



Northern Ireland
Assembly

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Northern Ireland Assembly

Monday 14 March 2016

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

Members observed two minutes' silence.

Executive Committee Business

Rates (Amendment) Bill: Royal Assent

Mr Speaker: I wish to inform the House that the Rates (Amendment) Bill received Royal Assent on Friday 11 March 2016, and it will be known as the Rates (Amendment) Act (Northern Ireland) 2016.

Assembly Business

Standing Orders 10(2) to 10(4): Suspension

Mrs McKeivitt: I beg to move

That Standing Orders 10(2) to 10(4) be suspended for 14 March 2016.

Mr 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 Standing Orders 10(2) to 10(4) be suspended for 14 March 2016.

Ministerial Statements

Children in the Justice System: Scoping Study

Mr Ford (The Minister of Justice): In May last year, I announced the launch of a scoping study on children in the justice system. In a statement to the Assembly, I outlined the reasons why such a study was needed and what I hoped it would achieve. I described the

need to build on the work begun in the youth justice review to consider whether the legislative, strategic and structural architecture surrounding the youth justice system was adequate to address the many and complex needs of the children who come into contact with it.

The scoping study began in earnest in June with the first meeting of the steering group. This group, chaired by the chief executive of the Youth Justice Agency, and the subgroups commissioned by it consisted of senior representatives from each of the criminal justice organisations and those Departments and agencies that play a major role in children's lives.

Two ideas exchange workshops with the community and voluntary sector and two workshops with the parents of children involved in youth justice and with children at Woodlands Juvenile Justice Centre were also held.

I place on record my thanks to all those involved in the process for giving their time, experiences and expertise.

The steering group has now reported back with a range of innovative proposals for change that will require a fundamental shift in how the system views and responds to children who offend. The proposals put forward by the steering group can be grouped broadly under three themes. The first is putting welfare at the heart of the system; the second is maximising community involvement and increasing exit points from the justice system; and the third is developing the disposals available to the judiciary and reducing the use of custody to make it truly a measure of last resort.

I will address each of those themes in turn and outline at a high level the sort of changes that the steering group proposed. In the first theme of welfare, the scoping study emphasised that the needs of the child should form the basis of all interactions with the child. Our system of government segregates those needs into departmental responsibilities, addressing each

independently. That segregation pervades the whole system and contributes to many of the issues that manifest as criminal justice problems. That is why I believe that one of the key measures in the next Programme for Government should focus on improving the life outcomes of our children. Implementing the proposals arising out of the scoping study would move us significantly towards achieving such an outcome and should be a priority area across the new Executive.

The primary proposal put forward by the steering group under the theme of welfare echoes the calls from the Committee on the Rights of the Child and the youth justice review, and it is to raise the minimum age of criminal responsibility. I am fully aware that not all parties yet agree with the need to do that, but we should not ignore the fact that the change is strongly advocated and supported by experts in youth justice in Northern Ireland, across these islands and internationally. Raising the age would take vulnerable young children entirely out of the remit of criminal justice. Offending behaviour by young children would then be addressed in a different way, as in most other countries in Europe. Young children would still be held to account for their actions but would be supported to change rather than criminalised.

We also need to look at the approach taken with older children, which is why another of the proposals is to place the youth justice system in a welfare and social services model rather than a criminal justice one. That means ensuring that, wherever possible, actions in childhood do not have a lasting negative effect on the child's life through a criminal record. It means considering again whether the only custodial institution that we have for children should sit in the criminal justice system, given the overwhelming mental health and addictions issues prevalent amongst the children detained there.

The second theme emerging from the scoping study is the need to maximise community involvement and increase exit points from the justice system. The view of the scoping study is that the default position for children who offend should be to provide support to address their needs. As such, the proposals under this theme concentrate on ensuring that formal criminal justice action is taken only when absolutely necessary. Instead, the steering group proposed that opportunities be maximised at local community level to work together to address offending behaviour at an early stage through restorative practices, problem-solving approaches and early engagement.

The main tenet is that no child should cross the boundary into a police station unless it is absolutely called for due to the seriousness of their behaviour. The steering group therefore proposed that every interaction with a child that brings them into the youth justice system should be challenged to ensure that there is clear justification for them being there and that all other options have been explored and exhausted. That should begin with a presumption against arrest and should follow through the rest of the system with the introduction of advocates and gatekeepers whose task it is to challenge decisions at each stage of the process.

In tandem with that, the scoping study points to the need to redesign the youth justice system to increase the number of exit points that allow a young person to access support without a criminal record, where appropriate. The proposals cover the creation of exit points at all stages in the system, from PSNI action to youth engagement clinics, through to the creation of new disposals and into the courts through to the introduction of a new problem-solving stage. The emphasis should be on individualised, tailored responses that address needs and provide the support needed to prevent future offending behaviour.

I want to make it clear that, when I refer to the importance of recognising and responding to the needs of the child, it is not intended to excuse or justify the impact of the child's behaviour on their victim and the wider community. A child should absolutely be held to account for their actions but in a welfare system that meets their multiple and complex needs. All this is ultimately about making our community safer.

The third theme covers the disposals available to the judiciary and the use of custody. The main proposal is to rewrite youth justice legislation to make it clearer, easier to understand and, crucially, more effective. Instead of the seven community disposal options that are currently available, there should be a single, tiered, flexible order. Judges will be able to tailor the order to meet the needs of the child in front of them. Likewise, instead of five custodial orders, there should be a maximum of two: a shorter one for less serious offences; and another for more serious, persistent offending. Both orders will explicitly state that children will never be detained in any prison setting.

Regarding the use of custody, the steering group is clear that it is all too easy for children to enter the juvenile justice centre. Its proposals therefore focus on the need to

establish alternative accommodation options, especially short-term overnight calm-down spaces. Having those options means that Woodlands no longer needs to be used inappropriately as a place of safety for children.

The steering group has also put forward suggestions encompassing bail and remand, including a presumption in favour of bail with no conditions. Significant limitations should also be put on the use of remand, through, for example, the introduction of a real-prospects test.

Members will agree that, taken together, the proposals comprise a challenging programme for change. I have written to my Executive colleagues seeking their support to turn the scoping study's ambitious proposals into a concrete programme of action. I intend to establish an implementation group comprising senior officials from all relevant organisations and Departments. They will be tasked with developing detailed recommendations for consideration by the Executive and wider public consultation in the next mandate. The recommendations will be based on the scoping study proposals, which I fully endorse.

To summarise, the proposals fall under three themes: first, to put welfare at the heart of the system, which includes raising the minimum age of criminal responsibility and placing the youth justice system within a welfare model; secondly, to maximise community involvement and increase exit points from the justice system; and, thirdly, to develop the disposals available to the judiciary and reduce the use of custody to make it truly a measure of last resort.

I am very proud of the strides that have been made in youth justice, primarily through the youth justice review, during my tenure as Justice Minister. It is clear, however, that there is more to do. Fundamental questions remain about how we react to the worst behaved, most troubled children, who cause the greatest harm in our communities, and about whether the punitive approach that we have traditionally taken is the best way in which to encourage them to change their behaviour. We need to recognise that we have a shared responsibility — not only to the children but to their victims — to get in early to address problematic behaviour before it escalates and to correct a course that, if unchecked, promises only ongoing misery for both the child and the community.

What I am proposing is an ambitious programme of change. I hope that my successor can count on support at all levels

when he or she returns to the issue in the Assembly.

Mr Ross (The Chairperson of the Committee for Justice): The Minister is right to highlight the fact that there is not political consensus around raising the age of criminal responsibility, although I suspect that there is growing consensus around the idea that we should, as far as practicable, keep young people out of the formal justice system, as all the evidence points to the increasing likelihood that they are entering the revolving door of the criminal justice system.

Although I support the general thrust of what the Minister said, particularly some of the themes around the problem-solving model of justice, which the Committee has been keen on over the past year, I seek an assurance that we are principally talking about young people who have been accused of non-violent, low-level offending and that, if they do pose a threat to the community, they will be detained in the traditional way.

What input did victims have into the scoping study? What is the Minister's view of the likely effect on victims, given the proposal for the presumption in favour of bail until a case is dealt with? That could, of course, mean that victims run the risk of almost immediately coming into contact with those who allegedly committed an offence against them.

Finally, the new Committee for Justice will wish to look at the detail of the proposals, if the new Minister brings them forward. Does the Minister envisage any legislation being required as part of his package of proposals?

Mr Ford: I thank Mr Ross for the usual cooperative way in which the Committee, and he personally, have responded to the proposals. I think that he and I can agree on the need to move towards a more problem-solving approach and a consensus, as he describes, emerging to keep children out of the criminal justice system. No doubt, the Assembly will debate specifically the minimum age of criminal responsibility at some future stage.

The Member asked at the end about legislation, and that will certainly need to be provided, not least to deal with the multiplicity of orders that we have and to ensure that that is streamlined in a way that makes it easier to tailor orders to the needs of particular children. The other three points he raised tend to run together. Having two custodial orders ensures that we can deal

with more difficult offences, including violent offences, in a different way from non-violent issues. That will clearly have an effect on bail, but the "no reasonable prospects" test is a key issue in how we address bail. If there are concerns about violence, it will not be the same case as many of the issues that currently result in young people going into custody. We should, of course, acknowledge that the number who are currently detained in Woodlands — generally around a couple of dozen children — is vastly fewer than a generation ago. That illustrates good work being done in managing that kind of behaviour in the community. Clearly, the balance, particularly on violence issues, will be a difficult one for the Assembly to strike in the future.

12.15 pm

Mr McCartney: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as a ráiteas. I thank the Minister for his statement and, indeed, welcome the three broad themes of putting welfare at the heart of the system, maximising community involvement and the exit points and disposals available to the judiciary. Does the Minister agree that the new Minister, whoever that is, should take this on immediately? The sooner we address these issues in the new mandate, the better. Does he also agree that it is a good time to examine the relationship between the Youth Justice Agency and the Prison Service?

Mr Ford: I thank Mr McCartney for his role as Deputy Chair of the Committee and for the welcome he has given. I am not sure how immediately any new Minister in the next mandate could take on the issue, given that there is a lot of detailed work to be done by officials, but I hope that the view that he has expressed, which is the same as mine, is taken on board: this is an issue on which we need to move rapidly.

Members will be well aware that certain issues that we had hoped to address in this mandate, such as the specific legal bar on children being admitted to Hydebank Wood, were not proceeded with, in order to get a more joined-up package and to ensure that we did things better together. That is not an excuse to delay indefinitely making progress; it is an excuse to delay from late in this mandate to early in the next, and I trust that we will see real opportunities.

As to the relationships between what are currently different parts of the justice system, there are clearly issues affecting community

services where we have youth justice responsibility and probation dealing with adults. There are issues relating to the best way in which to manage Woodlands as the juvenile justice centre, alongside some of the other facilities. The relationship between that, Hydebank Wood College and the adult prisons is clearly a complex issue of management to see that we get the best joined-up system. I suspect that he and, perhaps, I will be raising that with the next Minister.

Mr Dickson: I thank the Minister for his statement. Minister, I commend you on the work that the Department has done on the matter, particularly on raising the age of criminal consent. Do you envisage a day when young people in these circumstances will not be dealt with by the justice system and a health, welfare and social services approach will be taken?

Mr Ford: That issue is the topic of the moment. It is clear from the recommendations coming through from the scoping study that we need to move more towards a welfare approach when dealing with children and young people. Once we do, the question then becomes the level of contact between the justice system and the health and social care system.

In my statement, I highlighted the significant number of those in the juvenile justice centre who have mental health or addiction issues, and the more we look at that, the more it becomes an issue as to how relationships are made between the other aspects of residential care provided by the health and social care trusts. There are issues that will need to be worked through, but I can certainly see us looking at a move towards health and social care, to provide the best way of ensuring that young people are supported and encouraged to address their offending and to make the community safer in that respect.

Mr Douglas: I thank the Minister for his statement. I am sure that he will agree that this needs joined-up working with Health and Education. In our seminars, we have been looking at problem-solving courts. Has the Minister had discussions with other Departments? If so, what has been the response?

Mr Ford: I very much appreciate the point that Mr Douglas makes about the necessity for joined-up working. Officials from the Departments that he highlights — Health and Education — and others were involved in the scoping study. There was positive and

constructive engagement with some of those from Health, in particular, who were trying to see the way in which we could ensure that services were tailored to the needs of young people and not split across silos in different areas. Members will also be aware of the work going on to transfer responsibility for education in Woodlands to the Department of Education and the Education Authority. We are seeing movement forward. However, as the Member highlights, when we look at problem-solving courts, whether through some of the work that those of us who have had the opportunity to travel to the US have seen, the work being done by the district judge in Londonderry Magistrates' Court relating to domestic violence or the work done through youth engagement clinics, we see that it is clear that the concept of problem-solving has to be a significant step forward for a significant part of the justice system, not least for children and young people.

Mr Lynch: Go raibh maith agat, a Cheann Comhairle. Minister, in your statement, you said that you intended to establish an implementation group to carry this forward. When do you intend that to happen, as the mandate is coming to a close?

