political agenda, has demonstrated to me that members of the force have almost entirely welcomed the initiative. It is very good that there is such buy-in throughout all ranks.

As a consequence of the closure of the Garda stations, there was a promise that the Garda would roll out mobile Garda clinics utilising community facilities. I raised this with the Minister's predecessor, Deputy Shatter. He did not express much interest in following through on it. I tabled a number of parliamentary questions and the information I required was not available. As part of the reassurance to communities, we need to examine seriously how the areas in which Garda stations have been closed have been compensated through the provision of the service promised at the time of closure.

We are all on the one page with regard to the position of GSOC. In my name I published for my party a Bill that seeks to enhance the powers of GSOC to give it what it has been looking for. There has to be greater mutual acceptance involving GSOC and the Garda Síochána.

When we questioned representatives of GSOC recently at the justice committee, they still said they were meeting resistance from some people within the force when carrying out their work. There is obviously friction but there has to be oversight. In our profession, there is oversight. There is oversight in pretty much all organisations; it is a fact of life. We may not like it and we may crib about it but we must have it. That is the way of the world. We need to be able to ensure that both bodies can work efficiently. Ultimately, having issues dragging on for years is not good enough. We must not allow the continuation of circumstances in which one agency of the State frustrates another when both are mandated by the Houses on behalf of the people to serve the public. Collectively, we must make every effort to ensure that one does not frustrate the other and that the two complement each other. That will be difficult to achieve but we should bear in mind that the bodies exist to serve the public interest.

In the main, my party supports the Bill, although there is a lot of detail we have to consider. The Minister said in her contribution that the issue of State security needs to be teased out, and it is an issue that came up at hearings with some of the groups that have come before the justice committee to date.

I will conclude on that point. We support the broad principles of the Bill and we are happy for it to proceed. However, we would have some concerns and we would seek to amend some details if it were to progress further.

Deputy Aengus Ó Snodaigh: Cuirim fáilte roimh an mBille seo, mar aon leis an mBille a bhí ann anuraidh. Tá sé tábhachtach agus tráthúil go bhfuilimid ag plé é seo agus go bhfuil sin tosaithe, mar tá gá le hathrú suntasach, agus go dtarlódh an t-athrú sin go tapaidh.

I congratulate the Minister on her promotion. I have a degree of confidence as yet that some of the actions that are required will be carried out. I wish her well in that and hope my faith in her delivering it will not be let down.

There is a job of work to do and it is not party-political. Society in general has to have a huge degree of confidence in the police force that is preventing and detecting crime, given it has a lot of powers invested in it. If we do not do what is intended in this Bill, with the addition of whatever changes are required on Committee Stage, when my party would put forward a number of amendments, then we would be standing still and letting down the public. We would also be letting down those within An Garda Síochána and those who are now, regrettably, out of the force but who brought us to this stage, namely, the whistleblowers, to whom we owe a debt of gratitude.

The last major reform of An Garda Síochána and the last change to the institutions that administer and oversee the force was also prompted by whistleblowers. It is a pity it has to be people such as the most recent whistleblowers who take the flak for a number of years before the institutions of the State listen to them. Thankfully, we are now listening to them. I thank Deputy Wallace for putting this before us again.

In 2005, during the discussions on the Garda Síochána Act with the then Minister, Mr. McDowell, in the House and in committee, I argued that we needed something similar to what had happened in the North in regard to the Patten Commission. I argued that we needed to set up institutions that were more independent than those being set up at the time and that we needed changes in the structures of An Garda Síochána which would reflect more modernity than was then reflected within it. At the time, the then Minister argued this was wrong, that what had

27 May 2014

happened in Donegal was an isolated case and that there was not a level of corruption, incompetence or bad faith within An Garda Síochána which would warrant what I was calling for.

I do not believe the level of malpractice which we have seen to date is at an end, although we have seen it in isolated incidents. The vast majority of the members of An Garda Síochána are hard working, diligent, committed to the job, courteous and genuinely concerned about the communities they are sent to protect and to serve. I have had occasion in recent times to engage with a number of members of An Garda Síochána at different levels and every one of them was professional in their manner. However, like every large organisation, there are always bad apples. The job of those in this House is to ensure that whatever system we have to regulate large institutions, especially one which has the level of power of An Garda Síochána, would have a proper oversight method which is independent and can be above politics, so we can hold these institutions to account when mistakes happen or when crime is exposed within them.

I welcome the Bill. It is important that we put it into committee as quickly as possible, deal with it there and make it the best piece of legislation we can. This will hopefully address some of the flaws within An Garda Síochána, although other problems will only be addressed when the State properly resources the Garda with the most modern equipment and other resources to ensure it can prevent and detect crime in our society. As I said, we hope to engage with the Bill on Committee Stage, when every Member of the House can put forward their ideas to ensure we have international best practice and ensure people look at this State as being an example to the world. At the moment, we seem to be a laughing stock to the world.

Debate adjourned.

The Dáil adjourned at 9 p.m. until 9.30 a.m. on Wednesday, 28 May 2014.