

# Official Report (Hansard)

Monday 21 March 2011  
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Suggested amendments or corrections will be considered by the Editor.

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# Northern Ireland Assembly

Monday 21 March 2011

*The Assembly met at 12.00 noon (Mr Speaker in the Chair).*

*Members observed two minutes' silence.*

## Assembly Business

**Mr McGlone:** On a point of order, Mr Speaker. I have spoken to you one-on-one about this matter. During Question Time last Monday, the Minister for Regional Development, in response to questioning, placed on record some allegations regarding the role of members of the Public Accounts Committee. Those have since been proven to be inaccurate. I have provided you with a copy of a record of the minutes of that Public Accounts Committee meeting. Will you, in your role as Speaker, investigate those matters and, with the veracity of the minutes that have been provided to you, pursue the required course of action to rectify the inaccuracies that were presented to the House?

**Mr Speaker:** I thank the Member for his point of order this afternoon. I take very seriously things that are said in the House that are sometimes inaccurate. I also confirm that the Member has shown me the document to which he referred, and I confirm what he has said. He has put his concerns and views on the record. I will certainly write on behalf of the whole House to the Minister and try to confirm as far as possible the accuracies or inaccuracies of what he said.

**Lord Morrow:** On a point of order, Mr Speaker. At the last sitting of the Assembly, namely Tuesday of last week, I raised a point of order at the close of business. The Deputy Speaker was in the Chair, and he was to refer the issue to your office. It related to a matter of a considerably serious nature. I had a question listed as oral question 11. The Minister did not get to number 11, which is understandable. The normal practice, according to procedures, is that the answer is placed in the Member's pigeonhole immediately following Question Time. The Minister for Social Development failed to do that.

The case gets infinitely more serious because I then discovered that another Member was in a position to issue a statement, dated 15 March, containing full details of the issue. Not only did he issue a statement, but he got his photograph taken to ensure that everybody fully understood. He then went to another paper and gave the statement again. This is a very serious matter, and it seems that some Members are more equal than others. Indeed, some Members are treated with utter contempt. That is not acceptable.

We have also been provided with a very lame excuse for why I did not get a reply, namely that my answer was delivered by courier on Wednesday. Why would you engage a courier to deliver something when you are sitting across the Chamber from the person who requires it? Why would you not deliver it then?

Mr Speaker, this is most serious, and I would like you to make a ruling on the matter. I will not tell you what should be done. I think that I know what should be done, but I will wait for your ruling. It is despicable and beyond comprehension that a Minister should treat another Member in such a way. Either he is totally inefficient or his Department is, or maybe it is a combination of both. He seems to be quite efficient at delivering messages to his own Members. Is that how the House will be run in the future, or will we treat everybody as equals?

**Mr Speaker:** I am conscious that the Member raised the issue at the end of last Tuesday's sitting. I am deeply concerned that it took the Minister until the end of last week to let the Member have an answer that should have been issued immediately after Question Time last Monday. That is normal procedure in the House. I assure Lord Morrow and the House that I intend to write to the Minister to express my deep concern about the issue. It is totally and absolutely wrong. Usually, if a Minister does not

get to a particular question, he issues a written answer immediately after Question Time, and that is put in pigeonholes. On this issue, I agree with Lord Morrow: it is a serious issue about which the whole House should be concerned.

**Lord Morrow:** Further to that point of order, Mr Speaker, normally, if a Member is named in the House, he or she is suspended from the House. Does the Minister merit suspension from the House?

**Mr Speaker:** Let me look into the issue. As Lord Morrow will know, because he is Chairperson of the Committee on Procedures, these are complex issues. In addition, as I said to Lord Morrow this morning because I knew that he was deeply concerned about the way in which the matter was handled, Standing Orders are silent on the Speaker's authority on some issues. I raise that point continually with members of the Committee on Procedures.

### **Petition of Concern: Planning Bill**

**Mr Speaker:** I advise Members that on Friday 18 March a valid petition of concern was presented in relation to an amendment published for today's Further Consideration Stage of the Planning Bill. Amendment No 2, which is in the first group of amendments, is to do with planning control. The vote will be on a cross-community basis, and it may take place today.



## **Local Government Finance Bill: Royal Assent**

### **Transport Bill: Royal Assent**

### **Caravans Bill: Royal Assent**

**Mr Speaker:** I inform Members that the Local Government Finance Bill and the Transport Bill have received Royal Assent. I am also pleased to inform the House that the Caravans Bill has received Royal Assent.

**Some Members:** Hear, hear.

**Mr Speaker:** Order. The Local Government Finance (Northern Ireland) Act 2011 and the Transport Act (Northern Ireland) 2011 became law on 16 March. The Caravans Act (Northern Ireland) 2011 also became law on 16 March, and I know that the whole House will want to join me in offering congratulations to John McCallister on having the first private Member's Bill to be enacted here in 80 years. I want to say a personal word of thanks to John McCallister.

## **Suspension of Standing Orders**

**Mr P Ramsey:** I beg to move

*That Standing Orders 10(2) to 10(4) be suspended for 21 March 2011.*

**Mr Speaker:** Before I put the Question, I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That Standing Orders 10(2) to 10(4) be suspended for 21 March 2011.*

**Mr Speaker:** I am satisfied that cross-community support has been demonstrated. The motion has been agreed, so today's sitting may go beyond 7.00 pm, if required.

## Ministerial Statement

### **Northern Health and Social Care Trust: Clostridium Difficile**

**Mr Speaker:** I have received notice from the Minister of Health, Social Services and Public Safety that he wishes to make a statement to the House.

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** I wish to make a statement about the public inquiry into the outbreak of clostridium difficile in Northern Health and Social Care Trust hospitals. The inquiry has concluded its investigation and is publishing its report today.

At the outset, I apologise to all those affected, and I offer my sincere sympathies to the families who lost loved ones during this outbreak. There is no doubt that this O27 strain of clostridium difficile was extremely virulent and caused a great deal of pain and distress to all those affected. The outbreak was the first time that the O27 strain was seen in Northern Ireland.

The Assembly voted in favour of a public inquiry in March 2008. However, I made it clear that I was minded to commission a public inquiry. I first wanted to focus on the Regulation and Quality Improvement Authority's (RQIA) independent review of the outbreak. In October 2008, I made a statement to the Assembly about the conclusion of the RQIA review. I also advised Members that I had decided to commission a public inquiry, and I set out the two tasks that were to be undertaken.

*(Mr Deputy Speaker [Mr McClarty] in the Chair)*

The first task was to give an independent, rigorous account of how many people died as a result of the outbreak, and the second was to listen to the people who were affected by the outbreak and to let their voices be heard. We owe it to them to pay attention to their stories, to learn whatever lessons we need to from their experiences and to act on them.

Dame Deirdre Hine was appointed to chair the inquiry, and the other panel members were Professor Robert Stout, Dr Jocelyn Cornwell and Eleanor Hayes. The inquiry's terms of reference were to establish how many deaths occurred in Northern Health and Social Care Trust hospitals during the outbreak for which clostridium difficile was the underlying cause of death or a condition

contributing to death; to examine and report on the experiences of patients and others who were affected directly by the outbreak; and to make recommendations accordingly. The chairperson of the inquiry advised me that she wished to include staff in the Northern Trust as part of the second term of reference, and I endorsed that approach. On the basis of the RQIA's findings, I asked the inquiry to examine the period from 16 June 2007 to 31 August 2008.

In going about its work, the inquiry has not sought to apportion blame. Rather, it has focused on establishing facts, on hearing people's stories and on identifying whatever needed to be learned. That is what I wanted the inquiry to do.

During the past 23 months, the inquiry met in private 30 times, undertook a familiarisation visit to each of the five hospitals involved, held 20 informal meetings with persons directly affected by the outbreak and held public oral hearings over 14 days in October 2010. The inquiry received 73 completed questionnaires, 50 letters, 113 written statements and a total of 1,055 documents, including reports of similar outbreaks elsewhere in the UK. The report will be publicly available on the inquiry's website from 12.00 noon today.

The core participants in the inquiry, mostly former patients and relatives, have been given an opportunity to read the report before publication. The inquiry panel has made 12 recommendations. Of those, nine are for the trust and three are for the Department. The recommendations cover aspects such as communication with patients and families; dealing with complaints and feedback; providing information to patients and relatives; governance arrangements for patient safety; quality of care and record-keeping; the use of single rooms and sensitivity around the isolation of patients; end-of-life care; death certification; annual reviews of the trust's outbreak control plan; staff training; making full use of the advice of the trust's infection prevention and control staff; a review of A&E departments to examine their suitability for receiving patients with clostridium difficile; a review of the regional guidance on outbreak control plans; and recognising the additional risk that arises at times of organisational change. I accept each of the inquiry panel's recommendations.

**12.15 pm**

A team of expert reviewers carried out a detailed independent review of the medical case notes of all the patients who died. A total of 124 clinical records were examined, and the reviewers concluded that there were 31 deaths during the outbreak for which clostridium difficile infection was the underlying or contributing cause. Of the 31 deaths, clostridium difficile was the underlying cause in 15 deaths and a contributory cause in 16 deaths. The findings and conclusions presented by the expert group have been accepted in their entirety by the inquiry panel. I also fully accept those findings.

The inquiry report includes a number of positive comments that show that high-quality care was provided in many instances and in many wards. However, it is clear that, in some areas, things happened that fell short of the standard of care that people have a right to expect. Among the recommendations is the need for the Northern Trust to improve how it communicates with patients and their relatives. The trust board, too, has a key role to play in listening to patients' complaints and taking action where appropriate. Patients and relatives have the right to understand what is happening and to know how their concerns are being dealt with at all times.

The outbreak happened shortly after the health and social care services had undergone major reorganisation. As a relatively new body, the Northern Trust did not have sufficient time to bed down all its governance arrangements and to ensure that there were robust lines of communication. In situations such as that, there are clearly risks for all HSC organisations when it comes to responding to crisis situations. My Department fully recognises that that is an issue, and it will ensure that it is addressed.

The core of the matter is that every patient should be treated with respect, dignity and compassion. Our health and social care service treats and cares for hundreds of thousands of people every year, and, in the vast majority of cases, that care is of a high standard. Unfortunately, patients sometimes do not get the care that they are entitled to expect. It is clear that, at the height of the outbreak, public confidence in the health and social care service was shaken to the point where some people were worried about going into hospital because of fears that they might contract an infection. That is not acceptable.

I have made significant investments to drive down rates of healthcare-associated infections such as clostridium difficile and MRSA. As a result, clostridium difficile levels in our hospitals have halved over the past few years and are now at their lowest level since formal monitoring began. All trusts are fully aware of the need to ensure that there is a culture of zero tolerance of infections. The report has emphasised that this is not about dirty hospitals. The fact is that we will never be able to eradicate clostridium difficile, but that does mean that we should not take every step possible to prevent it.

I want to assure the public that they can have confidence in the quality and safety of care in all our healthcare facilities. It is important that that message is heard and that politicians and the media are careful not to cause unnecessary anxiety. In its report, the inquiry panel has appealed for more responsible media reporting, and I hope that the media heed that appeal. As I have suggested, our focus has to be on everyone who suffered during the outbreak, particularly those who died and their families.

In closing, I want to say a few words about the trust. It is vital now that the Northern Trust is able to continue to improve services and continue to restore the confidence of the community it serves. I want to thank Dame Deirdre Hine and her fellow panel members for carrying out the inquiry in such a sensitive and professional way. I also want to commend the inquiry team on its careful stewardship of public funds. Finally, I want to thank everyone who gave evidence to the inquiry. For many witnesses, that will have been very distressing, but it is their contributions that have given the inquiry its value and power.

Although the inquiry has addressed recommendations to the Northern Trust, at the panel's suggestion I will require all the health and social care trusts to carefully consider the implications for their own services and to ensure that they implement them. I will also share the report with Health Ministers in other UK jurisdictions. More immediately, I am meeting the chairperson and chief executive of the Northern Trust this week to set a timetable for implementing the recommendations swiftly. I want to assure the public that they will be implemented and that all lessons will be learned.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Mr Wells):**  
This whole issue was terribly difficult for the

relatives of those who passed away, for those who survived the outbreak and for the staff who had to deal with the crisis. A criticism of the Northern Trust was that there was a delay between it becoming apparent that there was a clostridium difficile outbreak and that being made public. Does the report of the inquiry give any explanation for that delay? We all hope and pray that this situation will never arise again, but can the Minister assure the House that, if it does, the public will be informed rapidly that there has been a further outbreak?

**The Minister of Health, Social Services and Public Safety:** Indeed, that points to one of the main recommendations of the public inquiry, which is around communications. The trust was deficient in communication, and that is to be regretted. One of the key recommendations that we will take forward involves communicating with patients and families, dealing with complaints and feedback and providing information. It is important that the general public get that information, and we will ensure that that recommendation is implemented, because it is clear that that did not happen in every case. It was a particularly difficult situation for patients and their relatives and, indeed, for staff, as Mr Wells pointed out. One of the best ways of addressing such situations is to have full sharing of information.

**Mrs O'Neill:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the conclusion of the inquiry, and I put it on record that our thoughts and prayers are with all those who lost their life as a result of clostridium difficile.

The Minister said that levels of clostridium difficile were at their lowest since formal monitoring began. Can he confirm that the Northern Trust is at similar levels to other trusts and is not still experiencing higher levels? Can he confirm that the inquiry panel looked at the fact that some wards had higher levels of clostridium difficile than others? Was that identified by the inquiry?

**The Minister of Health, Social Services and Public Safety:** The inquiry focused not on particular wards but on a whole system. It was a running battle, as it were. Clostridium difficile was reduced in one hospital and, when they thought that they had got over the top, it flared up in another. That is why the focus was on the five hospitals of the Northern Trust.

I have set stringent targets. I confirm that clostridium difficile is down by 54% from 2008-09. I have asked for a further 18% reduction over the past year. Other trusts are on target. The Northern Trust got somewhat offline in meeting that target and, as I understand it, is now back online. When I meet the chairperson and chief executive this week, I will make the point that they must hit those types of target, not least for the confidence of the general public. The number of instances at the Northern Trust is dramatically reduced, but there is always more work to be done.

**Mr McCallister:** I associate myself and my party with the Minister's opening words of sympathy to the families caught up in this dreadful outbreak. Does the Minister agree that this has been the correct way to proceed and that incidences are greatly reduced? Does he agree that it was right and proper to do the RQIA report before moving to the public inquiry and that all the lessons, both from the RQIA report and the public inquiry, have been learnt and will be implemented as speedily as possible?

**The Minister of Health, Social Services and Public Safety:** Yes, I give the undertaking that all the public inquiry's recommendations, three of which relate to the Department and nine to the trust, have been accepted and will be implemented. That will be shared across Northern Ireland. The RQIA has also played an important part. Its recommendations helped to inform measures and actions that I announced to address the issue, such as hand hygiene campaigns, unannounced inspections, the need to change and rigidly control visitor policy, changes in culture and the ward sisters' charter. All that has been informed by the need to ensure that infection control and patient safety is very much kept to the forefront.

**Mr Gallagher:** It is clear from the Minister's statement that a litany of failures took place with regard to clinical care, communication and dealing with complaints. Does the Minister agree that it is not enough to simply confine that to the Northern Trust, when there are examples of those failures in other trusts? Will he assure us that he will meet all trusts? With regard to the 31 tragic cases, how many of those individuals' families now pursue legal cases or have referred their cases to the ombudsman?

**The Minister of Health, Social Services and Public Safety:** I do not know the answer to the second of the Member's questions. He asked how many of the families were taking legal cases or had referred their case to the ombudsman. That is, of course, every individual's right. The families can do that if they are so minded.

As far as the litany of failures is concerned, we openly admitted that that was the reason for the public inquiry: to look at omissions and learn lessons. The RQIA review was very much about helping us to end the outbreak. That was its focus and properly so. However, we are also about learning lessons. As I said, all the recommendations have been accepted and will be widely shared throughout all trusts.

Good progress has been made in the battle against such infections. However, it is important to remember that clostridium difficile will never be eradicated. It is present in 5% of the population. In the over-65 age group, clostridium difficile occurs at a rate of around 30%. Therefore, it will not be eradicated. However, we must learn lessons about how quickly it spreads. The fact is that type O27 is a particularly virulent strain, which was never seen in Northern Ireland before. It is very contagious. It presented a huge challenge to staff and was distressing for them as well as being hugely distressing for patients and their families.

**Mr McCarthy:** I thank the Minister for his statement on this serious subject. I join others by offering the sincere sympathies of the Alliance Party to all families who suffered the loss of a loved one from that infection.

As regards communications, what lessons have been learnt about open, honest and early dialogue? Will that be given to patients and their relatives? Has the Minister or the trust put in place any supervisory role in hospitals to ensure that cleanliness is absolutely paramount?

**The Minister of Health, Social Services and Public Safety:** There is that type of supervisory role in each of the trust's hospitals. I want to make the point, which is also made by the inquiry panel, as the Member will see when he reads the report: the problem was not dirty hospitals. That was one strapline that prevailed at the time. The only substance that will kill type O27 is bleach. Therefore, it is an extremely resistant strain. It is also highly contagious. Although cleaning is important, particularly as

far as patient confidence is concerned, it is about much more than that. That is not the sole weapon that can be employed.

That is why I have announced a number of measures through the Changing the Culture strategy and several further strategies relating to the issue.

I am sorry, but I have forgotten what Mr McCarthy's first point was.

**12.30 pm**

**Mr McCarthy:** I asked about communication.

**The Minister of Health, Social Services and Public Safety:** A key recommendation of the public inquiry, and one that will be taken on board, relates to communication. Patients have the right to know about and to receive full communication on their condition, prospects and prognosis, as do their families. Doctors, nurses and other medical staff in the trusts recognise that, and they will ensure that they act on the duty to make sure that patients fully understand their situations and are fully informed of them.

**Mr Girvan:** I, too, put on record my sincere sympathies to the families and loved ones of those who lost their lives to this infection. I hope and pray that we do not come back to the House to talk about the issue in the near future.

It seems that communication is being focused on greatly. What is the mechanism for informing families? I am aware of families who were told that their relative had contracted and was suffering from clostridium difficile by somebody who thought that they already knew. What line of reporting has been put in place? It should not be the case that it is up to a junior member of staff to mention it in a by-the-way manner and for the family to be taken aback. That problem was identified, and it was one of the key issues brought up by a number of those affected at the 30 meetings held during the inquiry process. What mechanism has been put in place to ensure that there is a proper procedure for informing the families and that it will be done formally?

**The Minister of Health, Social Services and Public Safety:** Communication, as we repeatedly say, is a key area in making advances. The responsibility for that will not fall to one junior member, but will go to board level. There will be executive/director responsibility for ensuring that patients are properly informed

and that their condition, prognosis, and so on are communicated. I cannot yet detail the specific actions that will flow from that key recommendation, but I will do so in due course. The recommendations have come through, but a lot of work has to be done, and we must make absolutely sure that we comply in full with the recommendations of the public inquiry.

**Mr McLaughlin:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his statement. The Minister will recall that I raised this issue with him on a number of occasions and pressed the case for a public inquiry, as my constituency lies within the Northern Trust area. I welcome the fact that he will meet the most senior officials of the Northern Trust board this week. In his statement, he said that the Northern Trust must:

*“continue to improve services and continue to restore the confidence of the community it serves.”*

Will the Minister confirm that, despite the improvements, the Northern Trust continues to experience the highest levels of clostridium difficile across all of the trust areas?

**The Minister of Health, Social Services and Public Safety:** As we learn lessons through the recommendations, there will be a strong focus on the Northern Trust, because it was there that the outbreak occurred. We can gain confidence from the big reduction in the rates of clostridium difficile, not only in Northern Ireland, but in the Northern Trust. The Northern Trust has made great progress. In 2007-08, there were 297 cases of clostridium difficile, and that reduced to 102 in 2009-2010. As Members can see, there was a major reduction.

There is more work to be done. We have targets. The Northern Trust went off-target a bit recently, but I believe it is now back on target. It is about keeping the pressure on. I do not want to compare trusts, but the rate is not abnormal when compared to that in other trusts. In 2007-08, the total in Northern Ireland was 1,019 episodes; and that was down to 471 episodes in 2009-2010. That is about the efforts that were put in, but this is about constant vigilance. It is a constant and continual battle.

**Mr Gardiner:** I thank the Minister for his statement and I am reassured that he has taken every possible measure to rectify any areas identified as having room for improvement. The Minister rightly identified the need for increased

use of single isolation units. In the Minister's opinion, does the budget that he was recently allocated allow for such essential measures?

**The Minister of Health, Social Services and Public Safety:** The Member will be aware of my issues around that, and I will be saying more about the capital issues very shortly. Many of our hospitals are 50 years old, many of our mental health hospitals are 100 years old, and all require investment. That investment has been absent, by and large, over the past 40 years. One of the key things missing is the availability of single rooms with en suite facilities. One of the glaring shortages that we had in, for example, Antrim Area Hospital, was the ability to isolate, both in the A&E — I am looking to address that, and will say something about it in due course — and in treating patients.

If you look at Enniskillen hospital — and I encourage everybody to go and look at it, as that is what a hospital should look like today — and then go and look at other hospitals, you will see the glaring differences. It is about the staff delivering the best care they can, but it has got to be in the environment that allows that to happen. Although clostridium difficile has always been in the population, O27 is something altogether new and requires a variety of approaches. One of the key approaches is isolation and single rooms with en suite facilities.

**Mr Dallat:** I also thank the Minister for his statement. I am reflecting on that terrible time when people did not know what was happening and when there was great fear instilled in the community about going into the hospital. Is the Minister satisfied that the report will allay those fears, given that no heads rolled, no one was disciplined and no one was named? Was the £2 million spent on the report good value for money, given that we must ensure that the public are totally content to go into hospital without fear of what happened, not just to the people who lost their lives, but to the many hundreds who were affected and survived, but not without great pain and suffering?

**The Minister of Health, Social Services and Public Safety:** There was a great deal of misinformation going about at the time, and a lot of scaremongering about dirty hospitals not being looked after or kept clean. There were incidents of our staff being abused in local shops and hiding the fact that they worked in

places such as Antrim Area Hospital. You talk about who is to blame. I will tell you who is to blame; clostridium difficile is to blame.

The O27 strain arrived in the Northern Trust area. Who brought it in? How did it arrive in? Did it come in from a patient from outside in the community or did it develop within a hospital? I do not suppose that we will ever know, but there are a number of measures required. It is about things such as antibiotic prescribing, for example, which can cause it. It is also highly contagious; it travels, and is very difficult to kill. There are a number of steps that we have taken. Although we had an outbreak in the Northern Trust area, it could have happened in any hospitals or trust areas in Northern Ireland.

As I said, it was like a running battle or a war, and as the disease was contained in one hospital or facility, and the trust thought that it had turned a corner, it arose in another hospital. That was due to patients being moved around, and we estimate that approximately 30% of the clostridium difficile cases came from the community, with the rest being due to the spreading of contagion throughout the units. The public inquiry was about learning the lessons. The first task was to end the outbreak, the second was to learn the lessons, and that is what we are about.

As to the Member's question about heads rolling or finding people to blame, the blame lies with clostridium difficile, because it was the cause of the problem. There were a number of factors, but when the Member reads the exhaustive and definitive report of the public inquiry, he will find that the system collectively failed and not any one particular unit or individual.

**Ms S Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his statement. It is right that the Minister apologises, because the public inquiry and his statement today show that there were failings in the Northern Trust.

I want to make a couple of points, and some good questions were asked by Members earlier. In his statement, the Minister said that the Northern Trust did not have sufficient time to bed down, yet all the trusts have undergone major reorganisation. Will the Minister give the House more detail on why he believes that clostridium difficile was an issue in the Northern Trust? Are there any other issues that we must

deal with because the Northern Trust did not have sufficient time?

The Minister keeps going on about the fact that he is only Minister to have implemented the review of public administration (RPA). Is he now saying that the RPA was implemented too quickly to deal with clostridium difficile?

**The Minister of Health, Social Services and Public Safety:** The public inquiry highlighted that organisational change is an area of danger not just in the Health Service in Northern Ireland but throughout the UK. The report pointed out that, although the Northern Trust was formed on 1 April 2009 and brought together three existing trusts, the bedding down of management and communications had not occurred. There are ways to do that. It may be a matter of putting systems in place before bringing all the various parts together under one umbrella or organisation, and that is the point that the public inquiry made. One trust may have one type of procedure and another trust may have something different, and there is a need for uniformity in the Health Service in Northern Ireland.

The RPA has been a great success. It has saved £53 million per annum and, as the Member knows, I am the only Minister who can say that. We did it, and it was a major success. However, there are drawbacks to the RPA. The inquiry highlighted one of those drawbacks, dangers or vulnerabilities and told us to pay attention to it in the future.

**Mr Molloy:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his statement, which is a different statement to the one he made to me the last time I spoke to him about the issue. At that time, I raised the issue of a woman from Pomeroy in my own constituency. She and her family had been told to get used to the fact that she was dying, and the Minister said that I was scaremongering. I am sure that the Minister remembers making those comments; will he now retract them?

Will the Minister also tell the House what cases he has looked at and what the results have been? He said that he feels that communication was a problem, and there was certainly a communication problem in the case that I brought to his attention. How will the Minister ensure that the inquiry's 12 recommendations are implemented and that the issues that were raised never happen again? How will he ensure

that a consultant cannot tell a family that they should get used to the fact that their mother is dying? Thankfully, that woman survived, despite what happened in the hospital.

**The Minister of Health, Social Services and Public Safety:** I ask Mr Molloy to carefully read the findings of the public inquiry, because one of the key issues that it addressed was end-of-life services. The inquiry team reviewed the records of 124 frail elderly patients. That is the group that needs our Health Service most, and it was the group on which the outbreak was concentrated.

Around 118 of them, looking at the records, were at that end-of-life situation, which makes it doubly tragic because of the lack of dignity and comfort that they experienced at the end of their lives.

#### **12.45 pm**

As far as that individual case is concerned, Mr Molloy, I remember the general outline. I do not remember the specific detail. I am glad that the end-of-life situation that the family was told about did not occur. However, we must remember that those are very difficult judgements for clinicians to make. As far as communications are concerned, I will make it a duty on the trusts, the boards and the Department to ensure that the nine recommendations in the report for the trust and the three for the Department, including the one on communications, are implemented.

## **Executive Committee Business**

### **Renewables Obligation (Amendment) Order (Northern Ireland) 2011**

**The Minister of Enterprise, Trade and Investment (Mrs Foster):** I beg to move

*That the draft Renewables Obligation (Amendment) Order (Northern Ireland) 2011 be approved.*

This statutory rule is being made under powers in the Energy (Northern Ireland) Order 2003, which prescribes that this Order must be laid in draft for approval by affirmative resolution of the Assembly. The changes that I bring forward in the draft Order were subject to a statutory consultation that closed in October 2010.

The Order introduces important changes to the Northern Ireland Renewables Obligation (NIRO) that will continue to make it more effective and capable of delivering our targets for renewable energy and electricity. As Northern Ireland's main policy measure for incentivising renewable electricity generation, it is crucial that the NIRO is able to react to the needs of Northern Ireland while keeping abreast of developments in Great Britain and beyond.

Northern Ireland continues to punch above its weight when it comes to renewable electricity generation. In 2009-2010, there was almost a 30% increase in the number of renewable obligation certificates (ROCs) issued in Northern Ireland compared with the previous year. That compares with a 20% increase for Wales, 14% for Scotland and 8% for England. Last year, building on the introduction of banding levels in 2009, legislation was amended to increase the number of ROCs for some small-scale renewable technologies, wind, hydro and solar PV. Those changes were well received, and there was considerable interest in and uptake of those technologies.

The changes being introduced in the Order are designed to ensure that the NIRO continues to encourage renewable electricity generation while ensuring that any additional costs to the consumer remain minimal. Some of the changes are specific to Northern Ireland, while others will be made in the renewables obligations for Scotland, England and Wales. It is important that the changes are made together and at the same time since the renewables obligations



work in harmony across the United Kingdom. It is that synergy across all three renewables obligations that makes the NIRO an effective incentive mechanism.

I want to outline briefly the main proposed amendments to the NIRO for 2011. The proposed amendments in the Order will double the support offered under the NIRO for electricity generated from anaerobic digestion (AD). AD plants up to 500 kilowatt capacity will be able to claim four ROCs per megawatt hour of electricity generated, while those above 500 kilowatts and up to five megawatts will receive three ROCs. That is higher than what is offered in Great Britain or, indeed, in the Republic of Ireland. However, it is necessary to stimulate that technology, which also brings wider benefits to the rural sector.

Since the proposed increase for anaerobic digestion was included in the NIRO consultation, there has been considerable interest in the technology from developers, and many are ready to proceed with construction once the new ROCs levels are in place. That is a clear case of the NIRO being adapted to the specific circumstances in Northern Ireland, and my Department was assisted in making that case by evidence from industry. Without that evidence, we would not have been able to secure the higher ROC level, particularly with Europe.

The Order also introduces higher ROC levels for those generators that were accredited before 1 April 2010 and wish to add further generating capacity. Under the current legislation, any additional capacity would only receive the pre-April 2010 level. That change will hopefully encourage further investment in generation.

From 1 April, all microgenerators seeking first-time accreditation under the NIRO using onshore wind or — this is always where I get tongue-tied — photovoltaic panels for electricity generation will have to use equipment and installers registered under the Microgeneration Certification Scheme (MCS) or an equivalent certification scheme. That requirement will ensure independent assurance and legitimacy for small-scale on-site electricity generators and increased competition in the market. It will also ensure that consumers are protected. I am satisfied that there are sufficient numbers of installers in Northern Ireland and across the United Kingdom to ensure that consumers have

access to certified installers and equipment and are properly protected, because that is a very important issue.

The Order also introduces sustainability criteria for biomass and bioliquids that are used in the generation of electricity. Biomass has an important role to play in the United Kingdom's meeting the renewable energy directive target of 15% renewables by 2020. It is therefore essential that Northern Ireland and the rest of the UK take action to ensure that the biomass that we use is sustainable.

The additional requirements set out in the Order are to extend the existing factual reporting introduced in April 2009 for all biomass users over 50 kW. Currently, all biomass users over 50 kW need to report to the best of the best of their ability on a range of biomass matters, including biomass type and whether the biomass is an energy crop or waste. Generators will now also need to factually report on whether the land criteria have been met and on their level of greenhouse gas emissions.

Those legislative changes to the NIRO do not include a formal requirement to meet a 60% emissions saving for biomass generators. The Committee was concerned about that point, and I am happy to say that it will not apply to biomass. It is important to note that there will be a two-year transition period from April 2011 before the 60% requirement is formally linked with eligibility to receive ROCs, and then the requirement will only be for generators with a capacity above 1MW. We will carefully consider the issues raised by the Committee and consultees before making any legislative change on the matter.

The sustainability criteria will not apply to the use of biomass or biogas that is made from waste, landfill gas or sewage gas. Those same requirements are also being introduced in the renewables obligations in Great Britain, ensuring a consistent set of controls for biomass being applied across the United Kingdom's bioelectricity sector.

The directive requires that bioliquids that are used to generate electricity must meet the sustainability criteria that are set out by the directive in order to be eligible for financial support. Not introducing sustainability criteria for bioliquids would put Northern Ireland out of step with the rest of the UK and bring the UK into breach of the directive. There would also

be an increased risk of supporting electricity generation from bioliquids that are not sustainable. Not implementing sustainability standards would also carry a reputational risk for the bioliquids sector and possibly result in additional barriers to its development. The Order therefore introduces sustainability requirements for bioliquids.

Last week, we received excellent news when the Crown Estate announced the launch of the Northern Ireland offshore renewable energy leasing round. That is a major milestone in the development of marine renewable energy in Northern Ireland waters. There is strong potential for offshore wind and tidal stream projects, potentially of up to 1.2 GW, in Northern Ireland waters. That would bring significant economic benefits to Northern Ireland in terms of business supply-chain opportunities and jobs, as well as helping to meet our 40% target for renewable electricity by 2020.

The Crown Estate will be seeking industry views over the next couple of months on how development rights should be offered, which will maximise market interest and commitment to development and produce a win-win situation for the industry and Northern Ireland plc.

Offshore wind and tidal leasing rounds are planned for September 2011, with the potential for development rights to be awarded as soon as spring 2012. I look forward to some world-class projects being delivered in Northern Ireland waters over the next few years.

My Department recently consulted on the level of incentivisation for offshore technologies that would be necessary to ensure deployment in Northern Ireland waters. The Department of Enterprise, Trade and Investment will ensure that an announcement on the appropriate ROC level is in place before leasing round bids need to be submitted. Therefore, we will know the incentivisation before the bids need to be submitted to the Department.

Last year, I said that I would make an announcement on small-scale generation, following the introduction of a feed-in tariff (FIT) in Great Britain. There has been much debate around renewables incentivisation, in particular, whether a feed-in tariff or the NIRO is the best way forward for encouraging investment. In many ways, it depends who you are speaking to. Some people prefer the certainty of a FIT,

while others prefer the renewables obligation; it largely depends on the scale of the operation.

Some Members may recall that a FIT was not adopted here for two reasons. First, we did not have the necessary legislative powers to introduce such a scheme at the same time as Great Britain. That issue is often missed, and people say that they do not understand why Northern Ireland has not introduced a feed-in tariff like they have done in Great Britain or in the Republic of Ireland. However, the reality is that I did not have the legislative power to do so. Secondly, and more fundamentally, I was reluctant to blindly follow Great Britain's lead without a proper understanding of the impact that a feed-in tariff would have on consumers' electricity bills and whether it would help us to achieve our target by 2020.

The Department and the Utility Regulator undertook a joint study during 2010, which concluded that replicating GB's feed-in tariff would add more to consumer bills than the NIRO alone. The overarching conclusion was that Northern Ireland should retain the NIRO for as long as we can retain the lower obligation level for all Northern Ireland suppliers. I note that the Committee for Enterprise, Trade and Investment's acceptance of that position is in its recent report on renewable energy.

Just before Christmas, the Department of Energy and Climate Change (DECC) published a consultation on its proposed electricity market reform. Its purpose is to examine the reforms necessary to achieve the United Kingdom's objectives on decarbonisation, renewable energy, security of supply and affordability. The electricity market reform project is intended to develop and deliver a market framework that will enable the cost-effective delivery of secure supplies of low-carbon energy. Although it is primarily focused on the GB energy market, it has significant implications for the future of the NIRO and renewables generation in Northern Ireland. The Department is assessing the implications for the NIRO arising from the proposed introduction of a feed-in tariff, with contracts for difference for large-scale renewables in GB, and will communicate the intentions of the Department later in the year.

I am concerned that any intended consequences on Northern Ireland's electricity market have not been taken into account by the UK Government, and it is very important that we

maintain investor confidence in Northern Ireland while keeping costs to consumers as low as possible. The Department will commission research into the costs of such a scheme here and its impact on the consumer. We are also working with DECC to examine how the cost of any new scheme can be socialised right across the United Kingdom. As I said before, Northern Ireland already punches above its weight in respect of renewables, and it would be wrong for Northern Ireland consumers to have to meet any increased costs arising from a change in an incentives scheme that will ultimately benefit the whole of the United Kingdom. The Department will aim to bring certainty to Northern Ireland stakeholders on the issue as soon as possible.

Finally, I thank the wide range of organisations and individuals who took the time to respond to the NIRO consultation and the call for evidence on AD costs. I also thank the Committee for Enterprise, Trade and Investment and its Chairperson for its careful scrutiny of the Order.

The changes that have been introduced in the Order have been generally well received, and it is important that they are brought into operation on 1 April. The higher ROC levels are eagerly awaited by those in the anaerobic digestion sector who are poised to invest and by those generators who also wish to add additional generating capacity.

The latest changes to the NIRO help to ensure that we continue to incentivise a broad range of technologies across all sizes, and it is important that we have as wide an energy mix as we can to maximise our potential to develop and to meet our targets. I am encouraged by recent investment announcements in renewable energy, such as Gaelectric's £58 million investment in a wind farm in County Londonderry, which could provide enough electricity to power 24,000 homes, and the decision of Belfast Harbour and DONG Energy to sign a letter of intent for an agreement that could make Belfast one of the UK's leading renewable energy hubs. That is a clear sign that Northern Ireland has the potential to become a world leader in renewables. The amendments to the NIRO are essential to ensure the continuing confidence of investors in the long-term future of renewable electricity in Northern Ireland. On that basis, I ask the House to support the motion.

*Question put and agreed to.*

*Resolved:*

*That the draft Renewables Obligation (Amendment) Order (Northern Ireland) 2011 be approved.*

1.00 pm

## Planning Bill: Further Consideration Stage

**Mr Deputy Speaker:** I call the Minister of the Environment, Mr Edwin Poots, to move the Further Consideration Stage of the Planning Bill.

*Moved.* — [The Minister of the Environment (Mr Poots).]

**Mr Deputy Speaker:** Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list.

I inform Members that a valid petition of concern was presented on Friday 18 March on amendment No 2. I remind Members that the effect of the petition is that the vote on that amendment will require cross-community support.

There are three groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1, 2, 5, 6 and 13, which deal with planning control, including third-party appeals and the protection of trees. The second debate will be on amendment Nos 3, 4, 7 to 12 and 18 to 23, which are technical amendments. The third debate will be on amendment Nos 14 to 17 and 24, which deal with changing certain penalties and time limits under the Planning (Northern Ireland) Order 1991 to reflect some of the changes made to the present Bill.

I remind Members intending to speak that they should confine their comments to the amendments. Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. If that is clear, we shall proceed.

### **Clause 53 (Power to impose aftercare conditions on grant of mineral planning permission)**

**Mr Deputy Speaker:** We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2, 5, 6 and 13. The amendments deal with planning control, including third-party appeals and the protection of trees. Members will note that amendment

Nos 5 and 6 are mutually exclusive and that amendment No 13 is consequential to amendment No 2.

**Mr W Clarke:** I beg to move amendment No 1: In page 32, line 17, at end insert “(iv) use for ecological purposes”.

*The following amendments stood on the Marshalled List:*

No 2: In clause 58, page 35, line 37, at end insert

*“(1A) The Department may by regulations provide for an appeal under subsection (1) to be made by a person other than the applicant, subject to such limits as may be specified.” — [Ms Lo.]*

No 5: In clause 122, page 79, line 22, leave out “are dying or dead or”. — [Ms Lo.]

No 6: In clause 122, page 79, line 22, leave out “dying or”. — [Ms Lo.]