Mr Ford: I left out a point that I probably should have made to Mr Douglas, who has left, just before I finished my answer to his question. As I said in the statement, I have written to ministerial colleagues. I am assuming that ministerial colleagues who allowed their officials to participate in the work will agree to their continuing to do so as we get the implementation group under way. I hope, therefore, that, whilst some of us may be busy over the next couple of months, walking the streets and knocking doors, officials will find something useful and constructive to do that will enable the process to be carried forward in a significant way and will help speed up the process. However, clearly it is a formal issue for other Ministers to allow their officials to engage, but I am presuming that that will be accepted given that they have already been participating.

Mr Beggs: The Minister mentioned the role that the health trusts and, indeed, the community and voluntary sector can play in assisting young people who may have become known to the criminal justice system. Will he acknowledge that worthwhile partnership working is already going on between the trusts, the community and voluntary sector and the Youth Justice Agency through such services as the Choices Family Support Service, which engages with families who are experiencing difficulty and reduces the risks of young people becoming

known to the justice system in the first place? Will he continue to show support for that important work, so that young people can get back to school and the risk of offending is removed?

Mr Ford: I entirely accept Mr Beggs's point about the good work that is done in partnerships at present, which, as he highlights, is mostly around early prevention. I am keen to see that we develop those partnerships and ensure that the best organisations to provide the appropriate services to young people who have, unfortunately, got caught up in the criminal justice system are provided. We need to take the partnerships to a slightly different level from the good work that is being done in many areas in a variety of partnerships that help to reduce the number of young people who come into contact with the justice system.

Mr Frew: This is a good day for Northern Ireland and for young people, as we see the launch of the child protection disclosure arrangements that I brought to the Justice Bill. I thank the Minister for working with me on that scheme. We see the fruition of that today.

It seems to be the case that young people aged 13 and 14 can run amok in developments — running over cars, booting in doors and smearing fast food over pensioners' windows — terrorising people on a nightly or weekly basis.

What further support does the Minister think needs to be applied to those victims — victims who think that the police's response is becoming increasingly inappropriate and inadequate?

Mr Ford: I thought that we would get to the next item of business that I have before I had the opportunity to highlight the child protection issue, but certainly, at this stage, I acknowledge Mr Frew's role in that. I am delighted that the announcement was made. There is no doubt that most Members of the House will have heard Chief Superintendent Clarke speaking on 'Good Morning Ulster' about a significant step forward in child protection that has happened today.

The Member talks about numbers of young people running amok. Clearly, there are areas where there are problems and, at times, problems bubble up, but we should acknowledge the fact that antisocial behaviour statistics have actually been going down significantly and consistently in nearly every area of Northern Ireland over the last seven or eight years. I put that in terms of the fact that

the decrease was occurring before the devolution of justice; I am not personally claiming all the credit for that. I acknowledge that there are areas which, at times, have problems. The important issue is to see the work that is being done, in particular around youth engagement clinics. Two or three years ago, I had the benefit of talking to some of those who had been involved in some of the clinics in Derry and had been talking about some of the specific issues as to how, in one case, victims or, at least, victims' representatives had engaged with young people who were making their lives a misery and ensured that that stopped. Last week, I actually sat in on a formal clinic in Belfast, where I heard, again, a young person who was confronted with the effect of his actions, and a restorative programme was worked out.

Good work is being done, in general terms. If there are specific issues, people need to highlight them to the police and the police need to follow them up in an appropriate way. The important thing in the context of this study is to see the good work that is being done. The issue is to ensure that youth justice workers are put in contact with the individuals who have created the difficulties to ensure that that good restorative practice can be done. Certainly, I believe that we have seen significant reductions in that kind of behaviour because young people have been confronted with their actions in a way that ensures that they are then more likely to be responsible citizens in the future.

Mr Agnew: I thank the Minister for his statement. He will be well aware of the Green Party's support for an increase in the minimum age of criminal responsibility. Can he outline for us the harm that is being done to the children themselves and to wider society by those who resist a change to what is one of the lowest ages of criminal responsibility in Europe?

Mr Ford: I welcome Mr Agnew's support for raising the minimum age. Sadly, we need the support of larger parties than his or mine if we are to make progress on the issue. There is no doubt that the very small number of young people, particularly within the couple of years above the minimum age of 10, who come into contact with the criminal justice system in Northern Ireland — we are talking about something like 20 to 30 young people in any year — are in real danger, because of the way we operate in the justice system, of getting swept into a circumstance that leads them to further difficult and offending behaviour. By raising the minimum age and ensuring that we move to an appropriate care method that deals

with what is almost certainly, in the case of 10- and 11-year-olds, an underlying family problem, we are much more likely to address it than by treating children who have been left in some sort of state of a dysfunctional family, difficult school relationships or mental health problems purely through criminal sanctions. We are in much more danger that they will continue to offend. Even though, by and large, we do our best to move away from that, the very issue of being involved in the criminal justice system at all makes it more difficult to provide the treatment and care that is actually the priority that they need.

Mr A Maginness: I welcome the Minister's statement. It is a very positive one, and it points the way in which Department policy should, in fact, go in relation to children. The emphasis on welfare is very important. On the point that Mr Frew made about dealing with young people who offend persistently and extremely, what we are going to do about them when they enter a custodial situation? Can we improve on what we do for them?

12.30 pm

Mr Ford: I thank Mr Maginness for his support on that. How we improve services for the small number of young people who come into custody is crucial because it takes us away from the diversions that Mr Beggs talked about and into the area of how we deal with those who are most difficult. The intention of having the two levels of custodial order will make it clear what the difference is for the most serious and persistent offenders. It then becomes an issue of ensuring that the services that are necessary are provided in a better way, whether that is movement more towards involvement with social care and how it ties in with the significant improvements that we seek to make around education and, indeed, for those who are beyond compulsory school age, tying in with further education is a key part of it. We need to ensure that we get greater joining up around healthcare, which has not moved as far in the juvenile justice system as we had hoped it would have in the present custodial setting. There is a lot there, but it largely revolves around the general points, which are around ensuring a joined-up system to meet the needs of the individual young person or child, rather than assuming that silos will deliver education in one place, social care somewhere else and justice issues somewhere else. That has to be the fundamental way in which we continue to make such improvements as we have made over recent years.

Mr Kennedy: Thank you, Mr Speaker, for allowing my question. I welcome the broad thrust of the Minister's statement. The Minister may know that, at evidence sessions in the Justice Committee, some concern was expressed about the position of looked-after children. Would the Minister care to comment on issues around that and how they can be best addressed?

Mr Ford: I need to be slightly careful that I do not offend on another Minister's responsibilities, but I accept that the point is significant. There is no doubt that there has been a tendency, in some cases, to use Woodlands Juvenile Justice Centre as a place of safety inappropriately and perhaps more easily than should be the case. That has tended to fall under two factors, one of which is geography. It is funny how children from Fermanagh can be found an appropriate place of safety, rather than being brought to Bangor, much more easily than children from Belfast or north Down. There is an issue about that aspect of management. It is also the case that, when children are already being looked after in a children's home and exhibit difficult behaviour, there is, not unnaturally, given the circumstances of those who also have to look after other children in that home, a tendency to assume that another place of safety is the right place to go to and that will be the juvenile justice centre. That is an issue, and it is being looked at in some detail in the agency, and, if we get a better joining up, including the potential overnight accommodation that I referred to, we will have a better chance of ensuring that looked-after children are not unnecessarily involved in the juvenile custodial facility.

Social Housing Investment and Reform

Mr Speaker: The Minister for Social Development wishes to make a —

Mr Allister: On a point of order, Mr Speaker.

Mr Speaker: I have started. You can come back on it after.

The Minister for Social Development wishes to make a statement. Just before calling the Minister to make his statement, I remind him that Standing Order 18A(2) requires him to make a written copy of it available to Members at least half an hour before delivering it in the Chamber. I understand that the Minister may not have met that requirement. Therefore, in accordance with Standing Order 18A(2), I ask

him to state the reason for that prior to making the statement.

Lord Morrow (The Minister for Social Development): Thank you, Mr Speaker. I was of the understanding that, in fact, the statement had gone out, and I apologise for that. I cannot say anything more, but I will investigate as to why it had not. I was assured that it had. I made the enquiry quite early. I think that I made the enquiry at around 11.00 am, and I was told that the statement was out.

I wish to make a statement to the Assembly on the challenges ahead for social housing investment and for social housing delivery in Northern Ireland. Housing is a universal need and plays an important role in all our lives and in shaping the communities in which we live. Housing delivers much more than simply putting a roof over heads. It affects our health and well-being and thereby influences our ability to take full advantage of life's opportunities. The construction and maintenance of housing helps to drive job and wealth creation and to sustain and regenerate communities.

My vision for housing — a vision that I have no doubt is shared by all in the Chamber — is that everyone can have access to good housing at a reasonable cost. Social housing has an important role to play in delivering that vision. Over the last 10 years, a number of reports have discussed the potential for change in the delivery of social housing in Northern Ireland. In response to that, my colleague and the then Social Development Minister, Nelson McCausland, launched the social housing reform programme in a statement to the Assembly in February 2013, and the Executive mandated an exploration of the possible options for change. That programme has made good progress in identifying and assessing those options. On 28 January, my Department published the tenant participation strategy and action plan, which sets out what social landlords should do to enable tenants to participate in decisions that affect them. We will also publish a new regulatory framework for social landlords as soon as possible, and work is continuing in the area of social rents and on how the social housing sector engages with local government.

At the core of the programme, however, is the complex and sensitive question of what are the best structures for delivering social housing in Northern Ireland. The question is complex because many factors have to be taken into account. It is sensitive because of the history of social housing in Northern Ireland and the track

record of the Northern Ireland Housing Executive as one of the largest social landlords in the United Kingdom and the deliverer of a wide range of housing programmes on behalf of my Department. However, those structures have remained fundamentally unchanged for 40 years. Indeed, in that regard, those structures are perhaps unique in the Northern Ireland public sector in that they have not been subject to the kind of structural reform that has been experienced across local and central government and in the areas of health and education. The reforms have been driven by the need to deliver services efficiently in response to the needs of those whom we all seek to serve: the people and communities of Northern Ireland. In the next mandate, it will be right and necessary for the Executive and the Assembly to take forward the work that my predecessors and I have started in looking at our social housing structures and asking whether they provide the most efficient and effective system to meet the needs of tenants and citizens.

Indeed, in the recent political agreement, 'A Fresh Start: The Stormont Agreement and Implementation Plan', the Executive made a commitment to progress significant reform of social housing provision, focused on reducing departmental expenditure limit subsidy pressures. In the current challenging public expenditure environment, it is essential that we look for ways to ensure that front-line services can be protected and that the arrangements we put in place to deliver services are affordable and financially sustainable.

When we ask what structures will best deliver for tenants and citizens, we must first be clear about what we expect the structures to deliver. Most of us in the Chamber will have helped constituents who need repairs to their homes, so we understand that one of the first things we expect is that tenants of social housing should have decent homes to live in. My Department, with the Housing Executive, has been examining what needs to be done to meet that expectation for the Housing Executive's 88,000 properties. The results of that work were published last week, and the implications flowing from it are sobering. Over the next 30 years, the Housing Executive should invest £6.7 billion to bring all its homes up to an acceptable standard and keep them in that condition. A backlog of maintenance work has built up, so £1.5 billion should be spent in the five years from 2015-16. That backlog has grown because we are spending what is available rather than what is needed. Those are huge sums of money. Only part of it can be covered from the rental income collected by the

Housing Executive. It will also need a massive injection of extra capital of between £470 million and £700 million to address the backlog.

For sums of money on that scale to be provided from public funds would force the most difficult of choices on the next Minister, Assembly and Executive. Such sums could be provided only by sacrificing other capital programmes. To illustrate the kind of sacrifice that I mean, the £100 million per year that, as a minimum, would be needed is the same as my Department spends on new-build social housing. The public funding of the Housing Executive's investment requirement from public funds would require that kind of trade-off: the needs of those on the social housing waiting list against the needs of existing Housing Executive tenants.

If we wish to find a way that does not force that kind of choice, borrowing is the only realistic source of the capital injection that we need. The housing challenge in the next mandate will be finding and agreeing a way of giving the Housing Executive the ability to borrow. For the future of the Housing Executive as a major social landlord, for the sustainable long-term future of the 88,000 homes that it provides, and for the sake of other public services that desperately need public funds, all of us must approach this challenge with an open mind.

I started this statement by reflecting on the fact that, over the last 10 years, a number of reports discussed the potential for change in the delivery of social housing in Northern Ireland. We do not have the luxury of another 10 years. Let me issue a stark warning: if we fail to meet that challenge, the main function of future Ministers with responsibility for housing will likely be to oversee the deterioration of the Housing Executive's stock and the long-term decline of the organisation itself. What I would rather see, and what borrowing can support, is the renaissance of the Housing Executive investing in stock, creating employment and delivering social benefits for its tenants and the communities that it serves.

Any decision about structural reform in social housing or capital priorities will need to be taken by the Executive. However, it is critical that I lay before the Assembly the stark choices that, one way or the other, will have to be made to avoid the disintegration of an essential and much-loved public service.

There is a great deal more to the delivery of social housing in Northern Ireland than the management of the Housing Executive's properties. In the current financial year, £253 million will be spent on other housing

programmes by the Department and the Northern Ireland Housing Executive, excluding what is spent on housing benefit.

Those are vital programmes. The social housing development programme builds the homes that people on the waiting list desperately need; co-ownership housing offers first-time buyers an affordable route to get on the property ladder; Supporting People helps thousands of the most vulnerable in their homes; and the affordable warmth and boiler replacement schemes tackle fuel poverty by helping the poorest households to install energy-efficiency measures.

In setting the budget for the next financial year, I fought hard to protect those budgets. However, we all know that the constraints on public funding are set to continue for a number of years. I fear that it will not be possible to continue protecting those vital programmes if we do not take action to substantially reduce the costs of their administration.

In the current year, and excluding housing benefit, approximately £40 million will be spent on administering housing programmes by my Department and the Housing Executive, of which £33 million will be spent by the Housing Executive alone. That activity involves 900 staff. Some obvious duplication and inefficiency arises from the fact that we have the Department and the Housing Executive involved in this work. I want the delivery of housing programmes to be as efficient, flexible and responsive as possible. In tandem with the challenge of borrowing, there is an obvious direction of travel that needs to be followed.

That direction of travel will retain the full confidence of society in fair and equal access to housing based on objective assessment of need; take advantage of the opportunities for joining up the delivery of housing, regeneration and other programmes in the new Department for Communities; cut out duplication and take out layers of housing bureaucracy; deliver real savings that can be reinvested in housing services; and ensure that the delivery of all housing programmes is directly accountable to Ministers and responsive to emerging priorities.

12.45 pm

The world is moving on, and we need to think about what will be best suited to dealing with the challenges that will face us in 2020 and 2030. Change is the only way to preserve what we value; clinging to the status quo will imperil it. Amidst current funding constraints, what

should be the priority: a preference for a particular funding and structural model that has served well in the past or the maintenance of the homes and services on which current tenants rely and which we want to secure for future generations? The need to address these challenges is not new. However, the challenges grow with every passing year that they are not met. Indecision through the next mandate will raise the £6.7 billion challenge that we face to well over £7 billion. This is a nettle that needs to be grasped, and that is why officials in my Department have been tasked with gathering the evidence and examining the options with a view to making recommendations on the way forward that can be considered by the new Executive and Assembly after the election.

Mr Maskey (The Chairperson of the Committee for Social Development):

Go raibh maith agat, a Cheann Comhairle. I welcome the Minister's statement, which is very important, in so far as it addresses the need for a formal resolution to the question of the future provision of social housing. The Minister will become aware in the next week or so that the Social Development Committee has, of course, had a clear focus on the need for the provision of social housing throughout this mandate. We have also included in our legacy report a call to the incoming Department for Communities to address the issue as a matter of urgency, not least in the context of the long-standing list of people in housing stress and the recurring problems associated with homelessness. Although the Minister has addressed that in recent weeks, I am conscious of the fact that the Minister has only been in post for a very short time. He has had two predecessors, so my remarks for the most part will be historical as opposed to being in the context of the current Minister, who I have worked with in the last number of weeks. Anything that the Minister has committed to do, he has done with aplomb, and I commend him for that. I very much welcome the essence of the statement, and I think that all of the members of the Social Development Committee will do likewise.

I move on to speak on behalf of my party, Sinn Féin, as an MLA. It is important to recognise that the essence of the statement is a recognition of the need to retain the Housing Executive as a provider of social housing. I very much welcome that in the statement, although I do want to see the situation moving from hope to intent. I ask the Minister to make sure that we move forward, and the Minister has made it clear that there will require to be political agreement at Executive level on the future of the issue. Therefore, our party is

placing it on record again today that there needs to be the retention of the Housing Executive. The Housing Executive needs to be able to get the right to borrow not only to maintain property but to build. The Housing Executive must become a provider as well as just a landlord, and our party will bring that to the table in the time ahead.

I very much recognise what the Minister said in his statement about the context of the cost to the public purse; none of us is oblivious to all of that. We are aware that there are major challenges. The Department was given authority by the Executive in February 2013 to explore options. I suggest that, under the helm of the first Minister to look at it, Nelson McCausland, we wasted —

Mr Speaker: We need a question now.

Mr Maskey: We wasted a considerable amount of time because of what many of us believe was a narrow political agenda.

I know that the Minister cannot make commitments because he may not be the next Minister or whatever. Nevertheless, from his point of view, given the experience that he has garnered as the Minister for Social Development, can he assure us that social housing providers will remain in public ownership?

Lord Morrow: I thank the Member for his comments. I can give him a short or a long answer to that one. The short answer to his question is "Yes". Let me be very clear: as one who has practically lived all of his life involved with housing, whether in the private sector or the public sector, and ever since I was a young councillor in Dungannon in 1973, I have had long experience of the Housing Executive. Those were early days for it also. I, too, come to the issue with a conscience and as someone who has been steeped in dealing with Housing Executive issues and social sector housing over the years. The short answer to the Chairman of the Social Development Committee's question is "Yes, I can". This is not an attempt to privatise or do anything like that. That is not on the agenda at all, and I can assure the Member of that.

Ms P Bradley: I also thank the Minister for a comprehensive statement. For any of us who are back here in the next mandate as part of the Department for Communities, the Minister certainly pointed out the stark reality of the challenges ahead in the social rented sector.

Minister, you will recall that in the UK Budget last summer there were proposed rent reductions in England because, over the past three years, rent in the social sector had increased by 20%. Did that also happen in Northern Ireland?

Lord Morrow: I thank the Member for her question. I can tell her that it did not. Housing Executive rents increased by 15%, and housing association rents, excluding service charges, of course, increased by 17% over the same period.

Mrs D Kelly: I note the Minister's apology at the start of the statement, but it is not good enough that there were not enough statements for Members of the House to have an opportunity to read. Certainly, the timeliness was woeful.

That being said, the Minister referred to a £6.7 billion necessity to catch up on maintenance and to meet the demands of new build. He refers to the cost of administration and the possible duplication of £40 million between the Department and, indeed, the Housing Executive administration cost of £33 million. That falls far short of the need. As well as other suggestions or solutions that the Minister and his Department have for how that shortfall might be met, I wonder whether the European Investment Bank might be one resource to tap into.

Lord Morrow: I thank the Member for her question. I thought that I had made it clear at the start why the statement had not gone out: I was under the illusion that, in fact, it was out, for I had made the enquiry. However, I have given an undertaking that I will have the matter looked at to see what really happened.

On the question that you asked, my statement today is designed to set out some of the real challenges that lie ahead for social sector housing. It does not seek to give tight direction, but it says clearly that the new Department and the new Minister, whoever he or she might be, will have real challenges and one option that they do not have is the status quo. The status quo will not be sufficient for the future.

Funding will be another challenge for the new Minister coming in. He or she will have to look at all the options and may have to go into territory that they have never been in before. The Executive, the Minister and, indeed, the Assembly will have to stand up tall on that and make some difficult but very necessary decisions.

Mr Beggs: The Minister said that up to £700 million would be needed to address a backlog of maintenance work etc, but he also said that borrowing was the only realistic source of the funding. Borrowing has to be paid for, and the Northern Ireland Executive have already borrowed considerably more per head of population than other regions. My question to the Minister is this: how is the borrowing to be paid for? How is it to be guaranteed, if it is applied for? What are his ideas around this?

Lord Morrow: I thank the Member for his question. He has highlighted the real challenge for the days ahead very well. I thought that I had made it clear: the way that we have been doing things in the past will not suffice in the future. Therefore, whoever is in charge of that Department will play a major part, and that obviously leans on the Executive too because they will play a major part here, as we all will or those who are still here. There has to be what I would call some "blue-sky thinking" on how housing is done in the future and how it is financed. I am sure that the Member is well aware that, in fact, what has gone before, while it did the job up to a point, will not do it in the future. If we are not up for change, there are many challenges ahead, and we will fall further behind in the maintenance of housing stock.

Mr Dickson: I thank the Minister for his statement, which was difficult to follow because there was no copy available for most of us. I ask him to address the growing demand for social housing that meets the needs of the 21st century and provides shared space and integrated housing. What efforts will be made in the Programme for Government in the future to ensure that the growing demand for integrated housing can be delivered by the social housing providers and the Housing Executive?

Lord Morrow: I thank the Member for his question. Let me draw this analogy. It was my party that sought to tackle division, particularly in our schools; sadly, we did not get the support for that from some quarters that, we felt, it deserved. We should endeavour to provide good and sustainable housing for tenants, but let me say this: you will never force someone to live where they do not want to live. I think that, in the question, you are saying that perhaps we should endeavour to create the circumstances that will encourage it. I am aware that the Housing Executive certainly makes an effort to ensure that there is integrated housing. It is maybe not on a scale that you feel is adequate; however, it is very difficult to put someone into a house when they specifically state that it is

not in the area in which they want to live. I know that the Member is not advocating that, but that is a reality.

Mr Campbell: The Minister referred to the £6.7 billion that would be required over 30 years. He, obviously, had an exceptionally difficult task when determining whether an increase would be due in Housing Executive rents. Will he state how and why he came to that decision, given that there are many vulnerable people who work and pay their full rent and will, I am sure, be well pleased that the rental increase is zero this year?

Lord Morrow: I thank Mr Campbell for his question. It is a reasonable question to ask, bearing in mind that there has been no rent increase. I suspect that, while he asks the question, others might have had it going through their head also.

Following the policy decision to cut social rents in England, Her Majesty's Treasury indicated that the devolved Administrations would be expected to identify proportionate savings in relation to housing benefit. In the light of that, I decided to freeze Northern Ireland Housing Executive rents for 2016-17 and recommended that housing associations should also apply a rent freeze. I am keenly aware of the impact of the decision on the Housing Executive and its maintenance programme, and officials will continue to engage with HM Treasury as a priority.

1.00 pm

Mr F McCann: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. There has been a bit of shadow-boxing going on over the past four years over the future structures for social housing. I hope that today's statement lays out the needs and concerns for any new Assembly.

One of the issues that the Minister touched on was the Housing Executive stock, which is 88,000. That number continues to dwindle and needs to be protected. Will the Minister consider asking for a suspension of the house sale schemes as a way of protecting the 88,000 until such a time as we get back on track with providing enough housing for people?

Mr Speaker: Minister, we will change the Table while you speak, if you do not mind.

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

Lord Morrow: Mr Deputy Speaker, is it? I can well recall when the decision was taken for Housing Executive tenants to be permitted to buy their own home. I was a councillor in Dungannon at the time, and I was the first on my feet to say that that was a good thing. I still think it is a good thing. I believe that a lot of tenants aspire to one day owning their own home. I believe that it helps to make even better citizens of people, because it gives them a stake in the community in which they live. I have to say it straight that I would not advocate change in that policy. It is a good policy that has served society well over the years. I cannot agree with the Member and say to him that I will advocate that because, on my watch, I will not. What the new Minister does or does not do is another matter, but the truthful answer to your question is that I would not advocate stopping that policy.

Mr Douglas: I thank the Minister for his answers so far and will follow on from some of the questions earlier about rent and rent increases. What is the current position on the plan to consult on and develop a social housing rent policy?

Lord Morrow: I thank Mr Douglas for his question. Following the UK's summer Budget announcement regarding rent reductions in England, the rent policy consultation was deferred awaiting DFP and HM Treasury advice on the way forward. That remains the position. There is as yet no agreement that the policy should be issued for public consultation.

Mr Flanagan: Go raibh maith agat, a LeasCheann Comhairle. The Minister's statement rightly highlights that society needs to have:

"full confidence ... in fair and equal access to housing based on objective assessment of need".

How does the Minister square that with the ministerial involvement of his predecessor, Nelson McCausland, interfering in where social houses are built for political, parading or electoral reasons. Does he accept that the building and allocation of social housing should be based on objective need rather than on any other determining factors?

Lord Morrow: I am not aware of any incident where housing is not based on social and objective need. If the Member has evidence of that and comes to talk to me to highlight the areas about which he is concerned, I am ready

to listen to him, but I have no evidence of anything in relation to what he has said today.

Mr McQuillan: I thank the Minister for his statement. I heard the answer you gave to the Chairman of the Committee, but I still cannot help think that this is a warning to us that this is the start of the privatisation of the Housing Executive.

Lord Morrow: I thank Mr McQuillan for his question. I want to say to him quite clearly that this is not the thin end of the wedge. I said earlier that this is not about privatisation; it is about finding a sustainable delivery model for tenants in Northern Ireland by which the clearly articulated aspiration of the Housing Executive to be a modern, progressive landlord can be achieved. That is what my statement is all about. There are no hidden agendas in it at all, and it should be taken as read. I can assure the Member that this is not the thin end of the wedge.

Mr Allister: The depth of the problems is quite staggering. We are told that, in the next generation, £6-7 billion will be required to be spent on Housing Executive properties. That prompts this question: who has been in charge for the last five years, that we have got to this point? Maybe the Minister would tell us whether he thinks things might have been better and different had there been more ministerial focus on these issues rather than on false allegations about maintenance contractors and about Red Sky shenanigans and cover-ups. If Ministers had kept their eye on the ball, might things have been a bit better?

Mr Campbell: Two years of a wasted inquiry.