No 13: In clause 247, page 158, line 3, after “sections” insert

*“58(subsection to be inserted by Amendment 2)”. — [Ms Lo.]*

Go raibh maith agat, a LeasCheann Comhairle. The amendment would add “use for ecological purposes” to clause 53, which specifies the conditions to which land must be restored after planning permission for mineral extraction and so on. The RSPB has worked with industry representatives involved in mineral extraction — the Quarry Products Association NI — to show how important restored quarries can be in achieving government biodiversity targets, and that should be facilitated wherever possible. It would be in line with sustainable development and biodiversity duties, and it builds on good practice already in place. Quarries provide a great opportunity to have aquatic habitats and to provide biodiversity across the board.

By their very nature, quarries are isolated and quiet areas. After mineral extraction has taken place, they are generally undisturbed most of the time, so they provide a good opportunity for birds to nest on high ledges. Given the nature of extraction, quarries also have ponds, and there is a good opportunity to build on that. The amendment would add to that by looking at wildlife habitats, grasslands, heathland, woodlands and wetlands and by using those conditions to simulate what occurs in the natural environment. In such cases, local

native species of trees and cuttings should be used, as they show the greatest capacity for survival in, at times, very hostile and isolated environments. That in turn will result in ecological compatibility between the quarry that is restored under the restoration scheme and the surrounding landscapes. That has received sympathy from the conservation and amenity lobbies. I, therefore, ask Members to support that very worthy amendment.

Amendment No 2 was discussed in a lot more detail at Consideration Stage. It seeks regulations to allow third parties to appeal planning decisions. In Sinn Féin's opinion, that is the only way to make the planning system fair for all citizens and to remove the bias in favour of developers. We previously discussed the fact that the new Planning Bill provides a good opportunity because it front-loads the system. That should ensure that ordinary residents have a great say in planning, particularly in community and local planning. The amendment states that regulations "may" be introduced, and it seems reasonable to put that in the Bill now. We have also called for a review to be carried out three years after the transfer of powers to local authorities. We are not saying that the planning system will have an awful back-load. Rather, we are saying that, if it is not working, there should be that flexibility to look at third-party appeals, and a good time to do that is when the Department is carrying out the review. That is all I want to say about amendment No 2. I will listen to the debate, and, in my winding-up speech, I will say what I think about the petition of concern. I will leave that to the next aspect of this.

Amendment Nos 5 and 6 were also discussed at Consideration Stage. The Minister was going to seek legal advice on the issue of dead trees. As I said before, I can see the rationale in relation to, for example, large oak trees. They take a considerable period to die and could be dying for 100 years. As I said the last time, all forms of life, even human life, are dying. As soon as we are born, we are dying, and the same can be said of trees. As we get older, we are dying, but we are not put down or cut down. The same can be said about trees. The caveat is that dying trees do not pose a risk to the general public's health and safety, and that is a very important aspect. They provide important wildlife habitats, and, in my and Sinn Féin's opinion, they should not be removed. We feel pretty strongly about that. I will listen to the rest

of the debate on the issue of dead trees. The Minister was to come back to the House with some legal advice, so I will wait for that.

Amendment No 13 is consequential to amendment No 2, so we will see how that debate pans out.

**Mr Deputy Speaker:** Thank you for brightening up our Monday by talking about the fact that we are dying from the moment that we are born.

**Mr Weir:** I will try to keep that little ray of sunshine going.

I welcome the fact that we are at Further Consideration Stage. So as not to detain the House for too long, I will deal briefly with each amendment.

I welcome amendment No 1, standing in the name of Mr Willie Clarke. He spelled out the case for that amendment, and there is consensus on it between the quarry industry and the RSPB. It is important that we look after our ecology, and the amendment could benefit biodiversity, which I welcome.

Members may not be surprised to learn that I do not greet amendment No 2 with the same enthusiasm. Although I appreciate that the language in amendment No 2 has, to some degree, been softened by the word "may", reference has already been made to the fact that there would be a review. Consequently, I am not sure that there is a particular need for amendment No 2. It is slightly superfluous. One cannot look inside the mind of a future Environment Minister, who may desire to produce proposals on anything, including third-party appeals. We still view with concern the prospect of third-party appeals, because of their potential impact on the Planning Service.

If amendment No 2 is not needed, what purpose does it serve? It serves only to send a clear signal that appeals should be foremost in the mind of any Environment Minister. That is, I suppose, where we have a problem with it. The whole purpose of the Bill is to have a Planning Service that is fit for purpose and can be the envy of the world. A situation that is not only front-loaded but back-loaded has a danger of producing such a high level of red tape and creating such delay that it would, in many ways, simply defeat the purpose of the Bill. That is why we are quite hostile to amendment No 2. However, we appreciate that there has

been at least some movement on it. That has implications for amendment No 13, which is consequential and depends on the fate of amendment No 2.

Amendment Nos 5 and 6 are on trees of the dead and dying variety. We still have the same concern about amendment No 5 as we expressed previously, relating to whether dead trees should be included. That is why I am much more content with amendment No 6, which removes “dying”. The point was made at Consideration Stage that it seems slightly ridiculous to protect a dead tree, but a dying tree could exist for decades, possibly even stretching into centuries. Consequently, I can see some logic in the amendment and believe that the distinction between the two is important. We will wait and see what happens. I do not know whether the Member intends to move amendment No 5. However, there could be a high level of consensus on amendment No 6, because it is a sensible enough compromise.

So as not to depress the House any longer, I will sit down now. I look forward to the rest of the debate.

**Mr Kinahan:** I, too, am pleased to see the Bill reach its closing stages, although I still have concerns as to whether we will get it introduced with the right resources for councils.

Amendment No 1 is extremely good. Including ecological purposes in the future uses of our quarries is absolutely the right thing to do. I praise, as others have, the RSPB and the Quarry Products Association Northern Ireland, particularly Laverne Bell, for promoting that at all times through all the quarries. At the Mallusk quarry, which was and may still be a problem for me locally, we had rare newts and peregrine falcons. We now have a community that is acutely aware of what exactly that quarry can be used for. Therefore, amendment No 1 reflects exactly what we would like to happen in quarries. However, it must not happen alone. There must be an allowance, subject to agreements and laws, for landfill and the many other uses for which quarries, as large holes in the ground, are absolutely ideal. However, the end use must be ecological. That is absolutely right, so I support amendment No 1.

### 1.15 pm

Turning to amendment No 2, I find it disgraceful that there is another petition of concern on a

measure that is not protecting a minority. We have listened to the arguments from the party on the Benches to my left and accept that it uses the petition of concern because it is there. However, I think that that use is wrong. I have concerns that the public will see it as another dose of DUP arrogance and that that party's view is that it will get what it wants, so there.

I tabled amendment No 2 along with the other parties, and it is excellent. It is only an enabling power, and it is there so that the Department may put in place third-party appeals if it needs to as part of its review. The Minister and the Department have not supported amendment No 2 and have fought it all along, in the same way as they fought the measure for the review within three years. They are uncomfortable with it. However, look at everything that we are throwing at councils. Councils have to carry out a survey, which will be a big learning process. They have to work with the community and find out how community involvement will work, which will be another learning process. They have to produce the local development plan, which will be another learning process.

There should not be all sorts of ifs and buts as people learn, but there will. If everything is done well, the appeals and everything else should happen at the beginning. All of us will work towards that. We do not want delays in development, and we understand where the Minister and the Department are coming from. However, amendment No 2 is really just an enabling power. We have changed “should” to “may”. It is a belt-and-braces approach aimed at protecting the public, who still believe that big developers get their way because they can and because they are wealthier. It is one way of giving the public protection. Therefore, it is right that amendment No 2 is made and that the protection is left for the Department and the next Minister, whoever that is, to put in place. I support amendment No 2.

Amendment Nos 5 and 6 would remove references to dead or dying trees. I rather enjoyed the thought of whether Mr Clarke should be put down because we are all dying. I even thought that we could maybe go for a cull — no, I take that back. It is an extremely good amendment. The last time the issue of dead or dying trees was raised, we had a little bit of a debate in the Chamber. The Woodland Trust will say that a standing tree that is dying or dead is of much more use to nature than

a tree that is cut down and left rotting on the ground. It is also less of an eyesore. It can be pollarded, cut down, trimmed, made as safe as possible and even supported as long as tree specialists, who know what they are talking about and are not in the pay of developers, are always listened to. Pretty ugly stumps can be made to look extremely pretty by planting around them climbers, roses and other plants that also support nature. I support amendment No 5. It is absolutely right that we protect dead or dying trees through tree preservation orders. We should use the skills of those in the world of tree surgery, who know what they are doing, rather than making the issue a bind or battle among ourselves.

Amendment No 13 is consequential to the other amendments in the group. I support all the group 1 amendments.

**Mr Dallat:** I assure the House that I have never felt better, although I am going downstairs later for the free blood pressure check, which might change my mind.

Turning to the amendments, on which we must speak, I find the whole idea of returning something to its natural state appealing on the surface. However, as you know, Mr Deputy Speaker, if you were a resident around Ringsend, where four quarries will potentially become super dumps, you might want to give a second thought to the wording. In the past, Mr Deputy Speaker, you and I have seen very good examples of that in Germany, where excavation works were turned into leisure space. Those were constructive projects that did not force people to go through a 50 to 100-year process of receiving rubbish from all over the country before getting to that stage. I urge caution on the matter. I support it in principle, but I want to see a great deal more work being done.

I feel extremely passionate about third-party appeals. I am extremely disappointed that, once again, a petition of concern has been tabled. It is an awful abuse of that device, which was never intended for that purpose. However, the Minister and all Members present will know that the Planning Service has gone through a very bad period and that there is a total lack of confidence in the decisions that it has reached in the past. [Interruption.] I am happy to give way to the Minister, if he wants to intervene. He has obviously changed his mind.

There is a lack of confidence in the Planning Service. Indeed, the Audit Office deemed it not fit for purpose, so you can understand that the provision of third-party appeals would go a long way towards restoring confidence in the Planning Service. It would, in a way, convince people that, if there are brown envelopes around and things happening that are wrong, third parties would, at least, have the right to appeal against decisions. That issue will not go away; it is a major issue for the public. You and I know, Mr Deputy Speaker, of areas with high-density populations in which development land has not always been used for the right purposes. We must not give up the battle on that issue.

I was certainly interested in amendment No 5, which is to do with trees. On basic evidence, it appears to be an exceptionally good amendment. We all know that, in the past, when trees were getting in the way of squeezing in an extra house or two, it was not difficult to find a tree surgeon who would deem any tree, no matter how healthy, as dead or dying. That is a fact; that happened in the past. Nevertheless, I wonder what happens, for example, when trees are cropped. If one tree dies, can it be taken away and replaced with a healthy tree? That concerns me a little, but, generally, we do not have any problems with the amendments in this group. We support them and hope that, when the Bill is enacted, after it has been agreed by all the political parties and there is total and absolute consent to it, it will improve the planning process, which is very badly in need of change.

**Ms Lo:** I will speak on all the amendments in the first group. We fully support amendment No 1. I will first speak on amendment No 2, in my name and those of Mr Kinahan, Mr Alex Maskey and Mr Dallat, which deals with third-party appeals. It is slightly different from the amendment that was debated at Consideration Stage. It takes into account the Minister's concerns about the use of the words "shall" or "may". We have changed it, using the word "may" in order to give more flexibility and to take into account other people's views about limited grounds for third-party appeals. I stress that clause 58 is an enabling clause that would allow third-party appeals to be brought forward by the Department in an appropriate manner and an appropriate timescale. We are not asking that it be introduced right away.

It is disappointing that the DUP has again submitted a petition of concern. I spoke to a number of my constituents after the debate at Consideration Stage, and I can tell the Minister that people were very angry. I shall not repeat here, in the Chamber, some of the remarks made. Many of my constituents were critical, and some urged me to go to the media. There is a perception about the relationship or connections between the DUP and developers. We have to be very careful when it comes to public opinion. It is important that our planning system is seen to be fair and accessible to all. I understand that, through front-loading, there will be consultation with communities, but it is also important that people have the means to voice their concerns if they are not happy at the end of the process.

It is extremely regrettable that the petition of concern is being used. I request a review of the use of petitions of concern in future, to consider whether they are relevant and within the criteria and whether the issue concerned is contentious or concerns community relations and would therefore require cross-community support. If we do not have such a review, we will continue to see this abuse of power by the DUP and possibly the other major party in the next mandate.

Amendment Nos 5 and 6 relate to the protection of trees. We tabled the amendments because we believe that dead or dying trees can still benefit the ecosystem. As others have said, it can take a long time — hundreds of years — for an oak tree to die. It is important that we review the situation, and I hope that we will receive the support of other Members.

**Mr A Maskey:** Go raibh maith agat, a LeasCheann Comhairle. I will make a few, brief remarks in favour of amendment No 2. A number of colleagues referred to that amendment today, which is about enabling the Department, through the Planning Appeals Commission, to facilitate third-party appeal where necessary and appropriate. Several Members addressed it, including my colleague Willie Clarke. I was not too sure where his philosophical musings were taking us when he claimed that we were dying as soon as we were born. Now and then, I have heard people say that they are dying after the weekend.

I wish to express my disappointment that the initial amendment was not accepted by

the Minister and the Department or in the Chamber, under the rules used. I commend the amendment to the House, although it falls short of what I think is appropriate, given our experience of planning decisions in various constituencies. The amendment is modest. It merely provides the ability for the Planning Appeals Commission to facilitate the right of appeal.

Obviously, the amendment relates to specific conditions. Therefore, there would never be any notion that people could just automatically have the right to a third-party appeal; there would clearly be limitations on that. What I welcome about the Planning Bill is that its whole emphasis is on trying to make sure that the system is fairer and that the process is sped up, with decisions being taken much more quickly. However, we still have to protect people's rights, particularly, in my view, the rights of the residents of the areas on which the decisions have implications. For the most part, I think that the rights of the residents of an area should be paramount in these matters.

### 1.30 pm

This amendment is designed to add to the protections that are built in to the Bill. I appreciate that the new system will provide for what is called front-loading the system, which is designed to make sure that all the various objections or concerns may be addressed and hopefully resolved at an early stage. I do not accept that adding the third-party right to appeal will automatically snarl up the planning system. I believe and hope that we will find in due course that the front-loading of the system will mean that many of the issues that would have been outstanding in the minds of the people who would have cause to object will instead be resolved. I believe that if the front-loaded system works, there would be less cause for objection or people seeking a right to appeal at the latter end of the process.

Overall, we commend the Bill. However, I have been a representative in South Belfast for a number of years now, and, in my experience, I have found that many people felt that quite a number of decisions that the planners took were completely unjustifiable. In fact, a number of those examples have been raised in this Chamber, certainly with all the previous Environment Ministers.



The amendment is a belt-and-braces exercise. It will ensure that, along with the front-loading of the planning system, we, ultimately, provide the opportunity for people to raise concerns if they feel the need to, provided that they have already been involved in the objections process earlier in the system and any other limitations that the Department may feel appropriate to add in. As I said, this is merely a belt-and-braces exercise that would enable the Planning Appeals Commission to give the right of appeal if concerns still need to be addressed. However, it would neither guarantee nor ensure that that happens.

**The Minister of the Environment:** Unlike Mr Clarke, who may be dying from the day he was born, I intend living until the day I die, and, thereafter, I will only start living and will enjoy that for ever.

A number of issues have been raised today in debating the amendments. Clause 53 provides for used mineral sites to be restored for agricultural, forestry or amenity uses. Amendment No 1 would expand that to ecological uses, and I am quite happy to accept it. The work of the Quarry Products Association has been mentioned, and that is significant. I think that amendment No 1 has the potential to further increase our biodiversity, and that is something that would be good for Northern Ireland.

Amendment No 2 proposes that the Department make regulations that would allow us to introduce the third-party right of appeal. I previously set out the Executive's position, which has not changed. I said that further consideration of third-party appeals should be deferred until the extensive changes to the planning system under planning and local government reform have settled down and are working effectively. I listened to the arguments then, and many were advanced in favour of third-party appeals during the Bill's Consideration Stage and, indeed, this afternoon, but I have not heard anything that would persuade me to move from our position.

It has been suggested that third-party appeals would address fairness and create a level playing field, whereby objectors could challenge the granting of permissions in the same way as a developer can appeal refusals. However, the Bill's fundamental reforms are designed to include third parties at every stage, particularly

at the early stages. Statements of community involvement will require councils to set out how they will involve the public in their development plan and development management activities. Likewise, developers will have to demonstrate effective public engagement via pre-application community consultation before their planning applications can be determined.

The whole point of the Planning Bill is to strengthen local democracy by transferring planning powers to councils. Planning decisions will be in the hands of democratically elected public representatives as opposed to an independent Planning Appeals Commission. Those who promote third-party planning appeals appear to have little faith in our councils and councillors to make fair decisions on behalf of the people who elected them.

I heard Ms Lo's comments about developers. As Minister of the Environment, with responsibility for planning, I state categorically that I am in favour of development in Northern Ireland. In fact, before I was Minister of the Environment, the previous Ministers all took the same stance. There is a presumption in favour of development in Northern Ireland. A whole series of criteria have to be met, and we seek to update those through our planning policy statements, but development is a good thing. It provides the community with homes to live in. It also provides us with our shops, leisure facilities, roads, hospitals and schools. Development is not a bad word; it is positive and good for Northern Ireland when it is carried out in the right context. I will continue to support development that is carried out in the right context.

The Bill will introduce a new emphasis on community involvement. In that front-loaded system will be public consultation. At the earliest stages of the process, that will be a legal requirement — not some touchy-feely thing, but something that is absolutely required of the developers and councils. It is only common sense to allow a new system to mature and bed down. Thanks to amendments at Consideration Stage, the Department of the Environment is required to review the implementation of the Bill after three years, which is not a very long time. During that review, any need for third-party appeals will become apparent. The House can then decide whether to introduce third-party appeals at that point. However, let us wait until we see how the Planning Bill is implemented before we do that.

I turn to amendment Nos 5 and 6. At Consideration Stage, I asked for the similar amendment not to be moved so that I could seek legal advice on the possible liability issues for councils. Legal advice did not indicate that liability was a serious issue. Nonetheless, more trees that are subject to tree preservation orders are in urban or suburban areas, where they may be close to roads or footpaths. As trees die, they deteriorate and lose strength, with the additional risk of shedding branches or even falling. It may be necessary to remove diseased trees to prevent the infection of healthy specimens. That should always be kept in consideration. For both of those practical reasons, I urge Members not to support those amendments. However, there is little benefit in having dead trees in place where they potentially pose a risk. Therefore, we should allow common sense to prevail on that matter.

I quite recently received a letter from one of Mr Dallat's colleagues, complaining that we had instituted proceedings against an individual who had cut down trees in a conservation area that had the benefit of protection. It was wholly right that the Department did that. It is wholly right that the legislation has increased the level of fines for people who cut down protected trees. However, the benefit to the public of keeping dead trees cannot be reasonably argued in any cogent form.

**Mr Weir:** I thank the Minister for giving way. Presumably, he is not at liberty to give indications as to which Member wrote to him, but, by any chance, were those trees Spanish?

**The Minister of the Environment:** I do not think that they were Spanish trees. Malone is a very well respected conservation area. I know that Dr McDonnell would always support the preservation of trees in the Malone area.

However, on dead trees —

**Mr Dallat:** Mr Deputy Speaker, you will forgive me for being somewhat confused, but I am almost picking up from the Minister that I am in favour of cutting down trees. Have I misread the Minister or my party colleagues, who have become engrossed in a conversation about place of origin or where they grew up? I thought that we were discussing the amendments. I know that you give Members liberty, but I believe that we have gone off the subject. We are also in danger of misleading people. There are enough writs to do with misleading information

flying around here, so we do not need to indulge in any more in the last days of the Assembly.

**The Minister of the Environment:** Mr Deputy Speaker, I remind the Member, who is also a Deputy Speaker, that this is a debating Chamber. Therefore, things can fly backwards and forwards. I assure him that no writs will be launched as a consequence of anything that I said. If Members wish to refer to what I have said, they will find that it is accurate. The nature of argument here is to demonstrate that, on some issues, there is not always unanimity among parties and that Members do not always speak with one voice.

As I was saying before Mr Weir's intervention, there is no cogent argument in law for retaining dead trees. If someone wishes to do so, it is a matter for them, and, if someone wishes to encourage biodiversity by keeping a dead tree in place or by cutting it down and not removing the trunk from their property, it is wholly a matter for them. However, as for putting it in law, do we want to make the Assembly look completely daft? That would be the case if we were to go down that route. The argument was made that, although a tree can be dying for a considerable time, it can still be quite active. In those circumstances, it would not be unreasonable for people to ask for a TPO to be removed, albeit that, as I pointed out, doing so can create problems, particularly where a disease that has affected a tree has the potential to spread to others. Applying a TPO, which cannot be removed, to such a tree does not appear to be awfully logical either. However, I will leave that one in the hands of the House.

I urge Members to support the amendments that I indicated and to oppose amendment Nos 2, 5 and 6.

**Mr W Clarke:** Go raibh maith agat, a LeasCheann Comhairle. I thank everybody for their contributions. Mr Weir, Mr Kinahan, Ms Lo and the Minister broadly welcomed amendment No 1, all seeing the need for the ecological restoration of quarries. John Dallat had doubts. However, I would tell him that the Bill will put in place amenity and agriculture conditions, so it will work in tandem with what already happens. I understand his anxiety about landfill sites. As I said, the Minister supported the amendment, which he thought would increase biodiversity opportunities. Indeed, it is refreshing to see that quarrying industry representatives want

ecological matters to be included in clause 53. That is very welcome, and I pay tribute to everyone involved.

Amendment No 2 is more controversial. Mr Weir saw no need for it whatsoever, feeling that it would clog up the system. Danny Kinahan pointed out that enabling powers are needed and that nobody wants the system to be slowed up. However, he rightly pointed out that, at times, the odds are stacked against ordinary citizens, because developers have more resources and greater opportunities. John Dallat believed that there is widespread corruption in the planning system, and he shared residents' concerns about how certain areas are zoned. He felt strongly that residents are not getting a fair crack of the whip and that third-party appeals should be introduced, even going beyond what amendment No 2 states.

#### 1.45 pm

One of the proposers of the amendment, Anna Lo, saw that the amendment provided an enabling power; it will allow the Department to introduce third-party appeals if needed. She said that the DUP is very close to developers and she was very concerned about the petition of concern.

Alex Maskey thought that the amendment fell short of the one proposed at Consideration Stage. However, as Alex said, this amendment is a compromise and that is what it is trying to achieve. It is an attempt to give everyone a bit of cover in this situation. As Alex pointed out, the rights of a number of residents have not been protected. Alex believes that residents were fighting a losing battle on large-scale developments in his constituency. He said that front loading should give us all a better planning system. However, the amendment is necessary to ensure that residents have some protection in the future. I hope that I have covered the views of all Members in regard to that.

I agree with Alex and all the Members who spoke regarding the petition of concern. The amendment proposes only an enabling power. It is unfortunate that the DUP introduced a petition of concern, as the mechanism was not created for this type of circumstance. Planning impacts on the lives of all citizens; it impacts across all divides and across the whole community. There is no need to use the petition of concern in this way.

The amendment — sorry, I have so many pages before me, a LeasCheann Comhairle.

With regard to amendment Nos 5 and 6, Mr Weir and the Minister saw logic in protecting dying trees. The whole House is in agreement in that. Amendment No 5 caused difficulty and amendment No 6 was supported by the whole House in general. Dying trees provide more opportunity for biodiversity and have a role in nature conservation.

Some Members feel strongly about amendment No 6. Mr Kinahan supported amendment Nos 5 and 6 and thought that they brought great benefits in biodiversity. Mr Dallat spoke about trees being removed for the purposes of development. Getting a tree surgeon round to sign a certificate to remove trees willy-nilly, where it can be said that they are diseased or dead, allows for large developments to be created. Great financial gains can be created for developers through the demise and sacrifice of our woodlands. Anna Lo supported amendment Nos 5 and 6.

I agree with the Minister. He said he lives every day to the full. I do the same. However, to talk realities, as soon as you are born, you are dying. It is the same with trees.

As regards amendment No 2, the Minister thought that we should allow the system to settle down. Developers will have to carry out effective consultation with communities across the board and the Minister felt that that gave a great deal of protection to concerned residents.

He also pointed out, rightly, that planning matters, particularly enforcement, will now be in the hands of local politicians. It has always been a luxury for local politicians to be able to blame others for issues. Now, powers will be transferred and, where developments affect the lives of residents in a community, their views will have to be taken on board. Large-scale and out-of-place developments will have to go into local community plans, and councils, the community in general and developers will need to sit around the table and discuss them. I understand that front-loading the system is vital to get a good planning system.

The Minister also said that the review will see whether there is need for third-party appeals when all the powers have been transferred. If the review shows that there is need, he feels that it could be introduced at that stage. He

also said that dead trees serve no purpose whatsoever and thinks that it is far safer to remove the dead tree — to cut the tree and let it basically waste into the ground and decompose. He thinks that that is a better use and that it would still provide a habitat for different species. I will leave it there.

**Mr Deputy Speaker:** Unfortunately, we lack a quorum. I will have to ring the Bell.

*Notice taken that 10 Members were not present.*

*House counted, and there being fewer than 10 Members present, the Deputy Speaker ordered the Division Bells to be rung.*

*Upon 10 Members being present —*

*Question, That amendment No 1 be made, put and agreed to.*

### **Clause 58 (Appeals)**

**Mr Deputy Speaker:** I remind Members that, as the Speaker has received a valid petition of concern on amendment No 2, the vote will be on a cross-community basis.

*Amendment No 2 proposed: In page 35, line 37, at end insert*

*“(1A) The Department may by regulations provide for an appeal under subsection (1) to be made by a person other than the applicant, subject to such limits as may be specified.” — [Ms Lo.]*

*Question put.*

*The Assembly divided: Ayes 45; Noes 31.*

### **AYES**

#### **NATIONALIST:**

*Ms M Anderson, Mr Boylan, Mrs M Bradley, Mr P J Bradley, Mr Brady, Mr Burns, Mr Butler, Mr W Clarke, Mr Dallat, Mr Doherty, Mr Gallagher, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mr McGlone, Mr McKay, Mr McLaughlin, Ms Ní Chuilín, Mr O’Dowd, Mr O’Loan, Mrs O’Neill, Mr P Ramsey, Ms S Ramsey, Mr Sheehan.*

#### **UNIONIST:**

*Mr Armstrong, Mr Beggs, Mr Cobain, Mr Cree, Mr Gardiner, Mr Kinahan, Mr McCallister, Mr K Robinson.*

#### **OTHER:**

*Mr Ford, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCarthy, Mr Neeson, Mr B Wilson.*

*Tellers for the Ayes: Mr Kinahan and Ms Lo.*

### **NOES**

#### **UNIONIST:**

*Mr S Anderson, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr Campbell, Mr T Clarke, Mr Craig, Mr Easton, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr McCausland, Mr I McCrea, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Weir.*

*Tellers for the Noes: Mr McQuillan and Mr G Robinson.*

*Total votes 76 Total Ayes 45 [59.2%]*

*Nationalist Votes 30 Nationalist Ayes 30 [100%]*

*Unionist Votes 39 Unionist Ayes 8 [20.5%]*

*Other Votes 7 Other Ayes 7 [100%]*

*Question accordingly negatived (cross-community vote).*

### **Clause 103 (Acts causing or likely to result in damage to listed buildings)**

**Mr Deputy Speaker:** We now come to the second group of amendments for debate, which are technical in nature. With amendment No 3, it will be convenient to debate amendment No 4, amendment Nos 7 to 12 and amendment Nos 18 to 23. I call the Minister of the Environment, Mr Edwin Poots, to move amendment No 3 and to speak to the other amendments in the group.

**The Minister of the Environment:** I beg to move amendment No 3: In page 64, line 20, leave out

*“level 5 on the standard scale”*

and insert “the statutory maximum”.

*The following amendments stood on the Marshalled List:*

No 4: In clause 105, page 66, line 16, leave out “under this section”. — *[The Minister of the Environment (Mr Poots).]*

No 7: In clause 179, page 119, line 22, after “as” insert

*“section 27(3) applies section 23 and”. — [The Minister of the Environment (Mr Poots).]*

No 8: In clause 179, page 119, line 22, at end insert

*“(c) section 40, in so far as that section relates to claims for compensation under the provisions mentioned in paragraph (a)”. — [The Minister of the Environment (Mr Poots).]*

No 9: In clause 189, page 124, line 31, after “council” insert “or the Department”. — *[The Minister of the Environment (Mr Poots).]*

No 10: In clause 228, page 145, line 35, after “of” insert “Part 3 of”. — *[Mr Boylan.]*

No 11: In clause 232, page 148, line 20, at end insert

*“except where those matters are matters of national security”. — [The Minister of the Environment (Mr Poots).]*

No 12: In clause 246, page 157, line 35, leave out from “by” to “Department” on line 36. — *[The Minister of the Environment (Mr Poots).]*

No 18: In schedule 3, page 188, line 38, leave out “(6), (7) and (8)” and insert “(5) and (6)”. — *[The Minister of the Environment (Mr Poots).]*

No 19: In schedule 6, page 193, line 32, at end insert

*“9A. In Article 68(1) for ‘Order’ substitute ‘Act’.” — [The Minister of the Environment (Mr Poots).]*

No 20: In schedule 6, page 195, line 6, at end insert

*“The Estate Agents Act 1979 (c. 38)*

*22A. In section 1(2)(e) for ‘Planning (Northern Ireland) Order 1991’ substitute ‘Planning Act (Northern Ireland) 2011’.” — [The Minister of the Environment (Mr Poots).]*

No 21: In schedule 6, page 206, line 14, at end insert

*“The Caravans Act (Northern Ireland) 2011 (c. 12)*

*109. In section 17(1), in the definition of ‘planning permission’, for ‘Part 4 of the Planning (Northern Ireland) Order 1991’ substitute ‘Part 3 of the Planning Act (Northern Ireland) 2011’.” — [The Minister of the Environment (Mr Poots).]*

No 22: In schedule 7, page 206, leave out lines 31 to 35. — *[The Minister of the Environment (Mr Poots).]*

No 23: In schedule 7, page 206, line 37, after “131” insert “and 132”. — *[The Minister of the Environment (Mr Poots).]*

**The Minister of the Environment:** The amendments in this group are technical and do not involve any change in policy. They include textual amendments to ensure a consistent approach throughout the Bill, typographical corrections and updating amendments. I urge Members to support the amendments.

**The Chairperson of the Committee for the Environment:** Go raibh maith agat, a LeasCheann Comhairle. Ar son an Choiste Comhshaoil cuirim fáilte roimh BhreisChéim an Bhreithnithe den Bhille Pleanála. On behalf of the Environment Committee, I welcome the Further Consideration Stage of the Planning Bill. The Committee had no position on the amendments in the first debate on planning control. However, two of the amendments in this group are connected to amendments brought forward by the Committee at Consideration Stage.

First, I will refer to amendment No 3. Following its scrutiny of the Bill, not only did the Committee recommend that penalties should be increased for acts causing or likely to result in damage to listed buildings, but called for an additional penalty of conviction on indictment to an unlimited fine. That was to ensure that the protection of listed buildings was seen to be a serious issue and that penalties could be reflective of damage caused.

I am pleased that the House supported the Committee’s recommendations at Consideration Stage. The level of fine liable on summary conviction was raised from level 3 to level 5, and the option of an unlimited fine on conviction on indictment was added to the Bill. However, it appears that when provision is made for two alternative penalties for an offence, it is conventional for the upper limit of the fine liable on summary conviction to be the statutory maximum. Amendment No 3 brings clause 103 into line with that convention, but still reflects the Committee’s wish for tougher penalties to deter and punish wilful damage to listed buildings. On behalf of the Committee, therefore, I welcome amendment No 3.

Amendment No 9 amends the new clause that was introduced by a Committee amendment at Consideration Stage. New clause 189 ensures that councils would not be liable for compensation if they had to revoke a

decision made in the absence of a response from a statutory consultee if that consultee had not responded by the required deadline. The Minister's amendment seeks to include the Department, as well as councils, in that exemption from compensation under those circumstances. That appears to be consistent with the Committee's amendment, as we know that some planning applications will be referred to the Department for decision, and it is feasible that it too could end up liable for compensation if it made a decision that later had to be revoked because of the late provision of information by a statutory consultee. Amendment No 9 is therefore consistent with the Committee's position on that aspect of the Bill, but in the absence of an opportunity to discuss the amendment, it does not have an official position on it.

The other amendments in the group were not discussed by the Committee and neither do they relate to any of the recommendations made by the Committee.

Begging your indulgence, Mr Deputy Speaker, I would like to say a few words on behalf of Sinn Féin, as a Member for Newry and Armagh. Amendment No 10 relates to a review of the Bill and seeks to clarify when that review will take place. The review will take place after all of the powers are transferred down to local councils and when they are fully operational. That review will take place within a three-year period. That is welcome. Having listened to what the debate has been about this morning, I think that that is another mechanism to ensure that councils are operating properly and that the resources are in place. This is a proper review to keep that in check. I would like the House to support amendment No 10. On behalf of Sinn Féin, I support all the other amendments in the group.

**Mr Kinahan:** As most of these amendments are largely technical, I support all of them.

The Minister implied that most Members were anti-development. We are not. The Ulster Unionist Party in particular is not anti-development. Development is absolutely vital to Northern Ireland.

I very much support amendment No 9. However, I have one query for the Minister. I do not think that this is a problem, but if councils and the Department are not liable, I assume that the legal system would deal with cases in which something is ultra vires, for instance, so that

there is not a gap in which we are allowing government to be free suddenly to do what they like without some form of control.

I am slightly concerned that amendment No 10 seems to put things off for the review yet again. I hope that the Bill is in place and working quickly, but if, like with the RPA, it were to take time to get it in place, that time will be added on to the three years, and it could be a long time before we review it. I ask the Minister to ensure that the Department will make sure that everything happens as quickly as possible, because we do not want to delay the Bill being enacted or to delay the review. I support the amendments.

**The Minister of the Environment:** I thank the two Members who spoke for their contributions. As was indicated, the amendments are technical, so there is little to add. Mr Kinahan asked for some assurance that it was not a get-out clause for all Departments. The amendment will clearly put the onus on those Departments that have to respond within a time frame but sometimes do not meet that time frame. It will be an indication to those Departments and their permanent secretaries that they need to step up to the mark and ensure that the responses that they give are delivered within the time set out.

Departments often allow things to run for months and months, thus delaying the entire planning process. Planners are criticised, but, very often, it is not the planners who are holding the process back; it is consultees. The amendment is a good one, which will put considerably more pressure on consultees to deliver their responses in a timely fashion. I urge Members to support the amendments.

*Question, That amendment No 3 be made, put and agreed to.*

**Clause 105 (Control of demolition in conservation areas)**

*Amendment No 4 made:* In page 66, line 16, leave out "under this section". — [*The Minister of the Environment (Mr Poots).*]

**Clause 122 (Tree preservation orders: councils)**

**Mr Deputy Speaker:** Amendment No 5 has already been debated and is mutually exclusive with amendment No 6.

*Amendment No 5 not moved.*

Amendment No 6 made: In page 79, line 22, leave out “dying or”. — [Ms Lo.]

**Clause 179 (Compensation where planning permission is revoked or modified)**

Amendment No 7 made: In page 119, line 22, after “as” insert

“section 27(3) applies section 23 and”. — [The Minister of the Environment (Mr Poots).]

Amendment No 8 made: In page 119, line 22, at end insert

“(c) section 40, in so far as that section relates to claims for compensation under the provisions mentioned in paragraph (a)”. — [The Minister of the Environment (Mr Poots).]

**Clause 189 (Compensation: failure of consultee to respond under section 229)**

Amendment No 9 made: In page 124, line 31, after “council” insert “or the Department”. — [The Minister of the Environment (Mr Poots).]

**Clause 228 (Review of Planning Act)**

Amendment No 10 made: In page 145, line 35, after “of” insert “Part 3 of”. — [Mr Boylan.]

2.15 pm

**Clause 232 (Inquiries to be held in public subject to certain exceptions)**

Amendment No 11 made: In page 148, line 20 at end insert

“except where those matters are matters of national security”. — [The Minister of the Environment (Mr Poots).]

**Clause 246 (Directions)**

Amendment No 12 made: In page 157, line 35 leave out from “by” to “Department” on line 36. — [The Minister of the Environment (Mr Poots).]

**Clause 247 (Regulations and orders)**

**Mr Deputy Speaker:** I will not call amendment No 13, as it is consequential to amendment No 2, which was not made.

**New Clause**

**Mr Deputy Speaker:** We now come to the third group of amendments for debate. With amendment No 14, it will be convenient to debate amendment Nos 15, 16, 17 and 24, which deal with changing certain penalties and time limits under the Planning (Northern Ireland) Order 1991 to reflect some of the changes made to the present Bill. Members will note that amendment Nos 16, 17 and 24 are consequential to amendment No 14.

**The Minister of the Environment:** I beg to move amendment No 14: After clause 247 insert the following new clause:

**“Amendment of the Planning (Northern Ireland) Order 1991**

**Increased penalties for certain offences under the Planning (Northern Ireland) Order 1991**

247A.—(1) In Article 44(6) of the Planning (Northern Ireland) Order 1991 (in this section referred to as “the 1991 Order”) (control of works for demolition, alteration or extension of listed building) for ‘£30,000’ substitute ‘£100,000’.

(2) In Article 66(1) of the 1991 Order (penalties for contravention of tree preservation orders) for ‘£30,000’ substitute ‘£100,000’.

(3) The amendments of the 1991 Order set out in this section do not have effect in relation to any offence committed before the coming into operation of this section.” — [The Minister of the Environment (Mr Poots).]

The following amendments stood on the Marshalled List:

No 15: After clause 247 insert the following new clause:

**“Amendment of certain time periods in relation to enforcement**

247B.—(1) In Article 23 of the Planning (Northern Ireland) Order 1991 (in this section referred to as “the 1991 Order”) (notice requiring planning application) in paragraph (2) for ‘4’ substitute ‘5’.

(2) In Article 24 of the 1991 Order (appeal against notice under Article 23) in paragraph (2)(c) for ‘4’ substitute ‘5’.

(3) In Article 67B of the 1991 Order (time limits)—

(a) in paragraphs (1), (2) and (4)(b) for ‘4’ substitute ‘5’;

(b) in paragraph (3) for ‘10’ substitute ‘5’.

(4) In Article 67F of the 1991 Order (temporary stop notice: restrictions) in paragraph (2) for '4' substitute '5'.

(5) In Article 73 of the 1991 Order (service of stop notice) in paragraph (3D) for '4' substitute '5'.

(6) In Article 82 of the 1991 Order (enforcement of duties as to replacement of trees) in paragraph (2) for '4' substitute '5'." — [Mr Boylan.]

No 16: In clause 252, page 162, line 12 leave out "248" and insert "247A, 248" . — [The Minister of the Environment (Mr Poots).]