Lord Morrow: I do not know whether the Member will take any assurance from me, but I have not been covering up anything. To start with, I have not been there long enough to cover up anything anyway. The situation that our housing stock is in did not happen overnight. The Member talks about five years; I can tell him that it will take more than five years. We are talking about a programme that is designed to deal with housing up to 2020 and then up to 2030. I do not think that there has been neglect on the part of Ministers of the past; rather, it has maybe been something to do with the lack of funding, which is not going to get any better in the days ahead. That is why we have to bring new thinking to this subject entirely.

Mr Campbell: From Westminster, where he would like us to go back to.

Mr Deputy Speaker (Mr Dallat): I remind Members, please, not to make remarks from a sedentary position, even though we may be in the last couple of days.

Executive Committee Business

Land Acquisition and Compensation (Amendment) Bill: Further Consideration Stage

Mr Deputy Speaker (Mr Dallat): I call the Minister for Regional Development, Miss Michelle McIlveen, to move the Further Consideration Stage of the Land Acquisition and Compensation (Amendment) Bill.

Moved. — [Miss M McIlveen (The Minister for Regional Development).]

Mr Deputy Speaker (Mr Dallat): As no amendments have been selected, there is no opportunity to discuss the Land Acquisition and Compensation (Amendment) Bill today. Members will, of course, be able to have a full debate at Final Stage. The Further Consideration Stage of the Bill is, therefore, concluded. The Bill stands referred to the Speaker.

Justice (No. 2) Bill: Final Stage

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

That the Justice (No. 2) Bill [NIA 57/11-16] do now pass.

I am pleased to bring the Final Stage of the Bill to the Assembly, as it contains some of the most significant reforms to the justice system not only during my time as Minister but, perhaps, in decades. It does not seem that long ago that I was speaking at Final Stage of the first justice legislation to be taken in this Chamber for almost 40 years. We are now just a week short of five years and five Bills later, or six Bills if we include the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, introduced by Lord Morrow, in which my Department played a substantial role.

The Justice (No.2) Bill delivers further progress towards what I stated would be my aims as Justice Minister, which were to reform our criminal justice system into a better one for all

concerned; to deliver a fairer, more responsive and accountable process; and to bring forward legislative reform in a structured and focused manner.

With your indulgence, Mr Deputy Speaker, it may be opportune to remind the House of the justice legislation that I have brought to the Assembly during this mandate and the positive outcomes that that has delivered for the people of Northern Ireland. The Criminal Justice Act 2013 improved sex offender monitoring and notification arrangements and created a new framework for fingerprint and DNA retention. The Legal Aid and Coroners' Courts Act 2014 opened a new chapter in the management of legal aid through the creation of the Legal Services Agency. The Justice Act 2015 improved services for victims and witnesses of crime in the form of new victims and witness charters, a legal entitlement to provide a victim personal statement to the court and powers to provide for the sharing of victim information between justice agencies. In addition, public protection and safeguarding arrangements were significantly improved through the introduction of violent offences prevention orders, domestic violence prevention notices and orders, and a new child protection disclosure scheme, which, as I said in response to a point by Paul Frew, became fully operational from today. Furthermore, a number of measures to speed up the justice system were introduced. Provision was made for the establishment of a single territorial jurisdiction for courts. A number of improvements were made to the arrangements for the disclosure of criminal record checks. It is in that context of reform and re-engineering that the Bill is before the House today at Final Stage.

Before I discuss the content of the Bill, I will take a few moments to record formally my thanks to all those who helped to shape the Bill and assisted in its successful passage to this stage. I place on record my thanks to the Committee for Justice for its detailed work, yet again, on the scrutiny of the Bill. In particular, I thank Alastair Ross and Raymond McCartney — the Chair and Deputy Chair — for their work. I also thank the Committee's officials for the work that they do with my officials behind the scenes to make Committee Stage run smoothly. I am pleased that there is a positive collaborative working relationship between the Department and the Committee. I am particularly pleased, given the difficult issues that are considered by the Department of Justice. I know that Committee members and officials have a good appreciation of each other's professionalism and desire to bring forward the best law possible. To that end, I

also thank the many officials in my Department who developed the content of the Bill — not all of whom are in the Officials' Box beside you at the moment, Mr Deputy Speaker — those who presented evidence to the Committee and those who worked with Members when it was needed to enhance the amendments that were suggested by Mr Ross and Mr Frew. I also thank the Assembly officials, who played an important part in assisting with the Bill's progress through the various stages in the House. I say a particular word of thanks to the Office of the Legislative Counsel for its exceptional work in drafting such complex legislation for introduction and for its efforts in drafting amendments for Consideration Stage and Further Consideration Stage. Although its contribution is unseen by the public at large, it is the glue that holds together the legislative business in this place. The work is unseen, but it certainly should not be unsung.

I do not intend to outline in detail all the Bill's provisions, but I remind the House of its main content. At introduction, the Bill had 47 clauses and three schedules. Today, that has risen to 61 clauses and five schedules. First and foremost, the Bill creates a radically reformed approach to the collection and enforcement of financial penalties. It increases options for offenders to manage and pay their fines, and it increases the opportunity for non-custodial community disposals instead of imprisonment when a person does not pay a fine. As well as providing better options for debtors who cannot pay their fine, the Bill provides tougher sanctions for wilful defaulters when it is clear that they will not pay. Those include, in certain circumstances, the provision to access a debtor's bank accounts directly and to seize vehicles.

Those changes will bring about a much improved fine collection process for all concerned, freeing up valuable time in the Police Service and the Prison Service. They will reduce the likelihood of people ending up in prison for short periods and maintain the credibility of the fine itself, which is a core part of court sentencing. In short, the provisions set out in Part 1 will deliver a better and fairer fine collection and enforcement system for all concerned.

The Bill delivers on a long-term goal of mine to place the Prisoner Ombudsman on a statutory footing, enshrining the ombudsman's functions, some of which are carried out on a non-statutory basis at this stage, in legislation and to reinforce further his independence from the Prison Service. There are other prison provisions for a voluntary early removal scheme

to allow foreign national prisoners who are already subject to compulsory removal from the United Kingdom to have their sentence reduced to facilitate early removal.

Across the community, there is widespread concern about animal welfare, which was shown by the passing of the Welfare of Animals Act (Northern Ireland) 2011 and has been reinforced since by concerns arising from a number of court cases.

I am, therefore, very pleased that we have improved animal welfare in the Bill by increasing the maximum penalties for the most serious offences of animal cruelty and by ensuring that Northern Ireland has the toughest penalties of any region in these islands for those reprehensible crimes. It is a good example of very positive cooperation between my Department and the Department of Agriculture and Rural Development building on public concern.

1.15 pm

Mr McCarthy: I am very grateful to the Minister for giving way. Would the Minister agree with me that the incident that occurred in Northern Ireland last week where a pussycat was set on fire was a horrendous act and that those responsible, if and when they are caught, deserve to face the full rigour of the law so that that will be a deterrent and ensure that this never ever happens again?

Mr Ford: I certainly agree with my colleague's sentiments. I am not sure that I can agree that it will never happen again, but, certainly, the penalties provided for in this Bill will ensure that those who carry out such acts will face significant penalties, whether significant fines or, potentially, lengthy custodial sentences.

Of course, we should not be concerned just about animal welfare. Public protection and safeguarding measures are enhanced by the creation of new offences, such as possession of extreme pornographic images, the new arrangements for lay visitors to all police stations, the Committee's provisions introduced by Mr Ross on revenge pornography, and Mr Frew's amendments on attacks on ambulance workers. I was happy to support the inclusion of these in the Bill and pleased that the House supported them.

Finally, the Bill closes a potential lacuna with the direct committal for trial provisions in section 9 of the Justice Act 2015, establishes a fee structure for the Court Funds Office, and

last, but by no means least in the eyes of some Members, substantially reforms arrangements for firearms licensing. Taken as individual policy areas or groupings of similar policy intent, I believe that all the provisions in the Bill are noteworthy in their own right.

Taken collectively, the Bill will have strategic significance and operational importance across our justice system, delivering a system that is more effective and efficient, fairer and better. This is another important step forward in my programme of justice reform. While it will be for others to judge my performance as Justice Minister — I have no doubt that that will come over the coming weeks — I personally take a great deal of pride in the fact that, over the last five years, the Department of Justice has unarguably delivered substantial reform.

I also take a great deal of pride in the fact that, working with Members from all parts of the House, our justice system is in a better and stronger place than it was in April 2010 after 38 years of direct rule. That is particularly pleasant when we consider the difficult matters that are dealt with by the Department of Justice and the way in which we have largely been able to work together constructively. As I have already said, the Committee, as well as other Members of the House, has played its part in that, working with the Department. I believe that the Bill is an example of putting the vision that I set out earlier into practical action for the benefit of our people. On that basis, I commend the Justice (No. 2) Bill to the House.

Mr Ross (The Chairperson of the Committee for Justice): On behalf of the Committee for Justice, I welcome the Final Stage of the Justice (No. 2) Bill. The Bill has undergone extensive and detailed scrutiny and debate, during both Committee Stage and the lengthy debate at Consideration Stage. That has resulted in a large number of amendments being made and a range of new provisions being added, which have improved and strengthened the legislation before us.

The Bill will bring about significant and long-awaited reform of the arrangements for the collection and enforcement of financial penalties. The Committee welcomes the improvements that, when the Bill is enacted, will no doubt make a major difference to the way that fines are collected and enforced in Northern Ireland. The anticipated benefits, as outlined by the Department to the Committee, include an increase in the current level of payment rates, savings in police resources, and a reduction in the committal rate to prison due

to non-payment of fines with the resultant cost savings that that will bring.

While concerns were raised about the potential impact of the options available to secure the payment of fines through deductions from benefits, attachment of earnings orders, interim bank account orders and bank account orders, and, in particular, the potential impact on dependants and families of fine defaulters, I believe that the Bill, as it stands today, has achieved an appropriate balance between providing methods of enforcing financial penalties and providing safeguards to mitigate any adverse impact and ensure sufficient protection for vulnerable individuals or dependants. The additional clarification given by the Minister at Consideration Stage should also reassure Members who continue to have concerns.

The Committee has also recommended to the next Justice Committee that it should monitor the implementation of this legislation and, in particular, its impact, whether the expected benefits materialise, and the progress made by the Department to take forward the work in response to the Committee's proposal to provide the court with powers to require offenders to satisfy a fine by undertaking appropriate courses to address the causes of offending behaviour, such as treatment for drug or alcohol addiction or mental health treatment as an alternative to supervised activity orders, which the Minister gave an undertaking to do at Consideration Stage and which he acknowledged had the potential to enhance the fine collection and enforcement arrangements. That proposal represents the problem-solving model of justice and should be helpful to the Department's stated aim of addressing offending behaviour and reducing reoffending.

The Bill also places the Prisoner Ombudsman on a statutory footing. The Committee's detailed scrutiny resulted in a range of issues being raised and discussed with the Department. The amendments that have been made that provide the Prisoner Ombudsman with the power to initiate investigations on his own volition and place a duty on the Minister of Justice to request that the ombudsman conduct an investigation in cases of near death have, in my view, strengthened the arrangements.

The Committee also welcomes the fact that the Minister took on board its views regarding clauses such as clause 45 and indicated his intention at an early stage to remove that clause from the Bill and replace it with a power to make ancillary provisions under more restricted circumstances limited to the fine

collection and enforcement provisions. He was supported by the Assembly in doing that.

Turning to the new provisions in the Bill, the Committee was particularly pleased to gain the support of the Assembly for its amendment that creates a new offence of disclosing private sexual photographs and films with intent to cause distress, commonly known as revenge porn. The new offence will assist the police and the Public Prosecution Service in tackling that obnoxious crime, send a clear message to perpetrators that such behaviour will not be tolerated and, hopefully, provide some reassurance to victims that that type of crime is being taken seriously by legislators.

That is an example of the Committee and the Assembly recognising emerging threats from changing technologies and moving quickly to ensure legislation is up to date and able to meet such challenges. We also appreciate the undertaking given by the Minister to consult on possible legislative changes considered by the Committee, following our very successful conference on justice in the digital age. Those measures would improve online protection for children and include an amendment to the current law so that children or young people under 18 who take, make, distribute or possess an image of themselves will commit no criminal offence unless it is done with malicious intent.

Another change would be an amendment to existing law, or the creation of a new law, to deal with the aggravated impact when an individual or individuals use the anonymity provided by the Internet and/or the ability to create multiple online accounts to harass another person. There could also be the creation of a new law to prohibit an individual of 18 or over from masquerading as someone below that age and engaging online with an individual whom they know or believe to be under the age of 18. The Committee looks forward to early progress being made on all those areas with the new Minister.

The Committee also welcomes the changes made to the firearms legislation, which have been long awaited by the key stakeholders. It also welcomes the increases to the statutory maximum penalties for a range of animal cruelty offences under the Welfare of Animals Act, which provide some of the toughest penalties for animal cruelty offences of any jurisdiction in these islands. We also welcome the enhanced protection for ambulance staff and paramedics responding to emergencies, for which I congratulate my colleague Mr Frew. The incident that occurred on 4 March in Ballycastle, when a paramedic was badly bitten,

highlights the all too common dangers faced by paramedics when they attend calls. The recent case of animal cruelty to a family pet, which Mr McCarthy mentioned in an intervention to the Minister, illustrates the necessity of the legislative changes that we have included in the Bill.

I place on record again the appreciation of the Committee to all the organisations and stakeholders who contributed to the legislative process by taking the time to provide oral and written evidence at Committee Stage. I also thank Members for their diligence, commitment and scrutiny and for their contributions at Committee Stage.

The Committee has undertaken an impressive workload that has contributed to the development and improvement of the criminal justice system in Northern Ireland, not least through the recent report that we completed on justice in the 21st century, which makes a series of recommendations regarding innovative approaches that could be adopted in Northern Ireland.

I thank the Minister and his officials for working closely and constructively with the Committee during the passage of the Bill. On behalf of the Committee, I am pleased to support the Final Stage of the Justice (No. 2) Bill, and I commend it to the House.

This is the last occasion on which I will speak to the House as Chairman of the Justice Committee, certainly in this mandate. I put on record my thanks to my Deputy Chair and the other members of the Committee for the work that we have engaged in during my time as Chairman. I mention in particular Ms Bronwyn McGahan, who is standing down and not seeking re-election, and Mr Alban Maginness, who is retiring after a lengthy time as a public servant.

He has made an invaluable contribution to the Committee over all his years on it. His knowledge of, and expertise in, the legal system has been of great value to all members. I want to put that on record.

I have enjoyed my time as Chairperson of the Committee over the last 15 months. We have played a very constructive role in the criminal justice system in Northern Ireland. We have, on a collegiate basis, come up with a number of absolutely achievable recommendations that we believe should be part of the next Programme for Government. It is particularly pleasing that we have managed to get a level of consensus in those areas.

I know that the Minister will not be seeking renomination in May. I think that he has one of the most difficult jobs in the Executive. There are pressures put on the Justice Minister that other Ministers do not face, and there has been a big impact on his life from such a difficult portfolio. Not always over the last six years have my party and he agreed, but I want to put on record that, during my time as Justice Chairperson, I found the Minister to be incredibly courteous. I think that we have demonstrated how, when Committee and Minister work together, we can improve legislation and bring about really positive change in Northern Ireland. I wish him well in whatever he chooses to do, or wherever he chooses to go, in the next 12 months.

I shall leave it at that. I look forward to listening to other Members' contributions. Again, I thank everybody involved in putting the Bill into the form that it is in. It is a great improvement on where we started off from and will make a difference to the lives of people in Northern Ireland.

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. Thank you very much, Mr Deputy Speaker. I also welcome the Final Stage of the Justice (No. 2) Bill.

The Chair has laid out in very great detail aspects of the Bill. From my party's point of view, I welcome the fact that the Minister has addressed the issue of fines. We know from many presentations over many years in the Committee that this has become both an issue for the Department and a burden on the Prison Service. I want to acknowledge the work that the Department and the Minister have done on this, particularly by looking at a range of options to make it easier for people to pay fines, being mindful of the most vulnerable, who sometimes find that difficult. The appropriate measures are now in place, as are appropriate sanctions for those who choose not to pay, even though everyone knows that they have the ability. I think that we have struck the right balance.

It is also fair to say that there was universal approval for putting the Prison Ombudsman on a statutory footing. For many years, many of us felt that that was necessary. Indeed, as it progressed, the Bill was added to, making the office better and stronger and one that we can all have total confidence in going forward.

Just by way of a footnote, it was interesting that, on 24 February, Jim Allister tried to introduce an amendment to the Bill. Whether he realised it or not, it was maybe the first time he accepted that there was such a thing as a

conflict-related incident. That is usually the first step in recognising that there were political prisoners. I am not sure whether he intended that to be the case.

In conclusion, I echo the words of the Chair. Given that this is my last opportunity — I do not assume that I will be called at Question Time — I put on record our party's thanks to the Chair for the way he carried out the business. I also want to acknowledge our party colleague Bronwyn McGahan, who is leaving, and Alban Maginness, who has been on the Justice Committee from its inception and, as the Chair said, has been very wise and well informed, particularly when it came to dealing with legal aid and similar issues. I also want to put on record our thanks to the departmental officials, and not just in relation to the Bill. Every time they came in front of the Committee, they ensured that they could answer our questions and gave us as much information as possible. I also acknowledge the role of the Committee staff who, in liaising with the Department and informing the Committee, did a first-class job.

1.30 pm

I realise that David Ford will be up again for Question Time this afternoon, but, like the Chair, I want to acknowledge his work. There is no doubt that his Department is a heavy burden. There have been many issues that needed to be grappled with, and I think that the Minister has dealt with them in a very professional way. From a Committee point of view, and from our party's point of view, he has always been very receptive and very willing to engage and have meetings, sometimes at very short notice. When I say "receptive", I mean that he may have been receptive to bringing us in; I am not saying he always agreed with everything and every bit of advice; but sure, if that was the case, it would be no fun, so to speak.

From our party's perspective, whatever he chooses to do in the future, we certainly wish him all the best.

1.30 pm

Mr A Maginness: Thank you very much, Mr Deputy Speaker. The SDLP welcomes the Bill in its final form and has been supportive of its different provisions. We also welcome the way in which the Bill has been refined by the Committee and the Assembly. I think it has been an important contribution to the legislative process and that the work the Committee has done with the Department and the Minister on

justice issues has been consistently positive, worthwhile and very constructive in producing good legislation and, indeed, good policy decisions on the part of the Department. That is very important. I reiterate my support for the way in which the Chair chaired the Committee and gave leadership on all sorts of issues. On this legislation, he helped to put forcefully the views of the Committee to the Assembly, the Minister and the Department of Justice, and I compliment him on his work. It has been very positive.

Of course, the Deputy Chair, Mr McCartney, has played a leading role in the Committee and its work and in making sure that it was a very constructive part of the Assembly. Sometimes I think that the Assembly at large should take note of the work that we have done in the Committee and try to emulate it. That is because it has been very positive, and there has been constructive engagement very largely on a non-partisan basis. That is very important. It does not mean that we are no longer politicians or members of Sinn Féin, the DUP, the SDLP or whatever; we are still politicians, but we are trying to get things right. This Bill is a good example of getting things right.

However, I will say this to the Assembly: it has performed, not to my liking and not to my party's liking, but it has performed and has achieved certain things. It could achieve an awful lot better: that is the point I want to make. It could be more dynamic, more constructive and could achieve what all of us in politics want to achieve, which is to bring about real peace and reconciliation amongst our people. That is probably outside the confines of this Bill; nonetheless, I think we should all aspire to that. Anything that narrows difference, which the Bill does, will bring that about.

I say to those who will be part of the next Assembly that they should step up to the mark and reinforce these efforts to try to achieve genuine consensus and a genuine partnership between nationalists and unionists, Catholics and Protestants. I think it is vital that those in the next mandate do that seriously.

The other thing I wanted to say — this is reflected in the Bill — is that, to a great extent, we work in slow motion in this House. The proposal for putting what is now called the Prison Ombudsman on a statutory footing was proposed at Hillsborough, and that was in 2010, if I remember correctly. Six years later, we are doing that. We really ought to do better than that. We ought to be faster in what we try to do in the House. Six years is inappropriate to establish the role of Prison Ombudsman on a

statutory basis. Therein lies a lesson, which is that we must move faster than we have done in the past.

I want to take this opportunity — probably my last opportunity — to pay tribute to the work of the Minister. I have to say that I am still not reconciled to the methodology by which we arrived at having a Minister of Justice, but nonetheless David Ford has performed well in office, and his efforts should be appreciated by all. That does not mean to say that we approve of everything that the Minister has done. It was clear, when we disagreed with him in relation to parts of this Bill, that that was so, but it would be wrong not to acknowledge his good work. I know that he has indicated that he will not be Minister of Justice in the next mandate, so I wish him well in whatever other function he carries out in the Assembly and within his own party.

I also put on record the work of Bronwyn McGahan on the Committee. I know that she is not here, but it is important that we acknowledge the work that she has done.

The media, and people outside here, probably do not realise the significance of the Justice (No. 2) Bill, but it is significant. The reason why is that, if it is properly and fully implemented, the new fines collection system will mean thousands of people will not go to prison. Space will be freed up. The pressure on the prison system, which is suffering very considerable pressures, will be eased, and, as a result, we will be able to use the resources available. That is very important. Therefore, this is not an insignificant piece of legislation. It may look rather complex and inconsequential, but it is important to remember exactly what is intended to be achieved by it.

The other point that I will make about the Prison Ombudsman is this: the Prison Ombudsman will play a very important role in easing some of the other pressures in prisons. The fact that the role will be on a statutory basis and his functions properly defined and, I hope, properly resourced means that some of those pressures will diminish. That is important to remember.

I also highlight the penalties in the Bill for animal welfare offences, which were clearly inadequate before. Some amendment has been made in relation to that, and that may act as a deterrent. Mr McCarthy quite rightly highlighted the appalling and horrible cruelty shown to a poor animal over the past week. Those who carry out such vile crimes will be severely punished.

We also look at the sterling work carried out by the emergency services, and their workers — particularly ambulance workers — should not be subjected to the type of offences that have occurred. There is an additional protection for them, and I hope that, under clause 54, soon to be section 54, the offence of assaulting ambulance workers etc will provide the necessary protection to them. Again, I want to single out Mr Paul Frew, for pursuing this. I know that Lord Morrow was the original instigator of this, but it performs a fine service to the whole community, emergency workers in particular.

Lastly, I come to the vexed question of firearms. My colleague Mr McGlone is not here, but his collaborator Mr Frew is; they were involved in getting it right for those involved in using firearms for sport. I know nothing about weaponry or firearms. I was going to say that I am in a minority in this House — *[Laughter.]* but it would be very wrong to say that, so I withdraw it.

I am not like Mr Frew and Mr McGlone, as I have very little knowledge of firearms. But it was very important to get agreement between those who take part in this sport and the Department. I know it was a very difficult process, which took a long time. I go back to slow motion again: it took a long time to get this agreed. I think that it is worthwhile and important for those involved.

Mr Frew: I thank the Member for giving way and for his comments. I also pay tribute to his colleague Patsy McGlone, who worked tirelessly alongside me on these issues. I learned a lot from Mr McGlone during that time, but it really was an exemplar of how this House should work, because this was an issue that had bedevilled this Assembly from the word go. It took years to resolve, and it took the first Justice Bill and the threats and the laying down of amendments to concentrate minds to the point where all parties — stakeholders, the sports, the industry itself — were able to come together and merge with the Department to actually get something tangible and real.

If Patsy and I were the bridge to that achievement, so be it. It is a very good day for that to be resolved, and I pay tribute to Alban Maginness's colleague Patsy McGlone. I also pay tribute to Alban for all the years that he has been on the Justice Committee. I have learned a lot from Alban Maginness, and I consider him to be a friend. When he leaves this House, he will continue to be my friend, so, thank you.

Mr A Maginness: All I can say to that is, do not go too far. — *[Laughter.]* Thank you very much. It would be very churlish of me not to thank everybody for being so kind to me today.

Finally, Mr Deputy Speaker, I want to thank you. This is probably my final opportunity to thank you for the work that you have done as Deputy Speaker in this Assembly. I think that it is very important to acknowledge the work of Deputy Speakers and you, in particular. You have served the Assembly with great industry and great conscientiousness, and I think it would be remiss not to mention that today, so thank you very much indeed.

Mr Deputy Speaker (Mr Dallat): Thank you very much.

Mr Kennedy: I want to join with others and give a broad welcome to the fact that the Justice (No. 2) Bill is in its Final Stage today and will shortly pass through the House. For the 61 clauses and the 5 schedules, I think progress has been made.

There is still work to be done on the overall issue of the regulation of financial penalties and tougher sentences for those who refuse to pay fines. We have to find better ways of dealing with the non-payment of fines in cases relating to TV licensing, for instance, and others, rather than the current option of sending people to jail and the ensuing criminal records and considerable costs involved. That, clearly, will be a matter for the new mandate. I know that progress has been made, particularly for TV licensing.

1.45 pm

We can welcome the fact that the position of ombudsman is now on a statutory footing. I also welcome the fact that penalties for cases of animal cruelty have been increased. I hope very much that whoever was responsible for the disgraceful and despicable attack on the kitten in the Hillsborough area last week will face the full rigour of the law and be subject to increased sanction and penalty as a result of this legislation.

The action that has been taken on revenge porn is welcome. That is in the public interest, as is greater protection for the ambulance workers and medics who provide such an essential service to our community but are subject to attacks by people who ought to know better and ought and deserve to be punished if they are not prepared to learn lessons.

Progress has been made with the Justice (No. 2) Bill. I was a late arrival to this mandate's Justice Committee, but I enjoyed my period of service there. I found it to be a very constructive and hard-working Committee. I pay tribute to the Chair and members for that being the case. We have achieved positive outcomes, even in the Justice (No. 2) Bill.

I do not want to spend too much time on the political love-in that we are engaging in, but I wish to pay tribute to those members of the Committee who have indicated that they are not standing again. I wish them well. The Minister has indicated that he will not seek nomination as Justice Minister in any new mandate. My party and I have not always agreed with the Minister of Justice in aspects of the application of his policies and so on, but I acknowledge and have witnessed at first hand round the Executive table and through the Committee the hard work and dedication with which Mr Ford has applied himself. It is a challenging Department, undoubtedly, and it is subject to what Harold Macmillan would have described as "Events, dear boy", which adds to the challenge. I wish Mr Ford well in whatever career path he chooses, as a Member of this House or perhaps in other places. I will leave that hanging there.