No 17: In clause 252, page 162, line 18, leave out "Sections 85 and 126 come" and insert "Section 247A comes". — [The Minister of the Environment (Mr Poots).]

No 24: In Schedule 7, page 207, line 41 at end insert

"The Planning (Northern Ireland) Act 2011. Section 247A."

— [The Minister of the Environment (Mr Poots).]

**The Minister of the Environment:** The amendments in the third group are designed to bring in operational dates for certain enforcement provisions. At Consideration Stage, amendments were passed to raise the fines for certain offences related to listed buildings and protected trees from £30,000 to £100,000 and that will come into effect when the Bill receives Royal Assent. The previous comments would seem to indicate that such a provision would not be a particular friend of developers, and I wholly support it.

Amendment Nos 14, 16, 17 and 24 together introduce a new clause and provide a more legally sound approach to delivering the agreed policy objective. The Chairperson of the Committee for the Environment has tabled amendment No 15, which will amend the time limits for enforcement action and will provide for an early introduction of the new five-year limits on enforcement actions for breaches of planning control that were passed at Consideration Stage. Those are the amendments in group three.

**The Chairperson of the Committee for the Environment:** Go raibh maith agat, a LeasCheann Comhairle. I want to refer to amendments Nos 14, 16 and 17 on behalf of the Committee for the Environment. At Committee Stage, Committee members realised that, with the introduction of more stringent penalties to punish and deter damage to listed

buildings and protected trees, there was a risk that those buildings and trees — and those likely to merit such protection in the future — would come under significant pressure in the interim period between the intention of the Assembly being known and the fines coming into force. The Committee recommended that the Department should put in place greater enforcement to prevent that occurring during the interim period, and, in keeping with that, it supported Mr Kinahan's amendment to bring the new penalties into force as soon as the Bill achieved Royal Assent. Amendment Nos 14, 16 and 17 ensure that the intention of Mr Kinahan's amendment is deliverable, and the Committee, therefore, supports them.

On amendment No 15, Committee members were fully supportive of introducing a five-year period after which no planning breaches could be enforced. During its discussions on the issue, the Committee noted that one of the justifications for that change was that local authorities will be in a better position to enforce breaches of planning controls in their areas. However, although Committee members sought clarification on how the transition might be managed with those who are currently being considered for a breach, the Committee did not specifically indicate at what point it felt that the new single time period should come into force. Therefore, I must indicate to the House that the Committee has no position on amendment No 15.

The Minister said that I was tabling amendment No 15 as the Chairperson of the Committee for the Environment, but I am actually tabling it as a Member of Sinn Féin. The House supported the notion of the five-year rule, and through amendment No 15, I want to ensure that that part of the legislation will be introduced as soon as possible after Royal Assent. That is why I am proposing to include the five-year rule in the Bill, and I hope that the House will support my amendment. With that in mind, I support all the amendments in the group.

**Mr Kinahan:** I am very grateful to the Department and the Minister for tabling amendment Nos 14, 16, 17 and 24, particularly amendment No 14, which seeks to raise the level of fines. That is something that we all wanted. We may in future still have to look at a percentage rather than at £100,000, but that can be done in the review. However, I am very grateful that the Minister took on board my concern about tree preservation orders and



the fact that trees or buildings might be cut down and knocked down in the meantime. It is absolutely right to get those provisions in place.

I had wanted to do the same with Part 2 but did not table an amendment to it that would have ensured that councils were getting the right resources. I urge the Minister, and we debate this matter often, to get the pilot projects in place so that councils really have an idea of the resources that they need. I fully agree with amendment No 15, which, if made, will ensure that enforcement starts at an early opportunity. The Ulster Unionist Party supports the amendments in the group and congratulates the Department and all those who worked incredibly hard to get the Bill through.

**The Minister of the Environment:** I thank Members for the points that they raised. They adequately clarified their positions. I think that no objections were raised to any of the amendments that Mr Boylan and I tabled. I again thank my staff and the Committee for their work in getting the Bill to this point.

*Question, That amendment No 14 be made, put and agreed to.*

*New clause ordered to stand part of the Bill.*

### **New Clause**

*Amendment No 15 made:* After clause 247, insert the following new clause

#### **“Amendment of certain time periods in relation to enforcement**

*247B.—(1) In Article 23 of the Planning (Northern Ireland) Order 1991 (in this section referred to as ‘the 1991 Order’) (notice requiring planning application) in paragraph (2) for ‘4’ substitute ‘5’.*

*(2) In Article 24 of the 1991 Order (appeal against notice under Article 23) in paragraph (2)(c) for ‘4’ substitute ‘5’.*

*(3) In Article 67B of the 1991 Order (time limits)—*

*(a) in paragraphs (1), (2) and (4)(b) for ‘4’ substitute ‘5’;*

*(b) in paragraph (3) for ‘10’ substitute ‘5’.*

*(4) In Article 67F of the 1991 Order (temporary stop notice: restrictions) in paragraph (2) for ‘4’ substitute ‘5’.*

*(5) In Article 73 of the 1991 Order (service of stop notice) in paragraph (3D) for ‘4’ substitute ‘5’.*

*(6) In Article 82 of the 1991 Order (enforcement of duties as to replacement of trees) in paragraph (2) for ‘4’ substitute ‘5’.” — [Mr Boylan.]*

*New clause ordered to stand part of the Bill.*

### **Clause 252 (Commencement)**

**Mr Deputy Speaker:** Amendment No 16 is consequential to amendment No 14.

*Amendment No 16 made:* In page 162, line 12, leave out “248” and insert “247A, 248”. — *[The Minister of the Environment (Mr Poots).]*

**Mr Deputy Speaker:** Amendment No 17 is consequential to amendment No 14.

*Amendment No 17 made:* In page 162, line 18, leave out “Sections 85 and 126 come” and insert “Section 247A comes”. — *[The Minister of the Environment (Mr Poots).]*

### **Schedule 3 (Periodic review of mineral planning permissions)**

*Amendment No 18 made:* In page 188, line 38, leave out “(6), (7) and (8)” and insert “(5) and (6)”. — *[The Minister of the Environment (Mr Poots).]*

### **Schedule 6 (Minor and consequential amendments)**

*Amendment No 19 made:* In page 193, line 32, at end insert

*“9A. In Article 68(1) for ‘Order’ substitute ‘Act’.” — [The Minister of the Environment (Mr Poots).]*

*Amendment No 20 made:* In page 195, line 6, at end insert

*“The Estate Agents Act 1979 (c. 38)*

*22A. In section 1(2)(e) for ‘Planning (Northern Ireland) Order 1991’ substitute ‘Planning Act (Northern Ireland) 2011’.” — [The Minister of the Environment (Mr Poots).]*

*Amendment No 21 made:* In page 206, line 14, at end insert

*“The Caravans Act (Northern Ireland) 2011 (c. 12)*

*109. In section 17(1), in the definition of ‘planning permission’, for ‘Part 4 of the Planning (Northern Ireland) Order 1991’ substitute ‘Part 3 of the Planning Act (Northern Ireland) 2011’.” — [The Minister of the Environment (Mr Poots).]*

### **Schedule 7 (Repeals)**

*Amendment No 22 made:* In page 206, leave out lines 31 to 35. — [*The Minister of the Environment (Mr Poots).*]

*Amendment No 23 made:* In page 206, line 37, after “131” insert “and 132”. — [*The Minister of the Environment (Mr Poots).*]

**Mr Deputy Speaker:** Amendment No 24 is consequential to amendment No 14.

*Amendment No 24 made:* In page 207, line 41, at end insert

“*The Planning (Northern Ireland) Act 2011.*”

— [*The Minister of the Environment (Mr Poots).*]

**Mr Deputy Speaker:** That concludes the Further Consideration Stage of the Planning Bill. The Bill stands referred to the Speaker.

As Question Time commences at 2.30 pm, I suggest that the House takes its ease until that time.

**2.30 pm**

*On resuming (Mr Speaker in the Chair)—*

## Oral Answers to Questions

### Office of the First Minister and deputy First Minister

**Mr Speaker:** Question 7 has been withdrawn and requires a written response.

### Poverty and Deprivation

1. **Mr Molloy** asked the First Minister and deputy First Minister to outline the actions that will be taken by their Department over the next four years to tackle poverty and deprivation.  
(AQO 1311/11)

### Social Investment Fund

8. **Mr Kinahan** asked the First Minister and deputy First Minister when the detailed eligibility criteria for the social investment fund will be published.  
(AQO 1318/11)

**The First Minister (Mr P Robinson):** With your permission, Mr Speaker, I will answer questions 1 and 8 together. In line with the Executive’s continuing commitment to tackling the problem of poverty and disadvantage and the need to protect the most vulnerable in our society, we announced in the draft Budget for 2011-15 the creation of the social investment fund and the social protection fund. Those funds will aim to address deprivation and poverty in a strategic way whereby the impact can be seen, felt and believed by everyone in the community.

It is proposed that funding totalling £80 million will be allocated to the social investment fund across the Budget period. We recommend that the social protection fund is allocated £20 million in the first year and are committed to finding funds for the remaining years. Decisions about how funding will be allocated have yet to be taken, but the specific spending areas to be addressed from both funds and detailed delivery mechanisms will be for the Executive to agree. A strategy paper that is being developed will help to inform that decision. The detailed eligibility criteria will be published thereafter.

The contested space programme, which we recently established in conjunction with Atlantic Philanthropies, will provide new funding opportunities for communities dealing with issues that are prevalent in contested space areas. The programme aims to promote and improve relations between and across interface contested space communities. OFMDFM and Atlantic Philanthropies have each committed £2 million for the programme, which will run from March 2014 and will target six pilot areas.

**Mr Molloy:** I thank the First Minister for his answer. Given the funds that the Minister mentioned and taking into account the expected child poverty strategy, the money secured for the childcare strategy and the earnings disregard pilot, can he assure the Assembly that there will be co-ordination to ensure maximum input?

**The First Minister:** That is the aim and objective of the Executive and the role of OFMDFM. When the Executive sat down on the first day at the agriculture establishment, we recognised that people, particularly those who were already living in hardship, were going to find life much more difficult as the recession ground on. Therefore, we determined that, while it remained our objective to grow our economy and it obviously assists all those who are without employment if we can bring new jobs in, we recognised that we needed to take immediate action to help people who live in areas of deprivation and people in hard-to-reach communities who have not benefited to the same extent from the peace process and from political stability. Those funds have been put in place and indicate clearly the determination of the Executive to try to make a difference to communities that have not benefited as others have from the process.

**Mr Kinahan:** I thank the First Minister for his answer, in which he indicated that the Executive have yet to decide how the social investment fund is to be spent. However, will he guarantee that it will be distributed on a needs basis rather than on a political basis?

**The First Minister:** I certainly guarantee that there will be no political criteria in respect of the allocation of funds. The paper that is being worked on is at a very advanced stage, but I am not sure whether we will be able to get it through, as we are trying to get so many documents through in the last few days before purdah. However, if we cannot get it

to the Executive tomorrow, that will happen immediately after the election process is over.

We know what the money is going towards. There is general agreement that we are looking at areas such as dereliction, educational underachievement and skills and training, as well as some thematic areas, which would deal with the use of drugs and alcohol and suicide prevention. Therefore, we have a fair idea of the general themes, but we have to set out the criteria, and we have to determine what the process will be for the allocation of funds.

**Mr Humphrey:** I thank the First Minister for his answer. He mentioned hard-to-reach communities. Given that the greater Shankill area in north Belfast is one of the most deprived parts of Northern Ireland, I have been pushing the Minister of Education for some time for an education action zone for that area. How does the First Minister envisage the social investment fund contributing to tackling educational underachievement?

**The First Minister:** I recognise the problems in north and west Belfast, although I also recognise that there are problems in other areas. I know that in my constituency, East Belfast, there is underachievement in educational attainment, particularly among Protestant boys. That was exemplified in the report that was published today. Although that report does not provide the answers, it directs our attention to the need for a co-ordinated approach to those issues. One element of the fund looks at how we deal with getting people into work, and it considers not just training and skills provision but educational underattainment. Therefore, we want to work closely with primary and secondary schools so that we can find the best way to get the results to change those figures and to make the opportunities much greater for those at a disadvantage.

**Mr P Ramsey:** I thank the First Minister for outlining his concerns on deprivation and poverty across Northern Ireland. Will he acknowledge the significance of child poverty across all communities, and will he tell the House when the child poverty strategy will be published?

**The First Minister:** It would be wrong for me to do that now, as a later question will deal with that subject separately.

## Childcare Strategy

2. **Ms J McCann** asked the First Minister and deputy First Minister for an update on the development of the childcare strategy.  
(AQO 1312/11)

## Child Poverty Strategy

4. **Mr McCarthy** asked the First Minister and deputy First Minister for an update on the development of the child poverty strategy.  
(AQO 1314/11)

**The First Minister:** With your permission, Mr Speaker, I will ask junior Minister Robin Newton to answer that question.

**The junior Minister (Office of the First Minister and deputy First Minister) (Mr Newton):** With your permission, Mr Speaker, I will answer questions 2 and 4 together.

Shortly after devolution, we reconvened the ministerial subcommittee on children and young people because we recognised that key policy issues were cross-departmental and required joined-up working. Childcare emerged as one of those issues, and the ministerial subcommittee agreed to take it forward. It commissioned a comprehensive report on the current nature of provision, and it sought recommendations on the way forward. The report has been received and is being considered by the subcommittee. It is an important piece of work on which to build a longer-term childcare strategy.

We recognise the significant barrier to employment that the lack of affordable childcare can be. Growing the economy is central to our Programme for Government, and, therefore, tackling those barriers is essential. OFMDFM intends to continue to work over the next year to co-ordinate that area of work through the ministerial subcommittee so that the strategy can be developed and new measures introduced. In advance of a lead Department being identified, we secured an additional £12 million for childcare provision in the Budget settlement. We are pleased to announce today that OFMDFM will continue to support the PlayBoard schemes for a further 12 months while the strategy is developed on a cross-departmental basis. The Member will be aware that OFMDFM stepped in to try to ensure that continued provision after DHSSPS withdrew funding. It did that with contributions from a range of Departments, including DETI and DE.

The Child Poverty Act 2010 specifically requires the Executive to produce and present a child poverty strategy to the Assembly by March 2011. The period of informal consultation on the strategy proposals ended on 6 February. During that period, a new series of related events was held in Belfast, Ballymena, Newry, Londonderry, Enniskillen and Omagh.

**Ms J McCann:** I thank the junior Minister for his answer. I welcome today's announcement for support for PlayBoard. I hope that the funding will be used not just for existing groups and that it will be opened up to other groups.

The junior Minister referred to the lead Department. As childcare is a cross-cutting and cross-departmental issue, has OFMDFM considered taking on the lead role for the childcare strategy and for driving it forward?

**The junior Minister (Mr Newton):** The intention has always been to have a lead Department. The two Departments that seem to be a more comfortable fit for and to be at home with the strategy are the Department of Health, Social Services and Public Safety and the Department of Education. In my answer to the Member, I indicated that OFMDFM will continue to take the lead on this matter for the next 12 months. However, the final objective will be to ensure that a lead Department is identified and that that Department will accept responsibility for the childcare strategy.

**Mr McCarthy:** The junior Minister will be aware that child poverty is and has been a scourge on our society for some time. Given that the child poverty strategy is to be reviewed in three years' time, can we expect major improvements to it prior to the total eradication of child poverty by, hopefully, 2020?

**The junior Minister (Mr Newton):** The Member referred to child poverty as a scourge on our society, and I do not disagree. No one in the Chamber wants to see any child in Northern Ireland living in poverty. As regards what improvements can be expected, the Member knows, because we debated the matter in Committee and he subjected me to questioning on it, that we have not hit all our targets. However, significant progress has been made, and we look forward to further improvement as the years go by.

**Lord Browne:** What interventions does the junior Minister anticipate that the additional funding for childcare will provide?

**The junior Minister (Mr Newton):** We are grateful to have been able to announce today additional funding of £3 million per annum for new interventions. We will fully consult our colleagues and the ministerial subcommittees about the type of interventions to be rolled out. Examples are improving the take-up of the childcare element in the working tax credit for low-income earners on less than £20,000 per annum and middle-income earners on between £20,000 and £40,000 per annum; the possible expansion of out-of-school clubs; the child-minding start-up grant provided through NICMA; and the expansion of the Employers for Childcare not-for-profit scheme, whereby employers provide childcare vouchers to employees and parents, who benefit from tax breaks. Those are the types of programme that we want to encourage. However, that does not rule out anyone coming forward with other innovative approaches to the matter.

**Mr Beggs:** Does the junior Minister accept that the draft strategy is very broad and provides imprecise targets? Given the cross-cutting effect of the policy on child poverty and childcare and the fact that that involves a range of Departments, such as the Department for Social Development, the Department of Justice, the Department of Health, Social Services and Public Safety and the Office of the First Minister and deputy First Minister, does he also accept that there is not as yet an effective cross-cutting replacement for the Executive programme for children and the children's fund?

**The junior Minister (Mr Newton):** In my answer to Ms McCann, I indicated that it is our desire to see one Department taking the lead and accepting responsibility for the matter. That just has not been possible at this time. We felt strongly that that responsibility falls to the Department of Health, Social Services and Public Safety. However, the Health Minister has refused to accept that, which meant that OFMDFM had to pick up the areas where he withdrew funding for PlayBoard-type schemes in order to ensure that they continued. For all those reasons and to ensure that one Department accepts responsibility, that is our desire. However, in the meantime, in the gap that has been established by the Minister's withdrawal of funding and refusal to take up the

matter, OFMDFM will continue for another 12 months.

**2.45 pm**

## Fuel Prices

3. **Mr Armstrong** asked the First Minister and deputy First Minister for an update on the discussions they have had with HM Treasury regarding the introduction of a fuel price stabiliser. (AQO 1313/11)

**The First Minister:** In recent months, we have witnessed a sharp rise in fuel prices due to the increase in oil prices. As a result of that, on 2 February 2011, the deputy First Minister and I met Treasury Minister David Gauke to discuss our concerns. The Finance Minister, the Minister of Enterprise, Trade and Investment and the Secretary of State, Owen Paterson, also attended that meeting. Prior to that, on 1 February 2011, our Administration made a joint declaration with the First and Deputy First Ministers of Scotland, the First Minister of Wales and the Deputy First Minister and Minister for the Economy and Transport for Wales. That joint declaration called on the United Kingdom Government to take urgent action to address the rising price of fuel by postponing the scheduled fuel price increase in April 2011. We believe that that would stimulate the economy by protecting motorists and road hauliers. In particular, we believe that that would protect rural communities from high and volatile prices. We currently await further developments on the fuel price stabiliser in the UK Budget that is due to be published on Wednesday.

**Mr Armstrong:** The Ulster Unionist Party is already on record opposing the increase in fuel duty, which was first planned by the Labour Party, in the upcoming Budget. Does the Minister agree that motorists in Northern Ireland are already hit hard enough by high insurance rates and poor road maintenance and that penalising them further with an extra tax on fuel would be wholly unfair?

**The First Minister:** I agree absolutely. Indeed, it is not just motorists who are being hit. In many areas, society as a whole in Northern Ireland is paying much higher prices than the rest of the United Kingdom. That is particularly important in relation to fuel. That was the reason why most political parties here felt that the £4 billion cut that the Conservative and Ulster Unionist

Parties advocated in the previous election was a bad idea.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. I welcome any initiative undertaken by the Executive to achieve a reduction in fuel prices. However, will the First Minister outline what other measures the Executive are taking to alleviate the impact of the economic crisis, particularly on those who are most vulnerable and disadvantaged?

**The First Minister:** We have already talked about the social investment fund and the social protection fund, through which we have specifically allocated funds to help those who will be in greatest need. I look forward to seeing applications to those funds, and I hope that there will be some ambition and ingenuity in our community, as those proposals will come directly from the community. Of course, Departments will also bring forward proposals to the social protection fund. The strength of the kind of fund that we are talking about is that we will allocate funds to what the community itself feels that it needs to pull itself up by its bootstraps.

**Mr Hamilton:** Does the First Minister hope that the increase in the tax take resulting from the discovery last week in Crossmaglen of the UK's largest ever illegal fuel depot will allow Her Majesty's Government to perhaps show more flexibility when it comes to fuel duty in Northern Ireland?

**The First Minister:** I very much welcome the action taken by HM Revenue and Customs (HMRC), assisted by the PSNI, in what was very much a co-operative exercise. They managed to discover a fuel plant that, the HMRC spokesperson said, was three times larger than any that they had ever discovered in the United Kingdom. Some newspapers have suggested that it is probably the largest illicit fuel plant that has ever been found in Europe. It is good that the criminal gang responsible has had its assets taken from it. I understand that there has been one arrest, but, under parliamentary rules, we cannot touch on that. What I liked was the indicator from the spokesperson for HMRC. I always like statements that give people some idea of the scale involved. That plant could produce 30 million litres a year. The spokesman indicated that the fuel uncovered was sufficient to take a family saloon car to the moon and back 40 times every year.

**Mr Dallat:** I welcome the Minister's answer and, in particular, his reference to the problems in the rural community. Is the Minister aware that, where the breadwinner in a rural community often has to travel to greater Belfast for work, the whole process is now extremely difficult? Up to one third of a weekly wage of £300, for example, may be consumed by fuel expenditure alone. The price of fuel also varies widely and can be 10p a litre dearer in rural communities.

**Mr Speaker:** I ask the Member to come to his question.

**Mr Dallat:** Does the Minister intend to ensure stability in the price across the North?

**The First Minister:** Unfortunately, I cannot give any guarantees on that because it is a reserved matter. However, it is certainly an issue that the deputy First Minister and I have pressed with the Chancellor. Indeed, in the Chancellor's response, he indicated that that matter was being considered in the Budget. I hope that the Budget, when we hear it, will not proceed with the proposed increase later this year that was outlined previously and that a stabiliser will be introduced to stop the variations that make it so difficult. I recognise that, where people, particularly in rural areas, are reliant on transport to get them to their place of employment, high fuel costs can be a disincentive to go for employment and, in many cases, force people to fall back and rely on benefit.

**Mr Speaker:** Question 4 has already been answered.

### Community Relations: Craigavon

5. **Mr Moutray** asked the First Minister and deputy First Minister to outline the progress that has been made by the community relations unit since 2007 in encouraging mutual respect, understanding and appreciation of cultural diversity in Craigavon. (AQO 1315/11)

**The First Minister:** OFMDFM has done much in recent years to improve relations in the Craigavon area. It has worked not only to improve the relationship between the two traditional communities but to increase understanding and appreciation of and respect for the increased cultural diversity in the area and to make Craigavon more welcoming for newcomers. We have often worked in partnership with Craigavon Borough Council. The district council community relations programme

provides all 26 councils with funding for the provision of community relations services and activities, including the support of at least one dedicated good relations officer post in each council area. Funding is allocated on the basis of each council's annual action plan, which is developed from its good relations audit and identifies and prioritises the area's specific needs.

In the current financial year, 2010-11, we provided Craigavon Borough Council with an initial grant of more than £113,000 and agreed an additional bid of almost £10,000 for the delivery of good relations training with local community groups and to develop the council's community cohesion plan. That brings the overall investment to more than £120,000, which is a significant increase on previous years.

**Mr Moutray:** I thank the First Minister for his response. There is concern about the types of scheme being cut by the Department of Health, Social Services and Public Safety. The schemes include Women's Aid projects and some that work with mental health and suicide interventions. Does the First Minister agree that that should not happen and that the Health Minister should reconsider those cuts urgently?

**The First Minister:** We are at the tail end of this Administration. In the next Administration, there may well be a new Health Minister who will have the real job of reviewing some of the decisions that are a bit more difficult to argue as sensible. At their last meeting, the Executive stepped in and indicated that no Department should remove any funding allocation that assists the prevention of suicide. It is not consistent with the decision of the Executive, with which all Ministers have to comply, for any spending to be taken away from suicide awareness organisations.

**Ms M Anderson:** I thank the Minister for his responses. I accept that all Departments are operating within constrained budgets, as the First Minister said. Given such constraints, has OFMDFM considered giving more money to the minority ethnic development fund?

**The First Minister:** We have a record of giving support, and this is not something that we want to jettison. We recognise that a lot of those organisations are doing a job that, if we did it directly ourselves, would cost significantly more and that doing without that would cause much more difficulty in communities. We want to be as supportive as possible, and, as the original

question relates to Craigavon Borough Council, it can be seen that we have been increasing spending in that area. We try to identify where there have been problems and give whatever assistance we can with financial and other resources.

## Civic Forum

6. **Mr Bell** asked the First Minister and deputy First Minister how many times the Civic Forum has met since 2007. (AQO 1316/11)

**The First Minister:** The Civic Forum, which commenced operation in 2000, has not met since 2002. Following the restoration of devolved powers in May 2007, the then First Minister and deputy First Minister considered the position of the Civic Forum in the re-established devolved arrangements and decided to commission a review of the effectiveness and appropriateness of its structure, operation and membership. The review was also to make recommendations on the most appropriate mechanism for engaging with civic society.

The review was launched in 2008 with a public consultation exercise that attracted 60 written submissions, all of which are accessible on the OFMDFM website. In addition, the review involved meetings with former Civic Forum members and stakeholders and with similar bodies in other jurisdictions. There was no widespread desire for a return to a structure of the size and expense of the Civic Forum as it had previously operated. Accordingly, there have been no meetings of the Civic Forum during this Assembly mandate, which has also resulted in considerable savings to the public purse.

**Mr Bell:** I thank the First Minister. Will he join me in welcoming the fact that the Civic Forum has not met, not least because taxpayers' purses and wallets have been relieved of that financial burden? Can he assure us that those financial savings will continue into the next term so that we can bring them back to the public?

**The First Minister:** We had reached the stage where the Civic Forum, in full operation, was costing about £500,000 every year. We have probably saved a couple of million pounds as a consequence. At the same time, I do not, in any way, want to leave the impression that we want to reduce the connection with our community. We want to continue having consultation. For instance, because of the economic downturn,

the deputy First Minister and I brought together a group of stakeholders from across the community. We did that without those people getting or seeking any expenses, which indicates that people are willing to give their views without having elaborate and expensive structures.

It is not for me to commit the next Assembly or Executive, although I believe that they should look at the whole issue of consultation, not just in relation to the Civic Forum. We need to streamline our ways of operating and make them more effective. In the new mandate, we must look at some of the delays that are occurring because of lengthy consultations and, sometimes, unnecessary levels of consultation.

**Mr K Robinson:** The First Minister has, to some degree, answered some of the points that I was going to raise. However, can he explain to the House whether any money is being spent on that moribund body, the Civic Forum? What are his intentions, if he is returned to the House in the new mandate, for how civic society may relate to what goes on here?

**The First Minister:** During the year, some funding was made available to deal with the consultation exercise that had been set up by my predecessor and the deputy First Minister. That is being rounded off at present, and, although Ministers have not received it yet, I know that it is in the brokerage system to come forward to us. My view for the future is that I want there to be consultation. It is important that we have a connection with the community, particularly with those who have expertise in issues that we are dealing with. However, I think that we can manage to have that consultation and the value of the advice without the expensive machinery of the Civic Forum that we had before.

**3.00 pm**

## Education

### LILAC Project

1. **Mr Spratt** asked the Minister of Education whether she will extend the funding for the LILAC project based at Fleming Fulton School, Belfast. (AQO 1323/11)

**The Minister of Education (Ms Ruane):** Tuigim go bhfuil an tionscadal LILAC maoinithe trí chiste an Big Lottery.

I understand that the linked independent living and advice centre (LILAC) project was funded by the Big Lottery Fund in response to a business plan submitted to the lottery by Fleming Fulton School in 2006. The level of funding for special education is determined by the education and library boards as part of their annual decisions on the allocation of their block grant. Proposals for funding beyond that are normally considered by the Department only if they relate to strategic perspective and there is five-board agreement on the need for any new developments that could be implemented on a regional basis. The Department does not ordinarily fund projects at individual schools.

**Mr Speaker:** I call Mr Jimmy Spratt to ask a supplementary question, and I inform the House that question 6 has been withdrawn.

**Mr Spratt:** I thank the Minister for her brief answer. Does she agree that the services offered by the LILAC project have been valuable, have supported many young people with physical disabilities and allowed them to be included in the schools of their choice throughout Northern Ireland? The Minister has been to Fleming Fulton School and seen the project, which is one that cannot be allowed to disappear.

**The Minister of Education:** I have visited the project. The Member will be aware that I have visited many schools throughout the North that carry out much good work and use good practice. However, the position that I outlined in my answer remains the same: the project was funded by the Big Lottery Fund, and funding is a decision for the board. Unless it is a regional policy, the Department does not make a decision in relation to individual schools.

Good practice is ongoing in many of our different schools. I am the first to celebrate that and encourage the sharing of good practice.

**Mr A Maskey:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for her responses so far and the Member for asking the question. Is the project currently funded by the Belfast Education and Library Board?

**The Minister of Education:** Chuir Fleming Fulton cóip den phlean gnó tionscadail LILAC chuig



Bord Oideachais agus Leabharlainne Bhéal Feirste.

I have been made aware that Fleming Fulton School sent a copy of the LILAC project business plan to the Belfast Education and Library Board. I have also been advised that the board has a number of reservations about the project, including concerns about the duplication of services within the Belfast board area. The Belfast board was not involved in the bid to the Big Lottery Fund.

### Primary School Admissions: Bangor

2. **Mr Easton** asked the Minister of Education for an update on the availability of year 1 primary school places in the Bangor area for the 2011-12 academic year. (AQO 1324/11)

**The Minister of Education:** Tá 849 áit in iomlán ar fáil le haghaidh bliain a haon i gceantar Bheannachair don bhliain acadúil 2011-12.

A total of 849 year 1 places are available in the Bangor area for the 2011-12 academic year. The South Eastern Education and Library Board has confirmed that 137 year 1 primary school places are still available.

**Mr Easton:** The Minister is aware that the integrated Groomsport Primary School closed several years ago, and a commitment was given by the South Eastern Education and Library Board that children from Groomsport would be allowed to go to schools near at hand in Ballyholme and Towerview. However, those parents are now being asked to make fourth, fifth and sixth preference choices for schools that are nowhere near the area. Will the Minister assure me that the commitment to the Groomsport parents that their children will go to nearby schools will be honoured?

**The Minister of Education:** Tá tugtha le fios dom gur iarradh ar líon teaghlach atá ina gcónaí i bPort an Ghiolla Ghruama roghanna breise a sholáthar.

I understand that a number of families living in Groomsport have been asked to make additional preferences when choosing schools. The South Eastern Education and Library board has confirmed that some parents have given additional preferences, and I encourage the other parents to do so as a matter of urgency. The South Eastern Education and Library Board has confirmed that, when Groomsport Primary

School closed in August 2007, it ensured that adequate places were available at other primary schools in Bangor for some 25 children from that school. There are 137 year 1 primary school places still available in the Bangor area for the 2011-12 school year.

**Mr Callaghan:** Go raibh maith agat, a Cheann Comhairle. The Minister will be aware of the problem of oversubscription in many non-selective post-primary schools. Will she inform the House of what action she is taking to help the families who have traditionally supported such schools to maintain their links with them?

**The Minister of Education:** In relation to non-selective post-primary schools, the biggest policy that we have brought in to really bring about changes in how we deal with admissions criteria is the new transfer arrangements. What we want to do is make sure that schools become good local schools, so that children are not spending hours on buses every day, bypassing good local schools. The best way to deal with the issues of oversubscription and admissions criteria is to build a network of good schools, so that every school is a good school, and that is what I am doing.

**Mr Cree:** Is the Minister aware that, following the problems with the primary sector in Bangor, children whose parents took the Minister's advice and did not have them subject to any testing ended up with no schools to go to in the area and were offered places as far away as Glengormley?

**The Minister of Education:** First, I applaud the parents who took the decision to not enter their children for breakaway tests. The best way to ensure that children are not disadvantaged in any way is for the schools that are currently doing breakaway tests to stop doing them.

### DE: Capital Projects

3. **Mr I McCrea** asked the Minister of Education, following the announcement that additional capital funding has been allocated to her Department in the Budget 2011-15, to outline the criteria that will be used to prioritise capital projects. (AQO 1325/11)

**The Minister of Education:** Cé gur éirigh liom £65.5 milliún punt sa bhreis de mhaoiniú caipitil a fháil, thar thréimhse ceithre bliana an bhuiséid chríochnaithnaithe leithdháilte, tá bearna fós ann idir an t-airgead atá de dhíth le clár caipitil

na Roinne a sholáthar mar is ceart agus an t-airgead a leithdháileadh.

Although I was successful in securing an additional £65.5 million of capital funding over the four-year period in the final Budget allocation, a gap still exists between the capital funding required to fully deliver the Department's capital programme and the amount allocated. The reduction in the capital allocation will require a comprehensive reassessment of how the limited capital funds available should be deployed on a strategic and prioritised basis to address the most pressing needs.

Moving forward, priority will have to be given to maintaining the integrity of the schools estate. I will also have to look carefully at the scope for bringing forward any new school projects in the next three years. In view of the current capital funding position, I am unable to provide a time frame regarding progress of any school on the investment delivery plan, but my officials will keep the relevant school authorities updated on any developments.

I have continually demonstrated that, when given the necessary resources, we can deliver much-needed new schools, which is evident from the excellent progress made in delivering the 13 projects that we approved for capital funding in August 2010. Indeed, I was at one of those schools today and I will be going to one in Bangor and one in Strathearn over the coming days, and another in Forkhill tomorrow.

What I am saying to the Assembly and to the Executive is: give us money and we will spend it. Members may be pleased to know that the other day we announced that there will be new schools for Lagan College, Belfast and Tor Bank special school. Those projects are proceeding, and that represents a further investment of £31 million. I will continue to press for additional capital development in the schools estate, because every penny that we spend on it is money well spent.

**Mr I McCrea:** The Minister will be more than aware that I have raised in the past the need for a newbuild for Rainey Endowed School in my constituency. Will the Minister assure the House and the people who attend that school that that is a priority for her Department and that when money is available, it will be used to give that school a good building? Will she also update

the House on Magherafelt Primary School and nursery unit?

**The Minister of Education:** First, as the Member knows, a major capital project for Rainey Endowed was included in the Department's 2004 capital programme. It was to be taken forward under PPP procurement, but that did not materialise for economic reasons, and the project was redesignated as conventional in September 2009. The economic appraisal is being updated, and, in the interim, the project manager will continue to prepare procurement documentation for the appointment of a design team.

In view of the current capital funding position, I am unable to provide a time frame regarding progress of the proposed scheme for Rainey Endowed School. However, I assure the Member that my officials will keep the school authority updated on any developments.

The Member will be aware that the Magherafelt High School project has gone ahead. His constituency has succeeded in getting a number of new schools, which I am pleased about. In relation to an update — I am just looking for it; bear with me — the North Eastern Education and Library Board (NEELB) has concluded the tendering process for the Magherafelt Primary School scheme. The NEELB estimates that construction work will get under way in late March 2011, with an estimated completion date of around November 2012. I am pleased to report that it and the other 12 projects are moving forward. It is something that we have really been encouraging and pushing, and it is good news for the Magherafelt community.

**Mrs M Bradley:** Is the Minister prepared to publish the criteria that she uses to prioritise capital projects?

**Some Members:** Hear, hear.

**The Minister of Education:** We have always published the criteria that we have used for capital projects. I have to deal with the Budget that the House and the Executive have agreed. Would I like more money for school builds? Of course I would. When money becomes available, I hope that all parties around the table will support extra money for school builds, as they did last August, when we managed to get more schools on site. Give me money and I will spend it. Of course we will publish how we move forward in relation to what schools go ahead.

**Mr Kinahan:** I thank the Minister for her answer. During her time in the Education Department, money was handed back as opposed to underspent: £86 million in 2007-08, £29 million in 2008-09 and £33 million in 2009-2010. Will she detail whether she now believes that it would have been more appropriate to have used some of that money to tackle the chronic capital underinvestment in the school estate, for example, in Antrim and the schools that we have there?

**The Minister of Education:** I will send the Member the figures in relation to the amounts of money that we have spent on the capital programme. The Member failed to announce that significant amounts of money were handed back in the two years prior to my becoming Minister. Since coming into office, I have, in the past two years, spent 99.9% and, indeed, have secured further resources. That is why an extra 13 schools are on site or are going on site as we speak and an extra site has been purchased for Coláiste Feirste on the Falls Road. The Member should look at his figures. I will certainly ask my officials to send the correct ones.

**Mr Storey:** I ask Hansard to check the accuracy of what the Education Minister said today about Rainey Endowed School in Magherafelt. I declare an interest as a member of the board of governors of Ballymoney High School. If I recall correctly, the Minister said that the project did not proceed because of economic issues. It did not proceed because her Department changed the rules. It was a joint project between Rainey Endowed School and Ballymoney High School. Those two schools have now been disenfranchised because you and your Department changed the rules in relation to PPP. A question was asked by a Member previously about publishing the criteria. People need to know what you base your judgements on rather than assumptions or whims of fancy, so when will that happen?

**The Minister of Education:** The Member is entitled to his opinion of value for money and the economic reasons, but I do not share it. I stand by the answer that I gave.

### **St Peter's Primary School, Charlemont**

4. **Mr D Bradley** asked the Minister of Education for her assessment of the facilities at St Peter's Primary School, Collegelands, County Tyrone.

(AQO 1326/11)

**The Minister of Education:** Amhail go leor scoileanna ar fud an eastáit, tá infheistíocht chaipitil de dhíth ar Bhunscoil Naomh Peadar.

Like many schools across the estate, St Peter's Primary School requires capital investment. I am aware that the school lodged a proposal for a rebuild in 2003. However, like many other schools in a similar position, it is not one of the schools in the announced investment delivery plan. The school has lodged a number of minor works applications with my Department, and officials are liaising with the school to prioritise the work within the resources available.

### **3.15 pm**

I have continually highlighted the need for additional capital investment in the schools estate and ensured that any funds that we have been allocated are effectively used. Although we were successful in securing an additional £65.5 million of capital funding over the four-year period in the final Budget allocation, a gap still exists between the capital funding required to fully deliver the Department's capital programme and the amount allocated as part of Budget 2010. Without significant additional funding, it is simply not possible to meet all the competing investment demands from schools. Difficult decisions need to be taken, and investment across the schools estate needs to be prioritised within the resources available. Unfortunately, that means that not all works that might be required or desired can be funded.

**Mr D Bradley:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as an fhreagra a thug sí. Tá an ceart aici: tá an scoil seo ag iarraidh foirgnimh nua le roinnt blianta anuas, ach níl aon chosúlacht ar an scéal go mbeidh toradh ar an iarratas sin go cionn i bhfad. Ar bhonn sábháilteachta agus sláinte, tá iarratas istigh ar mhion-oibreacha ag an Roinn. Ba mhaith liom a fhiafraí den Aire an féidir leis an scoil bheith ag súil le toradh deimhneach ar an iarratas sin?