All in all, progress has been made, but I do not underestimate the challenge for the new Justice Minister and the scrutiny Committee in the new mandate. I hope very much that positive outcomes can be applied. At the latter stage of his contribution, Mr Maginness paid tribute to you, Mr Deputy Speaker. I add my personal tribute to you for the service that you have rendered to the House not only as a Deputy Speaker but as a very wise and valued Member.

Mr Dickson: I, too, want to join in the tributes and comments that have been made around the Chamber on where we are today and specifically with regard to the Justice (No. 2) Bill, which is at its Final Stage. I would also like to acknowledge the progress and work of the Justice Minister over the lifetime of the mandate. For me and, I think, for many citizens, he has delivered a fairer and a faster system of justice and has also embarked on wide-ranging legislative reform.

As others said, the Justice (No. 2) Bill modernises and deals with the very difficult issue of collection of penalties and fines and replaces those with a non-custodial model that, nevertheless, seeks to ensure that those who need to be dealt with can be dealt with and that they will have the opportunity to have sufficient

resources to lead their lives but, at the same time, know that repayment is being made. That is very important. In-and-out prison sentences serve neither the person who goes to prison nor the Prison Service that has to deal with such individuals.

Likewise, I welcome the statutory footing for the Prison Ombudsman. That is a vital role. They join a range of ombudsmen across Northern Ireland who have a very difficult but important role. That person will, and should, have the confidence of the Prison Service and also of the prisoners who will raise issues with them.

Much has been made of the concerns of the community and society about animal welfare, particularly animal cruelty, where the criminal line is crossed. We have seen a number of cases where the community quite rightly has been outraged by the way in which courts have had to deal with the law and provide for sentencing. That review and revision in the Bill will facilitate those who issue and provide sentences with a wider range of penalties. It sends out a strong message to those in society who abuse animals in the ways in which we have heard and seen in recent days.

I also add words of thanks to Mr Frew for his amendment on those issues that affect ambulance staff particularly and the way in which they have been abused going about their job. There is a difficult area in respect of this. Sometimes where the abuse occurs the individuals are patients who are in a very difficult situation, but a criminal line is also crossed. It is when that criminal line is crossed that Mr Frew's amendments to the legislation are very welcome and much appreciated.

I turn to the issue of firearms reform. Somewhat like Mr Maginness, I did not — fortunately, I have to say — know anything about firearms to the extent that I now know about them having listened to all the discussions and arguments in the Committee for Justice. I cannot say that I wholly agree with where we are in respect of the changes that have been introduced, but what I have seen is good cooperative and collaborative working between parties in the Committee to reach a situation where the Department of Justice can work with and agree what has been done on firearms reform.

I also commend the Chair of the Committee, both for introducing aspects of revenge pornography to the Bill and for the very innovative and important way in which he has chaired the Committee. Once again, I need to

place on record my sincere thanks for the way in which he has done that.

It would be remiss of me at this stage not also to thank Mr Maginness for the important and sage way in which he has advised and worked with the Committee both in private conversation and in the contributions that he has made to the Committee. They really have been immense, and it has been of great value to have a lawyer on the Committee. Mr Maginness also brought his political points of view to the Committee.

All that has been valuable in the mix. I applaud Mr Maginness not only for the work that he has done in this mandate on the Justice Committee but for the work that he has done representing his constituents and as a voice of sanity and reality for many right across this community. You will be missed in the House.

Likewise, I thank Ms McGahan for the contribution that she has made to the Committee and wish her well in whatever she has planned for her future.

There is much to be done in the future in the area of justice. We are not finished yet. While I understand and know, as Chief Whip of the party, that the Minister will not seek the position of Justice Minister in the next mandate, I assure the House that he is seeking to be re-elected to the House and will work on behalf of his party and as the party leader. That is absolutely for sure.

It is important that we acknowledge all the things that people have done, but there is one area that I have to express some disappointment in, and that is the amendment that I and my colleague Mr Lunn proposed with regard to the very specific and very difficult area of the law in relation to fatal foetal abnormality. While I totally and utterly respect the democratic decision of the House with regard to these matters, I have to place it on record that it is an area that, if I am returned to the House, I will continue to pursue, particularly in respect of the issue that faced the young lady, Sarah Ewart, and the tragic way in which it affected her family.

Finally, I thank you, Mr Deputy Speaker, for the work that you have done as Deputy Speaker; I place that on record as others have done. I assure the House that, if returned, I will work with my colleagues and others to deliver a better, faster and fairer justice system and that we intend to move that forward.

Mr Deputy Speaker (Mr Dallat): As Question Time begins at 2.00 pm, I suggest that the

House takes its ease until then. The debate will continue after Question Time, when the next Member to speak will be the Minister.

(Mr Speaker in the Chair)

2.00 pm

Oral Answers to Questions

Enterprise, Trade and Investment

Mr Speaker: I inform Members that question 9 has been withdrawn.

Brexit: Impact on Local Economy

1. **Mr A Maginness** asked the Minister of Enterprise, Trade and Investment to outline any discussions he has had with Executive colleagues on the impact on the local economy of Northern Ireland's exit from the European Union. (AQO 9839/11-16)

Mr Bell (The Minister of Enterprise, Trade and Investment): There have been a number of discussions on the issue. Should the referendum vote result in the UK leaving the EU, that would trigger a period of negotiation on the terms of the future UK relationship with the EU. During that period, the Executive will need to be acutely aware of the exit pathway that is being negotiated between the UK and the EU, as different pathways could have very different legal, policy and practical implications for Northern Ireland.

Mr A Maginness: I thank the Minister for that response. What plans does he have to publish an assessment of the impact on the local economy of the exit of Northern Ireland from the European Union? Is the Minister in a position to apprise the House of whether that will happen? It would be of great assistance to those who are undecided, perhaps even himself, on the matter.

Mr Bell: Members will be aware of an independent study by Oxford Economics assessing the economic implications of a EU exit across a wide range of potential scenarios, and I intend to publish that very soon.

Mr Patterson: Can the Minister provide an update on what discussions he has held with local stakeholders, such as the CBI, the Federation of Small Businesses (FSB) and

Manufacturing NI, so that, as economy Minister, he remains able to represent the views of local business leaders?

Mr Bell: I have met the Federation of Small Businesses on a number of occasions. I have met Mr Gavaghan of the CBI. Most recently, I was in Bushmills with the Chamber of Commerce and Ann McGregor. Interestingly, at that function, Ann McGregor said that, on the basis of her conversations with members, the majority of members are for Vote Leave.

Mr McCarthy: On your investment trips abroad, how many potential investors have said to you, Minister, that they would like to see Northern Ireland outside the European Union?

Mr Bell: That question was asked of our largest investor in Northern Ireland in the United States consulate in Belfast. They asked Andrew O'Brien, and he answered very clearly that he had no knowledge that people from the United States would stop investing in Northern Ireland purely on the basis of the situation with the EU. In all my trips, the three things that come across clearly are that Northern Ireland has one of the best talent pools in the world; that the costs of doing business in Northern Ireland are about 84% of the costs of doing business in the rest of the UK; and that, from 1 April 2018, we will have a corporation tax rate of 12.5%, which is the most competitive rate in western Europe. Those are the three factors that seem to be being taken hold of from Asia to America and throughout the Middle East. It is on that basis that I think that Northern Ireland will continue to grow its economy.

Mr Allister: Does the Minister agree that it would, in fact, be liberating for our trade and enterprise to be free of the shackles of the EU? Instantly, we would be liberated from EU regulation, which, as even the Commission has acknowledged, costs 4% of GDP. Of course, we would be freed to form our own trade deals with the growth parts of the world rather than being tied to the declining EU.

Does the Minister agree, therefore, that it is a positive vision for Northern Ireland and the United Kingdom to leave the EU?

Mr Bell: There are certainly a number of views on the subject. An accusation has been put forward that, despite the UK being a net contributor, Northern Ireland is a winner and we get a better return. People know my party's position, but I think that the argument that we get more out than we put in does not stand up to scrutiny. If we take regional funds, out of

which we get dedicated Peace money that no one else gets, we are still operating at a loss. Open Europe estimates that for that pot we get £1 back for every £1.58p we put in. For 2016, the Office for Budget Responsibility estimates a net UK contribution of £9.5 billion. Overall, it forecasts an increase of £3.1 billion in total contributions in the next five years. I imagine that hard-working families will not be any better off financially than they were before that reform process started.

Corporation Tax

2. **Mr Hilditch** asked the Minister of Enterprise, Trade and Investment how Invest NI will promote the planned reduction in corporation tax to foreign investors. (AQO 9840/11-16)

Mr Bell: Invest Northern Ireland has already begun to promote the planned reduction in corporation tax through targeted communications and marketing activity, digital advertising, print and media partnerships, events, one-to-one meetings and the showcasing of our capability at key international events and exhibitions.

Mr Hilditch: Perhaps the Minister will outline the benefits of lowering corporation tax not only for foreign investors but for local companies investing in Northern Ireland.

Mr Bell: The Northern Ireland Executive's commitment to reducing the rate of corporation tax to 12.5% from 2018 can be a major stimulus for our economy. Research from 'The Economist' shows that we can create in excess of 30,000 jobs and grow our economy by 10% over 15 years. Our attention is now on how we can maximise the potential that exists for that new economic lever. We are trying to get as much insight as we can into new FDI markets that a lower rate will open doors to, what types and sectors of investment we can attract and the parts of the world that we should target. We will work alongside the Department for Employment and Learning to look at skills. We will add the most competitive rate of corporation tax to a low cost base, estimated to be 48% of the costs of London and 84% of the cost of doing business in the UK, and the fact that people come for our costs. I will give you something that impressed me from Tom Hall, vice-president of international technology and operations at Allstate:

"Our experience in Northern Ireland far exceeded our expectations. We came here originally for the cost savings. We find

ourselves staying for the people and the talent that is available."

As they said to me:

"We came for your costs but we stayed for your people."

Mr McMullan: Does the Minister agree that targets relating to regional opportunities need to be incorporated into Invest NI's new push for foreign direct investment?

Mr Bell: No. The Member's party was a party to the Programme for Government, and what we set forward in that Programme for Government was that we would look at Northern Ireland as a whole. That is the target that we set Invest Northern Ireland, and it vastly exceeded it in jobs created, research and development and the jobs growth fund. I do not think I could ever turn away business, jobs and investment from Northern Ireland purely on the basis that they would not go to a geographical location. It would be a foolish person who would do so.

Mr McCallister: The Minister will be aware of a recent survey by KPMG about executive attitudes. The UK ranked second highest in Europe, mainly around political stability, macroeconomic stability and access to the single market. How does he think Northern Ireland would fare in such a survey?

Mr Bell: Anybody looking at Northern Ireland today will know that one of the biggest factors that business looks towards in a survey is stability. Recently, I did a conference with Professor James McElnay at Queen's on manufacturing. He put up a graphic behind me of United Nations figures to show how safe Northern Ireland was. In particular, Belfast was ranked as the second safest city in the world, second only to Tokyo. We are there on stability and safety. Secondly, we are also there on costs. The Member will know that another major survey in the 'Financial Times' shows that Northern Ireland is the most entrepreneurial region in the United Kingdom. There are business surveys that show that, compared with any other part of the United Kingdom, Northern Ireland is the place to grow your business quickly and quickest to £1 million. Northern Ireland is the financial technology capital of the world, according to the 'Financial Times'. Those are the surveys that we are looking to, and it behoves all of us in the House who set in the Programme for Government our economy as the central priority to look at how we have exceeded every target on job creation, research

and development and the jobs growth fund to see how we can continue to accelerate the progress that has been made.

Mr Swann: Minister, in your earlier answer you referred to foreign investors coming because they come for the costs. The Enterprise Bill currently going through Westminster will see a tax of 0.5% put on companies' wage bills if they have a wage bill of more than £3 million. How will that affect Northern Ireland's attractiveness compared with the Republic of Ireland, which will not have such a tax on companies' wage bills?

Mr Bell: There are many challenges to us, and the Member has raised one of them. Up until 2014, we used to boast that we attracted more foreign direct investment than any other part of the United Kingdom with the exception of London. Everyone said, "Jonathan, you can never exceed London. You have reached your high-water mark"; yet, somewhere around August 2014, Northern Ireland overtook the rest of the United Kingdom in attracting foreign direct investment per person.

Last week, I was sitting down with some executives from Citigroup. Remember, it came to put 369 jobs into Northern Ireland, and today the number sits at over 2,000. In particular, I looked with them at the research that shows that 80% of the companies that have come to Northern Ireland with foreign direct investment have subsequently reinvested. That, to me, is the ultimate test. When people come and invest, they see our costs and the quality of the workforce. They see the very low attrition rate because we have very loyal working people, and they see into the future the growth that there will be in Northern Ireland. I think that 80% of foreign direct investment reinvesting in Northern Ireland is the ultimate vote of confidence that we want to share.