Mr Speaker, I will provide a translation if you so wish. The Minister is correct to say that the school has been seeking a newbuild for quite a number of years, and it appears that, because of current financial strictures and other reasons, it will be some time before that is realised. She is also correct to say that the school has lodged an application for minor works on the basis of health and safety. When will the Minister's

Department be in a position to respond to that request in a positive way?

**The Minister of Education:** Ar dtús, is cúis mhór inní dom go bhfuair aon scoil laisitigh den eastát fógra mar sin.

The Member will be aware that the Health and Safety Executive (HSE) served an improvement notice on the school in March 2010, which highlighted a number of health and safety concerns at the school. I am seriously concerned that any school in the estate should be in receipt of such a notice. I assure the House that my Department has taken the matter very seriously. On receipt of the notice, the Department and the Southern Education and Library Board (SELB) took immediate steps to assess the risks identified by the HSE to enable them to take immediate action. It is important to be aware that not all the issues raised in the notice required specific investment in the school and that some of them can be mitigated through the local management of issues.

The Member might be interested to know that the Department is considering not just one but six minor works applications.

Tá an Roinn ag amharc ar shé iarratas le haghaidh mion-oibreacha don obair seo a leanas ag an scoil faoi láthair.

They are the provision of additional storage; car parking and traffic management, which will require the purchase of additional land; perimeter fencing; the provision of a multi-purpose hall and additional classrooms; the refurbishment of toilets; and the replacement of heating systems. I cannot guarantee that those minor works schemes will proceed or otherwise until the overall minor works prioritisation exercise is undertaken. I assure the House that all minor works applications are being prioritised consistently and within the priorities that I set to deliver only those minor works that meet our inescapable statutory requirements, such as health and safety, fire protection and those under Disability Discrimination Act.

**Mr Humphrey:** Today, a report about educational underachievement in working class Protestant areas is being produced, and the Education Committee will produce one later. Given the criteria that have been applied to Springhill Primary School and Glenwood Primary School in my constituency, will the Minister confirm —

**Mr Speaker:** Order. The Member should know that a supplementary question must relate to the original question.

**Mr Humphrey:** It does.

**Mr Speaker:** I am happy enough to hear how the Member might link it.

**Mr Humphrey:** Will the Minister assure the House of her assessment of the facilities that have to be provided in Springhill Primary School and Glenwood Primary School, given the criteria that her Department have applied heretofore?

**The Minister of Education:** It is a bit worrying that the Member has just discovered today that there is underachievement in both Protestant and Catholic communities. It may be that the Member was not listening, but I have been talking about underachievement on the Shankill Road, in north Belfast, west Belfast and in all the different areas of the North. It is unfortunate that Members opposite only now, after four years, realise the level of educational underachievement. It is very unfortunate.

In relation to the second question or comment made by the Member, we will look at all the schools on the investment delivery plan. We will ensure that we get as much investment as possible on the basis of need. The Member will be aware that one of the 13 schemes that we have brought forward is at Taughmonagh Primary School. I was delighted to attend the sod cutting there and receive a wonderful welcome. The people of Taughmonagh understand the importance of standards for all young people. They also understand the importance of the transfer debate and why Protestant children are being disadvantaged.

**Mr McElduff:** Will the Minister be specific about what her Department has done to address concerns expressed by the Health and Safety Executive about St Peter's Primary School, Collegelands?

**The Minister of Education:** Go raibh maith agat as an cheist sin. Rinne comhairleoirí teicniúla na Roinne measúnú láithreach ar na ceisteanna a sainaitníodh.

On receipt of the notice from the Health and Safety Executive, the Department's technical advisers carried out an immediate assessment of the issues identified. Minor works applications submitted by the school, aimed at addressing the issues, were examined

and the following actions taken. Work on the water heaters to address the legionella risk caused by existing systems at the school has been completed. Work on the toilets has been completed. The SELB replaced the water tank, and the Department's technical advisers consider that the issues of health and safety and the risk of fire from overcrowding can be mitigated by operating three lunchtime sittings. All other minor works applications for the school are awaiting the prioritisation exercise.

### Schools: Maintenance

5. **Mr McGlone** asked the Minister of Education for her assessment of the extent of the current maintenance work backlog in schools.

(AQO 1327/11)

**The Minister of Education:** Is é an riaráiste reatha cothabhála le haghaidh scoileanna trasna an eastáit ná £299 milliún.

As Minister of Education, I have continually highlighted the need for significant investment in the school estate to tackle the high levels of maintenance backlog. I fought hard and successfully secured additional finance to address the maintenance needs of schools. I am acutely aware of the importance of ensuring that the school estate is appropriately maintained to prevent any unacceptable deterioration of the buildings and ensure that young people and teachers have a learning environment that is fit for purpose. In the past three years, £81.2 million has been spent on schools maintenance. This year, we secured an additional allocation to the education and library boards of £19 million for maintenance of the estate, bringing investment in maintenance in 2010-11 to £38 million.

**Mr McGlone:** Gabhaim buíochas leis an Aire as ucht an fhreagra sin. An dtiocfadh leis an Aire freagra a thabhairt domh ar an dóigh ar féidir léi an t-eastát scolaíochta a leasú agus buiséad níos lú aici?

Will the Minister please tell me how she intends to address a deteriorating school estate with a dwindling capital budget?

**The Minister of Education:** I plan to do that by securing further resources, and I look forward to the support of all parties in the House when I, or whoever the Minister of Education is, makes a bid at the Executive.

**Mr Campbell:** Will the Minister, in her last few days in office, look at the maintenance backlog that exists in a number of schools in my East Londonderry constituency to determine whether matters can be addressed quickly there? In recent years, some of the schools have been in a deplorable state of repair.

**The Minister of Education:** I will look at all the schools right across the North of Ireland to make sure that we re-prioritise the maintenance backlog. I have already explained the criteria that we will use.

**Mr K Robinson:** Will the Minister confirm that the maintenance backlog in her Department works out at roughly £1,000 a pupil? Indeed, if that is the case, does she agree that, as Minister for the past four years, she must take responsibility for that highly unsatisfactory situation?

**The Minister of Education:** I will write to the Member with the numbers because, although my maths might be OK, they are not good enough to answer that question off the cuff. However, over the past four years, we have brought in a jigsaw of interconnected policies to bring about change. When I came into office in 2007, I inherited a system that was designed in 1947 and was past its sell-by date. We now have the new curriculum, Every School a Good School and a new Irish-medium review, and we have brought forward a raft of policies that interconnect. A lot of good work has been done, but there is, of course, more work to be done. We have also invested significantly in the schools estate.

**Mr Speaker:** Question 6 has been withdrawn.

### DE: Budget 2011-15

7. **Mr F McCann** asked the Minister of Education to outline the benefits of the additional money that has been allocated to her Department in the Budget 2011-15.

(AQO 1329/11)

**The Minister of Education:** Bhí mé buartha san fhómhair faoi chéad mholtaí an ghrúpa athbhreithnithe buiséid, agus mar gheall ar mo chuid iarrachtaí fuair mé £43 milliún sa bhreis ó thaobh airgid achmhainne de agus £72 milliún sa bhreis ó thaobh airgid caipitil de sa dréacht-bhuiséad.

I had been concerned about the initial proposals emerging from the Budget review group in the autumn, and, as a result of our efforts, we secured an additional £43 million of resource and £72 million of capital in the draft Budget. I continued to lobby hard for education, and we were successful in securing a further £114 million in current expenditure and £40 million for capital investment. The additional funding provided in the final Budget helps to mitigate the challenges facing education, particularly in the first year of the Budget period.

I am now considering the final allocation of the education budget for the next four years and, in doing so, I will do everything that I can to protect front line services and jobs and to make sure that the budget allocation for our children with special needs and our youth are protected. Following agreement of the final Budget, the Budget review group will continue to consider and, where possible, progress additional revenue-raising proposals. I will make a very strong case to allocate any additional funding that is identified to education.

**Mr F McCann:** Can the Minister tell us what her priorities have been in determining budgets?

**The Minister of Education:** Gan aon amhras, is dúshlán mór iad laghduithe an bhuiséid oideachais don earnáil oideachais ina hiomlán.

There is no doubt that the reductions in the education budget pose a major challenge to the education sector as a whole. In meeting that challenge, it is essential that the key issues are raising standards, delivering services to the front line and maintaining equality. In determining savings proposals, I have sought to protect spending on programmes that contribute most to the delivery of departmental priorities, drive up efficiency, reduce bureaucracy and eliminate duplication. I have also afforded protection to a number of important spending areas, including special education, extended schools, early years — in fact, we have increased the early years budget — and the extension of the eligibility criteria for free school meals entitlement. We need to ensure that our funding goes to the classroom and that we do not squander it on administration as has happened in the past.

**Mr Bell:** If there is any additional money, will the Education Minister look at the needs of the primary schools in the Newtownards area? Castle Gardens Primary School, Abbey Primary

School, St Finian's Primary School, Londonderry Primary School and the Newtownards Model Primary School could all do with an upgrade. Does she agree that upgrades of educational facilities help children learn better?

**The Minister of Education:** I agree with the Member that one factor in ensuring that we have very good standards is high-quality buildings. The key factor is leadership in our schools and the role of principals and boards of governors. However, I absolutely want our primary schools, not just in Newtownards but right across the North, to have high-quality buildings. We need area-based planning for the primary sector, because that is the best way to make sure that we have the correct number of primary schools for the number of children in an area and that each school is a good school.

## Assembly Business

### Privilege: Leak of PAC Report

**Mr Speaker:** The Chairperson of the Public Accounts Committee (PAC), Mr Paul Maskey, has given me notice that he wishes to raise a matter of privilege.

3.30 pm

**The Chairperson of the Public Accounts Committee (Mr P Maskey):** Go raibh maith agat, a Cheann Comhairle. On 18 January, a draft report on the Public Accounts Committee's inquiry into performance and governance in NI Water was leaked to the media. The Public Accounts Committee commissioned an inquiry into the leak, but it was not conclusive. The Committee agreed at its meeting on 15 March that this was a matter affecting the privilege of the Assembly and decided that it should seek to have the matter referred under Standing Order 70.

I have written to you, Mr Speaker, to give notice of the detail of the matter at the first available opportunity, as the Standing Order requires. Accordingly, on behalf of the Committee, I move that the leaking of the draft report before it could be considered by a properly constituted Assembly Committee affects the privilege of the Assembly. Therefore, Mr Speaker, I ask that you refer the matter to the Committee on Standards and Privileges under Standing Order 70.

**Mr Speaker:** I can confirm that, in accordance with Standing Order 70(1), the Member gave me written notice of his intention to raise a matter of privilege and informed me of the details of the matter. I am content that the requirements of Standing Order 70(3) have been complied with and, therefore, the matter will be referred to the Committee on Standards and Privileges.

## Executive Committee Business

### Suspension of Standing Orders: Planning Bill

**The Minister of the Environment (Mr Poots):** I beg to move

*That Standing Order 42(1) be suspended in respect of the passage of the Planning Bill.*

When I introduced the Planning Bill in December, the Assembly set itself a major challenge. I was confident that we could meet that challenge. At Second Stage, I urged the House to drive forward the agenda for reform in the planning system to deliver what Northern Ireland needs, and that is what we have done. The Bill has been scrutinised thoroughly by the Committee, for which I commend it. The Committee has demonstrated what can be achieved, and I commend Members for the amendments that they tabled at Consideration Stage and Further Consideration Stage.

I want the Bill to complete its passage through the Assembly before dissolution, and, as Members will be aware, the Final Stage has been scheduled for this Wednesday. However, the date for Final Stage means that there will be less than the five-day minimum interval required under Standing Order 42(1) between Further Consideration Stage and Final Stage of a Bill. To allow the Final Stage to proceed on Wednesday, which is the last scheduled plenary sitting before dissolution, the Assembly must agree to the suspension of Standing Order 42(1). That is the purpose of bringing this motion to the House today. Should the Assembly agree the motion and pass the Bill at Final Stage, it will complete a key step in the journey towards a new, reformed planning system.

I acknowledge that there is still work to do, but the passage of the Bill will allow the new Minister and Assembly to move forward with the extensive programme of subordinate legislation and guidance that will be needed to underpin the planning system. Consideration of the Bill is nearly complete. All the hard work has been done. Let us make it over the finish line. Therefore, I seek Members' support for the suspension of the Standing Order to allow Final Stage of the Planning Bill to take place on Wednesday.

Question put and agreed to.

Resolved (with cross-community support):

*That Standing Order 42(1) be suspended in respect of the passage of the Planning Bill.*

## **Marine Licensing (Appeals) Regulations (Northern Ireland) 2011**

**The Minister of the Environment (Mr Poots):** I beg to move

*That the draft Marine Licensing (Appeals) Regulations (Northern Ireland) 2011 be approved.*

I seek the Assembly's approval for the statutory rule, which will provide an independent appeals mechanism to allow economic operators to appeal against marine licensing decisions and enforcement notices issued by my Department in its role as the appropriate licensing and enforcement authority under the Marine and Coastal Access Act 2009. The 2009 Act introduces a new system for licensing marine activities, which will replace licensing currently carried out under the Food and Environment Protection Act 1985. The types of activities that are licensable include construction on the seabed, offshore renewable energy installations and dredging. The new system will apply across the UK from April 2011 and will require subordinate legislation to provide more details on appeals, fees, exemptions, civil sanctions and the registration of activities.

The statutory rules for fees, exemptions and registration of activities were made on 16 March 2011 using the negative resolution procedure. Approval of the draft civil sanctions Order is the subject of the motion that will immediately follow the debate. I am grateful to the Committee for the Environment and the Examiner of Statutory Rules for their scrutiny of these draft regulations and the draft civil sanctions Order.

I turn to the content of the appeals regulations. The regulations make provision for operators who do not agree with a marine licensing decision or who have been issued with an enforcement notice under the 2009 Act to make an appeal to the Water Appeals Commission. There is no fee for making an appeal. The Water Appeals Commission was chosen as the appellate body because it is an independent body which has an efficient and effective appeals mechanism in place. Appeals will be determined in accordance with the commission's existing procedures, which means that the set-up costs of the appeals system will be minimal and the cost implications of the legislation low.



Appeals against a decision not to grant a marine licence or to attach specific conditions to a licence must be lodged within six months. Appeals against decisions to vary, suspend or revoke licences or against the issue of enforcement notices must be lodged within 28 days. The legislation gives the appeals commission the ability to confirm, vary or quash licensing and enforcement decisions. That being the case, the draft regulations include an amendment to article 293(10) of the Water and Sewerage Services (Northern Ireland) Order 2006, which established the Water Appeals Commission.

The regulations provide for an independent, transparent and cost-effective appeals mechanism, which, I believe, will provide economic operators and members of the public with confidence that the marine licensing and enforcement decisions made by my Department are balanced and robust. I ask the Assembly to approve the draft regulations.

**The Chairperson of the Committee for the Environment (Mr Boylan):** Go raibh maith agat, a Cheann Comhairle. The Committee considered the statutory rule on 10 March 2011. The rule will introduce an independent mechanism for appeals to the Water Appeals Commission against licensing decisions and the issue of statutory notices created by the UK Marine and Coastal Access Act 2009.

On 3 March 2010, members were advised by the Examiner of Statutory Rules that the rule contained a couple of errors, one of which altered the intended meaning of regulation 4. He suggested that that could be put right with a correction slip, thereby allowing time for the rule to be laid before dissolution of the Assembly. The Department provided a correction slip in time for the Committee's consideration on 10 March. Members were content with the corrected rule.

The Committee agreed to recommend that the draft Marine Licensing (Appeals) Regulations (NI) 2011 be affirmed by the Assembly. The Committee has long called for the introduction of marine legislation to enable the North to catch up with neighbouring jurisdictions. Although we hope that we will see a marine Bill for the North introduced early in the next Assembly, the regulations are a small but welcome, step. I support the motion on the Committee's behalf.

**The Minister of the Environment:** I have little to add. The appeals mechanism and the new licensing system will benefit the whole of Northern Ireland with regard to the sustainable use of marine resources. I thank the Chairperson and members of the Committee for their support for the motion.

*Question put and agreed to.*

*Resolved:*

*That the draft Marine Licensing (Appeals) Regulations (Northern Ireland) 2011 be approved.*

## **Marine Licensing (Civil Sanctions) Order (Northern Ireland) 2011**

**The Minister of the Environment (Mr Poots):** I beg to move

*That the draft Marine Licensing (Civil Sanctions) Order (Northern Ireland) 2011 be approved.*

I seek the Assembly's approval for the aforementioned statutory rule, which will provide a robust and proportionate alternative to prosecution for minor offences under the Marine and Coastal Access Act 2009. The Order provides a mechanism in the form of fixed and variable monetary penalties that will remove any financial benefit that operators may derive from failure to operate inside the law.

Part 4 of the 2009 Act introduces a number of offences for which my Department, in its role as the enforcement authority, can prosecute. Although prosecution will, of course, remain an option for serious offences, there may be occasions when operators unintentionally cause harm. The introduction of fixed and variable monetary penalties will give the Department greater enforcement options and the flexibility to issue a penalty instead of pursuing prosecution. In some cases, that will be more proportionate to the offence committed and would mean that the operator would not have a criminal record as a consequence.

The draft civil sanctions Order introduces fixed and monetary penalties that are set at £100 for individuals or £300 for businesses to address low-level, technical or administrative offences, such as failure by an operator to provide information within the required time. It also introduces variable monetary penalties that do not have a fixed upper limit for more serious breaches or for instances in which an operator may have derived a financial benefit from non-compliance. The amount of variable monetary penalty will be the estimated financial benefit derived from the offence plus a deterrent element less the cost incurred by the operator. I am confident that that formula will help to ensure fair competition between economic operators. Those who act outside the law should not gain an unfair competitive advantage.

The Order makes provision for operators to make representations or, with regard to variable monetary penalties, to offer to undertake compensatory actions and for the Department to review the case before making a decision on

whether to withdraw the penalty or issue a final notice.

It is important to note that the revenue from monetary penalties will be paid into the Consolidated Fund for Northern Ireland. That means that the Department will not benefit financially from this legislation. Appeals can be made to the Water Appeals Commission against final notices imposing fixed or variable monetary penalties.

My Department will consult on and publish guidance on its use of civil sanctions. That guidance will contain information on circumstances in which sanctions are likely to be used, how liability can be discharged, factors to be considered in calculating variable monetary penalties, the right to make representations and the rights of appeal. Therefore operators would be fully informed of the introduction of the alternative to prosecution. I ask the Assembly to approve the draft Order.

**The Chairperson of the Committee for the Environment (Mr Boylan):** Go raibh maith agat, a Cheann Comhairle. The Department has informed the Committee that the Marine Licensing (Civil Sanctions) Order will increase the range of enforcement tools it has at its disposal. That is always to be welcomed. This rule will set up a scheme for fixed and variable monetary penalties, which are seen as a more proportionate alternative to prosecution. It will help to ensure the consistent protection of the environment and human health and the legitimate use of the sea. The Committee considered the rule on 10 March 2011, when members were content to recommend that it be affirmed by the Assembly. I support the motion on behalf of the Committee.

**The Minister of the Environment:** Once again, we seek to provide a proportionate and fair means of delivering sustainable development in the marine area. I thank the Chairperson and the Committee for their support in doing that.

*Question put and agreed to.*

*Resolved:*

*That the draft Marine Licensing (Civil Sanctions) Order (Northern Ireland) 2011 be approved.*

## **Suspension of Standing Orders: Justice Bill**

**The Minister of Justice (Mr Ford):** I beg to move

*That Standing Orders 39(1) and 42(1) be suspended in respect of the passage of the Justice Bill.*

Members will be aware that, at Further Consideration Stage on Monday 7 March, Lord Morrow moved an amendment to the Justice Bill to amend the Firearms (Northern Ireland) Order 2004. That amendment was accepted by the Assembly and is now clause 104 of the Bill. Clause 104 deals with the use of shotguns by young persons. The clause allows a person under the age of 18 to use a shotgun in specified circumstances under the supervision of a firearms certificate holder who is authorised to possess such a shotgun.

In your ruling of 15 March, Mr Speaker, you declared that, as a result of that clause, it was your view that the Bill would be outside the legislative competence of the Assembly, since the clause is incompatible with Community law. It is incompatible with EU directive 91/477/EEC, as amended by 2008/51/EC, whereby firearms supervision, when on private land, must be by a person over the age of 18. Northern Ireland firearms legislation currently permits, in certain circumstances, the Chief Constable to grant a firearms certificate to a person aged between 16 and 18. Clause 104 could, therefore, permit a 16- or 17-year-old to act as a supervisor, which is contrary to EU law. Consequently, clause 104 will need to be amended before the Bill can proceed to Final Stage to bring it and, therefore, the whole Bill back within the competence of the Assembly.

I am very grateful, Mr Speaker, for your ruling that the Assembly should be given the opportunity to rectify the situation by the holding of an additional amending stage of the Bill before it moves to Final Stage. Members are well aware that there is no opportunity to amend the Bill at Final Stage, so the Exceptional Further Consideration Stage is scheduled to take place immediately after this item of business. To allow the additional amending stage to proceed, the Assembly must agree to the suspension of Standing Order 39(1), since otherwise we would have to move straight to Final Stage.

**3.45 pm**

Once the Exceptional Further Consideration Stage is completed and subject to Assembly agreement, the Bill will be brought back within competence and be in a position to proceed to Final Stage to complete its passage through the Assembly. Members will be aware that, to achieve that before dissolution, the Final Stage has been scheduled for this Wednesday. That will result in less than the five-day minimum interval required under Standing Order 42(1) between the Exceptional Further Consideration Stage and the Final Stage of the Bill. To allow the Final Stage to proceed on Wednesday, our last scheduled plenary meeting before dissolution, I, therefore, seek the Assembly's agreement to the suspension of Standing Order 42(1).

Following a great deal of work by the Justice Committee and the Assembly, the legislative passage of the Justice Bill is nearly complete. We do not want that work to be wasted by one clause being incompatible with Community law and therefore taking the Bill outside the legislative competence of the Assembly and preventing it obtaining Royal Assent. It is, therefore, essential that we amend the Bill to bring it within our competence and complete its passage on Wednesday. I trust that I will have the Assembly's support for the suspension of Standing Orders to allow that to take place.

**Mr Speaker:** Before I put the Question, I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That Standing Orders 39(1) and 42(1) be suspended in respect of the passage of the Justice Bill.*

## Justice Bill: Exceptional Further Consideration Stage

**Mr Speaker:** I call on the Minister of Justice, Mr David Ford, to move the Exceptional Further Consideration Stage of the Justice Bill.

*Moved.* — [*The Minister of Justice (Mr Ford).*]

**Mr Speaker:** Members will have received a copy of the Marshalled List, which provides details of the single amendment tabled. The amendment seeks to render clause 104 compatible with EU law by clarifying that the supervising firearm certificate holder in the clause must be over the age of 18. I remind Members intending to speak that they should address their comments only to the amendment. If that is clear, we shall proceed.

### **Clause 104 (Restrictions on use of shotguns by young persons)**

**The Minister of Justice (Mr Ford):** I beg to move the following amendment: In page 63, line 21, after “is” insert

*“over the age of 18 and”.*

As the House is aware from my comments a few minutes ago, the amendment has been drafted to bring clause 104 of the Bill back within the competence of the Assembly. Clause 104 was inserted by way of an amendment tabled by Lord Morrow at Further Consideration Stage. Although I opposed the amendment, the Assembly voted that it should be made to the Bill.

Clause 104 allows for the removal of restrictions on sporting shooting of shotguns for young persons. It allows someone who is under 18 to use a shotgun on private land or in an approved place under the supervision of a firearms certificate holder who possesses the shotgun. Members will recall that Lord Morrow argued that that would help young people to develop skills in the sport of shooting.

The competence issue occurs where a firearms certificate holder may themselves be 16 or 17 years old. That can occur in a small number of cases under the Firearms (Northern Ireland) Order 2004, whereby a young person aged between 16 and 18 may be granted a firearms certificate for the purposes of pest control or the protection of livestock on specified agricultural land, in which case the young person may be unsupervised. The intention of that

latter provision is to permit a young person to assist on a family farm. Therefore, under clause 104 as currently drafted, a 16- or 17-year-old could, by virtue of holding a valid firearms certificate, supervise another person aged under 18 to shoot a shotgun. That might not be a difficulty where the possession occurs within an approved target shooting centre, but it would be a problem where the possession occurs on private land. In that circumstance, it would not be compatible with EU law. A European directive states that a person aged under 18 can only use a shotgun under parental permission or guidance, under the guidance of an adult with a valid firearms or hunting licence or within a licensed or otherwise approved training centre.

The amendment that I propose adds the requirement that an individual supervising a young person shooting a shotgun must be over the age of 18 as well as being a firearms certificate holder. Legal advice I have received on the matter indicates that that will bring the clause back within the competence of the Assembly. The amendment has been drafted to ensure that the clause is compliant with EU law and meets the intention of the Assembly at Further Consideration Stage.

Given the competence concerns relating to the clause that the Assembly’s legal team and the Attorney General expressed, I urge the Assembly to accept the amendment, to bring clause 104 back within competence and to achieve the Assembly’s intention as it was at Further Consideration Stage.

**Lord Morrow:** I have said all that I want to say on this legislation. I understand why the Minister is back in the House, and I accept what has been said and why this has been done. However, I must emphasise that I am not doing that because I am, in any way, a Europhile. This is another example of those interfering EU directives that seem to probe into every facet and aspect of our lives and that we do not seem to have any say over. As I said, I understand why the Minister has come back to the House, why we are discussing the clause and the manner in which it has been done. Therefore, without further ado, I will stop, lest I might in some way give Europe some credibility that it certainly does not deserve.

**Mr A Maginness:** I support the Minister’s amendment to clause 104. It is right and proper that the House supports the amendment, so

that a deficiency in the legislation that the Office of the Speaker detected can be rectified. I assume that that deficiency is being rectified on the advice of the Attorney General as well. It is a happy coincidence that the House received both advices that will allow it to put right this defective piece of legislation.

At Further Consideration Stage, I expressed some unhappiness at Lord Morrow's amendments. I felt that, irrespective of their merits, the amendments should not have been processed in the manner in which they were. I think that I was right in saying that. With the foresight that we had then, one was uncomfortable with the amendments, and, with hindsight, I now regard this particular amendment as foolhardy. This is not simply some technical problem introduced by the European Union; it is common sense that a young person of 16 or 17 should not be in a position to supervise another minor, which, as I understand it, would be the position if the amendment were not agreed. That goes to a point of substance rather than to a point of technicality, and it reinforces the original point that we should carefully scrutinise legislation in the House, particularly in Committee. It is important to re-emphasise that point.

We can all make mistakes, and we, as legislators, should be mindful of the duty and responsibility that we have for the health and safety of the public, particularly where firearms are concerned. I know that the firearms in question are not used intentionally to cause any injury or, God forbid, some fatality, but firearms are dangerous even in the strictest circumstances and under supervision. Therefore, we should be very vigilant and very careful when we address firearms legislation. In this instance, I do not think that we dealt with it either properly or carefully enough. However, the deficiency in the legislation was discovered in a timely fashion, and, on behalf of my party, I am happy to support the Minister's amendment.

**Dr Farry:** I, too, support the amendment. I will pick up on what Mr Maginness said: the system is working in rectifying the matter, but it goes without saying that this has been a very close shave. No doubt, there are procedural lessons that perhaps the Committee on Procedures may wish to reflect on for the next mandate, lest something such as this should happen again. This is a general comment and is not specific to the amendment. No matter how

much effort goes in during the build-up to legislation, whenever amendments are proposed towards the latter stages, particularly given the bottleneck that we are in at the moment, there is always a risk of drafting issues. However, we found it, and we have the opportunity to rectify it today.

I do not want to go into the merits or otherwise of Europe except to say that I support Europe and see benefits from the guidance that the Commission and wider European law provides in what we are doing. However, irrespective of your view on Europe, this comes down to one issue: it is the law, and we have to ensure that what the Assembly does as a devolved regional legislature is compliant with the wider legal framework in which we operate. We are not masters in this matter, and we are complying with that requirement. The merits of what we are doing also make sense and tend to reflect what happens in other walks of life with respect to whether it is suitable for children to supervise other children. That is the only consistent way we can do things, so I am happy to support the amendment.

**The Minister of Justice:** I am grateful for the support from the three Members who spoke. For once in this House the Europhiles outnumber the Euro-sceptics by three to one, which can be only a good step forward.

As I outlined, the amendment was tabled simply to make the required change with the minimum possible impact on the intention of the House when it added that clause. I notice that Lord Morrow, who proposed the original amendment, accepts the reasoning behind the amendment, whether or not he is in the Europhobe minority.

As Alban Maginness highlighted, what we have seen at this stage is good, co-operative close working between my legal team and your legal team, Mr Speaker. Indeed, as Mr Maginness highlighted, the Attorney General has also been involved in helping to ensure that the amendment is entirely competent and meets the requirements of the House. I am grateful for Mr Maginness's support and that of my colleague Stephen Farry in recognising that and the necessity that matters are dealt with correctly.

I was surprised at the lack of speakers. I would have thought that at least one member of the Ulster Unionist Party could have seen fit to make some sort of contribution. Perhaps they

realise that they need to hit the election trail suddenly, I do not know. However, I read with considerable interest a press statement issued by the normally voluble Mr Basil McCrea in which he referred to what he described as the news that the Attorney General had to intervene to warn the Justice Minister of the contents of the Bill, which I think that you and I will agree is a completely erroneous statement, Mr Speaker. He also said:

*“it appears that some people don’t appreciate that in this Assembly we are no longer playing at politics but actually making laws”.*

I was fully aware of that. That was why, when the issue of the one-for-one exchange of shotguns, also proposed by Lord Morrow, came forward at Consideration Stage, I asked him not to proceed at that point so that we could ensure that that clause was competent at Further Consideration Stage. That was an example of the use of the procedures of the House carrying through correctly.

Unfortunately, what we saw was that this late amendment at Further Consideration Stage was not competent. However, I take it ill when a Member issues a press release criticising the Minister and his officials and does not have the gall to turn up in the Chamber this afternoon having made a completely erroneous statement. He and his colleagues did not express any dissent from the clause at Further Consideration Stage.

#### 4.00 pm

**Lord Morrow:** I have listened intently to what the Minister has said and accept his words of congratulations on getting the amendments onto the statute book. However, I remind the Minister that Mr McCrea is not the only one who has been abused in the House, because another Minister was brought to the attention of the House this morning for abusing its procedures. He also did not have the courtesy to come into the House to take his place and take his medicine. I am talking about the Social Development Minister, just in case anyone is wondering.

**Mr Speaker:** I am very conscious that we need to get back to the amendment.

**The Minister of Justice:** I will try to stick to the content of the Bill and comments that are directly related to the clause that is the subject

of the amendment. However, in the absence of Mr McCrea, who is clearly hanging his head in shame elsewhere, there is little point in making any further points about him.

When a problem arose, at least Lord Morrow had the grace to accept that we were seeking to work things out as best we could. We have dealt with that problem in a positive and effective way between the Department of Justice and the Assembly officials, under your direction, and with the assistance of the Attorney General and some Members. It ill behoves other Members to go in for cheap electioneering when they could be here dealing with the real substance of the Bill.

That said, it is clear that the mind of the House, or at least the mind of those who have bothered to attend this afternoon, is that the clause should be amended to make it compliant with the EU directive. Whether the Euro-phobes or the Euro-philés win other arguments, at least we are all agreed on that this afternoon. I hope that we can now formally approve the amendment so that we can proceed to the Bill’s Final Stage on Wednesday.

*Question, That the amendment be made, put and agreed to.*

**Mr Speaker:** That concludes the Exceptional Further Consideration Stage of the Justice Bill. The Bill stands referred to the Speaker.

## **Civil Registration Bill: Final Stage**

**The Minister of Finance and Personnel  
(Mr S Wilson):** I beg to move

*That the Civil Registration Bill [NIA 20/07] do now pass.*

The Civil Registration Bill, which comprises 35 clauses and two schedules, was introduced to the Assembly on 24 June 2008. That was followed by a process of scrutiny and debate, which has proved to be extremely thorough and productive. I record my gratitude, first, to the Chairperson and former Chairpersons and the members and former members of the Committee for Finance and Personnel for their work in considering the Bill. Secondly, I thank all other Members for their contributions at the previous stages of the Bill's passage.

The Bill is important and necessary legislation that will modernise the civil registration system in Northern Ireland so as to provide a service that meets the needs and expectations of today's society. The provisions in the Bill include measures to: provide greater choice and more flexibility in registering life's events; improve service delivery through a much wider use of IT; provide the choice of additional types of certificates, that is to say commemorative certificates and abbreviated death certificates; allow electronic sharing of registration information with Government Departments and nominated organisations; and allow greater public access to civil registration records to facilitate genealogical inquiry.

I tabled 15 amendments to the Bill at its Consideration Stage. No other amendments were tabled by Members, which just shows that they can change their minds. The Bill places no additional financial burdens on public expenditure in Northern Ireland.

I thank Members, in anticipation of their support, for ensuring that this important Bill clears its Final Stage. I commend the Bill to the House.

**Mr Speaker:** I understand that we now have a quorum.

*Question put and agreed to.*

*Resolved:*

*That the Civil Registration Bill [NIA 20/07] do now pass.*

## **Damages (Asbestos-related Conditions) Bill: Final Stage**

**The Minister of Finance and Personnel  
(Mr S Wilson):** I beg to move

*That the Damages (Asbestos-related Conditions) Bill [NIA 10/10] do now pass.*

I learned all of the notes in this big book for a debate on the previous piece of business but it did not happen. I hope that this Final Stage goes through as quickly, although I doubt it will. The Bill has reached its Final Stage, and I do not intend to rehearse the detail of it. Members are fully aware that its aim is to reinstate pleural plaques as an actionable condition under the law of negligence and to prevent attempts to extend the decision in the Johnston case to symptomless pleural thickening or asbestosis. However, I will take a few minutes to emphasise why the Bill is important and why it should be allowed to pass.

*(Mr Deputy Speaker [Mr Dallat] in the Chair)*

As the Bill made its way through the Assembly, there was a lot of talk about whether pleural plaques degenerate into a more serious medical condition or whether they are, in themselves, damage. That debate reflects the discussions that have taken place in other legislatures. However, I would like all Members to stop and ask themselves what a diagnosis of pleural plaques would really mean and how they would feel if they were given proof that they had been exposed to asbestos and had growths in their lungs as a result. None of us here can begin to imagine just how devastating that news would be. The men and women who receive that message have seen their friends and colleagues die as a result of asbestos exposure, and no amount of reassurance can allay their real fears. Members should think about how they would feel if, having received that news, they were told that they could not hold to account the person responsible for their exposure. Most people will acknowledge that that would add insult to injury, and I, for one, do not want to deliver that second message. As I said before, the Bill is about access to justice, which is a principle that we all hold dear.

**Mr A Maginness:** Does the Minister agree that the Bill gives justice to people deprived of the right to compensation through no fault of their own by a House of Lords decision that applies here but over which they had no

control? Through the Assembly, we are restoring the rights of those people damaged through exposure to asbestos. That is a good and proper thing to do.

**The Minister of Finance and Personnel:** The Member for North Belfast hit on the most important point, which is that we are simply restoring a right that had existed. It is a right to which many people had access in the past, but it was removed. Money has already been paid into the insurance industry to allow people to receive compensation. The Member is absolutely right. That is why I have said that this is about justice. In the past, people had their right removed by a House of Lords judgement, and we wish to restore it, as has been done in Scotland and as the House of Commons at Westminster attempted to do.

If the Bill is passed today, people will once again be able to bring an action in negligence for asymptomatic pleural plaques, and that will bring some measure of comfort. Since we reached the closing stages of the Bill, a number of people have phoned my office and sent e-mails to express concern, because the wider community wants the Bill to pass before the end of this parliamentary term.

Before I close, I thank the Chairperson, Deputy Chairperson and all the Committee members for the time and attention that they gave to the Bill. I appreciate that they would have wished to have had further time for scrutiny, but I believe that the scrutiny of the Bill was second to none, as is the policy that it seeks to implement. I also thank all the organisations and individuals who responded to the initial policy consultation on the Bill, as well as those who submitted evidence or appeared before the Committee.

**The Chairperson of the Committee for Finance and Personnel (Mr McKay):** Go raibh maith agat, a LeasCheann Comhairle. I remind the Assembly that the Committee has sought to be as constructive and proactive as possible in its approach to the Bill, while wishing to ensure that it conducted full and proper scrutiny. I also remind Members that the late introduction of the legislation by the Department afforded the Committee only 25 days to undertake Committee Stage. For that reason, alongside a reasonable expectation that members should be afforded sufficient time for full and proper scrutiny, an extension to Committee Stage was sought. Following the Assembly's decision not

to grant that extension, the Committee agreed at its meeting on 16 February that it was not in a position to report its opinion on the Bill or on the provisions contained therein, as provided for in Standing Order 33(2). The Committee's decision must be accepted and respected in the same way as the will of the Assembly not to grant additional time for Committee Stage is accepted and respected.

Therefore, I remind Members that the Committee's report merely compiles the evidence that it received on the matter, and it does not offer an analysis or opinion on any of the issues raised by stakeholders. Similarly, evidence received following the publication of the report, including transcripts of evidence sessions, has been placed on the Committee's web pages without analysis or comments, solely for Members' information. The latter evidence includes personal testimonies from people with pleural plaques, information on the public liabilities relating to Harland and Wolff, and further medical evidence. I trust that the information has been useful to Members as they considered this important piece of legislation and as they make their final decision today.

**Dr Farry:** I remain a deep sceptic of the Bill. However, I do not seek to block it, because I sense that, for better or for worse, most Members are committed to its passage. Nevertheless, there are still many unanswered questions, and many worrying implications may arise from what we are doing. Although I appreciate that there is a lot of interest in the Bill, I feel that, as a Member of the Assembly, I have a duty to speak my mind and my conscience on the issue.

Pleural plaques is not a harmful condition; the medical evidence that the Committee received was unanimous on that. It has been reported to us that there is a consensus in the wider medical field on that, and we have had no suggestions to the contrary. In essence, we are seeking to reintroduce a liability for a condition that does not cause harm to people. It does not interfere with lung function, and it does not, in itself, increase the risk of developing asbestosis. All that a pleural plaque is is an indication that someone has been exposed to asbestos. Two people may be exposed to asbestos: one may have pleural plaques and the other may not. There is no statistical evidence to suggest that the one with pleural plaques is



more likely to get asbestosis. In fact, the risk for both those people is the same.