Manufacturing: DETI Assistance

3. **Mr Poots** asked the Minister of Enterprise, Trade and Investment how his Department is working to promote and assist local manufacturing. (AQO 9841/11-16)

Mr Bell: The Department is carrying out a range of initiatives to work and promote and to assist local manufacturing. Companies that are involved in manufacturing now employ over 80,000 people, and the sector remains hugely important to the Northern Ireland economy.

Mr Poots: I thank the Minister for his answer. Our First Minister, who had many years in the

job that Mr Bell now holds, will be out leading in the United States this week, selling Northern Ireland and its job potential to businesses in the United States.

Over the next number of years, lower corporation tax will be significantly important, but what are we planning in association with it? What we are planning to do for training, employment and our universities, particularly as Departments come together? How can we ensure that we put out an absolutely enhanced package to business to show that Northern Ireland is the best place to invest?

2.15 pm

Mr Bell: As for Northern Ireland being the best place to invest, the first thing that I do is bring companies to Northern Ireland. I speak to them at the end of their journey. Their journey starts, however, with some of the successful companies: Allstate; Citi; Baker and McKenzie; and Allen and Overy. The list could go on. We let them talk to those people first, and then we talk about the support that we in the Government can give.

The Member is absolutely correct: we then turn to education. According to another major survey, Northern Ireland has the best performing education system for primary maths in Europe and the sixth best in the world. The Member raised the question of skills. More than 8,500 people graduate annually with business-related degrees from Northern Ireland, where we have two world-class universities, which the Member mentioned. I think that we should note that Queen's University Belfast is over 100 years old, is a member of the Russell Group of 24 leading, research-intensive universities and is ranked in the top 1% of universities worldwide. Ulster University, with its four campuses, catering for some 27,000 students, includes one of the largest provisions in computing in the UK and Ireland, and it is ranked in the world's top 100 young universities. We bring together world-leading research and are recognised for our technology-related university research centres. I am thinking of the Intelligent Systems Research Centre at Ulster University or the Institute of Electronics, Communications and Information Technology at Queen's. We should note that over 70% of Northern Ireland's university research activity is world leading or internationally excellent, according to the Research Excellence Framework. Those are the structures that we combine with costs, talent and the most competitive rate of

corporation tax to move Northern Ireland forward.

Mr Patterson: I note with interest the Minister's responses thus far. Manufacturing NI has consistently asked for a manufacturing strategy. However, like it, I am deeply disappointed that successive Enterprise, Trade and Investment Ministers have overlooked this key sector. With manufacturing being a key employer in my constituency, will the Minister give a commitment that he will ensure that the next Programme for Government contains a pledge for such a strategy?

Mr Bell: If the Member had been listening in the last couple of weeks, he would have heard me telling the Assembly that we were placing manufacturing at the heart of our refreshed economic approach. The Member may be disappointed, but while his party was in the Executive, it agreed with a Programme for Government that placed manufacturing with all the other parts in one economic strategy. We did not go down the road of having an economic strategy for financial services, an economic strategy food and drink or an economic strategy for technology. Instead, we put them all together into one economic strategy, which his party agreed with.

From 2011-12 to September 2015, Invest Northern Ireland has provided some £255 million of assistance to firms that are involved in manufacturing in Northern Ireland across a range of sectors — £16.7 million or 7% more than was provided to service-based firms. In terms of support, that helped to promote over 12,000 new manufacturing jobs, 3,600 of which have, in the last financial year, provided future opportunities for those affected by the very challenging situation that we found ourselves in as a result of job losses. Having topped 80,000 manufacturing jobs in Northern Ireland and seeing in the past a growth rate greater than any other part of the United Kingdom, you can see why I believe in Northern Ireland manufacturing and why it should be part of the refreshed strategy.

Exploration Licences

4. **Mr McNarry** asked the Minister of Enterprise, Trade and Investment how many petroleum and natural gas exploration licences are operational in Northern Ireland. (AQO 9842/11-16)

7. **Mr Flanagan** asked the Minister of Enterprise, Trade and Investment, given that the company failed to meet its original work programme targets, why his Department

extended the petroleum licence awarded to InfraStrata. (AQO 9845/11-16)

Mr Bell: With your permission, Mr Speaker, I will answer questions 4 and 7 together. One petroleum licence is currently operational in Northern Ireland — petroleum licence PL 1/10 — for which InfraStrata plc is the licence holder. Petroleum licence PL 1/10 was not extended.

Mr McNarry: I trust that the Minister will agree that it is a no-brainer, with energy gold under our own feet, not to use it. Will he say, in the light of his previous answers, what new funding his Department could bid for after 23 June for the development of energy?

Mr Bell: We are working very closely with the Department of Energy and Climate Change (DECC). In everything that I have done in energy, I have sought to ensure that Northern Ireland and its people get the best return for their investment, both in security of supply and cost. As DECC has changed its position on a number of occasions, I have also changed mine. I think that it is a very foolish person who does not change their mind when the facts change. We hit all our renewables targets, and energy prices in Northern Ireland were quite significantly lower compared with other years. In recent times, you will have seen the list of companies that are reducing their energy prices. It is key for my Department to maximise every opportunity that we have in order to be good stewards of the earth and to look towards where we can not only attract support for renewables but make sure that our manufacturing industry gets the most competitive rate that allows it to stay competitive and export more.

Mr Flanagan: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as ucht a fhreagra. I thank the Minister for his answer. The licence has not been extended, but does the Minister accept that the decision to extend InfraStrata's time frame for a work programme sets a dangerous precedent on fracking, particularly given that InfraStrata failed to meet its original work programme? Will he outline why he feels that it was appropriate to extend that time frame and give such a company such latitude to drill boreholes, using a novel form of drilling, so close to public water reservoirs?

Mr Bell: The Member should reflect carefully on what he is saying. It is not true, in whatever way it is expressed, that InfraStrata has been given more time by DETI to drill at Woodburn, when the company had clearly failed to meet its

original work programme targets. That is the allegation. I was content to agree to a variation of the work programme of petroleum licence PL 1/10, and that was based on work that was carried out by the licensee to date to a highly professional standard, including but not limited to the acquisition, processing, reprocessing and interpretation of existing and new 2D seismic reflection data and the carrying out of studies, mapping and remodelling. The extent to which the factors that were impacting on the licensee's capacity to drill were outside the licensee's control.

The Member raised the issue of fracking, and it is important to state that my Department has issued no licences or permits for high-volume hydraulic fracturing. No company in Northern Ireland has been given permission to frack. InfraStrata has made it clear that the drilling in Woodburn forest does not involve fracking, and a no-fracking clause has been included in InfraStrata plc's lease with Northern Ireland Water.

Mr Lyons: I thank the Minister for what he has said. There is a lot of concern in Woodburn about the issue, much of it coming from misinformation being spread so that an awful lot of people are under the illusion that fracking is taking place. I am very pleased that the Minister has confirmed that no fracking is taking place in this area. Does he believe that this sort of misinformation is useful?

Mr Bell: Misinformation, as we all know, can be very dangerous. I thank Mr Lyons. He has been on to me on a number of occasions with concerns that have been raised. Let me tell you specifically, from the Dispatch Box, that my Department has not issued any licence or permit for high-volume hydraulic fracturing.

We have not done it, and no company has been given permission in Northern Ireland to frack. As both the previous DETI Minister and I have indicated on many occasions, high-volume hydraulic fracturing is a novel and controversial issue and, as such, is a matter for the Executive as a whole to decide on, should the time come.

Mr McCrossan: I thank the Minister for his answers so far. How many of the sites being explored under licence are anticipated to require unconventional extraction techniques, such as hydraulic fracturing?

Mr Bell: There is always a danger of writing your question before you have heard the answers. However, let me be clear that what we are saying about high-volume hydraulic

fracturing is that it is a novel and controversial issue and, as such, should the time come, it will be for the Executive as a whole to decide.

Mr Beggs: The Minister has said that he has varied the licence, but that will have the effect of extending the operation and will enable drilling and the associated chemicals to be located in the water catchment area of the Woodburn dams. Given that a high-quality water supply is important not only to people but to local manufacturing companies, what discussions has the Minister had with other Departments to satisfy himself that there is no danger to the public water supply should something go amiss during the drilling process, in which a considerable number of chemicals will be injected into the ground?

Mr Bell: That issue has been raised. The Department and the other Departments — they have answered for themselves on these matters from the Dispatch Box — have indicated that obviously, if there was any risk to the water supply, action would be taken. We are satisfied, from the information that we have, that those levels of risk are not there. The Member should reflect that there is a potential benefit to Northern Ireland of having the prospectivity of the licence area established through drilling because the development of Northern Ireland's indigenous oil and gas resources could help to maintain security of supply and could bring direct and indirect economic benefit to Northern Ireland.

Mr Dickson: In respect of the drilling at Woodburn, it is a bit of a smokescreen to suggest that people believe that hydraulic fracking is going on. We know that it is conventional drilling, and the protesters know that too.

You talk about security of supply for fuel, but can we be guaranteed security of supply when it comes to clean, fresh drinking water?

Mr Bell: I refer to the answer that I gave some moments ago.

Energy Policy

5. **Mr Lyttle** asked the Minister of Enterprise, Trade and Investment how he plans to bring certainty to local energy policy to ensure sufficient energy generation capacity and competitive energy prices. (AQO 9843/11-16)

Mr Bell: Energy policy is driven by finding the best balance between sustainability, cost and

supply; that is what we refer to as the energy trilemma.

There are no immediate concerns about security of electricity supply in the short or medium term. My Department supports the delivery of the North/South interconnector and new market trading arrangements as measures to ensure long-term security of supply.

Mr Lyttle: What has the Department done to reduce energy costs for companies in Northern Ireland? How successful has that been in comparison with other European regions?

Mr Bell: Looking at recent electricity and gas tariff reductions, we see that there has been a 10.3% reduction in domestic and small business regulated electricity tariffs, prices that are 16% below the GB "Big Six" average, approximately 25% lower than the average in the Republic of Ireland and 7% lower than the EU 15 average. The SSE Airtricity standard domestic tariff is due to be reduced by 10.3% from 1 June 2016, which should give a typical annual saving of £50 to domestic customers. Electricity Ireland is to cut domestic electricity tariffs by 10% from 21 March 2016, which should give a typical annual saving of approximately £59. SSE Airtricity's standard gas tariff in greater Belfast will be cut by 10.2% from 1 April 2016, producing a typical annual saving of £50. Firmus Energy has confirmed a tariff reduction of up to 9.75% for Belfast customers from 1 April. To conclude, I also welcome Firmus's announcement of a 7.7% reduction in retail gas tariffs for households and small businesses in the 10-towns licence area, also effective from 1 April.

2.30 pm

Mr Speaker: That brings us to the end of the period for listed questions. We now move on to topical questions.

Coleraine Enterprise Zone: DETI Support

T1. **Mr Ó hOisín** asked the Minister of Enterprise, Trade and Investment what DETI is doing to support the enterprise zone in Coleraine. (AQT 3641/11-16)

Mr Bell: A number of initiatives have been taken in that area that we have visited, not least of which has been the support for the data centre.

Mr Ó hOisín: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire. Further to that, what is DETI doing to explore the possibilities for the expansion of the Kelvin project and on broadband reception and speeds in the Coleraine and wider east Derry area?

Mr Bell: I have been visiting the area, most recently at the invitation of George Robinson. We visited a number of specific projects, and, obviously, we met in connection with the data centre there, which has the potential to be huge in terms of future data needs. We have also been working with BT and other bodies. I visited the business park in Limavady to see how we could prioritise broadband access, particularly for business customers in business parks.

Strabane Business Park: Expressions of Interest

T2. **Ms Boyle** asked the Minister of Enterprise, Trade and Investment for an assurance that everything that can be done is being done to bring to fruition as quickly as possible recent expressions of interest in the Invest NI business park in Strabane. (AQT 3642/11-16)

Mr Bell: Yes, I give the Member that assurance, and I am happy to meet her in relation to what we are doing. We have a fantastic team in Invest Northern Ireland; I only say "well done" because it did very well and significantly outperformed many of the targets that we have set. The Member makes good points about what can be offered in her region. In the last number of months, Invest Northern Ireland has had discussions with a number of companies regarding their specific interest in locating to Strabane business park. I will keep a watching brief on that in terms of maximising everything that we can do to ensure success.

Ms Boyle: Thank you, a Cheann Comhairle. Given the high levels of unemployment and social deprivation in Strabane, will the Minister elaborate on the work that he and his Department are doing in conjunction with Invest NI to promote Strabane as a location for possible investors, given that there is such a large space there for investors to come to?

Mr Bell: We are looking towards land, particularly in the Strabane business park, that is available to qualifying businesses that have an approved economic development project and an immediate, demonstrable land need. I am sure that the Member will appreciate that, in our current negotiations, to which she alluded in

her first question, there are companies that are looking particularly to Strabane business park. I can tell her that we will give them all the evidence as to why it is a quality place in which to invest, as well as the general information that we give to people about prime office rents, education, businesses that can perform here on the world stage and the many endorsements that we get, particularly from foreign direct investment in Northern Ireland.

Let me give you an example. Allstate's executive vice-president of technology and operations, Suren Gupta, said:

"Every day in Northern Ireland we save half a million dollars".

As a result of locating in Northern Ireland 15 years ago, Allstate has saved over a billion dollars.