This seems like a back-door way of trying to compensate people for their exposure to asbestos, which may, in itself, be a laudable thing to do. However, using the presence of pleural plaques as a means to do that is not a reliable way of capturing all the people who have been exposed to asbestos. Indeed, we should be compensating people when they have a condition established at a later stage.

We are not yet clear what the financial liability will be. Although the Minister and the Bill's explanatory notes may say something about a couple of million pounds, the Department of Enterprise, Trade and Investment (DETI) has set aside £29 million over the next four years to cover pleural plaques and other asbestos-related conditions. That covers only potential public sector liabilities, not private sector liabilities.

#### 4.15 pm

In DETI's submission to the Executive on the Budget, it asked why on earth the Assembly wanted to create a potential liability of almost £30 million for a condition that does not actually cause harm when other pressing needs require the investment of such moneys, not least the attempts to rebalance and grow the economy. There is an opportunity cost in what we are potentially about to do.

I feel that we have moved very rapidly through the final stages of this. The issue has been around in the community for quite some time, but the legislation only came forward in December 2010. There was then a very rapid, accelerated process, which meant that we did not have the opportunity to have a full Committee Stage. Based on what has happened in Scotland, I fear that it is almost inevitable that we are going to see, perhaps for the first time in this mandate, a legal challenge to a Bill passed by the Assembly. I think that it would have been wiser for us to have waited until we knew the outcome of the Scottish case. If the legislation is overturned by the courts, the fact that we rushed its Final Stage and curtailed its Committee Stage will not show us in the best light. However, I accept the will of the House and where we are going. I look forward to being proven wrong about the doom; I am taking over from Declan O'Loan in that respect. However, I fear the implications that might arise. I do

not feel that this is the wisest thing for the Assembly to do.

#### **The Minister of Finance and Personnel: I**

thank those Members who took part in today's short debate. Given that this is likely to be our last opportunity to discuss the Bill, I will try to address the points that have been raised. First, the Chairperson dealt mostly with the amount of time that the Committee had and the fact that it had sought an extension. The arguments about that have been well rehearsed in the House. Indeed, we had a debate about it in the House when the extension was sought some weeks ago. The Assembly agreed with the position that I adopted at that stage, which was that to seek an extension really would ensure that the Bill would not pass before the end of the present Assembly term and that it would have to take its chances in the new Assembly term. The passage of time would have weakened further the case for introducing the Bill and would have reduced the opportunities for the kind of justice that those who have suffered from pleural plaques deserve, which the Member for North Belfast Mr Maginness outlined in his intervention earlier.

As regards the amount of time that the Committee had, it was made aware of the developments at all stages. When we consulted on the policy, it was informed of the consultation outcomes. At that stage, it had an opportunity to speak to officials and to receive information about the views of those who had responded. The same happened again at the consultation on the Bill itself, and a large amount of written evidence was taken. I have already pointed out to the Chairperson that it is a little ironic to argue that not enough time was made available to the Committee to discuss the Bill, given that it did not even use the time available to it before publishing its report. Had time been at a premium, I would have thought that the extra, I think, four or five days would have been used to produce further information.

At least Mr Farry never ever demurs from taking a line, regardless of whether or not it is a popular one. If he believes that a certain line is the right one to take — I admire him for this — he will do so. His stance on this issue is probably not the most popular one, and I do not believe that it is the correct one either. However, at least he has been consistent and has not been afraid to articulate his point.

I suppose that the question is what constitutes damage for the purpose of the law of negligence. That is what we are looking at. Mr Farry argues that, as far he is concerned and as far as the medical evidence received goes, asymptomatic pleural plaques are not regarded as debilitating. Nevertheless, it has been accepted that pleural plaques are a disease and that persons contract that disease as a result of negligence. What we are looking at is whether people have suffered and been affected as a result of an employer being negligent.

We already have legal opinion that scarring on the lungs is no different from scarring elsewhere. People may have scars on their body that are not seen and do not currently cause them any pain. Nevertheless, if it can be shown that there was negligence in receiving the scar, those people will get compensation. That is the issue that we are dealing with here. In the Johnston case, that was recognised by Lady Justice Smith, who gave a dissenting judgement. She said that ordinary people would readily recognise the harm done to those with pleural plaques and would not regard plaques as trivial and undeserving of compensation. Therefore, there is a legal opinion from the Law Lords indicating that there was dissent.

The judgement that the Assembly has made, and that I have made as Minister, is that pleural plaques are deserving of compensation. That is the judgement of not only this Assembly but of other Administrations. The Scottish Administration took exactly the same view.

I do not know whether the legislation will be tested in court. There certainly have been indications that it will be. If the experience in Scotland is anything to go by, it will be. In Scotland, the insurance industry did take it to the courts. However, I point out that the industry took it to the courts and lost the case in the lower court in Scotland. The industry does, I suppose, stand to have to pay out as a result of this. However, just because it threatens to take court action, that should not be a reason for a legislative Assembly such as our own, in which we make decisions on the basis of what we think is fair, right and reasonable, to be frightened off. Given that, as I pointed out, Mr Farry is certainly not a man to be frightened or scared off an unpopular decision or position, I am a wee bit surprised that he employed the argument that, because there was a possibility of a court case, we should run away from the

legislation. I thought that the prospect of a fight would have enticed him to support the legislation, but clearly not in this case. Of course, if a court case is taken, we have to defend the decision that the Assembly makes on this.

In closing, I thank Members for their participation. I hope that the great majority of us in the House will never have cause to rely on the terms of the Bill. However, I think that many of our constituents will. The Bill will provide real practical assistance to those people in all our constituencies — the working men and women of Northern Ireland. As such, I commend the Bill to the House.

*Notice taken that 10 Members were not present.*

*House counted, and there being fewer than 10 Members present, the Deputy Speaker ordered the Division Bells to be rung.*

*Upon 10 Members being present —*

**Mr Deputy Speaker:** Now that we have a quorum, I will put the Question.

*Question put and agreed to.*

*Resolved:*

*That the Damages (Asbestos-related Conditions) Bill [NIA 10/10] do now pass.*

## **Rates (Industrial Hereditaments) (Specified Percentage) Order (Northern Ireland) 2011**

**Mr Deputy Speaker:** The next three items of business are motions from the Minister of Finance and Personnel relating to statutory rules. There will be a separate debate on each. The first two motions require cross-community support, and the third does not.

**The Minister of Finance and Personnel (Mr S Wilson):** I hope that I have the right one.

I beg to move

*That the Rates (Industrial Hereditaments) (Specified Percentage) Order (Northern Ireland) 2011 be affirmed.*

This Order enables the Executive and the Assembly to continue to hold manufacturing rates at 30%. As part of the Budget process, the Executive have agreed that that should apply for the next four years. The Order is short but very important. Without it, manufacturing rates would automatically revert to 100% liability on 1 April 2011.

The Order will ensure that support continues to be provided to the manufacturing sector. In doing so, it will also highlight the significant difference that devolution can, and does, make. Without devolution, 100% rates liability would have been imposed on our hard-pressed manufacturing sector from next month. However, in 2009, the Executive and the Assembly took steps to ensure that the Assembly is best placed to take decisions on manufacturing rates. The Act provided that the level of liability could be adjusted through subordinate legislation. Local decisions with a local impact would be taken with local interests at heart.

Without the Order, liability would default to 100%, which no one has suggested is a good idea. The Order also sends out the message from the Executive and the Assembly that we are putting the economy first. I have one thing to say to anyone in here, or out there, who doubts the wisdom of this policy: closed factories do not pay rates. It is my assessment that, if derating were removed, the actual collectable amount could be considerably lower than the maximum for going rates revenue.

Members will know that industrial derating provides relief to about 4,200 firms in

Northern Ireland, ranging from one-man or one-woman operations right through to the likes of Bombardier. Industrial derating dates back to 1929. Although it is not a policy that is particularly well targeted because it pre-dates the common market, it is permissible under state aid rules. Therefore, it is one of the few ways in which we can provide direct financial assistance to the sector in these troubled economic times.

It is important to stress that I am by no means advocating that manufacturing rates are held at 30% indefinitely. However, I consider that, in the current climate and given the important contribution that the manufacturing sector makes to the economy, now is not the time to start changing that level of support. My position is not never, but not now and not at this time. Manufacturing is a key driver of productivity. It is by far the largest generator of exports in the private sector. If the economic outlook for business were better, a different proposal may have been on the table. I consider that there is sufficient risk in increasing manufacturing rates at this time to justify it being held at 30% over the Budget period. Nothing in the consultation responses on the draft Budget brought that approach into question.

Before turning to the detail of the Order, I wish to touch on an issue that the Committee raised in its consideration of the matter of industrial derating.

Some members of the Committee asked that consideration be given to recycling manufacturing rates revenue in the form of a skills, training and research levy. In essence, that would require the manufacturing sector to assign a proportion of the savings to the sector from holding manufacturing rates at 30% to establish a fund that would support skills, training and research for that sector. That is akin to the STAR scheme proposal from the Northern Ireland Manufacturing Focus Group and Amicus in 2006. However, for a number of reasons, I am not convinced that that would work. Nevertheless, as the initiative is beyond the remit and expertise of DFP, I am seeking the views of the Executive subgroup on the economy before making final decisions.

### **4.30 pm**

I will now deal with the Rates (Industrial Hereditaments) (Specified Percentage) Order (Northern Ireland) 2011 itself. Article 1 contains

the title of the Order and gives 1 April 2011 as its operational date. Article 2 provides that the level of manufacturing rates is to be set at 30%. Although a time period for that to apply cannot be set by legislation because of the nature of the primary enabling power, the Executive's Budget provides that manufacturing rates are to be set at 30% for the next four years. That will be further revised before 2015. I commend the Order to the Assembly.

**The Chairperson of the Committee for Finance and Personnel (Mr McKay):** Go raibh maith agat, a LeasCheann Comhairle. As the Minister has outlined, the Order sets the manufacturing rates liability at 30%, or 70% relief, over the four-year Budget period, which is the measure known as industrial derating. The Department first wrote to the Committee in September 2010, advising that the Minister proposed to maintain that level of liability, as he considered that to do otherwise in the current economic climate would impact adversely on the manufacturing sector. The Committee subsequently took evidence from departmental officials on 6 October and 3 November 2010.

The Committee had previously considered the issue of industrial derating in some detail in the context of the draft Budget 2008-2011, and, at that time, it considered that the policy was an outdated and blunt instrument for promoting economic development and sustainability in the longer term. However, Committee members recognised that modifications to the scheme could risk contravening EU state aid legislation and, therefore, supported the retention of liability at 30% at that time. The Committee recommended, however, that consideration should be given to the scope for modifying the scheme in the longer term to encourage increased business activity in areas that would lead to higher productivity, such as research and development and export marketing.

The Committee is disappointed that no feasible alternative has been identified, despite the time that has passed since the Assembly agreed to extend the measure in the 2008-2011 Budget. Some work was undertaken by the Manufacturing Focus Group, together with the trade union Amicus, on a proposed levy for a STAR scheme, whereby a proportion of the savings to manufacturing businesses through holding rates liability at 30% would be reinvested in skills, training and research for the sector. However, that has not been progressed.

In its recent report on the Executive's draft Budget, the Committee renewed its request for further detailed work to be done in that regard.

The Committee maintains its view that industrial derating is not the most effective measure either to provide support to or encourage change in the manufacturing sector in the longer term. Members recognise, however, that its removal in the current economic climate may have a destabilising effect on the sector. Therefore, the Committee agreed that liability should be maintained at 30%. In doing so, the Committee asks that the Department of Finance and Personnel does not wait until the end of the four-year Budget period to consider an alternative. It also asks that the 30% cap be reviewed, as appropriate, in the Budget period.

The Committee considered the proposals for the statutory rule at its meeting on 16 February 2011. The rule was formally considered on 8 March, when the Committee agreed that it should be affirmed by the Assembly. On behalf of the Committee, I support the motion.

**Dr Farry:** In the past, I have been one of those very strong sceptics of the measure and, indeed, have voted against it in the Assembly. However, that was in the context of better economic circumstances. Today, my party is happy to support the motion in the light of the need to give the manufacturing sector all the support that we can in the face of ongoing economic challenges. However, we should be under no illusions about the efficiency, or lack of efficiency, of using industrial derating as a form of economic support. It is a considerable form of economic support that potentially means the Executive forgoing revenue of about £70 million a year. Doubtless, the Minister will come back and say that that is entirely speculative, because if we impose a 100% rating, certain rates would not be collected as a consequence, and, therefore, it would not be a full £70 million. The revenue implications are a major issue, and I am disappointed that there are not more Members in the Chamber. It seems that the level of interest is inverse to the amount of money at stake.

My problem, as outlined by the Committee Chairperson to some extent, is that industrial derating incorporates considerable economic deadweight. Although it may help a lot of businesses stay open, it is important to acknowledge that others will stay open

irrespective of that financial assistance. Industrial derating also has the unforeseen consequence of ossifying our economic profile to some extent, as it helps to maintain the status quo of our economic or industrial profile. It is not a good means of trying to encourage change in the system. It is clear, not least to those of us who were in Washington last week, that there seems to be a lot of goodwill towards Northern Ireland because it can be a dynamic, global economy. However, we need the tools to make that happen, and industrial derating is a legacy tool that does not do that. It is more about defending a difficult status quo than doing things differently. Industrial derating, for example, applies only to certain forms of manufacturing. Other areas of economic activity are not supported through derating or through any assistance with the rates challenges faced by certain types of business, particularly in the service sector. Although manufacturing will and should remain important to our economy, we should not underestimate the need to encourage other forms of economic activity, including in the service sector, because our economic profile tends to mature in line with other western or Organisation for Economic Co-operation and Development (OECD) economies.

We need to be careful not to use the very limited resources at our disposal to keep in place a status quo that is not efficient and would not close the productivity gap. It would simply keep businesses open and keep people employed. To be able to stand on our own two feet, we need to be in a situation in which we can use money for investing in skills, upskilling the workforce and becoming a lot more competitive.

I return to my point about the £70 million of revenue that we would potentially forgo as a consequence of this. Members will be aware of the speculation that HM Treasury will release its consultation paper on corporation tax towards the end of this week. That is, no doubt, something that many Members and parties will look forward to, take great interest in and want to embrace. If we get the opportunity to reduce the rate of corporation tax, under the terms of the Azores ruling, there will be a challenge for the Assembly in how to fund the resulting loss of revenue from the block grant.

In the spirit of being honest and frank, as I always am, or at least try to be, in these situations, we need to consider whether we

want to sustain the level of industrial derating for which we will potentially vote in a few minutes' time in the context of a lower rate of corporation tax. Whether £100 million or £200 million, we would have to find that money from somewhere. One could argue that we are moving resources from a more inefficient form of economic support, albeit one with merits, through industrial derating, to what is billed as a more efficient means of incentivising the economy, which is the lowering of corporation tax. It makes sense to move resources from a lower to a higher productivity area.

Through industrial derating, we would also move from subsidising the cost pressures faced by business to trying to incentivise profit-making and wealth creation, which is ideally what businesses should be doing. Corporation tax is a much more efficient way of doing that.

There may well be changes over the lifespan of this Assembly that mean that we need to reconsider what we are doing with corporation tax. I appreciate that, today, we are potentially voting this through for a four-year period, but I would be interested to hear from the Minister what flexibility we may have and whether, if something better comes along over the next four years, we may have scope for reconsidering. I know that the Minister is a sceptic on corporation tax, and I think that part of his scepticism lies in the funding issue, so I may well be playing on a sympathetic agenda with him, but I do think that the Assembly has to acknowledge that there are opportunity costs in what we are doing today versus what we could potentially do in the future. It is important that we take all these decisions in the round, because we only have a limited amount of resources available, whether it is through giving direct subsidies or lowering the rates and charges that businesses face.

Those comments and sceptical points made, I am happy to support this motion, because we have to recognise that we are in a very difficult economic situation and that we need to give support to manufacturing. Even when you look at something such as the Executive's draft economic strategy, where there is a very subtle shift towards maximising employment in the here and now rather than productivity gain in the future, you see that we are in that slightly changed circumstance, and my support for industrial derating today should be seen in that regard.

**The Minister of Finance and Personnel:**

I thank the two Members who contributed to this debate. Mr Farry made an important point: it almost seems as if there is an inverse relationship — sometimes there are massive debates in this Assembly when we are talking about a few thousand pounds, and not when we are talking about millions of pounds. I suppose that we have an end-of-term feeling about the place at the moment, which may be one of the reasons why we do not have as many Members present; nevertheless, this is an important measure.

The measure is important for a number of reasons. First of all, it is important because, as Mr Farry pointed out, there are revenue implications. We are talking about a rates reduction of £70 million for firms in Northern Ireland, although, as I said in my opening speech, it is £70 million at present. If we took away the concession, we would not necessarily collect £70 million, because some of the businesses that are teetering on the edge and that have a reduction in their overheads as a result of this measure might go under if those overheads were imposed on them. We cannot quantify that, but it is a very real possibility.

The measure is also important because it is one of the means by which we can support the manufacturing sector of our economy: £70 million across 4,200 firms, many of them small firms and some of them larger firms. That fits in with the overall objective of the Executive and the Assembly to grow the private sector of the economy.

As both Members who spoke pointed out, it is a blunt instrument. I hope that, in my introductory speech on this Order, I showed that I accept that. It is an instrument that it is difficult for us to refine. If we were to try to refine it and open the door by changing it around, either by changing the rate or targeting it, as both Members suggested, we would have to put it back into the melting pot of European consideration. We would then find ourselves falling under some of the requirements of the state aid rules and might even find that we lose the instrument, blunt as it is, altogether. That is a consideration that we have to take into account.

The other point is that, as I hope that Members have noted, the Executive have decided that this will be revised again at the end of the four-

year period. Mr Farry asked whether there was any flexibility so that, if something better came along, we could divert resources to another measure, and he mentioned corporation tax. Both Members have sat on the Committee and have received the information and evidence. A theme that comes through constantly from industry and from the private and public sectors is that people want to have some long-term vision and assurance that a measure, when put in place, will stick for a while. Our argument for a four-year Budget was that people did not want one that would have lasted for a year, after which we would be back into the debate, uncertainty and everything else. People want to be able to plan. It is the same with firms. That is why we made a commitment over the four-year period of the Budget.

**4.45 pm**

I hope that Members have noted what I have said. First, this is a blunt instrument. Secondly, we want to target those parts of the economy that are growing and are more dynamic. Thirdly, during this Budget period, we will look at what may replace the measure. Given the current circumstances — and I say this to the Chairman and Mr Farry — it would be wrong to have removed this help to manufacturing industry. However, over the four-year period, we must make preparation. It also gives the recipients the understanding that they have to look at their operations in light of the kind of statement that has been made today. It is certain for the future period, but we want to look at whether it is the wisest way of using the resources that are available to us.

The other point made was whether this was deadweight. It was suggested that a lot of it was unnecessary and that some companies would continue to operate without this incentive being available to them. I have no doubt that that is true. One will only find that out when it is removed. By that stage, it will be too late because some firms may well go under as a result of this being removed. In the current circumstances, although there may be some economic inefficiency with this measure, it is one with which we need to continue.

In closing, I hope that pegging manufacturing rates at 30% will encourage companies to compete more effectively and to diversify and prosper. I trust that the Assembly will support it. I know from what has been said that even

one of the sceptics is prepared to support the motion. I hope that I have covered all of the points that Members have raised. I commend the order to the House.

**Mr Deputy Speaker:** As we do not have a quorum, the Question cannot be put.

*Notice taken that 10 Members were not present.*

*House counted, and there being fewer than 10 Members present, the Deputy Speaker ordered the Division Bells to be rung.*

*Upon 10 Members being present —*

**Mr Deputy Speaker:** Before we proceed to the Question, I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That the Rates (Industrial Hereditaments) (Specified Percentage) Order (Northern Ireland) 2011 be affirmed.*

## **Rates (Regional Rates) Order (Northern Ireland) 2011**

**The Minister of Finance and Personnel (Mr S Wilson):** I beg to move

*That the Rates (Regional Rates) Order (Northern Ireland) 2011 be affirmed.*

As Members will be aware, the Rates (Regional Rates) Order is a routine piece of subordinate legislation that flows from Budget decisions made by the Executive. This one stems from the Executive's agreed Budget that was brought to the Assembly on Wednesday 9 March 2011. The Budget covers the four-year period 2011-15, and the agreed regional rates increases are similar to those in the previous Budget. It is intended that they will provide greater certainty and stability for ratepayers over that period.

The legislation will fix two regional rates for 2011-12: one for households and one for business ratepayers. They are worked out in pence to allow individual rates bills to be set. The figures reflect the decision that the regional rate is to increase by the level of inflation, using the Treasury GDP deflator. The Order provides for a small increase of 2·5% in the regional rate next year for both households and businesses. Although it represents an increase in cash terms, in real terms, the impact on households and regional rate revenue will be held constant, ensuring that, at this difficult economic time, bills will increase by no more than necessary, while ensuring that the amount of regional rates revenue available to the Executive is protected. That builds on the action taken by the Executive during the current Budget period to keep rates increases as low as possible.

Given the current financial climate, I think that we would all agree that, as much as we would have liked to, it is not possible to continue to freeze the regional rate in cash terms. As Members will be aware, doing so would result in a reduction in regional rate revenue in real terms. No matter how beneficial to ratepayers, freezing the regional rate in cash terms is not sustainable in the current economic climate. Nevertheless, the Executive are committed to ensuring that household and commercial budgets are protected. In that respect, the Order represents the best that we can do to balance the interests of ratepayers and the Executive. No doubt there will be those who claim that the regional rate should have increased by more

than 2.5%. I ask those people to consider where, at this difficult time, ratepayers would find the additional money. Although we all want more resources to be available to the Executive, most households and businesses are finding things equally difficult.

Members will be aware that the regional rate supplements Northern Ireland's share of relevant public expenditure, providing an extra 6% over and above the Barnett settlement and extra funds to help to finance departmental expenditure on hospitals, roads, schools and other essential public services of which we have charge.

The regional rate represents just half of the typical rates bill; the other half is made up of the district rate, which is set by local councils. Councils have undertaken significant work this year to keep district rates as low as possible; and the average district rate will increase by just slightly less than the rate of inflation. Overall, average rate bills will see a slight reduction in real terms. On average, households and businesses should face rate bill increases of no more than 2.3% next year.

As a result of decisions taken by the Executive and Assembly, Northern Ireland ratepayers continue to have the lowest household bills in any part of the United Kingdom. As Members are aware, the modest increase is well below the trend for the last decade, particularly for the period of direct rule. Holding the domestic regional rate constant in real terms compares favourably to the type of increases experienced during direct rule. Members will no doubt recall the enormous 19% increase in the regional rate that was forced on households in 2006. The Assembly and Executive have ensured that, over the past three years, ratepayers have on average paid around £320 less than would have been the case under direct rule. The average rate bill this year is now £155 lower than it would have been had the increases of the last years of direct rule taken place.

In addition, households have benefited from the Executive's decision to defer water charges. Taken together, this means that the average household in Northern Ireland is around £1,600 better off, over the term of the Assembly, than would have been the case under direct rule. That is something which the sceptics, and those who continually point the finger at the Assembly, fail to recognise. As a result of decisions

made here, the average household is £1,600 better off than it would have been had there been no Assembly. That is something to be applauded and has no doubt been welcomed by households over a number of difficult financial years.

Households have also benefited from a range of additional supports since devolution was restored, including the lone-pensioner allowance, which currently has a take up of around 80% which is very high for a benefit. In the commercial sector, a 2% increase will also be applied next year. That builds on a combination of real and cash freezes in the non-domestic regional rate in recent years. It also complements a range of measures that the Executive have introduced to help businesses. Rates bills for all ratepayers are now lower than would have been the case under direct rule. The last debate that we had was about industrial rates. They continue to be held at 30% and small business rate-relief schemes provide help to around 20,000 smaller commercial properties.

Members are also aware that, as a part of the Budget process, the Executive wish to rebalance the system of business rates so that smaller businesses get help while increased support is provided by those with the broadest shoulders. My Department will bring forward proposals in due course that will extend the small business rate-relief scheme significantly. Although the detail has yet to be finalised and will be subject to consultation, the Executive hope to be able to more than double the amount of overall total relief provided while increasing the numbers of eligible businesses significantly.

The proposals will also look at cross-subsidising that by providing a levy to large, high-value retail properties. Although the majority of those properties will be out-of-town, they will also include the very largest stores in our city centres. Ultimately, the intention is to provide that those with the broadest shoulders pay some more, with more support provided to our smallest independent businesses. Work will commence on bringing forward detailed policy proposals, which will be subject to consultation. I hope that both measures will be in place by 1 April 2012. That, of course, will be subject to Assembly approval and would apply for the remainder of the spending review period.



Final decisions on the way forward will, of course, be taken by the Executive Committee of the next Assembly.

### 5.00 pm

In conclusion, I remind those who call for more to be raised from hard-pressed ratepayers that the regional rate is not a golden goose. There are limits to the amount that can be raised through the regional rate. A 1% increase in the regional rate would raise relatively modest sums in the context of the Executive's overall resources — about £7 million. Just over £3 million would come from households, and the remainder would come from the commercial sector. Significant increases in the regional rate would be required to raise any sizeable sum. Taken together, the domestic and commercial regional rate will raise around £582 million in 2011 and 2012. That compares with £557 million in the current financial year and provides an extra £25 million to spend on core public services.

I have no doubt that we will have a good debate, and I look forward to the range of issues that Members will raise. As I look around the House, that may be a forlorn hope, but you never know. Before that, let me turn to more technical matters as I briefly run through the Order itself. It specifies the regional rate poundages for 2011-12. Article 1 sets out the title of the Order and gives the operational date as the day after it is affirmed by the Assembly. Article 2 provides that the Order will apply for the 2011-12 rating year through to 31 March 2012. Article 3 specifies 31.46 pence in the pound as the commercial regional poundage and 0.3698 pence in the pound as the domestic regional rate poundage. I look forward to hearing Members' comments, and I commend the Order to the Assembly.

**The Chairperson of the Committee for Finance and Personnel (Mr McKay):** Go raibh maith agat, a LeasCheann Comhairle. As the Minister has outlined, the purpose of the Order is to fix the regional rate for the year ending 31 March 2012. Members will be aware that the domestic regional rate was frozen for three years between 2008 and 2011. The draft Budget for 2011-15, which was recently agreed by the Assembly, provided that domestic rate increases should be in line with inflation. The issue of increases in domestic rates was discussed by a number of witnesses in their oral evidence to the

Committee during its scrutiny of the draft Budget. Some felt that an increase in line with inflation was, in effect, a real-terms freeze and suggested that rates should be brought up to a level similar to that in other jurisdictions. Others, however, believed that a rise in excess of inflation would reduce the disposable income of families and have a detrimental impact on the service sector.

The Committee accepts the need for a rise in domestic rates, given the current economic climate, the reduction in the block grant and the need to raise additional revenue. Members agree, however, that that must be proportionate and should be shared equitably and based on the ability to pay, which is especially pertinent in the context of the current economic downturn. The Committee considered the proposal to make the rule at its meeting on 16 February and agreed that it had no objection to the policy implications of the legislation. The rule was formally considered at the Committee's meeting on 8 March, and it was agreed that, subject to the report of the Examiner of Statutory Rules, it should be affirmed by the Assembly. On 16 March, the Committee noted that the Examiner raised no issues by way of technical scrutiny. On behalf of the Committee, I support the motion.

**Dr Farry:** In trying to spark a debate and some controversy, I will start off by welcoming this long-overdue decision by the Executive to at least have a rise in the regional rate in line with inflation. I say that with some irony, given that we have been calling for this level of increase in the regional rate throughout the lifetime of the Assembly. In their infinite wisdom, the Executive at that stage — of course, we were not on it, which maybe explains that — decided to go for a 0% rise in the domestic regional rate over that period, which, in fact, is a reduction when you factor in inflation. The irony is that, when times were good economically and financially — certainly better than they are today — the Executive did not go down the line of making a modest receipt of revenue from households. Today, however, in the context of a tight Budget, the Executive have faced up to the inevitability of accepting at least an inflation-based rise in the regional rate to try to balance the books to some extent. In essence, that is where we are.

In that context, I welcome that belated decision. Realistically, it has to be done to raise revenue. We must recognise that the block grant alone is not sufficient to meet the needs of public

services in Northern Ireland. I am one of those who advocate that the Assembly needs to go further in raising revenue. That may not necessarily be through the regional rate. There are other means, such as water charging, but I will not go any further down that line, other than to mention it. We are not raising revenue from households in Northern Ireland at the same level as revenue is raised from households in the rest of the UK. When we receive our money in the block grant, that fact is not taken into account, so we always start from further back in trying to provide comparable services. Health is a classic example of the need for parity in the quality of public services across the UK, and the Health Minister has made that argument time after time. If we are not prepared to accept parity in the level of revenue that we raise, we will find it difficult to meet the challenges and expectations that we raise.

I fully accept that raising revenue from people is not popular. No one likes paying taxes, and everyone will seek to resist doing so. Equally, however, paying tax is inevitable and a responsibility to which we must face up. We need to show leadership, and, although I have personal reservations about a property-based tax and the capital value system that we use at present for raising revenue, we should be mindful that this can be done on an even more progressive basis than may be the case today. The raising of revenue can be seen to be fair. Those who can afford to pay should do so, and those who cannot afford to pay should not be asked to pay as much or to pay at all. That is the basis of progressive taxation.

The DUP, which controls the Finance Department and may well continue to do so after the election, has pursued its clear ideological perspective on low rates through councils and the Assembly. That is the DUP's prerogative, and, under devolution, we have the option of taking a lower tax approach if Members want that. However, I am surprised that other parties in the Chamber, particularly those who claim a more left-wing, socialist perspective, have bought into that approach. The policy of low rates is the opposite of socialism and represents a right-of-centre agenda. I speak as someone who sees himself on the centre right of the political spectrum. However, even from my perspective, I see the pitfalls in the approach that we have taken historically to revenue raising. The pitfalls are the forgoing of revenue

and the opportunity costs that arise from that. We have not struck the right balance.

For now, I am happy for us to support an inflation-based rise in the regional rate. We should have been doing that in the past number of years. I reject what happened under the last years of direct rule, when there were massive 18% and 19% hikes in the regional rate. Equally, I rejected the populist 0% rise in the rate, because that was going in the opposite direction. A steady, inflation-based rise in the regional rate throughout the past number of years would have resulted in a degree of stability and certainty for people, and the baseline for raising revenue from the regional rate would now be higher. By not having had at least an inflation-based rise in the regional rate, the Assembly is probably about £40 million or £50 million worse off. That money would have been available for a host of things, including avoiding student fees, investing in the Health Service and providing more money for social housing. We have made those choices and will have to live with them when we go out to face the electorate. For now, I am happy to support what the Minister proposes, albeit belatedly.

**The Minister of Finance and Personnel:** I thought that we would, perhaps, have a more wide-ranging debate. It has not materialised. Nevertheless, once again, Mr Farry, at least, has provided the alternative point of view, albeit that of a minority in the Assembly. When I saw Mr McNarry coming in, I thought that sparks would start to fly. However, he has been unusually quiet. Maybe he will want to intervene during my closing remarks.

**Mr McNarry:** Will the Minister give way?

**The Minister of Finance and Personnel:** I knew that I would provoke him into doing something.

**Mr McNarry:** I thank the Minister for giving way. By now, he should know that when I can support him, I do and always will. On this rare occasion, he has my undivided attention.

**The Minister of Finance and Personnel:** Well, I am glad to see that Mr McNarry does not always feel that he has to be in combative mood. It disappoints me, however, because that might have livened up the debate a little.

The Chairman has left the Chamber. I thank him for the Committee's support for this measure. Mr Farry raised a number of issues.

He encapsulated the argument when, in the middle of his speech, he talked about a kind of philosophical approach to how government should behave. Some people believe that it is government's role to spend people's money and to intervene as heavily as possible in the economy — certainly more heavily than my party believes is right. Others believe that the people who are the best judge of how they spend their money are individuals themselves. I make no apology for the fact that, even though we face difficult financial considerations in the Assembly and the Budget process has not been easy, we, nevertheless, still abide by the principle that it is better that individuals are left with as much of their income as we can leave them with to make their own spending decisions. That is the essence of the debate: how much intervention should there be in individuals' economic lives? Mr Farry has, quite rightly, pointed out that that means that there is a choice. The public cannot have it both ways. If taxation is kept low, certain choices have to be made. Money will not be available to spend on or to divert towards certain things. Providing that we understand the parameters of that debate, we can, at least, proceed on that basis.

Mr Farry indicated that there was a certain irony because, when we could probably have most afforded it — certainly at the beginning of the Assembly term, not towards the end — we had a zero increase. Now that we are in much more difficult and constrained economic times, we have an inflationary increase. I must point out to him, however, that the zero increase was against the background of what had happened during the years of direct rule. At that time, given that, in the year before devolution was restored, people had experienced a 19% increase in rates, the decision was made that they should have some relief from the high taxation policies of the direct rule Administration. That was why that decision was made at that time. It was the right decision. At the time, it was welcomed. As has been pointed out, as a result of measures and decisions that were taken on local taxation, people are £1,600 better off than they would have been had the trend continued. At that stage, we also, of course, had the benefit of increases in funding in the block grant of between 6% and 8% every year. Therefore, the pressure was, perhaps, not as high as it is now.

### 5.15 pm

I suppose that the Order tries to balance the two things out. We need to raise additional revenue. The 0% change was not sustainable in the long run, so we have gone for no real increase but a cash increase of 2.5%. That is the right decision. It leaves people neither better nor worse off in relation to inflation. In fact, you could argue that, using the GDP deflator, there is a real decrease. Had we used CPI, there would have been an increase of 3.5% or thereabouts, and we would have instituted an even bigger increase in the regional rate.

I want to finish with one point. The vast majority of the public would prefer to have their money to spend as they wish. If we are going to use money for public services, we have to prove, first, that there is a real necessity for doing so because we are providing additional services and, secondly, that we have eked out all possible efficiencies in the public sector before we ask people to pay more money. I am not convinced that there is no potential to save more money in the public sector. I think that there are better ways of doing things and that we do things that we do not need to do. There are more efficient ways of organising the activities that we do in the public sector. Almost every week, we get reports from the Public Accounts Committee and the Audit Office etc which verify that. That is why it is difficult to go to the public and say that we want more money from them, if we have not shown that we spend the money as effectively and efficiently as possible. For that reason, I believe that we have got the balance right.

The Executive have tried to balance the needs of the taxpayer with the requirements of the public finances at this particularly difficult time. As Members have contemplated the increase and as it has been discussed well during the Budget debate, I hope that they will support the Order. It demonstrates clearly that ratepayers have benefited from decisions taken by the Executive. It will continue to provide real support to communities, households and businesses during what are still very difficult economic times. I commend the Order to the Assembly.

**Mr Deputy Speaker:** Before we proceed to the Question, I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That the Rates (Regional Rates) Order (Northern Ireland) 2011 be affirmed.*

## **Rates (Housing Executive) Order (Northern Ireland) 2011**

**The Minister of Finance and Personnel (Mr S Wilson):** I beg to move

*That the Rates (Housing Executive) Order (Northern Ireland) 2011 be affirmed.*

I think that we are at the end of this marathon of Orders and Bills.

At present, any landlord who enters into a voluntary agreement with Land and Property Services (LPS) to collect rates from tenants gets a discount of 15% for his or her trouble. That includes Northern Ireland's largest landlord, the Housing Executive. The system rewards landlords for undertaking that task. It is a good deal for my Department, because it saves LPS from having to chase individual tenants to recover rates, which would be an expensive and unfulfilling task for the agency, and, of course, revenue would be at stake. However, the reason why it has been so high is that rates are payable by landlords under the agreement, regardless of whether a property is occupied. It covers around 145,000 rented properties in both the private and social rented sectors.

The allowance has changed over the years, and, in 2007, under direct rule, it was increased from 10% to 15%. That followed a 2005 study by the Institute of Revenues, Rating and Valuation, which recommended that the increase should apply to all landlords except the Northern Ireland Housing Executive. This was due to the fact that the Northern Ireland Housing Executive was not subject to the same commercial risk in relation to non-payment and vacancies. Generally, it is easier for the Northern Ireland Housing Executive to collect rents on its property, given the lower turnover of tenants and higher levels of housing benefit. For that reason, it was felt that the allowance should be lower. However, the Northern Ireland Housing Executive was granted the benefit of the higher 15% allowance temporarily, due to uncertainty at that time over the RPA. It was intended that the Northern Ireland Housing Executive allowance should be reviewed after a couple of years. We are now four years on, the RPA has stalled, and the rating of empty homes will happen later this year. Therefore, it is appropriate that that overdue change is brought forward without further delay.

In 2009, the Assembly agreed to my Department taking the power to reduce the voluntary allowance. The outcome of a recent consultation was inconclusive, but there was clear majority support for the level to be higher in the private rented sector than for either the Northern Ireland Housing Executive or housing associations.

In all of this, we need to strike the right balance between encouraging landlords to pay rates on their properties and avoiding the situation where the LPS has to chase individual tenants, resulting in reduced revenue and increased costs. Bearing all of those factors in mind, I consider that the allowance payable to the Northern Ireland Housing Executive should be reduced to 10% from April, given that the reduction is overdue. It will be given effect through the Order before the Assembly today. The remaining changes — reducing the landlord allowance to 12.5% and 10% respectively for the private rented sector and the housing associations — should take place next April, after the rating of empty homes is introduced.

Some Members will also be interested in the financial impact of the changes for both the Assembly and district councils. Reducing the Northern Ireland Housing Executive allowance to 10% from April will produce regional rate savings of almost £1.9 million per annum from 2011-12 for the Executive. In a sense, though, this is circular money, and the savings to the regional rate will mean less for the Northern Ireland Housing Executive. I understand that the Department for Social Development has budgeted for the change.

There will be no additional revenue for district councils, given that the 2009 council package means that council revenue is already calculated as if the Northern Ireland Housing Executive allowance were 10%. Members will wish to note that, due to the nature of the enabling legislation, a separate Order will have to be brought forward in early 2012 to reduce the landlord allowance for the private rented sector and housing associations to 12.5% and 10% respectively. The impact on all landlords will be between £14 and £24 per property per annum.

More generally, the change in the voluntary landlord allowance will not affect the overall rates liability on a property, which remains the same. It is simply that the level of allowance

granted to the landlord has been adjusted. On that basis, there should be no impact on tenants, as full rates liability should already be collected by the landlord. My Department will, of course, monitor the situation as necessary.

Finally, I turn to the more technical matters of the Order itself. Article 1 sets out the title of the Order and gives its operational date of 1 April 2011. Article 2 reduces the Northern Ireland Housing Executive allowance from 15% to 10%. I look forward to hearing the comments of Members and commend the Order to the Assembly.

**The Chairperson of the Committee for Finance and Personnel (Mr McKay):** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his opening remarks. The purpose of the Rates Order is to reduce the discount on rates for the Housing Executive, with effect from 1 April 2011. The landlord's allowance, as it is known, is awarded to landlords in recognition of the fact that they had entered into an agreement with the Department of Finance and Personnel to collect rates on its behalf. As the Minister outlined, the allowance currently stands at 15% for all landlords.

At its meeting of 17 November, the Committee took evidence on the outcome of the Department's consultation on the proposed reduction to the landlord's allowance. Committee members heard that no consensus against the proposed reductions arose from the consultation. Therefore, the Minister was content to propose that the allowance be reduced to 10% for housing associations and the Housing Executive and to 12.5% for landlords in the private rented sector.

On 16 February, the Committee considered the proposal to make the subordinate legislation. Committee members sought clarification that the rule would apply only to the Housing Executive with effect from April 2011 and confirmation of when the allowance would be reduced for private landlords. Having received a response from the Department, the Committee agreed that it was content with the proposed legislation's policy implications. The Committee formally considered the statutory rule and agreed to recommend, subject to the report by the Examiner of Statutory Rules, that it should be affirmed by the Assembly. On 16 March, the Committee noted that the Examiner of Statutory Rules had raised no issues by way of technical

scrutiny. Therefore, on behalf of the Committee, I support the motion that the Order be affirmed by the Assembly

**Mr Deputy Speaker:** I remind Members that this motion requires only simple majority support.

*Question put and agreed to.*

*Resolved:*

*That the Rates (Housing Executive) Order (Northern Ireland) 2011 be affirmed.*

## **Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) (Amendment) Regulations (Northern Ireland) 2011**

**The Minister for Social Development**

**(Mr Attwood):** I beg to move

*That the Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) (Amendment) Regulations (Northern Ireland) 2011 be affirmed.*

The regulations are made under the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 and increase the compensation payable under the Order to those suffering from certain dust-related diseases and their dependants who satisfy the conditions of entitlement on or after 1 April 2011. These are uplift regulations. The amounts payable under the Order are increased in line with the corresponding scheme that operates in England, Scotland and Wales.

*(Mr Deputy Speaker [Mr Molloy] in the Chair)*

I will explain briefly the purpose of the Order. An employer can be sued by someone who suffers from an industrial disease, where that disease was contracted as a result of working for that employer. However, the diseases that are covered by the Order can take a long time to develop and may not be diagnosed for 20, 40 or even more years after exposure to dust. By that time, the employer or employers responsible may no longer exist. Consequently, sufferers and their dependants can experience great difficulty in obtaining compensation.

The scheme was introduced in 1979 to help people who had no realistic chance of success in suing through the courts because their employer was no longer in business. It provides for a lump sum payment to sufferers. Payments are additional to any award of weekly industrial injuries disablement benefit for the same disease. A claim can also be made by dependants after a sufferer's death.

To receive a payment under the 1979 scheme, a person must have been awarded industrial injuries disablement benefit. Two further conditions must be met before any payment can be made. First, there must be no relevant employer who can be sued. Secondly, court action must not have been brought or compensation received for any of the diseases for which a person is claiming.

The scheme covers five respiratory diseases, most of which are directly related to asbestos exposure. Those diseases are diffuse mesothelioma, diffuse pleural thickening, primary carcinoma of the lung, byssinosis and pneumoconiosis, which includes asbestosis.

Some people who suffer from mesothelioma are not entitled to any payment under the 1979 scheme, because they were not exposed to asbestos in the workplace. However, since October 2008, the scheme provides for lump sum payments to be made to sufferers of mesothelioma, regardless of whether they were employees, self-employed or had never worked, provided that they have not received compensation from another source.

*(Mr Deputy Speaker [Mr Molloy] in the Chair)*

### 5.30 pm

The amount to be paid under these regulations is based on a simple calculation, cross-referencing the age of the sufferer and the level of disability. The higher amounts are paid to people with higher levels of disability and whose disability arises at an early age. The maximum that can be paid from April 2011 is just over £77,500 for a person aged 37 or under at diagnosis. Lower amounts are payable to dependants who claim after the sufferer has passed on.

The amounts payable under the scheme are increased by 3.1% in line with this year's uprating of industrial injuries benefit. The regulations help to ensure that the compensation provided under the Order maintains its value. I am sure that Members across the Assembly will warmly welcome that and will support the regulations.

**Mr Brady:** Go raibh maith agat, a LeasCheann Comhairle. I speak on behalf of the Committee. I thank the Minister for his explanation.

The Committee for Social Development considered the proposal to make the Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2011 at its meeting on 10 February 2011, and considered the statutory rule at its meeting on 10 March 2011. The regulations will increase the amount payable to sufferers of certain dust-related diseases or their dependants, who have been unable to claim damages from the relevant

employer because the employer is no longer in business.

The increase in payments is 3.1%, which is in line with the operating of industrial injuries benefit. Although no amount of money could compensate for the misery and suffering caused by diseases such as pneumoconiosis, the amounts payable offer some assistance to sufferers and their dependants. Therefore, it is important that there are increases, and that the amounts payable keep pace with prices.

For the reasons that I have set out, the Committee for Social Development is happy to recommend that this statutory rule is affirmed by the Assembly.

**Ms Lo:** We are very pleased to support the statutory rule. We are a developed, wealthy country and we cannot leave our workers and employees suffering and not getting compensation. The 3.1% increase in amounts payable is in line with inflation. We therefore support the motion.

**The Minister for Social Development:** I thank Mr Brady and Ms Lo for their contributions. Mr Brady, speaking on behalf of the Committee, and in his own right, I am sure, is absolutely right that the relevance of these regulations is self-evident, given the particular and general industrial history of Northern Ireland and the people who were affected by the relevant conditions.

I thank Mr Hamilton, the Chairperson of the Committee, in his absence, and the members of the Social Development Committee for the way that they handled the regulations on 10 February 2011. I am sure that we all want to ensure that the value of compensation under the 1979 Order is not eroded by inflation. These regulations will make sure that that does not happen. I commend the motion to the House.

*Notice taken that 10 Members were not present.*

*House counted, and there being fewer than 10 Members present, the Deputy Speaker ordered the Division Bells to be rung.*

*Question put and agreed to.*

*Resolved:*

*That the Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) (Amendment) Regulations (Northern Ireland) 2011 be affirmed.*

## **Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations (Northern Ireland) 2011**

**The Minister for Social Development  
(Mr Attwood):** I beg to move

*That the Mesothelioma Lump Sum Payments  
(Conditions and Amounts) (Amendment)  
Regulations (Northern Ireland) 2011 be approved.*

As with the last set of regulations and the matters that were referred to by Mr Sammy Wilson, these are uprating regulations.

The regulations are made under the relevant Mesothelioma, etc., Act (Northern Ireland) 2008 and increase the compensation payable under the Act to persons who are diagnosed with the illness, or, if the person has died, to their dependants. The amounts payable under the regulations will increase in line with the corresponding scheme that is operating in England, Scotland and Wales.

The purpose of the scheme is to provide financial support within a matter of weeks, without the need to establish an occupational link or any causal link. Many people who previously were not eligible for help — for example, those who were unable to pursue a civil claim or to claim a lump sum under the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 — now have access to financial help for this terrible disease. That means that sufferers of mesothelioma are eligible for a payment whether they were employees, self-employed, or, indeed, never worked, provided that they have not already received a compensation payment from another source. Mr Lunn raised with me privately the matter of potential recovery in relation to the previous regulations. I will ask officials to look at that matter and come back to Mr Lunn in due course.

The regulations increase the amounts payable under the mesothelioma scheme by 3·1% in line with this year's uprating of industrial benefits from April 2011. So, for example, the amount payable to a person aged 37 or under at the time of diagnosis will be increased from £75,176 to £77,506, which is the same maximum that can be paid from April 2011 under the pneumoconiosis scheme.

I am sure that Members across the Assembly will again warmly welcome that increase in the amounts payable, thus ensuring that the compensation provided under the scheme maintains its value.

**Mr Brady:** Go raibh maith agat, a LeasCheann Comhairle. Again, I thank the Minister for explaining the legislation.

The Committee for Social Development considered the Department's proposal to make the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2011 at its meeting on 10 February 2011 and considered the statutory rule at its meeting on 10 March 2011.

As the House has just heard, the rule increases the payments to sufferers of diffuse mesothelioma and their dependants by 3·1%, in line with the operating of industrial injuries benefits. As the rule provides a little more money for sufferers of mesothelioma and their dependants, the Committee for Social Development was happy to recommend that the statutory rule be affirmed by the Assembly.

I suggest that the Minister gets someone to write his speech out phonetically, which is the way that somebody wrote my speech out for me.

**Ms Lo:** I will try to say it properly. As the Minister said, mesothelioma — I said that correctly — is a horrible disease, and we support the regulations, which upgrade payments to those affected by it. What is good about the payment is that it also covers family members who have been exposed to the dust from the uniforms or clothing of the workers who brought them home to their families.

**Mr Callaghan:** Does the Member acknowledge that this is not just a problem that affects people in the greater Belfast area? Undoubtedly, it is the location of most of the industrial heritage and legacy issues, but areas of the north-west and elsewhere have also been affected. Just as families and former workers have to be ever vigilant about the disease, the Assembly needs to be ever vigilant about their needs. This is a useful step towards better recognition of that.

**Ms Lo:** I totally agree with the Member.

**The Minister for Social Development:** I thank Mr Callaghan, Ms Lo and Mr Brady. I agree with all the comments and observations. I



thank the Committee for Social Development for its consideration and endorsement of the regulations. Even when there are issues of contention and division around legislation — primary or otherwise — the intentions and judgements of Members are always to consider the greater need and community benefit in Northern Ireland. However, on this occasion, I welcome the fact that there was consensus at the Committee and consensus on the Floor of the Assembly regarding the regulations, which, as Ms Lo indicated, bring benefit not necessarily just to the victim, but to the victim's dependants. I commend the motion to the House.

*Question put and agreed to.*

*Resolved:*

*That the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations (Northern Ireland) 2011 be approved.*

## **Pensions Bill: Legislative Consent Motion**

**The Minister for Social Development (Mr Attwood):** I beg to move

*That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Pensions Bill dealing with the financial assistance scheme and contributions towards the cost of judicial pensions etc.*

Members will be aware of my concerns, which I think are the same as the concerns of other Members and parties, about aspects of the current programme of welfare reform and the efforts by me and others to challenge the Westminster Government, first, to try to change the unfair aspects of the reforms and, secondly, to ensure that the British Government fully appreciate the particular circumstances that Northern Ireland faces. In my view, there has been some success in respect of that argument, but issues endure and need to be addressed in the remaining time of this Assembly and in the lifetime of the next Assembly. I encourage whoever my successor might be to exploit the opportunities that may be slowly opening up in respect of negotiations with the Department for Work and Pensions in London on the scale, timing, character and cost of welfare reform and welfare cuts in Northern Ireland.

I freely accept that the Pensions Bill at Westminster contains measures about which Members will have concerns, including, but not least, the acceleration of the process for increasing state pension age. I tabled the legislative consent motion, but only in respect of the content of the motion, which does not in any way, shape or form impact on the broader content of the Pensions Bill. Therefore, our debate today is not about the merits or otherwise of the Pensions Bill but is confined to two narrow areas that need to extend to Northern Ireland, and I want to explain what they are.

### **5.45 pm**

The motion deals with the extension to Northern Ireland of measures in the Westminster Pensions Bill concerning two issues: the financial assistance scheme and judicial pensions. Those measures require the approval of the Assembly before they can extend to Northern Ireland because, although pensions are a transferred matter, there is a single financial assistance scheme for Britain and

Northern Ireland and, although the appointment of judges is an excepted matter, a small number of office-holders are appointed under Northern Ireland legislation and fall within the legislative competence of the Assembly.

Members will know that the financial assistance scheme (FAS) provides important help to people who lost out on their pension because their occupational pension scheme started to wind up after 1 January 1997 and before 6 April 2005 when the pension protection fund came into operation, because the scheme was underfunded or because the employer is insolvent or no longer exists. The FAS, for which the legislative consent motion is tabled, covers that category of person who lost out on his or her pension in the circumstances that I have just outlined. The scheme, which was set up under Westminster legislation, operates in Britain and Northern Ireland and is the responsibility of the Department for Work and Pensions (DWP).

I acknowledge the contribution that my predecessor, Margaret Ritchie, and my colleague from Derry Mark Durkan made to the scheme operated by Desmond and Sons Ltd. As a result of their efforts and the efforts of others, that scheme was brought under the FAS, and, as a consequence, former scheme members here enjoy greater security in retirement.

The Westminster Bill proposes two changes to the current law. Both are technical and do not alter how the scheme operates or its eligibility conditions. The first change amends an existing reference in legislation providing for the property, rights and liabilities of pension schemes that have been admitted to the FAS to be transferred to the FAS scheme manager. Since 2009, the scheme manager has been the board of the pension protection fund. The change will mean that the transfer will be to a prescribed person rather than to the scheme manager. Regulations will provide that the prescribed person will be the Secretary of State for Work and Pensions, currently Iain Duncan Smith. That clarifies the existing policy intention, which is that assets from those schemes admitted to FAS should be transferred to Government to part fund payments made by them.

The second change will enable the Secretary of State for Work and Pensions to legislate for ill-health payments, together with ordinary payments made under the scheme. Under

current legislation, members who suffer ill health can access special ill-health payments before their normal retirement age. Those payments are actuarially reduced to reflect the fact that they are paid for longer and that they have to be legislated for separately. That adds significant complexity and duplication to the FAS regulations. The proposed amendment will reduce that complexity. As I said, neither amendment will affect a person's entitlement or the amount that he or she receives under the scheme.

The Bill also amends existing UK-wide legislation relating to judicial pensions. The proposed amendment will empower the Lord Chancellor to make regulations to allow contributions to be taken towards the cost of providing personal pensions to members of the main UK-wide judicial pension scheme. That is in line with the recommendations of the Independent Public Service Pension Commission, which recommended that the most effective way to make short-term savings on public sector pensions was to increase member contributions. The level of contributions has not yet been set, and I understand that the rate will be subject to consultation by the Lord Chancellor. Under the proposals, contributions will be taken only while an office-holder is accruing pension benefits, that is, where they have not already accrued rights to a full pension.

Although the appointment of judges is normally an excepted matter, a small number of judicial office-holders and public investigative officers are appointed under Northern Ireland legislation and fall within the transferred field. The posts in question are the Comptroller and Auditor General, the Commissioner for Complaints/Assembly Ombudsman, the president of the appeal tribunals, a member of an appeal tribunal, the president and members of the Lands Tribunal, the president or vice-president of an employment tribunal or Fair Employment Tribunal and chairman of industrial tribunals and the Fair Employment Tribunal. Responsibility for the offices falls to a number of Departments — namely, the Department of Finance and Personnel, the Department for Employment and Learning, the Office of the First Minister and deputy First Minister and the Department for Social Development — as well as the Audit Committee. I am grateful for the support of the Executive and the Committee for Social Development in those matters. I request that the Assembly agree to the extension to Northern

Ireland of the provisions of the Westminster Pensions Bill that relate to the financial assistance scheme and judicial pensions.

**Mr Brady:** Once again, a LeasCheann Comhairle, I wish to speak on behalf of the Committee for Social Development. The legislative consent motion refers to the Westminster Pensions Bill, which, as we have just heard, contains provisions that deal with certain devolved matters relating to the financial assistance scheme and judicial pensions. The Committee considered those matters at its meeting of 10 March 2011 and the views of the Committee for Employment and Learning, the Committee for the Office of the First Minister and deputy First Minister and the Audit Committee.

Members noted the important role that the financial assistance scheme plays in providing financial help to occupational pension scheme members where the scheme is underfunded or where an employer is no longer solvent. The Committee welcomed the provisions relating to the transference of property rights and liabilities as a necessary way of clarifying the scheme's policy intention. The Committee also welcomed the provisions relating to ill-health payments for financial assistance scheme beneficiaries.

The Pensions Bill and the motion also refer to increased contributions towards the cost of judicial pensions. The Committee for Social Development consulted with other relevant Committees and agreed that there was no objection to the legislative consent motion as it relates to judicial pensions. I can, therefore, advise the House that the Committee is content to support the legislative consent motion.

As a Sinn Féin MLA for Newry and Armagh, I certainly welcome the financial assistance scheme. It is needed and will help to protect, at least to some degree, the pensions of those whose employers are unable to continue or become insolvent. Go raibh maith agat.

**Ms Lo:** I support the legislative consent motion on the Pensions Bill. Given that the pensions field is such a complex issue, I certainly support any measures that clarify the position and make it easier for people to understand. The financial assistance scheme will certainly make the position in Northern Ireland clearer for people. I also support the measures on judicial pensions.

**Mr Callaghan:** Go raibh maith agat, a LeasCheann Comhairle. The Minister appropriately recollected the plight that was faced by the Desmonds' pensioners, many though not all of whom reside in and around the Foyle constituency. Those pensioners and members of the scheme whose situation was not always appreciated as they had not yet reached pensionable age — I know that some of them are the same age as me — were affected by a potential underfunding in their pensions back then, and the financial assistance scheme was the vehicle used to meet that need and the gap that was left. Up until that point, on average, only 53% of what was due to the pensioners who had reached pensionable age was being paid out to them. I know that very many of them were appreciative of the fact that appropriate representations were made to get the Westminster law changed to deal with the matter.

It is worth recalling that it was a technical oversight in the original financial assistance scheme legislation that effectively left the Desmonds' pensioners in limbo. Therefore, although technical legislation of this sort may be a little bit tedious and not entirely glamorous, it is very appropriate that we deal with it in a diligent and due fashion to ensure that the safety net that has been put in place for the Desmonds' pensioners and pension scheme members is put in place for other people who have given very loyal service to companies over very many years so that they are not penalised by the inattention of government or the private sector when they reach retirement age.

**The Minister for Social Development:** I thank Mr Brady, Ms Lo and Mr Callaghan for their various contributions.

I am not entitled to speak on behalf of other Members, but I get the sense that the sentiment of the Chamber is that, although the consent motion will be passed, that will be without prejudice to the range of other issues around pension reform and proposals that are emanating from London. Although this is the right intervention at this stage for the two matters in the legislative consent motion, in my case and that of many Members and other parties, that does not in any way endorse the broader approach being adopted by the London Government around pensions reform.

The legislative consent motion has to be pursued for the reason touched upon by Mr Callaghan. Desmonds' workers were left in limbo, and we cannot have a situation in which any workers entitled to a pension are denied that because of the performance history of a certain company or business. The legislative consent motion will ensure that people who are entitled to protection and pensions will have those entitlements respected and honoured.

I will not deny that the more controversial part of the motion is that which deals with judicial pensions. The legislative consent motion will give the Lord Chancellor the power to make regulations that will require certain judicial office holders in Northern Ireland to pay certain contributions to their pensions. The authority and source for that recommendation is the Public Service Pensions Commission. The Public Service Pensions Commission has recommended that the most effective way to make short-term savings in public sector pensions is to increase member contributions. In passing the legislative consent motion in respect of a very small number of office holders with judicial authority in Northern Ireland — those who I named earlier — that principle is being accepted in respect of that category of person. For the wider consent motion to be proceeded with, it is my view that it will be necessary for the motion to be endorsed, as has been the case, by Members, parties and the Committee. However, we need to be very mindful that, in going forward, we have to make a much bigger judgement around the principle that is being developed and pursued by the London Government, namely short-term savings made by increasing member contributions for those in the public sector.

In a situation in which wage increases for those in the public sector earning over £21,500 will be nil over the next four years; in which the real value of people's incomes is going down and has gone down overall in the past six years; and in which there are increased commodity prices, an increased rate of inflation and the likelihood of increased interest rates, this is the recipe being served up by the London Government. Given that we have responsibility for our pensions, this is something that we need to interrogate further as a Northern Ireland Government. Yes, it is being interrogated at the moment by the Executive and the Assembly. However, the principle of making short-term savings through increased member contributions

is one that is going to occupy the mind of this Assembly, and rightly so, going forward.

Subject to those comments, I commend the motion to the Assembly.

*Question put and agreed to.*

*Resolved:*

*That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Pensions Bill dealing with the financial assistance scheme and contributions towards the cost of judicial pensions etc.*

## **Fishing Boats (Electronic Transmission of Fishing Activities Data) Scheme (Northern Ireland) 2011**

**Mr Deputy Speaker:** The next item of business is another motion to approve a statutory rule.

**The Minister of Agriculture and Rural Development (Ms Gildernew):** I beg to move

*That the Fishing Boats (Electronic Transmission of Fishing Activities Data) Scheme (Northern Ireland) 2011 be approved.*

Go raibh míle maith agat. The sea fishing boats scheme will provide assistance for all fishing vessels of 12 m and over in length that are required under the EU control regulation to record and transmit their fishing logbook information electronically.

The new arrangements will replace paper logbooks on fishing vessels of 12 m and over. Under the new arrangements, vessels will have to record and send information electronically to their fisheries administration once a day instead of submitting a paper logbook sheet at the port of landing at the end of a fishing trip. The aim of electronic reporting and recording is to improve the speed with which catch data is reported and to reduce incidences of misreporting of where catches are taken.

### **6.00 pm**

In recognition of the impact of complying with the requirement, we, along with the other fisheries administrations in England, Scotland and Wales, sought and obtained funding from Europe to help the fishing industry with the purchase and installation of electronic recording software. We decided to fund software as that option will allow a greater number of suppliers to compete for business and, therefore, the cost of the systems to the industry will, hopefully, be reduced. There are currently five approved software options available to the fleet.

Under the scheme, we propose to pay a flat rate grant of up to 95% of the cost of software or a maximum of £2,000 per eligible vessel. A total of £200,000 will be available from Europe for vessels of 15 m or over and a further £50,000 will be available for vessels of 12 m and over. There is no national contribution to the scheme and the funding is separate from the European Fisheries Fund.

Electronic transmission is being phased in across Europe according to vessel size. Vessels of 24 m and over in length are already expected to be reporting in that way, and vessels of 15 m and over in length must comply by 1 July 2011. The final group of vessels that need to comply are the 12 m and over group, which must record and report electronically by 1 January 2012.

I am pleased to advise Members that, since the launch of the scheme on 17 February, 86 applications for assistance have been received. I expect that all the vessels that need to comply with electronic reporting will have fitted grant-aided systems on board by the Commission's final deadline of 1 January 2012.

I believe that this assistance is important to help our fishing industry to adopt this new regulatory requirement and that it will help the industry to comply with electronic recording and reporting by the European deadlines.

### **The Deputy Chairperson of the Committee for Agriculture and Rural Development**

**(Mr Beggs):** The Agriculture and Rural Development Committee considered the SL1 for this proposed statutory rule at its meeting on 19 October 2010 and agreed that it should be passed to the next legislative stage. At its meeting of 8 March 2011, it recommended that the final version, with minor technical amendments, should be confirmed by the House. The Committee is satisfied with the rule.

Speaking personally, I think that it is helpful that grant aid should be provided to enable the requirements of the European Commission to be met without loading undue burdens upon our fishermen. I welcome the motion.

### **The Minister of Agriculture and Rural Development:**

I am pleased that the scheme has gained broad support from across the Assembly. I thank the Deputy Chairperson of the Agriculture and Rural Development Committee for contributing to the debate and Committee members for their valued contributions in bringing this scheme forward.

It is a good scheme and I think that it is important that we fund it to the extent that we do. We have obviously listened to the needs of fishermen and ensured that we get a scheme that best meets their needs. I hope that the scheme will demonstrate our ongoing commitment to the sustainable development of

our fishing industry. Go raibh míle maith agat, a LeasCheann Comhairle.

*Question put and agreed to.*

*Resolved:*

*That the Fishing Boats (Electronic Transmission of Fishing Activities Data) Scheme (Northern Ireland) 2011 be approved.*

## **Protection of Freedoms Bill: Legislative Consent Motion**

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** I beg to move

*That this Assembly agrees that the UK Parliament should consider amendments to the Protection of Freedoms Bill to extend to Northern Ireland the provisions dealing with safeguarding of vulnerable groups contained in chapter 1 of Part 5 of the Bill as introduced in the House of Commons on 11 February 2011.*

Members will be aware that, across the UK, we are in the process of strengthening child and adult protection arrangements in certain workplace situations, that is, those situations that provide significant and, in some cases, unfettered access to children and vulnerable adults. The aim is to make the existing arrangements more robust, so that individuals who are unsuitable to work with children and vulnerable adults are prevented from gaining access to them. The new arrangements will take the form of a vetting and barring scheme (VBS). As the title suggests, those working with children and vulnerable adults will be checked before they can obtain work or, indeed, volunteering opportunities with children and vulnerable adults. Those who harm children and vulnerable adults or place them at risk of harm will be placed on barred lists, thus preventing them from obtaining further relevant work and volunteering roles.

The VBS is being put in place in Northern Ireland, England and Wales, and a parallel and broadly aligned scheme is being put in place in Scotland. The VBS has wide support in Northern Ireland. It is widely accepted here that, alongside other safeguarding measures, vetting and barring are a crucial part of child and adult protection. The VBS was criticised in England and Wales on the grounds that its scope was considered too great. Given that criticism, the UK Government initiated a review of the scheme, which was completed in January 2011. As a result of that review, the legislation that is establishing the VBS requires amendment.

In Northern Ireland, the VBS is being put in place under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, while in England and Wales, it is being put in place under the Safeguarding Vulnerable Groups Act 2006. The changes to VBS legislation are being made

in England and Wales through the Protection of Freedoms Bill, which was introduced in Westminster on 11 February and which received its Second Reading on 1 March.

I am seeking the Assembly's consent to extend the safeguarding vulnerable groups provisions of the Protection of Freedoms Bill to Northern Ireland. With the Assembly's consent, equivalent Northern Ireland provisions will be introduced to the Bill through Government amendments at Committee Stage. I want to make it clear that this consent motion relates only to the provisions that are in Chapter 1 of Part 5 of the Bill. The Bill deals with other issues, including the retention and destruction of fingerprints and DNA samples, further regulation of closed-circuit television, automatic number plate recognition and other surveillance camera technology, stop and search powers and changes to pre-charge detention for terrorists. Other provisions amend the Freedom of Information Act 2000 and the Data Protection Act 1998. I understand that, in the new mandate, the First Minister and deputy First Minister will seek the Assembly's consent to extend provisions of the 2000 Act and the 1998 Act to Northern Ireland.

The motion relates to the safeguarding vulnerable groups provisions contained in Chapter 1 of part 5 of the Bill. The relevant clauses are clauses 63 to 76. As recommended by the VBS review, the Bill will amend the definition of "work with children and vulnerable adults" by removing certain positions and roles that are currently covered by the VBS. If I may give an illustration, for work with children, certain activities, such as teaching, training or instructing, which are supervised, will no longer be in the scope. Also excluded will be the provision of any legal advice to a child, certain contract work and supervised volunteering in places such as schools. School governors, directors of children's services and the Children's Commissioner will also be excluded from the definition, and, as a consequence, from the vetting and barring requirements of the VBS.

Provision has been made in the Bill to exclude work with 16- to 17-year-olds. That was the policy in England and Wales only. Work and regulated activity with 16- to 17-year-olds will not be removed from the scope of the VBS in Northern Ireland on the grounds that the risk of harm to a 16- or 17-year-old can be as great, if not greater in some circumstances, as the risk to a child under the age of 16. I have now

been advised that Ministers in England and Wales have decided to bring work with 16- and 17-year-olds back within the scope of the VBS. I commend Ministers for that change in policy direction.

We also intend to define "work with children" differently in Northern Ireland by retaining within the scope of the VBS the Guardian Ad Litem Agency, anyone working in a children's hospital with the opportunity for contact with children, and those who undertake inspection activities in the health, social care, education and justice sectors. The latter has the support of the relevant Departments, Education and Justice. The decision to retain those posts was made on the basis that they offer the opportunity to have contact with children, some of whom are very vulnerable. The definition of work with a vulnerable adult has also been greatly simplified, which is likely to be welcomed by employers and volunteer managers in that field of work. Transporting adults to, from and within a health or social care setting will also be covered by the new activity.

Controlled activity in respect of children and vulnerable adults is being abolished. The registration and monitoring components of the VBS are also being abolished. In place of registration, there will be a duty to establish whether a person who is seeking to work with children and vulnerable adults is included on a barred list, which will be introduced. Systems will also be introduced that will enable an employer or volunteer manager to request to be told whether a particular individual is barred and to be automatically told when a particular individual is barred. Provision is being made that will enable the central barring authority to review, at any time, an individual's inclusion on a barred list and, in certain circumstances, to remove that person from the list. Duplicate entries on the barred lists held across the UK will be prevented.

The legislative consent motion seeks to extend to Northern Ireland the provisions contained in each of those clauses. In so doing, we will be able to keep pace with the changes to vetting and barring that are being put in place across the UK. It will also ensure that the arrangements for preventing unsuitable people gaining access to some of the most vulnerable children and adults in Northern Ireland are as robust here as in any other part of the UK. The last thing that any of us wants is for Northern

Ireland to be seen as the UK's weakest link in vetting and barring terms. By keeping pace, we should also be able to plug into some of the technology that will deliver continuous updating of disclosure certificates under the new VBS. That should not be underestimated either in financial terms or in its appeal to employers and volunteer managers in Northern Ireland. On that basis, I ask the Assembly to support the motion.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Mr Wells):** I rise to give my last contribution as Chairperson of the Health Committee. The Committee had its last meeting today. The past 19 months have been stimulating, interesting and somewhat demanding. It is, therefore, appropriate that we are dealing with an important subject: the vetting of those who work with children. Although it may be somewhat dry, as most of the motions have been this afternoon and this evening, it is still important.

The Health Committee took evidence from departmental officials on the need for a legislative consent motion in relation to the Protection of Freedoms Bill on two occasions: 17 February and 3 March. The legislative consent motion concerns arrangements for safeguarding children, young people and vulnerable adults. Therefore, it was important that the Committee scrutinised it in detail.

As Members may know, the coalition Government introduced the Protection of Freedoms Bill in the House of Commons on 11 February 2011. It is a wide-ranging Bill that addresses issues such as the retention of fingerprints and DNA samples, the regulation of CCTV, counterterrorism powers, etc. However, it is Part 5, which deals with changes to the vetting and barring scheme, that is relevant to today's debate.

The vetting and barring scheme is a cross-jurisdictional project, involving England, Wales, Scotland and Northern Ireland. As Members are aware, it was brought in following the Soham murders, with the aim of increasing protection for children and vulnerable adults. The aim of the scheme is to prevent unsuitable people working or volunteering with children and vulnerable adults by creating a list of people barred from that kind of work. Crucially, the barred lists are recognised and shared across all parts of the United Kingdom. So, if an individual

on a barred list in Scotland applies to work with children in Northern Ireland, when the check is done and they are seen to be on the Scottish list, they would be barred from working here.

As Members will know, when the coalition Government was formed, they halted any further implementation of the vetting and barring scheme. Their view was that the scheme was disproportionate and too complex, and they commissioned a review of it. The review was completed and published in February 2011. Part 5 of the Protection of Freedoms Bill will give effect to the recommendations contained in the review. It will do that by amending the relevant legislation that applies to England and Wales. In respect of Northern Ireland, it will amend the Safeguarding Vulnerable Groups (Northern Ireland) Order —

**Mr Deputy Speaker:** I ask Mr Wells to move closer to the microphone so that what he is saying can be picked up.

**The Chairperson of the Committee for Health, Social Services and Public Safety:** It is very unusual for someone not to hear a DUP Back-Bencher. It shows how weakened we have become that our voices cannot carry. We have followed our former leader, the honourable Member for North Antrim, for years and have learned to project our voices. So, I hope that the Hansard staff are picking me up loud and clear from now on.

### 6.15 pm

Part 5 of the Protection of Freedoms Bill will give effect to the recommendations contained in the review. It will do that by amending the relevant legislation that applies to England and Wales. I am just repeating the last paragraph in case I was not picked up, Mr Deputy Speaker. In respect of Northern Ireland, it will amend the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007. That will put in place a vetting and barring scheme that is broadly consistent, and has similar timescales, across the United Kingdom.

The Committee sought further information from the Department on a number of aspects of the Bill. We wanted to understand how the new vetting and barring arrangements would impact on a situation where someone from the Republic of Ireland comes to Northern Ireland seeking work with children or vulnerable adults, or vice versa. Officials informed the Committee that



arrangements are currently in place between the PSNI and the gardaí in respect of sharing information on individuals who are seeking such work. By the way, we, as a Committee, are indebted to Mr Pól Callaghan, who seems to be the expert on this issue as a representative of a border constituency.

When someone from the Republic of Ireland comes to Northern Ireland and applies for work with children or vulnerable adults, the check that is done will only reveal any convictions that occurred in the Republic of Ireland. Any soft intelligence that the gardaí might hold on that person will not be shared. However, any soft intelligence on an individual held by the PSNI, or any other UK police force, is used as part of the checking process under the vetting and barring scheme.

Although the issue of the arrangements with the Republic of Ireland is not material in respect of the legislative consent motion that we are debating today, the Committee wishes to flag it up as an issue of concern. We encourage the Department to continue working with its counterparts in the Republic of Ireland to tighten up and expand the current information-sharing protocols.

The Department advised the Committee that one of the key recommendations coming from the review of the vetting and barring scheme, and which is reflected in the Bill, is a change to the current definition of “regulated activity” to remove positions and roles from the scope of the scheme. The Committee asked for further detail and was informed that that would mean that some work with 16- and 17-year-olds would be removed from the definition of “regulated activity”. However, the Department also advised that it was considering whether Northern Ireland had the discretion to keep certain activities within the scope of the vetting and barring arrangements.

After that initial departmental briefing, the Committee received correspondence from the Children’s Commissioner. She, too, was concerned that the proposals to change the vetting and barring scheme would mean that 16- and 17-year-olds would lose the protection that they currently receive in relation to certain types of regulated activity. To clarify the situation, the Committee took further evidence from departmental officials.

The Committee welcomed the news that the Department had met the Children’s Commissioner to discuss these issues and that the Minister had come to the decision that, in relation to work with 16- and 17-year-olds, Northern Ireland would not adopt the policy as it is applied to England and Wales. The Committee understands that the commissioner welcomed that news. The fact that all young people up to the age of 18 will be protected by the vetting and barring arrangements here is very welcome. The Committee welcomed that development and viewed it as further evidence of the Assembly developing policies that fit our own particular circumstances.

To conclude, the Committee welcomes the legislative consent motion. The provisions contained in the Protection of Freedoms Bill will mean that we will have a strong UK-wide vetting and barring scheme that will help to protect both children and vulnerable adults from harm. I commend the motion to the House.

**The Minister of Health, Social Services and Public Safety:**

I thank Members for their contributions, both today and in the Health Committee. The success of child and adult protection often stands or falls on the presence or absence of good communication, co-operation and collaboration.

I am very conscious of the land border with the Republic of Ireland, which Mr Wells remarked on. For that reason, work involving officials in relevant Departments on both sides of the border is ongoing. Indeed, I understand that the Republic of Ireland is considering setting up a vetting and barring bureau, although some vetting and barring work is currently undertaken under the auspices of the North/South Ministerial Council.

The vetting and barring scheme has been an expensive undertaking. Sharing information on this scale requires the support of sophisticated technology. By keeping pace with arrangements in other parts of the UK, we will be able to ensure that Northern Ireland can plug into the technological developments that make the success of vetting and barring arrangements possible. I commend the motion to the House.

*Question put and agreed to.*

*Resolved:*

*That this Assembly agrees that the UK Parliament should consider amendments to the Protection of Freedoms Bill to extend to Northern Ireland the provisions dealing with safeguarding of vulnerable groups contained in chapter 1 of Part 5 of the Bill as introduced in the House of Commons on 11 February 2011.*

## Committee Business

### **Successful Post-Primary Schools Serving Disadvantaged Communities**

**Mr Deputy Speaker:** The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer of the motion will have 15 minutes to propose the motion and 15 minutes to make the winding-up speech. All other contributors will have five minutes.

#### **The Chairperson of the Committee for Education (Mr Storey):** I beg to move

*That this Assembly approves the report of the Committee for Education on its inquiry into successful post-primary schools serving disadvantaged communities (NIA 57/10/11R); and calls on the Minister of Education, in conjunction with her Executive colleagues and relevant bodies, to implement, as applicable, the recommendations.*

I rise as Chairperson of the Committee for Education for the final time in the House. I thank you, Mr Deputy Speaker, for the opportunity to debate the report of the Committee's inquiry into successful post-primary schools serving disadvantaged communities.

The Committee launched the inquiry on 11 November 2010, following extensive scoping work, which looked at underachievement in post-primary schools, and, in particular, those post-primary schools that had succeeded in raising standards or were maintaining good standards in the face of social or economic deprivation.

The aim of the inquiry as agreed by the Committee was:

*“To consider examples of successful post-primary schools serving economically and socially disadvantaged communities, identify the key characteristics/factors which contribute to their success and consider how they can be reproduced in schools where they are lacking.”*

The inquiry published its terms of reference in the regional newspapers, setting out four key areas on which it would seek evidence. Those were: effective school leadership; school engagement with parents and the wider community; addressing underachievement in disadvantaged communities; and the Department of Education's school improvement policy. The Committee wrote to 44 key education

stakeholders, including the Department of Education, the Department for Employment and Learning, the education and library boards, the Council for Catholic Maintained Schools (CCMS) and others, seeking their views on the inquiry's terms of reference.

The Committee also sought the views of 37 post-primary schools, which it identified by comparing their academic attainment with a five-year average free school meal entitlement of 20% or more, while ensuring that the schools that were selected covered a geographical and sectoral spread across Northern Ireland. The Committee wrote to those schools, asking them specifically for their top three practical examples of what they are doing to make them successful in the areas outlined in the terms of reference, and for their views on the Department of Education's current school improvement policies.

The Committee was aware of a huge amount of research in this area, on which the Committee had been briefed, orally and in writing, by senior Department of Education officials and by the chief inspector of schools and the head of the regional training unit. However, members felt that it was also important for us to hear at first hand from principals, senior teachers, pupils and governors. To that end, the Committee held three meetings in schools across Northern Ireland, in Belfast Model School for Girls in north Belfast, St Pius X College, Magherafelt and Drumragh Integrated College in Omagh. Each host school and two or three other neighbouring schools were invited to brief the Committee on what they regarded as the key factors that contributed to their success.

I thank all those who gave evidence to the inquiry, particularly the 10 schools that provided oral evidence and the three schools that kindly hosted Committee meetings. I also offer my personal thanks and appreciation, as well as those of the Committee, to the Committee Clerk and his staff, together with the Assembly Research and Library Service, Assembly broadcasting and Hansard for their support and assistance to the Committee throughout the inquiry and the preparations for the inquiry report. As the outgoing Chairperson of the Committee for Education, I want to put on record my sincere thanks and appreciation for the excellent work that the Committee staff have done, not only on the report but throughout the life of the Committee in this mandate.

I was asked by another Committee member, Mr Basil McCrea, to pass on his commendation of the inquiry report and his thanks to all those involved, as he was, unfortunately, unable to be here for the debate.

I will now outline some of the main findings in the inquiry report. Effective school leadership was the first term of reference of our report; it was an all-important theme that came through virtually all our oral and written evidence. The importance of effective school leadership as an essential condition of a successful school is well established. However, it inevitably becomes more critical when the challenge is greater, specifically in schools that serve economically or socially disadvantaged communities.

It is worth noting what our witnesses told us about the key characteristics of effective school principals. Those were well summed up in the submission from the Department's literacy and numeracy taskforce:

*"i: A passionate belief and commitment on the part of the school leader that improvement is possible. A clear vision with precise timescales about how this will be achieved. An enthusiastic, resilient and inventive personality who has the ability to motivate and inspire the school and wider community.*

*ii: Concentration on improving what happens in the classroom and an emphasis on teaching and learning. Clear systems of assessment for all staff and all students and a rigorous analysis of data to establish performance.*

*iii: Confidence to take the tough decisions and confront poor practice."*

The Committee heard from many witnesses about improving the process of selecting school leaders and was particularly interested in the range of selection exercises other than interviews, although those might be included as part of the selection process in order to demonstrate the overall abilities of aspiring school leaders. For example, the principal of Drumragh Integrated College in Omagh spoke in some detail about the all-day selection process used for prospective teachers there.

The Committee therefore recommends that the Department of Education review existing processes for selecting school leaders, taking into consideration the findings of this inquiry as well as recent research into this area, in order to ensure that selection procedures

for school leaders are sufficiently robust. Procedures must properly assess a range of qualities that are required of a school leader; including the possession of high emotional intelligence; empathy with pupils and parents from disadvantaged communities; and the ability to manage a range of pastoral needs effectively. They must also be able to create a culture of high expectation among everyone in the school community; teaching and non-teaching staff, parents, and, most important, the pupils.

The report also makes a recommendation about school governors. It calls on the Department to review its arrangements for attracting, selecting and training governors in order to ensure that they have the confidence and knowledge to identify and select candidates for school leadership positions. They must also be able to fulfil their key challenge function of holding the principal and senior management team of any school to account.

The inquiry also examined the important areas of school engagement with parents and the wider community. A challenge for schools serving disadvantaged communities is engaging the interest of parents who themselves had bad experiences of school and who understandably find it difficult to engage with their child's school as a result. It is also the case, as I have previously said, that some schools serve communities where educational aspirations are low. It is an uphill struggle to make sure that pupils receive the necessary support and encouragement at home.

A number of schools and stakeholders highlighted the merits of building integrated services with the local community to link education with health, youth justice, social development and mental health services. Many schools referred to the benefits and potential of the extended schools programme and the full service schools approach, which the Committee saw in the Girls' Model and Boys' Model schools in north Belfast.

The Committee was fortunate to hear practical examples of what schools are already doing in that area. For example, St Louise's Comprehensive College on the Falls Road employs a parent support officer who:

*"provides an invaluable link with families through home visits and quality targeted support in the pastoral support centre."*

The Minister will be impressed that I have learnt Irish for this final debate in the Assembly: Coláiste Feirste, although that may not be the best pronunciation, is another school that has a full-time extended schools co-ordinator. We wanted to ensure that no school felt excluded from the inquiry.

That school has a full-time extended schools co-ordinator, and it funds its own learning support manager. That is very innovative, and I believe that it has made an invaluable contribution to that school.

### 6.30 pm

The Committee is, therefore, recommending that the Department urgently reviews the potential, through existing and new programmes and initiatives, to focus on building integrated, holistic services across the relevant Departments, namely the Department of Health, Social Services and Public Safety, the Office of the First Minister and deputy First Minister, the Department of Justice and the Department for Social Development. The Department for Employment and Learning also has a key role to play and is already doing so, in providing access to a range of vocational courses and alternative pathways for many pupils.

This Committee brought a motion to the House last December that was approved by Members. It called for a more joined-up government approach to early years and nought-to-six provision. As I have just outlined, that principle is equally relevant at post-primary level. It is important to stress that, in putting forward this recommendation, the Committee recognises that one size does not fit all and that a school's provision must reflect the needs of the community that it serves.

The third area in the Committee's terms of reference was an examination of how successful post-primary schools serving disadvantaged communities addressed underachievement, particularly among boys. Much of the evidence received by the Committee highlighted the fact that the collecting and monitoring of data on pupil attainment has benefits for schools. For example, it serves as a trigger for early intervention and allows schools to measure their value added in the progress made by individual pupils. Members, I mean value added, which may not be revealed by pupil exam results alone. That is an important issue that we need to continue to develop more.

The Committee learnt that the use of diagnostic tools for assessing and tracking individual pupils was already widespread and was a key measure in addressing underachievement. They are used, for example, in St Pius X College in Magherafelt and Oakgrove Integrated College in Londonderry. The education and library boards' chief executives referred to the potential to deliver a more sophisticated analysis of pupil progress, and one chief executive emphasised that, with young people — young boys in particular — early intervention is important, especially in key skills such as literacy and numeracy. The Committee, therefore, recommends that the Department of Education urgently reviews its policy on e-data, particularly its use as a diagnostic assessment tool for meeting individual pupil needs.

The Committee made several recommendations in that key area of the inquiry, including a recommendation on tailoring and flexibility in the curriculum, particularly for boys at Key Stage 4 and beyond. It also made recommendations on mentoring, rewarding progress and addressing poor attendance. On the subject of underachievement in schools, particularly among boys, I welcome the report issued today by a Member of this House, Dawn Purvis, which is entitled 'A Call to Action' and aims to address educational disadvantage in the Protestant working class. I regard some of that report's recommendations as complementary to the conclusions in the Committee's inquiry report.

The Committee made recommendations relating to the Department of Education's school improvement policy. The key one is the need to review education policy formulation in relation to the operation of integrated services for children.

In closing, I emphasise that the Committee believes that the implementation of the 16 recommendations in the report will produce tangible benefits across all school phases and sectors, not only post-primary schools serving disadvantaged communities. However, the Committee asks that, when addressing its recommendation, the Department bears in mind the particular schools where the key characteristics of a successful school are currently lacking and seeks to maximise the benefits for such schools, for their pupils, their parents and the communities that they serve. I commend the motion and Committee's report to the House.

**Mr O'Dowd:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the opportunity to speak on the Education Committee's report. I start with a quote from one of the schools that we met on our first outing:

*"The purpose of a school is to help a family educate a child".*

That quote is quite profound. I recognise that we do not live with nuclear families, in the sense that everybody does not come from the perfect family background, but contained in the report is the message that we should not simply leave education to the school setting.

As we progress, through our Assembly and Executive, and deliver a new beginning to society, one message that we have to send out is that people cannot simply leave children off at school in the morning, collect them at 3.30 pm or 4.00 pm and expect them to succeed in education. That simply will not happen. The schools that are successful in socially deprived areas have shown time and again a number of areas of leadership, which leads to the success of the individual pupil and society.

I start with the leadership of schools and boards of governors, which have to be empowered and have to empower themselves to take a greater role in the management of schools. I acknowledge the fact — Mr Craig made this very comment in the Committee on a number of occasions — that boards of governors are voluntary. There is no monetary gain; in fact, there is monetary loss in being a member of a board of governors. A lot of time is put into it. However, it is a very important role in our education system. Boards of governors are leaders in their school. The principal in the school is another leader. They are the driving force behind the quality of education delivered in any school. Teachers are also part of the leadership that is directed from their board of governors and their principal. Then, we have our pupils, who seek leadership from all those avenues. However, they must also receive leadership in the family home. I acknowledge that this was also part of Dawn Purvis's report this morning. In many family homes or, certainly, in a substantial number of family homes, the experience of the parents, guardians or older siblings who look after the family has not been good in relation to education. Their educational experiences do not bring them to lend themselves to offering support to

the family home. It is a wider societal and Executive responsibility to ensure that we have in our family homes, whatever guise they take, experience and expertise to a degree that will allow young people to champion education.

The other leadership is community and political and all of the things that go with it. Unless we regain the appreciation of the gift that is education, it will continually fail us. Society has started to take education far too much for granted. It is delivered free at the point of delivery right up to third level. As a western society, we risk losing appreciation of what education can offer us as a people. It is only two generations ago, perhaps, that our forefathers and foremothers, if that is the right term, did not have the opportunity to receive the standard of education that we take for granted today. The appreciation of education has to be regained. Communities, parents, guardians, boards of governors and principals, such as the ones who we met in those schools, have to be empowered to move forward.

**The Chairperson of the Committee for**

**Education:** Many times we make reference to the past. However, there is one thing that I still cannot get a grasp of about our education system. I respectfully refer to my father, who went to a small school called Cloghanmurray, outside Ballycastle, which had one teacher and 22 pupils. My father has never used a calculator in his life. He can spell, and his writing is immaculate. For his generation, those were key elements in education, and they have lasted him a lifetime. Why do we seem to struggle with those concepts for many of our children today? There is still something missing, which, I think, we tried to reflect in this report.

**Mr Deputy Speaker:** The Member has an extra minute.

**Mr O'Dowd:** Indeed, I reflect on my father's similar educational background. He was a very knowledgeable individual in many areas of life. It comes back to the gift of, appreciation of and drive for education. We live in a different society from that of our grandparents, so we have to operate in the circumstances of today.

I regard the report as a preliminary examination of the education system. We already have a number of reports and, indeed, policies, and we look towards Every School a Good School. However, if we continue to repeat the mistakes of the past, we will continue to have

the same outcomes. We need a dynamic shift in our education system, which needs to be restructured. We need the ESA, and we need to challenge the ongoing transfer issue. I do not want to end on a political row, but the 11-plus needs to be challenged. Not only does it affect good schools —

**Mr Deputy Speaker:** Bring your remarks to a close.

**Mr O'Dowd:** Not only does the 11-plus affect those schools, it draws pupils away from achieving schools, which, in the long term, affects the sustainability of those schools and increases educational deprivation in those areas.

**Mr Lunn:** I beg your pardon, Mr Deputy Speaker, but I did not pick you up when you called me to speak. I thought that Dominic was next.

Obviously, I support the adoption of the report. The basic question that the Committee set itself was to identify the characteristics that make a school stand out as successful in a disadvantaged area. Although there seems to be such a contrast between the results of schools that operate in the same area and the range of evidence was impressive and detailed, certain themes were constant during our evidence hearings. The most consistent one and the only one about which I want to talk was effective leadership from principals, which sounds so obvious and simple, yet it remains an achievement that not all principals attain. Effective leadership has many facets, with enthusiasm being perhaps the most important.

During the evidence sessions, whether we were hearing from governors, education and library boards, the inspectorate or directly from the 10 schools that gave oral evidence, which was always thoughtful and detailed, we heard over and over again about leadership. Indeed, "leadership" was the buzzword. The Chairperson used one of the quotes that I was going to use. One of the comments from the Transferor Representatives' Council was:

*"Schools in disadvantaged areas need high quality and enthusiastic leaders however, those best placed to give effective leadership are not always attracted to these posts. There is a need for positive encouragement to prospective leaders to undertake these roles."*

The evidence from Drumragh Integrated College, which the Committee visited, was particularly telling and included considerable detail on its

recruitment processes. However, I do not have time to go into that. Those of us who were fortunate enough to go to Drumragh — only half of the Committee made it that day — were mightily impressed by the methods employed by the school and by the presentation from its principal, Nigel Frith. I managed to avoid calling him Firth; he is Mr Frith. On the day, I commented on the fact that, if we were simply to use his presentation as half of the report, we would not go far wrong, because, in my opinion, every word was a gem. I recommend that the Minister read the Hansard report of that session. I do not say that just because it is an integrated school; it is just a really good school with a really good headmaster who came across well. Although we received excellent presentations from all 10 schools, nobody got to the heart of things quite like Mr Frith, who told us about his clear-sighted vision for the school and the detailed methods employed to achieve that vision. The Chairperson has already referred to some of them, but I was impressed by the fact that the school had a full-time nurse/emotional counsellor — I forget the exact title — who is obviously a useful staff asset. I was also impressed by the fact that the school has daytime parent interviews. That was a new one to me. Apparently, bringing parents in during the day creates greater commitment from them. Drumragh Integrated College might not be the only school but it is the only one that I have heard of that does not allow study leave coming up to examinations. It brings the children into school to study.

#### 6.45 pm

Mr Frith was very hot on school engagement with the local community. The Regional Training Unit also gave evidence on that subject. Its comment was:

*“There is something distinctive about being an urban school leader or a school leader working in the context of socio-economic deprivation; it is about pace, complexity and the day-to-day challenges in a community context that are demanding and volatile...school leaders in those contexts need to have an intimate knowledge of their community as well as an emotional attachment to it. They have to have aspirations to share power and a passion for their work”.*

In the Every School a Good School policy, one of the six key policy areas is identified as:

*“increasing engagement between schools, parents and families, recognising the powerful influence they and local communities exercise on educational outcomes.”*

I will run out of time in a minute, so I will not go into much more detail. I hope that the Minister will, as they say here, “have regard to” this report and to others that have come out in the past year, particularly the report ‘Portfolio of Advice’, which came from the unofficial committee that the Minister did not think much of. Nonetheless, the report is good stuff. I also commend the report that has arrived in the past couple of days from the group headed by Dawn Purvis.

**Mr Deputy Speaker:** Will the Member please bring his remarks to a close?

**Mr Lunn:** That report appears to provide some useful background work as well. All that is input into the education debate. I hope the Minister will take it all on board with an open mind.

**Mr Craig:** I, too, commend this report to the House and to the Minister. At long last, we are getting into a subject that should have been looked at in greater depth over the past four years by both the Minister and the Department. It is wrong that, in the twenty-first century, we are underachieving in our schools. We are sending people out from our schools unable to read and write. That is wrong. It is an indictment of us. As the Chairman said, his father came up in a system that, in many ways, was probably worse funded than that which we have today. It was certainly a lot less educated than the system we have today. Yet, when it comes to the basics of being able to do maths and English, those schools were very effective in their pupils’ out-turn.

Again and again, the report came back to the crux of what is good in our system yet what is bad in our system, and that is effective school leadership. There are a number of levels of effective school leadership. One was referred to previously, and that is the board of governors. I highlight the fact that boards of governors are there because they want to be. That is a good thing. However, boards of governors are, frankly, invisible in the system. If you go to any school and ask who the governors are, you will find that, by and large, no one will have a clue. The mix that we have in schools is sometimes not a good one. There is a lack of professionalism. A lot of the education boards have struggled with

training and educating some of the governors that we have. At the opposite end of the scale, there are some very effective and professional boards of governors. They have the ultimate role of holding the school management to account. I know that only too well, so I had better declare that I have an interest. I am on the board of governors of three schools. I know only too well what it is to hold the school leadership to account.

That leads me to the second issue. If we look at effective school leadership, we can see that 99% of it falls to the headmaster in a school. The headmaster is the captain of the ship. He is the one who steers the school in the direction that he wants to see it go, should that be towards wonderful academic achievement or a broader academic achievement, bringing all the children in that school up to a good level. That is the prerogative of the headmaster. However, in my experience, the one area where the system falls down is in dealing with ineffective school leadership. There are ways of doing it, but they are convoluted, incredibly complicated and littered with legal hazards. Ultimately, nine times out of 10, they fail.

The Minister and the Department need to look at how to deal with ineffective school leadership. Time and time again, it is said that the board of governors has to deal with it. The board of governors has little room to manoeuvre on poor leadership in a school. I have personal experience of that and, therefore, can assure the Minister that it is an incredibly difficult issue to deal with. Not only is it difficult to deal with ineffective leadership in a school, but it is incredibly difficult to bring others, namely the Department and the education and library boards, on board to help to deal with that leadership. It is a very convoluted process. We need to look at that because, whether we like it or not, schools out there are failing, and all the figures show that.

The other thing —

**Mr Deputy Speaker:** Bring your remarks to a close.

**Mr Craig:** Yes. I will close by raising another issue. We have a system that brings leaders to our school. There is a clear process that they have to go through and an exam that they have to take to bring them into a leadership role. Is that effective? If it is effective, why are

a number of leaders out there ineffective? With that, I bring my remarks to a close.

**Mr Deputy Speaker:** I call the Minister of Education, Ms Caitríona Ruane.

**Mr D Bradley:** On a point of order, Mr Deputy Speaker. My name was on the list to speak, and I have not been called.

**Mr Deputy Speaker:** My understanding, Mr Bradley, is that you will wind up the debate.

**Mr D Bradley:** That is correct; I will wind up the debate on behalf of the Committee. However, I was to speak on behalf of my party.

**Mr Deputy Speaker:** You could do both during the winding-up speech. However, you cannot speak and then wind up the debate. You cannot speak twice during one debate.

**Mr D Bradley:** Mr Deputy Speaker, I have done it on several occasions in the House.

**Mr Deputy Speaker:** I am told that the rule is that speaking and making a winding-up speech are different. However, as part of the winding-up speech, the Member can speak on the party line as well as on behalf of the Committee.

**Mr D Bradley:** Mr Deputy Speaker, I approached your Table earlier in the day and informed one of the staff there that I wished to speak during the debate as well as make a winding-up speech. It was not made clear to me that that was not acceptable. They are two different roles. One is a party role, and the other is a role on behalf of the Committee. I think that they should be distinguished.

**Mr Deputy Speaker:** The winding-up speech lasts 15 minutes. Will it take longer than 15 minutes? The Member would have five minutes to speak in the debate.

**Mr D Bradley:** Mr Deputy Speaker, on this occasion, I will bow to your direction.

**The Minister of Education (Ms Ruane):** Go raibh maith agat, a LeasCheann Comhairle. Sna ceithre bliana den Tionól seo bhí béim ollmhór ar an oideachas, agus cuirim fáilte roimhe sin. Members may recall that a motion on education was one of the first motions that we debated in May 2007. I welcome the opportunity to debate quality and standards in our education system in the final days of this Assembly session.



Ar ndóigh, déanfaidh mo Roinn staidéar ar aon mholadh a thagann ón gCoiste. My Department will, obviously, study any recommendations that come from the Committee. The Committee's 16 recommendations reflect and sit well with the actions that we have been undertaking to improve standards across our system since I came into office. I note that the recommendations fully support the conclusions that we had already reached in Every School a Good School about the characteristics that make a good school. I also note Dawn Purvis's call to action and pay tribute to the work of Dawn and her colleagues for the commitment that they have shown to our young people and for the practical suggestions that they have put forward. There is nothing new in any of this, nothing new at all. Trevor Lunn mentioned that. We have seen it before and got the reports. We know what needs to be done, and we are doing it.

Mar is eol don Tionól, bhí mé dírthe i gcónaí ar dhul i ngleic leis an tearc-ghnóthachtáil oideachais, cibé áit a bhfaightear í. As the Assembly knows, I have brought a clear and unwavering focus to tackling educational underachievement and raising standards. There is significant underachievement across the system in the Protestant community, in the Catholic community, in ethnic minority communities and among boys and girls. Let us not pretend that it is a Catholic/Protestant issue or, indeed, a gender issue. Let us call a spade a spade: it is a class issue. Working-class boys and working-class girls suffer because of our two-tier system, which entrenches disadvantage, whether they are from the Protestant community or the Catholic community, not to mention ethnic minorities. The statistics prove that. Statistics for 2008-09 show that 2,608 Catholic boys and 2,363 Protestant boys did not achieve five good GCSEs. They show that 2,070 Catholic girls and 1,786 Protestant girls left school without five good GCSEs. That does not take into account the young people who fall through the system post GCSE.

Is trí leasuithe polasaí a mhaoirsigh mé go bhfuilimid ag feiceáil anois na gcéad chomharthaí d'fheabhsú ceart intomhaiste. Through policy reforms that my Department and I have overseen, we are starting to see the first signs of real and measurable improvement. Those policies include the revised curriculum, the abolishing of state-sponsored academic selection/rejection, improved opportunities for older pupils via the entitlement framework, the

promotion of STEM and the extended and full-service school programmes.

Bhí dul i ngleic leis an tearc-ghnóthachtáil oideachais mar thosaíocht agam i mo chuid oibre tríd an gComhairle Aireachta Thuaidh/Theas. During the past four years, I made tackling educational underachievement a priority for my work through the North/South Ministerial Council. Our work on a new early years strategy and on a new way forward for special educational needs and inclusion will ensure that support is in place for our youngest children and for pupils who need additional support to reach their full potential. In 2006, over 12,000 young people — 47% — left school not having achieved five or more good GCSEs including English and maths. In 2009, that number fell to around 9,500. That is a real achievement, but is still not good enough. We cannot become complacent.

During my first debate here, I remember Members from the Benches opposite saying to a man — they were mainly men — that we had a world-class education system, and they told me to stop tinkering with it. The 2009 PISA results remind us that we have some way to go. Some people may downplay PISA because it challenges their view that our education system is good, but PISA is an internationally respected survey that is carried out to strict quality standards, and we ignore it at our peril. We want to deliver an education system that is high in excellence and in equality. In other words, it should deliver for all our young people, not just a privileged few.

The OECD's research finds that selecting pupils on the basis of academic achievement increases the link between socio-economic status and performance and tends to accelerate the progress of those who have already gained the best start in life from their parents. I listened to the Chairperson, who spoke for his 15 minutes. He mentioned some key areas that I agree with, but he ignored the elephant in the room. He ignored selection. He talked about leadership, yet ignored what the real leaders in some of our best non-selective schools have said. Those leaders are clear about academic selection.

**The Chairperson of the Committee for Education:** Will the Minister give way?

**The Minister of Education:** No, I will not.

They are absolutely clear about academic selection. Those schools do not sit on the fence when it comes to selection or rejection of children. Why is that? I will tell you why. They have to pick up the pieces when those children come into school with their heads down and their confidence low. They are the ones who have to spend years building those children's confidence.

### 7.00 pm

I am, therefore, disappointed, that, after four years, the Chairperson still defends a system that condemns the majority of children as failures. In my opinion —

#### **The Chairperson of the Committee for**

**Education:** On a point of order, Mr Deputy Speaker. The subject of the debate is not selection; it is a report. Therefore, I ask you to direct the Minister to ensure that she gets back to the subject of the debate and gets off the political, ideological tram on which she continues to stay?

**Mr Deputy Speaker:** First of all, that is not a point of order. The Minister is responding to the Committee's report. Minister, you may continue.

**The Minister of Education:** Go raibh maith agat. Obviously, there is a link between educational disadvantage and selection. With the deepest of respect, if the Chairperson can say that there is no link, I think that he should go back and listen to the principals of some of the highest achieving post-primary schools.

One of my proudest achievements is that the 11-plus is gone forever. I welcome and celebrate that. It is unfortunate that some parties seem more fixated on which Minister or party will bring forward the proposals rather than on the issue itself. In some cases, breathtaking political somersaults have been performed to avoid agreeing with political opponents. For example, the DUP publically opposed the 11-plus in its 1989 election manifesto. It said:

*"We believe that selection at 11 should be ended. The 11-plus procedure is educationally unsound and socially divisive and places unnecessary strain upon children at a very early age."*

Therefore, the question for the DUP — it is unfortunate that no member of the party is present — is clear: it stood on a platform of abolishing the 11-plus on the basis that it is unsound, yet, since the beginning of this

Assembly term, it has sought to protect and defend a system, which, by its own admission, is deeply flawed. That party did not support the introduction of the revised curriculum. Now, it supports it. I welcome that.

Some Members mentioned the ESA. Indeed, it was mentioned by my colleague John O'Dowd. I absolutely agree with his remarks on the ESA and standards.

The UUP is so interested in underachievement that it is not even present in the Chamber. Look at the Benches opposite. There is no one to represent children from the Protestant community apart from Members on this side of the House. What message does that send?

What do young people in disadvantaged communities need? They need the same as people in advantaged communities. It is quite simple. They need high-quality preschool, primary and post-primary provision. They need top-class results, so that they can attend further and higher education colleges and go out into the world of work confident and articulate. That is why the reports that inspectors provide are so important; they involve objective assessment of the quality of teaching and learning, leadership and other key factors.

Calls have been made for value added and contextual value-added measures of school performance. Yes: we want to capture the progress that pupils make between various stages of their education. The new assessment arrangements for communication using mathematics and ICT will enable us to do that. However, we must take the time to ensure that the measures that we use do not create perverse incentives or embed low expectations and underachievement. We need the highest expectations for each and every child.

When it comes to assessment and data, what matters is not how many assessment tools a school uses but how effectively it uses the data that it has to improve outcomes for its pupils. The challenge may be greater for schools that serve communities that are disadvantaged or where education is not as highly valued as it should be. However, that is not insurmountable. Tomorrow, I will visit a school that is an outstanding example of what is possible in one of the most disadvantaged areas in the North of Ireland.

**Mr Deputy Speaker:** The Minister must bring her remarks to a close.

**The Minister of Education:** Such schools show that it can be done. I have further remarks to make.

**Mr Deputy Speaker:** You have had 10 minutes in which to speak.

**The Minister of Education:** OK. With your indulgence, Mr Deputy Speaker, I would like to continue. I thought that I had 15 minutes, but I was obviously given wrong information.

What I would like to do is to thank my officials as this is the last debate that I will be at in this Assembly and, Mr Deputy Speaker, I also thank your officials for all the work that they have done and for how well they have served us. I also thank my colleagues in all the parties; I have really enjoyed working with you over the past four years.

**Mr D Bradley:** Go raibh míle maith agat, a LeasCheann Comhairle. Caithfidh mé a rá go bhfuil an-áthas orm páirt a ghlacadh sa díospóireacht thábhachtach seo ar iarbhunscoileanna éifeachtacha i gceantracha atá faoi mhíbhuntáiste. Molaim an tuairisc seo don Tionól agus don Aire.

I am glad to participate in this debate on an important report on successful post-primary schools in areas of disadvantage. The report focuses on four areas, which are outlined in the terms of reference. I will try to say a few words about each of those on behalf of my party.

I will begin with effective school leadership. There is no doubt that the role of a principal in a school is most important. Principalship is a role for exceptional individuals who have the qualities that are detailed in the report. A principal must be a leader with vision and someone who can inspire staff and students to greater things and to supply the mechanisms to enable them to reach new heights. A good principal can transform a school from an average school to an outstanding school. A good principal ensures that he or she has a management team in place to which responsibility can be delegated with confidence so that the school's vision is put into practice in every facet of school life, making the pursuit of excellence a constant theme through continual improvement. The qualifications for principals must be continually updated and should be a

requirement of all aspirants and applicants for headships.

There is also a need for effective task-based selection processes to identify the best candidates for our schools. That is a point that, I hope, the Department will take on board and support school governors in implementing.

The second and third areas of reference deal with school engagement with parents and the wider community and addressing underachievement in disadvantaged areas. According to the review of the Northern Ireland literacy strategy, which was carried out on behalf of the Northern Ireland literacy steering group in 2006 by Dr Pirrie, there is substantial research on the neighbourhood effects on educational attainment. Tests for the existence of those effects on educational attainment among 2,500 young people in Scotland found a significant negative effect between deprivation in the home and neighbourhood and educational attainment. The conclusions of the study were that policies to alleviate educational disadvantage cannot be focused on schooling alone, but must be part of a broader initiative to tackle social deprivation in society at large.

It is now generally accepted that children who face the greatest obstacles when it comes to raising attainment are those who come from disadvantaged family backgrounds, live in a disadvantaged neighbourhood or attend a school with many disadvantaged children. If social deprivation is one of the major causes of educational underachievement, and if it is not addressed as part of a coherent strategy, we simply ensure that the vicious circle of underachievement continues unabated into the next generation.

It is interesting to note that a UNICEF report on the issue points out that efforts made in the Western World have not been extremely successful in eradicating education underachievement.

The OFMDFM anti-poverty strategy makes an interesting point about poverty and its relation to educational underachievement. It says:

*"Policy must break the cycle and the process that results in children who are born into poverty developing into underachieving young people with limited aspiration and low levels of educational qualifications and skills. They in turn become working age adults living in low incomes often*

*in poor health and benefit dependence, with the prospect of a shorter, less healthy, comfortable and financially secure older age. They are also the adults most likely to be parents of children again born into poverty — with the cycle continuing. Policy must disrupt this process focussing on different priority needs and different times in people's lives, from early years through to childhood, adult working life and later years."*

Reviewing the factors that account for the variance in educational attainment, it is evident that combinations of social disadvantage powerfully affect school performance, with up to 75% of school variation in 16-year-old attainment at GCSE associated with pupil intake factors. It is important that we research the influence that those and other factors have on educational attainment. It is also important that we formulate policy and strategy to change attitudes, raise awareness about the role and value of education to the individual, provide parents and communities with the resources and skills that are needed to change attitudes locally, and support the efforts of teachers and other educationalists in tackling the problem.

Tackling the multiple deprivation that has persisted in many areas for decades was a priority of the anti-poverty strategy. Education certainly has a major role to play in that process, not only through the formal educational system but through the home and community. The Department also has a role to play in conjunction with others, such as the Department of Health, Social Services and Public Safety, the Department for Social Development and the Department of Culture, Arts and Leisure.

Academic selection further compounds the problems, and Gallagher and Smith point out in their study that academic selection tends to produce a disproportionate number of schools that combine low ability and social disadvantage in their enrolments, thereby compounding the educational disadvantage of both factors.

What I have said is supported by the conclusion of today's Committee report. The Department of Education's school improvement policy states that the Department should:

*"review its ... education policy formulation in relation to the operation of integrated services for children."*

and that, where possible, it should develop policy on:

*"a fully integrated basis across relevant departments which fosters cooperation and joined up delivery of front line services for children, young people and their parents/guardians."*

Turning to today's debate, we heard the Committee Chairperson talk about school leadership. He voiced the Committee's support for a more task-based selection process to ensure that we identify future school leaders who can really demonstrate key leadership qualities. He also talked about the need for governors with confidence and knowledge who can identify and select effective school leaders and hold them to account. John O'Dowd, Trevor Lunn and Jonathan Craig spoke on that particular issue.

The Minister chose not to respond to the four key issues in the report. Rather, she outlined the actions that her Department is taking on some of the other key issues. She mentioned the support that her Department is giving to STEM subjects, the ending of the 11-plus and the priority that she attached to educational underachievement on a North/South basis. She also pointed out that PISA studies do not reflect some Members' belief that we have a world-class educational system. She also quoted from the Organization for Economic Co-operation and Development (OECD) report, emphasising that selection accelerates the achievements of those who already have a head start in education through supportive family life.

A large part of the Minister's speech concentrated on selection and its effects. Her speech was split between that and her analysis of the DUP's education policy over a number of years up to the present time.

Turning to school engagement with parents and the wider community, the Committee Chairperson highlighted the importance of engaging parents in their children's education, as well as the importance of encouraging parents and pupils to value education. That point was reflected in what John O'Dowd said. The Chairperson highlighted the good work that many schools do in that area and how they engage staff to link with parents, pupils and other support agencies through pastoral support services and extended school programmes. The Chairperson also highlighted the Committee's recommendation that the Department focus on building integrated and holistic services across the relevant Departments, which are the Department of Health, Social Services and

Public Safety, OFMDFM, the Department of Justice, the Department for Social Development and DEL, and he gave the example of the promise of such an approach with the early years strategy. The Minister chose not to respond to that point in detail. I and other Members would have been interested in hearing her response.

### 7.15 pm

Jonathan Craig's contribution to the debate was on the point of school leadership, and he re-emphasised the importance of the leadership role of principals. He also mentioned the effect that ineffective principals can have on schools and the difficulties in removing such principals from their posts. That is an important point, and, although we recognise that individuals have employment rights, we must, at times, balance those rights against the effect that failure to reach the required standards has on the achievements of pupils, staff and the school as a whole. Obviously, principals in that category should be given the help and support that they need to gain the necessary skills to bring about their improvement and that of their schools. However, as I said, that must be balanced against the effects that poor leadership has on the lives of so many young people and on the development and experience of the staff in those schools.

The Chairperson also referred to the Department's school improvement policy. He highlighted the Committee's key recommendation in that area, which is the need to review how education policy is formulated to ensure that, where appropriate, it is developed on a fully integrated basis across the relevant Departments. As I said, that was a point that the Minister chose not to respond to.

In conclusion, the report makes a valuable contribution to the education debate in Northern Ireland. However, it ignores some of the sterner realities, such as the negative effects that academic selection has on schools in socially disadvantaged areas. Academic selection narrows the ability range in the intake of non-selective schools by siphoning off the top range of ability, leaving such schools with a reduced ability range and a concentration of many of the real educational challenges. Academic selection also makes the work of schools in socially disadvantaged areas much more difficult, it exacerbates social division and the challenge

and workload of teachers in such schools is often greater. There is also a danger that the ability for higher achieving pupils to be role models for their co-pupils is reduced, and staff in those schools are denied the full range of teaching experience. The ending of academic selection will have a positive effect in all of those areas.

With that a LeasCheann Comhairle, críochnóidh mé anois. I thank the Committee for Education support staff, who worked so hard in preparing the report. I also thank the schools that contributed to it, as well as the staff of Hansard and Assembly Broadcasting. It is a useful and worthwhile report, and I hope that we see the fruits of it in the future. A LeasCheann Comhairle, go raibh míle maith agat.

**Mr Deputy Speaker:** We do not have a quorum, so the Question cannot be put at the moment.

*Notice taken that 10 Members were not present.*

*House counted, and there being fewer than 10 Members present, the Deputy Speaker ordered the Division Bells to be rung.*

*Upon 10 Members being present —*

*Question put and agreed to.*

*Resolved:*

*That this Assembly approves the report of the Committee for Education on its inquiry into successful post-primary schools serving disadvantaged communities (NIA 57/10/11R); and calls on the Minister of Education, in conjunction with her Executive colleagues and relevant bodies, to implement, as applicable, the recommendations.*

*Adjourned at 7.24 pm.*



# Written Ministerial Statements

**The content of these written ministerial statements is as received at the time from the Ministers. It has not been subject to the official reporting (Hansard) process.**

## Office of the First Minister and deputy First Minister

### **Executive Response to the Independent Review of the Dioxin Incident**

*Published on Friday 18 March 2011*

**The First Minister and the deputy First Minister (Mr P Robinson and Mr M McGuinness):** We wish to inform Assembly Members of the Executive's response to the "Independent Review of the Dioxin Incident in Northern Ireland, December 2008".

The Independent Review, undertaken by Mr Kenneth J MacKenzie CB, was published on 13 September 2010. The Review set out a number of recommendations which the relevant Ministers and key stakeholders have now considered in detail. The response to the Review was considered by the Executive at its meeting on 10 March 2011.

The Executive noted the broad welcome for Mr MacKenzie's Report and a shared sense that he had consulted widely and reflected the views expressed by all parties in a balanced way so that the lessons could be learned and procedures improved, where necessary.

A significant amount has been learnt from the dioxin incident and considerable work has taken place by the relevant Departments and the Food Standards Agency over the last two years to put this learning into practice.

The Executive accepted 16 of the 17 recommendations in the Report in full. One recommendation, number 16, has been accepted in part because it would be for the Food and Feed Incident Management Group (rather than OFMDFM) to ensure that the emergency plans and communication protocols are developed and fully rehearsed.

In considering its response to the Report, the Executive emphasised the importance of effective cross-organisational working in preventing a similar incident and, if such an incident were to occur, in dealing with it effectively. This includes the need for effective joint working between the Food Standards Agency and the NI Departments and Agencies as well as between the Food Standards Agency and the Food Safety Authority of Ireland.

The Executive agreed that, building on the lessons learned and progress to date, work will now be taken forward by the relevant Departments and organisations to implement the remaining actions flowing from the recommendations to ensure preparedness for handling any such incident in the future.

The Report is available for viewing in the Assembly Library or on the OFMDFM website at <http://www.ofmdfmi.gov.uk/index/making-government-work/making-government-work-independent-reviews-and-reports.htm>

# Enterprise, Trade and Investment

## Independent Review of Economic Policy (IREP)

*Published at 12.00 noon on  
Monday 21 March, 2011*

**The Minister of Enterprise, Trade and Investment (Mrs Foster):** I wish to update the Assembly on the progress that has been made in implementing those recommendations stemming from the Independent Review of Economic Policy.

A successful economy is vital for the future prosperity of everyone in Northern Ireland. The Executive took the important step of making the economy the top priority in the Programme for Government.

In that context, I commissioned, in December 2008, an independent review to assess the policies of my department and to determine whether they were sufficient to help to deliver the productivity goal contained in the Programme for Government. The panel, chaired by Professor Richard Barnett, reported to me on 29 September 2009, and I announced to the Assembly in January last year how I proposed to address the 58 recommendations contained within the report.

Until the recession, the Northern Ireland economy had enjoyed some success with increasing employment, although, as the Programme for Government recognises, raising our employment rate remains a key economic goal. However, the IREP report rightly considered that raising productivity and living standards was our main medium to longer term economic challenge, and it set out steps which we could take to deliver this.

However, in taking forward the recommendations, it was equally important for me to consider the significant impact of the recession, the full scale of which was only apparent during 2010. For example, the number of employee jobs has fallen by 40,600 since its peak in June 2008. Unemployment as measured by claimant count has increased by 129.1% during this time. In addition, some key sectors of the economy have experienced significant declines in output as a result of the downturn.

This has brought new challenges to me as Enterprise Minister and to the wider Executive. Indeed, the IREP report recognised the need to

provide short-term support for the economy in response to the global downturn and we have taken action in this regard, not least in terms of the £15m Short Term Aid Scheme which provided eligible businesses with financial assistance during the downturn. In addition, as part of the recent budget settlement, we will be moving ahead with the £19m Short Term Employment Scheme which has set a target to promote 5000 jobs between 2011 and 2015, with approximately 4000 jobs to be created by March 2014. Support will be concentrated on a range of sectors and programmes and will include:

- Support for new business starts by residents of Neighbourhood Renewal Areas & disadvantaged young people;
- Broader support for social enterprises;
- A new programme to accelerate business growth; and
- Employment support to specifically create new jobs in the Contact Centre, Knowledge Process Outsourcing and Food Processing sectors.

The IREP report stressed the importance of taking action to rebalance the Northern Ireland economy towards more value-added activities over the medium to long term. It is within this area that the majority of recommendations were made and this statement outlines the progress we have made. I am pleased to report that many of the recommendations have already been implemented and there is a clear action plan to implement others, particularly as part of the ongoing work on the economic strategy.

This statement highlights to the Assembly the most significant achievements which have been made to date. I attach, to this statement, a table which details the progress which has been made with respect to each of the recommendations contained within the IREP report.

The report made recommendations in relation to policy development and also to governance structures and processes. A successful economy is ultimately the responsibility of the private sector as it is successful companies and organisations which produce wealth. However, to deliver growth it is imperative that we have in place the appropriate policies and initiatives that will support businesses. Such policies are not just for my department. Many, if not all, of the departments around the Executive



table, have a role to play in ensuring we have a prosperous economy.

One of the most significant recommendations in the report was the proposal that there should be a single Department of the Economy which would cover the core economic functions of DETI and Department for Employment and Learning. As I indicated in my statement in January last year, I support this and submitted a paper to the Executive which proposed that this issue needs to be considered as part of the planned review of Strand One Institutions.

While the Executive agreed with this proposal, it also recognised the need to take the interim steps that were suggested by the IREP panel to improve the structures for the co-ordination of economic policy. Central to this has been the establishment of a sub-committee of the Executive to prioritise cross-departmental action on the economy. I chair this committee which includes those Ministers from DEL, DRD, DFP, DE and the Junior Ministers from OFMDFM.

The IREP panel suggested that the subcommittee should take forward the development of an economic strategy that builds on the findings of the review and produces a single overarching economic strategy that aligns with and helps to shape other Executive strategies. Since its establishment, the primary focus of the sub-committee has been on progressing an initial consultation document which outlines a proposed framework for economic growth.

The consultation paper, *Priorities for Sustainable Growth and Prosperity* was launched on 13 January and closed at the end of last month. My officials are currently assessing the more than 60 responses.

The proposed economic framework for growth recognises the twin challenges facing the Northern Ireland economy. Firstly, the need to take immediate action to rebuild the labour market in the aftermath of the recession and secondly the importance of taking action to rebalance the economy towards higher value added activity in longer term, which was at the heart of the IREP report.

One of the reasons why we have only initially consulted on a framework for growth, rather than a full strategy, was recognition that the UK Government also needs to provide its own help in growing the economy.

We continue to press for policy levers that would help with the twin goals outlined in the economic framework. While this area was not within the remit of IREP, the Panel did express a view that “a reduced rate of corporation tax would improve NI’s value proposition” and that “a lower corporation tax rate could significantly boost value added FDI flows into NI”. In that regard, our officials have been working with their counterparts in HM Treasury and the NIO on the Government’s consultation paper on mechanisms to rebalance the economy through the tax system. The paper is very close to being finalised and will be launched very soon, perhaps even later this week.

To support development of the new economic strategy, and also to address one of the IREP recommendations, I have set up a new Economic Advisory Group to provide me with independent economic advice. The new group was established in May 2010 and I was delighted that Kate Barker, a former member of the Bank of England’s Monetary Policy Committee, agreed to serve as chair. The Group brings together experts in the fields of business, skills and economics.

Economic development is not just the responsibility of my department. In the context of working together on the economy, the IREP report also recommended that DETI, DEL and Invest NI should work together to more effectively implement their liaison arrangements and I am encouraged to report significant progress in this area.

In my January 2010 statement, I outlined that, as part of the incentive to attract new investments and expansions in Northern Ireland, Invest NI and DEL would be taking forward a pilot programme to offer a skilled workforce tailored to the specific needs of companies. Since then, Invest NI and DEL have identified fifteen pilot projects and, along with the Employment Minister, we recently announced the first inward investor to benefit from this approach - Heritage Administration Services Limited who will establish a fund services operation in Belfast, which could create up to 46 high quality jobs.

This is a very exciting initiative to deliver a seamless approach to companies and early feedback has been encouraging. The pilot is currently being evaluated and I look forward to hearing the outcome of that evaluation in due course.

Central to the IREP report were the recommendations which related to specific

areas of policy. In order to concentrate more on policy development, the IREP report recommended that my Department should undertake an internal review of its structures with a view to ensuring that the core functions of strategic policy development and performance monitoring should be brought together.

The panel also pointed to the need for more of my Department's resources to be made available for its core policy analysis and development function.

Since I announced my response to the IREP report last January, I can report that the Permanent Secretary of my Department has completed an internal review of DETI's structures. As a result of this work a number of structural changes will be implemented from 1 April 2011. In conjunction with a programme of process improvements and new ways of working, these changes will sharpen & strengthen the policy focus of the Department; facilitate more flexible deployment of resources and clarify roles/responsibilities within the Department especially in relation to NDPB oversight.

The IREP panel drew on the substantial body of evidence which suggested that innovation should be considered as the primary productivity driver for a regional economy such as Northern Ireland. In particular, the report recognised that innovation would be critical if local firms are to maintain and improve their competitiveness in export markets. Specifically the report recommended, and I accepted, that a number of industry-led innovation communities, as suggested in the MATRIX report, should be developed to bring together business, academia and Government to exploit available market opportunities.

Substantial progress has been made in this area. Invest NI's Collaborative Networks Team has established a competitive call to stimulate the development of such communities in priority areas for the NI economy. A coherent and sustainable system for supporting them is now being finalised and it brings together the work of MATRIX, Invest NI, the NI Science Park (Connect Programme) and the Strategic Investment Board. The first true industry-led innovation community - the Global Maritime Alliance - was announced on 17 June last year, six months ahead of MATRIX's planned schedule.

The growth and development of companies is critically important if our economy is to prosper

and Invest NI has a critical role to play in this. The IREP report made a number of important recommendations about how Invest NI could better assist companies. One of the key issues raised by the review panel was a concern that Invest NI support was not available for a large section of businesses in Northern Ireland. The panel therefore recommended that the concept of Invest NI "clients" should be removed to allow Invest NI to work with the entire business base in Northern Ireland to provide support for innovation, research and development, and export growth.

In reflecting on that recommendation, I recognise that Invest NI did provide support to the wider business base through many initiatives but support was delivered on a programme-by-programme basis which can result in a fragmented approach. I also noted that, in many cases, the 'client' approach was necessary given the need for Invest NI to maintain an ongoing relationship with certain companies where investments span a number of years.

I therefore asked the Invest NI Chief Executive to bring forward proposals to increase innovation and export growth across a much wider business base than was the case at that time. I have recently agreed the resulting proposals which will see Invest NI move from an exclusive client focused approach to a new partnership approach working with a wider range of businesses to achieve export-focused growth. It will do this by delivering a differentiated service to each segment of the market.

This approach envisages three key elements.

- Firstly, the provision of information and advice to all businesses through the web based business portal, nibusinessinfo.co.uk which will be supported by an advisory centre, with regional points of presence throughout Northern Ireland.
- Secondly, it will provide market development and capability support to help companies grow their business and move into new markets; these services will be offered through a mix of seminars, workshops and standardised solutions.
- Thirdly, Invest NI will give tailored support to companies who are assessed as being likely to make the greatest contribution to meeting future targets for productivity,

innovation and export growth in Northern Ireland.

This model will be based on companies' future contribution to the economy. It will be a dynamic, flexible approach which will allow companies to move between segments in order to reflect changing circumstances. A key priority will be how we support more companies to grow into businesses of scale.

While a standard level of service will be offered to all companies, Invest NI's resources and funding will be weighted towards those segments which can offer the greatest potential to deliver export-focused growth.

This is an innovative proposal which will allow Invest NI to work – directly or indirectly - across a much wider business base than it has to date.

Implementation of this change presents a significant challenge and Invest NI is preparing a detailed business and action plan to identify all of the activities, resources and timelines to deliver it. The proposal impacts on the current organisation structure of Invest NI and the development of a re-organisation plan, including setting up a Small Business Unit.

In adopting this approach, I want Invest NI to act as an enabler and catalyst to add value to the Northern Ireland economy. But the services proposed cannot, or should not, be delivered solely by Invest NI. Rather, Invest NI will renew and strengthen its partnership approach with the District Councils, other departments and potential providers to deliver an efficient and integrated approach which removes duplication.

The IREP report made a number of recommendations which cover the actual financial assistance that DETI and Invest NI provides to industry. One key issue at the heart of the report was the view that there needed to be an accelerated shift towards support for commercially exploitable innovation and R&D. Investment in this area is recognised as the key long-term driver of productivity growth and company success.

While I fully accepted the analysis of the IREP panel with regard to the need to channel greater levels of resources towards supporting investments in R&D and innovation, I did recognise that there have been substantial advances in this area.

Invest NI had already taken action to skew resources towards innovation and R&D support, to the extent that, over the period of its current Corporate Plan, Invest NI anticipates having supported total investment in innovation of some £320m, which is almost three times more than its target of £120m. This is delivering results.

For example, the most recently available figures for R&D show that, in 2009, business expenditure on R&D increased by £139.8million (76%) to £323.7million – the highest level on record in Northern Ireland. This is extremely encouraging, especially in a time of recession.

However, while the need to encourage yet higher levels of investment in innovation will be critical, I also recognised that, at a time of rising unemployment, there would remain a very real requirement to support employment in the short term. With that in mind, Invest NI has developed proposals as to how we should best be using Selective Financial Assistance up until 2013.

Invest NI has introduced an early stage assessment tool whereby all projects that would be supported by Selective Financial Assistance will be assessed at the outset against an Employment / Productivity matrix.

In a constrained financial environment, Invest NI will prioritise support towards "High Productivity" projects, in line with PSA1. However, recognising that increase and protection of the employment base remains a priority, those projects that deliver against PSA3 may also be attractive, with key considerations being the quality and scale of employment and location of project. Invest NI is also using this tool to assess competing projects and determine the best use of limited resources.

However, in these difficult times, it is also clear that jobs are vitally important. That is why, under the proposed framework for growth, resources will be devoted by Invest NI to both the rebuilding and rebalancing themes. However, I am equally clear that as the economy strengthens, then Invest NI resources should be directed more and more toward the rebalancing agenda.

The ability to use Selective Financial Assistance to encourage high quality inward investment, has made an important contribution to growing the value of our private sector and it is my view that Selective Financial Assistance still has a role to play in contributing to the rebuilding and rebalancing of the wider NI economy. Some

recent independent studies have revealed that Belfast has become the UK's second most attractive city (after London) for foreign direct investment, particularly in the technology and financial services sectors. This has been reflected in the quality of projects we are now winning. Over the last three years, average salaries from new inward investments increasing by over 17%, whilst the cost of securing each job has reduced by 16%. This would not be possible without the ability to attract companies using Selective Financial Assistance.

I recognise that changes have already been made to the Regional Aid guidelines from 2011 but I would seek to reassure members and the wider business community that the Executive continues to work to ensure the best possible outcome for Northern Ireland in terms of further amendments to Regional Aid guidelines that may be made post 2013

The IREP report also challenged Invest NI to work to significantly reduce the number of its support programmes noting that with over 80 programmes, support was considered unnecessarily complex. As part of the implementation of IREP, I asked the Chief Executive of Invest NI to review the number and breadth of the programmes on offer.

Invest NI has completed this work. It has introduced a new approach and has now reduced this complex product portfolio from 80 programmes to a set of 21 solutions, grouped under five themes.

The new framework covers all aspects of business support such as start-ups, R&D, export support, and the supply chain and is presented in a simple, easy to understand format. This is a significant change as to how Invest NI operates. To support this, it has just completed an extensive training programme involving some 400 members of staff to introduce the new approach.

The IREP report also recommended changes to Invest NI's support for exports and exporting firms. In response, Invest NI has launched a new fee-paying structure for selected export services from March 2010, and will develop further proposals, as appropriate, for enhancing this important area.

One of the IREP recommendations which I did not accept was the panel's view that, aside from those funds designed to support seed and

early stage projects, Invest NI should disengage in its direct involvement in venture capital funds. Companies need finance and, whilst we recognise the difficulties banks might have in trying to meet new capital ratios, many will share my view that banks could do more to help local firms.

I would like to see more companies avail of opportunities to access other sources of finance and recent evaluation evidence confirmed a continuing equity gap in Northern Ireland covering seed and development stage investments with deal sizes up to £2m. In response, Invest NI has developed an Access to Capital strategy and is currently in the process of recruiting managers to run a £16m Co-investment Fund and a £30m Development Fund. These will fill a gap in the local venture capital market and ensure that early stage companies do not suffer from lack of investment.

The IREP report covered not only support given by Invest NI, but also commented on how it operated. A criticism often levelled at DETI and Invest NI, was that the governance and accountability framework remained too complex and time-consuming and that it impeded Invest NI's responsiveness. IREP recommended that the organisation should be given more freedom to operate and increased delegated authority in terms of project expenditure. I am pleased to report that a new framework for Delegated Authority Limits was agreed between Invest NI, DETI and DFP, and became operational from 1st July 2010.

These changes mean that the Invest NI Board has, for the first time, absolute decision-making authority for investment decisions, and on top of that has the ability to approve expenditure up to £3 million for projects supported by Selective Financial Assistance and £6 million for all other projects without recourse to me as Minister. The Chief Executive also has a much greater level of decision making and accountability for major investments and in order to underpin the new delegation framework Invest NI has also introduced a simplified internal project casework approval process for all investments above £50,000.

Since the introduction of the new delegated limits, I am pleased to report that at a time when the number of projects over £1m has almost doubled, Invest NI has been able to

deliver a 15% efficiency in average processing times.

I can also confirm that DETI and Invest NI have agreed the broad mechanisms for future reporting on Invest NI's strategic performance. This will be taken forward in the next financial year, when the Department will report on Invest NI's performance against its corporate plan objectives.

In closing, I am pleased to report that considerable progress has been made over the last year. Many of the key recommendations of the IREP panel have already been implemented and the strategic policy direction set by the panel has influenced the thinking of the Executive sub-committee on the economy as it has been developing a new Economic Strategy for Northern Ireland.

The last Programme for Government made the economy the Executive's number one priority. The action my Department and others have taken over the last year to address the recommendations of the IREP panel has underlined this commitment. As we move to develop a new Economic Strategy and Programme for Government it is imperative that the economy remains the key focus of the Executive and we build on what has been achieved to date.

## **Progress on List of Recommendations**

### **Economy Remain Top Priority of Executive**

The Executive has decided to defer publication of a new PfG until after the election, although preparatory work at an official level is ongoing.

The Executive Sub-committee on the Economy has agreed a broad framework for a new economic strategy which will include measures to support the local economy as it emerges from recession, as well as ensuring that it can take full advantage of the economic recovery.

On 13 January 2011, and on behalf of the Northern Ireland Executive Sub-committee on the Economy, Enterprise Minister Arlene Foster launched an initial 6 week consultation on the priorities for a new economic strategy for Northern Ireland.

The priorities identified in the developing NI Economic Strategy will determine the

economic priorities of the new Programme For Government.

### **Create a Single Department of the Economy**

A Ministerial Paper, which sought Executive agreement to consider this issue in the context of the review of Strand one institutions, was agreed by the Executive on 15 April 2010.

There are no immediate plans to create a new department. The Panel (to conduct the review of Strand One institutions) has not yet been appointed but is among the matters to be covered by the draft report which is being prepared for consideration and agreement of the St Andrews Agreement Working Group established under the Hillsborough Castle Agreement.

### **Establish a Sub-Committee on the Economy**

On 15 April 2010, the Executive agreed to establish a Sub-Committee on the economy, comprising lead departments involved in economic development policy on 15 April 2010. The DETI Minister chairs the committee which includes those Ministers from DEL, DRD, DFP, DE and the Junior Ministers from OFMDFM.

The Sub-committee has met on several occasions since with the main focus being the development of a new Economic Strategy for Northern Ireland.

On 13 January 2011, and on behalf of the Northern Ireland Executive Sub-committee on the Economy, Enterprise Minister Arlene Foster launched an initial 6 week consultation on the priorities for a new economic strategy for Northern Ireland.

### **Sub-Committee to Agree an Economic Strategy**

On 15 April 2010, the Executive agreed to establish a Sub-Committee on the economy, comprising lead departments involved in economic development policy on 15 April 2010. The DETI Minister chairs the committee which includes those Ministers from DEL, DRD, DFP, DE and the Junior Ministers from OFMDFM.

The Sub-committee has met on several occasions since with the main focus being the development of a new Economic Strategy for Northern Ireland.

On 13 January 2011, and on behalf of the Northern Ireland Executive Sub-committee on the Economy, Enterprise Minister Arlene Foster

launched an initial 6 week consultation on the priorities for a new economic strategy for Northern Ireland.

The consultation, entitled, 'Priorities for Sustainable Growth and Prosperity,' is the first of a two stage approach to the development of the strategy. This approach has been adopted as the outcome of the UK Government exercise into rebalancing the Northern Ireland economy has the potential to significantly influence the content of the economic strategy.

### **Remove Concept of Invest NI 'Clients'**

Invest NI has developed a proposal to service the wider business base through a tiered and segmented approach working in partnership across the business support network. This will enable Invest NI to work – directly and indirectly – across the whole private sector business base.

The market segmentation approach envisages three key elements:

- the provision of information and advice to all businesses;
- market development and capability support to help companies grow their business and move into new markets; and
- tailored support to companies who are assessed as having the ability to make the greatest contribution to meeting future targets for productivity, innovation and export growth in Northern Ireland.

The new approach will be reflected in Invest NI's next Corporate Plan.

### **Invest NI Reduce Number of Support Programmes**

Invest NI has developed a new customer solutions framework to communicate its support to businesses. The framework is comprised of 21 solutions which are grouped under five themes covering the total breadth of Invest NI support from start-ups, capability development to R&D and export support.

Invest NI staff have received training support on the new solutions framework and the plan is to launch the new framework externally in May 2011.

The new approach will be reflected in Invest NI's next Corporate Plan.

### **Redirect SFA to Provide Greater Levels of Support to R&D&I**

To optimise resources Invest NI has developed an early assessment matrix to assist with ranking and prioritising SFA projects against PSA 1 (Productivity) and PSA 3 (Employment). Furthermore, a more detailed assessment is carried out of all potential projects over £250K.

In a constrained financial environment, Invest NI has been and will continue to prioritise support towards "High Productivity" projects, in line with PSA1. However, recognising that the increase and protection of the employment base remains a priority in the aftermath of the recession, those projects that deliver against PSA3 are also attractive. Key considerations in allocating SFA have been the quality & scale of employment and the location of a project. Invest NI is also using this tool to assess competing projects and determine the best use of limited resources.

### **Phase Out Grants for Business Expansions**

In the statement to the Assembly in January 2009, the Minister outlined that it was important to recognise the realities of business investment where a company will make an initial investment before progressing subsequent expansions.

The assessment tools outlined in Recommendation 7 will also be used to rank and prioritise support offered to assist companies achieve ambitious growth plans that would otherwise not happen.

### **Support Non-R&D&I Expansions Using Co-Investment Involving Sub-Ordinate Debt**

A proposal on the optimising of the use of Selective Financial Assistance (SFA) against productivity and employment measures was agreed by the IREP Steering Group in August.

In addition, Invest NI has developed an Access to Capital Strategy which provides an over-arching strategy for venture capital and debt markets and seeks to provide a continuum of funding (£50K to £2m) to early stage and growth companies.

The Access to Capital Strategy includes a Loan fund targeting smaller businesses which are not attractive to the VC market.

### **Invest NI Reduce Support for Company Training**

The evidence underpinning this recommendation is drawn from an evaluation of the Company

Development Programme (CDP) and this programme has been superseded by Business Improvement Training Programme (BiTP)

An evaluation of the BiTP Programme has been completed. The evaluation recommended that Invest NI continues to support company training with an increased focus on small businesses, particularly owner managed companies, as it is these companies which experience the most difficulty in both funding and identifying the training and development needs to improve their workforce skills.

The evaluation also recommends that the programme focuses on delivering where it is needed most with skills development focused on companies investing in R&D, innovation, exporting and on transferable skills

### **Invest NI Transfer Tourism Budget Back to DETI**

The Tourism (Amendment) Bill received Royal Assent on 25 January 2011. Provision is included in the legislation for NITB to grant assist tourist accommodation. This can be enacted by way of Commencement Order.

A business case to decide what aspects of support might be best provided by the NITB and Invest NI respectively is being prepared and that will help inform decisions on transfer.

### **Explore Commercially Orientated Research Institution Along Lines of VTT**

DETI commissioned research into best practice in economic development policy in other small open economies throughout the world with an aim of identifying transferrable lessons for Northern Ireland.

Finland (home of VTT) was one of the key case studies identified for this research. The final report is being considered by the Department and any decisions on the applicability of the VTT model to Northern Ireland will be taken forward in the context of the New Economic Strategy.

### **Develop Industry-Led Innovation Communities**

The MATRIX Secretariat is managing the development of a coherent and sustainable system for supporting IICs - known as the Innovation Gateway. As part of this Gateway, a comprehensive on-line business support service for Innovation Communities has been developed and is now being promoted by Invest NI & SIB.

Ten collaborative networks, all of which have characteristics of an Innovation Community, and one internationally trading Innovation Community were established by December. The first IIC - the Global Maritime Alliance - was announced on 17 June 2010 - six months ahead of MATRIX planned schedule.

The MATRIX Secretariat is leading on the development of a systems-based approach, the Market Opportunities Scanning System (MOSS), to stimulate the development of IICs in priority areas for the NI economy.

### **Provide more Support For Services Innovation**

Invest NI's proposal to service the wider business base, through a tiered and segmented approach, will cover both manufacturing and service businesses. In populating the customer segmentation model Invest NI will identify those segments of the services sector that have the potential to achieve the greatest contribution to GVA, Export and Innovation growth and determine the appropriate allocation of resources.

### **Finance R&D and Innovation Assistance from Savings in Existing Firm Support and Property**

Invest NI has already skewed more resources toward R&D&I support in recent years and over the period of its current Corporate Plan anticipates having supported total investment in innovation of some £320m, which is almost three times more than its target of £120m.

DETI & Invest NI are currently finalising an evaluation of Invest NI's suite of property interventions. DETI & Invest NI will consider the findings of this evaluation and the impact on budget allocations.

### **Dedicated Fee-Charging Export Assistance**

Invest NI introduced a new fee-charging structure for selected export services in March 2010.

An evaluation of Invest NI's export support is being finalised; Once the evaluation is completed, Invest NI will develop further proposals as appropriate to enhance export support

### **Prepare Case for Retaining State Aid Limits**

The Commission has still to outline its timetable for replacing any of the State Aid rules that expire at the end of 2013. These rules include those for Regional Aid (i.e. programmes such as SFA) and well as the rules for R&D&I and Training.

The Commission is planning to hold a workshop on Regional Aid post 2013 on a date still to be finalised. It has been agreed that the devolved administrations will participate fully in the UK's preparation for this workshop and will be represented at the workshop.

DETI Economists are preparing a preliminary paper on the economic case for Retaining State Aid Limits, with input from other relevant bodies.

### **Higher Priority to Promoting Energy Efficiency**

Energy efficiency and sustainable energy are key issues in the Strategic Energy Framework which was approved by the Executive and published on 27 September 2010.

### **Review of Strategic and Sectoral Approach to Telecoms**

The MATRIX Telecoms Horizon Scanning Panel Report on Telecoms was launched as part of a "Telecoms Week" in early-December 2010.

This report is being built upon by the Invest NI funded collaborative venture, DNI 2020, which is exploiting the capability of NI's digital infrastructure to maximise the potential of the identified opportunities.

Evaluation of the Telecoms Strategic Action Plan 2006-2010 has been completed and the results of this work are reflected in the successor Telecoms Action Plan for the period 2011-2015.

A full public consultation on the new Telecoms Action Plan was launched on 7 March 2011.

### **Invest NI Disengage in VC Funds**

Recommendation noted but not accepted

Recent evaluations confirm that an equity gap continues to exist in NI covering seed and development stages with deal sizes up to £2m. This is in line with other UK regions.

Invest NI should therefore continue to intervene where appropriate to support the development of the venture capital market.

Invest NI has developed an Access to Capital strategy and received approval to proceed with setting up two new investment funds. CPD is currently managing a tender competition on behalf of Invest NI to appoint a fund manager for the Development Fund.

### **Study into Attracting High Value Added FDI**

Work is ongoing in the context of developing the economic strategy. The research is due to report in Summer 2011.

The overarching aim of the research project is to identify the scope to improve the quality of FDI in Northern Ireland, as well as the key actions that will be needed to shift the pattern of investment towards higher value added sectors.

Particular objectives of the research include, assessing the proportion of global FDI flows which Northern Ireland could expect to contest if Corporation Tax was equalised to the rate in the Republic of Ireland and to make recommendations as to how the NI Executive could improve increase Northern Ireland's competitiveness in attracting higher value added FDI going forward by taking action in areas such as workforce skills, economic infrastructure, business regulation, and financial assistance to industry

### **Study on Invest NI Land Acquisition Strategy**

DETI & Invest NI are currently finalising an evaluation of Invest NI's suite of property interventions. DETI & Invest NI will consider the findings of this evaluation and the impact on budget allocations.

### **Study into Social Economy**

DETI have commissioned a report into 'the role of the Social Economy sector and its unique value in terms of economic, social and environmental impact in the Northern Ireland context'. To ensure best value for money the report will also evaluate the performance of the Social Economy Network and the impact of the SEE Strategy.

A final report is expected in May 2011.

### **Improve DETI, DEL, Invest NI Liaison Arrangements**

DETI and Invest NI continue to work closely with DEL and are currently progressing two major initiatives:

**Assured Skills:** Invest NI and DEL have jointly developed a pilot programme under the banner of Assured Skills. This programme contains a number of elements designed to provide a guarantee that companies creating new jobs in Northern Ireland will be able to fully satisfy their skills needs. The new approach has been particularly successful to date with potential



new FDI investors; Ministers Foster and Kennedy announced, in February 2011, the first joint support package to a new FDI investor (Heritage) as part of this programme. The pilot programme will be evaluated by the end of March 2011.

Management & Leadership Framework: Invest NI and DEL have developed a joint approach to the provision of support in this area.

### **DETI should undertake an internal review of its structures**

There are two phases to the Organisational Review, Phase I involved the analysis of current Departmental activities and an assessment of the need for structural change and resource re-allocation.

Phase II of the Review will develop and implement the capacity and capability requirements of the new Departmental structure to develop and deliver policy.

Work on Phase I is now complete. A number of structural changes will be implemented from 1 April 2011 in conjunction with a programme of process improvements and new ways of working. These will:

- Sharpen/strengthen the Policy focus
- Begin to break down silo thinking and facilitate more flexible deployment of resources
- Provide greater coherence in the grouping of activities
- Provide access to policy support expertise
- Clarify roles/responsibilities between the Department and its NDPBs

Phase II has now commenced.

### **Core functions of strategic policy development and performance monitoring should be brought together within any revised DETI structures.**

The new structures and processes will ensure greater integration between strategic policy development and performance monitoring.

### **Invest NI should consider a n internal reorganisation that reflects the differing**

### **skills sets required to support FDI, exports, Innovation/R&D and small business support.**

Invest NI has completed an internal review and is currently considering options to re-align organisation structure to support delivery of the proposed Customer model (see recommendation 5) moving forward.

### **A Small Business Unit should be created within Invest NI**

The key functions to support small businesses have been considered as part of the proposal to widen the Invest NI customer base. This will require management of the network of support between Invest NI and its partners. The implications on structure & staffing resources will be considered as part of Invest NI's Organisation Plan.

### **Invest NI to providing world class training in sales and marketing (particularly those working internationally )**

Invest NI launched a new learning and development platform for internationally based staff in Feb 2010. An online learning platform has been rolled out to all staff in March 2011. Invest NI's suite of training programmes covers development of skills in the areas of communication, selling, negotiation and personal impact and effectiveness.

### **More Freedom to Operate for Invest NI**

A new framework for Delegated Authority Limits has been agreed between Invest NI, DETI and DFP, operational from 1st July 2010. The Invest NI Board and designated Accounting Officer, has assumed a much greater level of accountability for major investment decisions.

The number of cases over £1m almost doubled over the period July to December 2010 compared to 2009; despite this significant increase in the number of cases handled the average time to process a case fell by 15%.

### **Delegated Authority Limits for Invest NI**

A new framework for Delegated Authority Limits has been agreed between Invest NI, DETI and DFP, operational from 1st July 2010. The Invest NI Board and designated Accounting Officer, has assumed a much greater level of accountability for major investment decisions.

**End Year Flexibility (EYF) for Invest NI Budget**

The IREP Steering-Group has concluded that, based on advice from DFP, the recommendation cannot be implemented.

It is noted that any concession would be highly repercussive. It has been concluded that is not possible to grant automatic access to EYF to Departments or other bodies such as Invest NI.

With regard to expenditure movement, it has been concluded that it is not possible to allow individual bodies, such as Invest NI, the flexibility to move between categories of expenditure as this would impact on the overall Treasury control total for the NI Block.

**Establish Central Project Review Group (CPRG)**

A Central Project Review Group (CPRG) has been established. The protocol for this Committee has been endorsed by Invest NI, DETI and DFP.

The protocol stipulates that DFP will continue to maintain its independence and that its role on this Committee would be limited to an observational or advisory role and would not imply DFP approval in cases where formal DFP approval is required.

**Project Appraisal Rules for Innovation and R&D Projects**

A proposal for an enhanced appraisal methodology has been developed and agreed by DETI & Invest NI and forwarded to DFP who have considered and provided useful feedback. Work to finalise the methodology is continuing and it is hoped that the new appraisal rules can be introduced during 2011/12.

**Invest NI Board should cease to perform executive functions and focus on providing strategic direction and oversight.**

Recommendation noted but not accepted.

The Invest NI Board will continue to focus on providing strategic direction and oversight. However, the Board provides a valuable challenge function to casework submissions and has approval authority for casework submissions at an appropriate level.

**A senior member of DETI Departmental Board should be represented on the Invest NI Board**

Recommendation noted but not accepted.

Current DFP guidance is that there should not be joint membership, although it is important that there continues to be good communication senior level.

**International Business Experience on Invest NI Board**

No change required. Criteria will continue to be applied in future Board appointments.

**Ex-Post Assessments Taken on a Portfolio Basis**

Invest NI will adopt a portfolio approach to manage some of its financial investments in the new Corporate Plan period as there is merit in using a portfolio approach to set strategic objectives for investment and then to evaluate the effectiveness and value for money from that investment.

The nature of the portfolios will align with the proposed Customer Segmentation Model.

**DETI / Invest NI Accounting Officer Memorandum**

The existing Accounting Office Memorandum has been reviewed and it is concluded that no amendments are required.

**Management Statement and Financial Memorandum (MSFM)**

DETI and Invest NI are continuing to work together to review the existing MSFM and prepare a revised draft for consideration.

DFP has recently provided the final approved template for MSFM to be adopted by Departments / Agencies and DETI is re-aligning the current draft to meet the new template.

The new MSFM requires Departments to identify and specify the role / functions of a sponsor branch; DETI is considering this issue as part of its organisation review.

**More DETI Resources for Policy Development and Monitoring**

Phase I of DETI's Organisational Review is now complete. A number of structural changes will be implemented from 1 April 2011 in conjunction with a programme of process improvements and new ways of working. These will:

- Sharpen/strengthen the Policy focus
- Begin to break down silo thinking and facilitate more flexible deployment of resources

- Provide greater coherence in the grouping of activities
- Provide access to policy support expertise
- Clarify roles/responsibilities between the Department and its NDPBs

Phase II of DETI's Organisational Review has now commenced this will seek to build the capability and capacity of staff to deliver these objectives.

### **DETI to Report on Strategic Performance of Invest NI**

The IREP Steering Group has agreed a preferred option for the review of Invest NI performance.

DETI will publish a review of Invest NI Performance during the current Corporate Plan period later in 2011.

### **Policies to be Updated Annually to Demonstrate Impact on Productivity Goal**

The 2011-14 Corporate Plans of DETI and Invest NI will reflect how policies impact on the productivity goal and will include identified KPIs.

Potential Key Performance Indicators have been identified with examples of absolute and relative performance measures to be developed.

The delay in developing a new PfG has impacted upon the development of the DETI and Invest NI Corporate Plans.

### **Targets to be Expressed in Relative and Absolute Terms**

The 2011-14 Corporate Plans of DETI and Invest NI will reflect how policies impact on the productivity goal and will include identified KPIs.

Potential Key Performance Indicators have been identified with examples of absolute and relative performance measures to be developed.

The delay in developing a new PfG has impacted upon the development of the DETI and Invest NI Corporate Plans.

### **Invest NI's Operating Plan Targets 2010/11 should Include Investment New to NI.**

Proposals outlining the definition and disaggregation of 'new' investment to Northern Ireland have been developed and accepted by the IREP Steering Group.

Invest NI's Operating Plan for 2010/11 includes targets specifically for investments new to Northern Ireland from April 2010, and where data availability allows, these will be expressed as a share of equivalent jobs coming into the UK.

### **DETI to Maintain Single Invest NI Database**

A statistician is now in place in Invest NI to take forward the development and maintenance of an integrated data sharing platform.

A permanent datalink between DETI and Invest NI has been installed to enable access to all databases.

This will facilitate improved measurement and reporting of Invest NI client performance and will aid the review of Invest NI performance, which is to be completed later in the financial year 2011/12

### **EDF to stand down and an Advisory Group to be established.**

The EDF was stood down following a Ministerial memorandum on 25 January 2010.

Membership and terms of reference were agreed for the Economic Advisory Group, with Kate Barker installed as Chair.

The EAG met for the first time on 28 May 2010 and in September 2010 agreed a programme of work with the DETI Minister.

It has met regularly since, and has responded to both the consultation on the draft budget and the initial consultation exercise on the executive's Sub-Committee framework for economic growth.

### **DETI to Appoint an Independent Economic Advisor**

Membership and terms of reference has been agreed for the Economic Advisory Group.

Kate Barker has been installed as Chair.

### **Stakeholders to Continue to Engage Bilaterally**

Engagement with economic development stakeholders is on-going.

As part of the initial consultation exercise to inform development of the new Northern Ireland Economic Strategy, officials from all Department's represented on the Executive Sub-Committee on the economy have held a number

of meetings with key stakeholders during February.

### **Align Research in Universities and Public Research Bodies to Needs of Industry and Investors**

Work is ongoing to conduct a mapping exercise which outlines, by INI key sectors the existing University and public sector research initiatives. Discussions have been held between DETI, DEL and Invest NI to progress this recommendation and a research project is now underway.

Funding of the 300 additional PhDs announced as part of PfG and of 12 cross-border projects (£17m) is restricted to areas of “economic relevance”.

Further work in this area will be reflected in the new Northern Ireland Economic Strategy.

### **Education System to prepare now for Increased Demand for STEM Subjects**

The draft Government STEM Strategy has been approved Executive. The consultation period has formally closed and it is envisaged that the finalised strategy will be published during 2011. A Government STEM group has been established which brings together the key government stakeholders (DHSSPS, DETI, DARD, DCAL, DEL and DE) and is tasked with implementing the Government STEM strategy.

DE has been taking significant action on a number of fronts to ensure that STEM subjects are seen as exciting, stimulating and fulfilling by young people and has been enhancing STEM through:

- The development of specialist STEM schools at post-primary level;
- The development of Careers Education, Information and Advice and Guidance for STEM areas;
- The development of curriculum resources to support the growth of STEM take-up in schools;
- The promotion of STEM work in primary and post-primary schools through competitions and exhibitions; and
- The purchase of a major new STEM resource ‘the STEM truck’, which was launched in September 2009.

DEL continues to take forward a number of actions aimed at encouraging more people to study STEM, post 16. These actions include:

- the ‘Step Up’ programme;
- Funding Sector Skills Councils to take forward various projects aimed at raising the profile of opportunities available in STEM
- Support for a range of activities organised by the further education colleges and universities, including the Innotech Centre at South West College, the College STEM Initiative and STEM bursaries at Queen’s University

These issues will be reflected in the developing Economic Strategy

### **Apprenticeships and Vocational Training to Emphasise Higher Level Qualifications**

The Apprenticeships NI and Training for Success programmes continue play a pivotal role in ensuring the development of skills and achievement of qualifications in readiness for the economic recovery.

These issues will be reflected in the developing Economic Strategy.

### **Develop Management and Leadership Skills**

Work is being taken forward and will feed into the Economic Strategy as it develops.

Invest NI and DEL have agreed a joint framework for Management & Leadership. The framework is based on the European Quality Model and the level and type of support offered will be based on the sophistication and needs of the company. The joint framework will involve a single access to support and a connected range of solutions from both Invest NI and DEL

### **ISNI 3 Should Take a Greater Economic Focus**

The Current Investment Strategy for Northern Ireland (ISNI 2) runs until 2018.

The framework for Economic Growth agreed by the Executive Sub-committee on the economy and published for consultation in January 2011, recognises the importance of capital investment in Northern Ireland’s economic infrastructure.

**Planning Service to be Given Comparable and Competitive Targets**

The introduction of streamlined council consultation has also been successful in speeding up the processing of non-contentious applications. The impact of these measures means that 60 per cent of all applications are now being processed and approved, on average, in just 40 days.

The Planning Bill (which provides for the transfer of the majority of planning powers from DOE to Councils) will have its final reading in the Assembly on March 23. The legislation will come into effect in circumstances and within a timescale to be agreed by the Executive Committee.

This will make the planning system more democratic, and the legislation also provides for streamlining the process with faster decision making.

**Planning Service to Ensure Reform Timetable is Met**

The Planning Bill (which provides for the transfer of the majority of planning powers from DOE to Councils) will have its final reading in the Assembly on March 23. The legislation will come into effect in circumstances and within a timescale to be agreed by the Executive Committee.

This will not be until new governance arrangements for councils and an ethical standards regime (including a code of conduct for councillors) are brought into effect. The DOE Minister launched consultation on these on Nov 30 and legislation is expected early in next Assembly.

From 1 April, Planning Service will be de-agentised with planning functions taken forward by two new DOE Divisions. Local Planning Division (including the area planning offices) will take forward the development plan and development management functions that will eventually transfer to local government.

Strategic Planning Division will have advisory and oversight role and will continue to determine regionally significant applications and special projects (eg minerals and wind farms) and will be responsible for the marine plan.

Following consultation, regulations on the restructuring of planning fees are now with the environment committee. These proposals will

improve cost recovery and the fairness of the system

**Strategic Projects Team to deal with all applications relating to investment new to NI.**

As part of the wider reforms of Planning, a new Strategic Planning Division in DOE will have advisory and oversight role and will continue to determine regionally significant applications and special projects (eg minerals and wind farms) and will be responsible for the marine plan.

**Pre Application Discussion (PAD) process to be more efficient**

Employing pre-application discussions with developers has already resulted in 90 strategic applications being processed to approval, resulting in excess of £2 billion investment. Since April 2009, 34 economically significant applications have been processed, the majority of which within 6 months.

The introduction of streamlined council consultation has also been successful in speeding up the processing of non-contentious applications. The impact of these measures means that 60 per cent of all applications are now being processed and approved, on average, in just 40 days.







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