What we will say to all businesses that are looking at anywhere in Northern Ireland is, "Those are the types of savings that are available. Come and invest with us. We'll give you the best people. We'll give you the best costs, and, from 1 April, we'll give you the best rate of corporation tax in western Europe".

North/South Interconnector

T3. **Mr Dunne** asked the Minister of Enterprise, Trade and Investment for an update on the campaign to promote the North/South interconnector and to state how great a priority the interconnector is. (AQT 3643/11-16)

Mr Bell: It is a key priority. In fact, for Northern Ireland, failure is not an option on it. We need it, and we need it now.

Mr Dunne: I thank the Minister. Will he give us some indications as to what potential savings there are for businesses? Would long-term security of supply develop as a result of the establishment of the North/South interconnector?

Mr Bell: Over a period, you could be looking at a saving of somewhere in the region of £20 million. It is critical. I have been joined by many of the other bodies. I have said this wherever I have gone, from SONI to all the different bodies that I speak to in terms of energy: it is time that this issue was addressed. It is critical to our long-term security of supply, and it can deliver savings and do so quickly. For Members, including from my area, who are coming to me with very justifiable concerns

regarding the costs of electricity for manufacturing, I refer them to the North/South interconnector as the key means of achieving savings and strengthening Northern Ireland's long-term security of supply.

Brexit: Economic Implications

T4. **Mr McMullan** asked the Minister of Enterprise, Trade and Investment to confirm that his Department received a report from Oxford Economics on the economic implications for the North of a Brexit. (AQT 3644/11-16)

Mr Bell: We are to receive that report.

Mr McMullan: Will the Minister assure me that that report will be published on its completion?

Mr Bell: Yes.

Manufacturing: Armagh City and District

T5. **Mr Boylan** asked the Minister of Enterprise, Trade and Investment what he and his Department are doing to assist the manufacturing sector in Armagh city and district, with particular reference to SFM Engineering, which employs 40 people and could double that workforce with a little help from Invest NI and DETI. (AQT 3645/11-16)

Mr Bell: If the Member comes to me with the details and if he is talking about doubling a workforce, he will get a very willing reception from the Department.

Mr Boylan: I thank the Minister for his response. I have written to him. I will, after this question today, await his response.

Following on from that, will the Minister give his assessment of the recent closure of Camden glass factory outside Armagh, with the loss of 65 jobs? What has his Department done in trying to relocate some of those jobs and assist the people who left with the bare minimum of a redundancy package? Will the Minister respond to that, please? Go raibh míle maith agat.

Mr Bell: The Member, in his original question, did not tell me which company he was referring to. I cannot look into a crystal ball. Where there is the opportunity to increase manufacturing jobs, he will have heard me say that all my work with all the bodies, including

Manufacturing Northern Ireland and my manufacturing and energy advisory group, which is to report to me, is targeted towards making manufacturing in Northern Ireland so competitive that it can compete with the rest of the world in terms of exports. Specifically, in regions, we have looked towards how we can increase the skills level and reduce the particular energy costs. We have brought the unions and the power companies together. We have backed them up with some of the best evidence from the Ulster University Economic Policy Centre, and we have allowed the manufacturing and energy advisory group to be chaired by, I think, the fifth-largest energy user in Northern Ireland.

I actually believe in Northern Ireland. I believe in our manufacturing. At the end of the day, Lord Kelvin, the father of modern science, was born here. John Dunlop invented the pneumatic tyre. Harry Ferguson patented the technology that led to the modern tractor. To give you another example, the portable defibrillator was invented by Professor Pantridge. We have to ensure that Northern Ireland manufacturing continues to compete against the best in the world.

Renewable Obligation Closure Order

T6. **Mr Frew** asked the Minister of Enterprise, Trade and Investment to assure the House that Northern Ireland bill payers will not be burdened by what could be a Northern Ireland socialised ROC or incentive scheme, given that, tomorrow, he will bring forward a renewable obligation closure order. (AQT 3646/11-16)

Mr Bell: The Member will know that we have consistently tried to ensure that the Northern Ireland bill payer is protected as much as possible. Individuals come to me with specific projects. They are very well meaning, and I find myself, in my heart, sympathising with them and the situations that they find themselves in. However, I ask anybody in Northern Ireland to realise that I have a responsibility to ensure that the business sector and the domestic household user get the best value possible. At every stage along this process, as the Department of Energy and Climate Change (DECC) changed the facts, I changed my policy in order to deliver the cheapest and most cost-effective energy to businesses and domestic customers.

Mr Frew: Given the Minister's moves to try to protect consumers and bill payers in Northern Ireland, and the moves that have been made in Westminster, how can he influence the

Programme for Government in the coming days and weeks to try to assist in bringing bills down in Northern Ireland, particularly those for industry and commerce?

Mr Bell: I appreciate the Member's question because it reflects the nature of some of the uncomfortable choices that I have had to make as Enterprise, Trade and Investment Minister. I was receiving costs that could have put bills up by £50 for every available house. At all times, as DECC changed the policy, I acted to change too. Energy costs are a significant challenge for the manufacturing sector. Our job is to put policies and strategies in place to support manufacturing. However, I would also say that finding a solution to energy costs starts within manufacturing itself.

I worked very closely with Manufacturing Northern Ireland. As I said earlier, I established the advisory group that had membership from industry, business representative organisations, trade unions and leading academics. I am looking forward to using their advice in future discussions on a Programme for Government and energy cost reduction measures. Listening to industry allows companies, who have the people who are best placed, to find effective energy strategies and solutions. When I get the report from the energy and manufacturing advisory group, I am very confident that we will be able to offer constructive solutions that should be part of material discussions for the new Programme for Government.

Mr Speaker: Question 7 has been withdrawn in accordance with the appropriate protocols. Mr Patsy McGlone is not in his place. Question 9 has also been withdrawn in line with the appropriate protocols.

Job Losses: DETI Action

T10. **Mr Dickson** asked the Minister of Enterprise, Trade and Investment what he has done since Caterpillar last announced job losses, given that, when companies in East Antrim such as Caterpillar make announcements about job losses, we see a great flurry of activity to ensure that as much as possible is done to assist them. (AQT 3650/11-16)

2.45 pm

Mr Bell: Whether the job losses have been there or elsewhere, and we have seen some of those big challenges, my Department has consistently sat down with Minister Farry. Most recently, we have done that immediately on

hearing what is going to happen. In fact, sometimes we have pre-meetings on the basis of speculation on what might occur. My first priority is to try to ensure that those members have the skills necessary to apply for new manufacturing jobs that are coming on stream. As I said earlier, in the past financial year, we have had well over 3,000 manufacturing jobs coming on stream.

I try to ensure, first of all, that the members who have the skills are accredited. Many members will have gone through schemes in work but do not have the formal certification, so we work together to ensure, with the regional colleges, that they get the necessary certification. Secondly, in many cases, we try to bring to those bodies the different skills that are needed and try to match them against the skills that exist. The third thing that we try to do is attract more manufacturing jobs to Northern Ireland. You have seen the significant investment that Invest Northern Ireland has put into bringing manufacturing jobs to Northern Ireland. You will have seen that there are challenges, although I will not use the word "crisis" because the manufacturing industry has asked me not to. The fact is that we have more than 80,000 manufacturing jobs in Northern Ireland, which is the greatest time since 2008. We will ensure that manufacturing is at the heart of the refreshed economic strategy.

Justice

Maghaberry: Inspection Update

1. **Mr Ó Muilleoir** asked the Minister of Justice for an update on the inspection of Maghaberry prison by the Criminal Justice Inspection in January 2016. (AQO 9852/11-16)

Mr Ford: The report following the reinspection of Maghaberry prison in January recognises the complex and challenging environment for prisoners and staff. I am encouraged that it acknowledges that the prison has been stabilised and that progress has been made across a range of areas, including the improvements made in safety and leadership. I welcome that. However, that progress must be built upon and continue.

Significant work has been carried out to improve performance and deliver better outcomes for prisoners. A comprehensive action plan has been put in place to address the shortcomings identified and to ensure that Maghaberry delivers a safe, decent and secure environment for staff, as well as those in custody. That plan is being robustly managed,

and the Maghaberry senior management team is continuing to focus on the key priorities and recommendations to address the concerns raised and ensure that improvement continues.

I do not underestimate the challenges that remain, but having independent verification that progress has been made should give staff, prisoners, their families and the wider community confidence that Maghaberry is moving in the right direction.

Mr Ó Muilleoir: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire. It is appropriate to wish the Minister well on his last Question Time. Your legacy will depend on how you answer the next supplementary. Is it the case, based on your answer, Minister, that the ancien régime, which you can translate as "old guard", at Maghaberry, with its resistance to change, is on the back foot or is a thing of the past?

Mr Ford: I am not sure that I quite recognise Mr Ó Muilleoir's interpretation of things. I can confirm the strong recognition that came from CJINI, both in the report and in the subsequent words of Mr Brendan McGuigan at his press conference and when he appeared before the Justice Committee, of the confidence in the leadership team in Maghaberry. Whilst he identified that progress was fragile, he made it clear that he believed significant progress had been made and that he had confidence that it would continue.

Mr Attwood: I, too, wish the Minister well in the future. Can you, Minister, outline how the glaring deficits in mental health support for prisoners are going to be rectified? That was a matter highlighted by the CJI report. Touching upon the earlier question, are you not concerned that, after years of reform and oversight, there still seems to be a stream within the Prison Service that sees the role of prison to be, first, last and only, the punishment of the prisoner?

Mr Ford: I thank Mr Attwood for his good wishes. I hope not every Member who stands up is going to say that to keep me busy.

Clearly, there is an issue: some members of the Prison Service have had difficulties adjusting to a different set of arrangements. That is why we had the voluntary exit scheme, which allowed people who had served in difficult times to leave with dignity; but not all who were eligible left. In my contact with the leadership teams in Maghaberry and at prison headquarters, and from visiting Maghaberry

and engaging with individuals, I have seen a change in atmosphere, but it has not changed as far or as fast as we would have hoped. That will be ongoing work for my successor.

Mr Kennedy: The original report found:

"Many staff continued to adhere to a view that prisoners were to be feared".

Does the Minister agree, following the recent attempted murder of a prison officer in east Belfast, that such fears by prison officers and staff are well founded?

Mr Ford: There is certainly a point in what Mr Kennedy says. However, there is a difference between the threat posed to prison officers, as to police officers, in their private life and the threat posed to them within prisons, whether it is perceived to be less direct than that on the streets outside. The situation is improving significantly, through, for example, greater supervision of communal areas to ensure suitable protection for prisoners as well as prison staff. However, I can only go on the basis of the report given to me by those who carried out the inspection. Certainly, the contrast between May, when the CJINI team and colleagues left with a palpable "sense of despair", to quote their words, and January, when they left with "a sense of hope", is an indication of good progress.

Prison Service: Recruitment

2. **Mr Humphrey** asked the Minister of Justice how the Prison Service is recruiting officers in historically hard-to-reach communities. (AQO 9853/11-16)

Mr Ford: The Northern Ireland Prison Service (NIPS) is committed to ensuring that, as an organisation, it reflects the community it serves. In launching its most recent recruitment campaign, the Prison Service sought to encourage applications from all sections of the community. Information about the vacancies was broadcast on local radio, and the advertisement was widely published in newspapers and journals whose readership gives a representative spread. The Prison Service also asked all councils and a range of community representatives to advise those with whom they have contact of the employment opportunity.

A number of outreach measures have been undertaken to encourage applications from members of under-represented sections of the community and to promote a positive image of

the Prison Service. Links have been developed with schools in Northern Ireland through careers officers, and information on career opportunities in NIPS has been presented under the Northern Ireland Schools and Colleges Careers Association experience of work programme. Presentations have also been delivered to a number of schools.

Mr Humphrey: I thank the Minister for his answer. I also condemn the evil attack on the prison officer in east Belfast last week and wish him a speedy recovery. Our thoughts are with his family and colleagues at this time.

I welcome the measures that the Minister has outlined, but, difficult though it may be to recruit from the communities addressed in my question, and to which the Minister referred in his answers, what more can be done to get recruits from areas such as North Belfast, which I represent? These evil people must never be allowed to win — they cannot be seen to win. All that can be done to attract representatives from across the community must be done by the Northern Ireland Prison Service to ensure that it is indeed reflective of society.

Mr Ford: I thank Mr Humphrey for his condemnation of the attack on Friday week. I met the family that day and have since had the opportunity to meet the prison officer. I am pleased to say that he is making a reasonable recovery from his injuries. That attack must be condemned, and I welcome the condemnation that I know comes from all parts of the House.

One does need to be careful that we do not get away from the basic principle of recruitment on merit. The key issue is to ensure that people from every part of the community are encouraged to apply, and I believe that has been done. The groups that have applied through recent recruitment to the Prison Service — for example, to the prisoner escort and custody service and to other opportunities over the last year — have been more representative, but they are not yet fully representative. That work has to continue.

Mr McCartney: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as an fhreagra sin. Thank you very much, Mr Speaker, and I thank the Minister for his answer. The voluntary exit scheme and, indeed, the recruiting procedures came from an Anne Owers recommendation. Does the Minister agree that it is vital that recruitment continues to ensure that we tackle the customs and practices, which need to be replenished and refreshed?

Mr Ford: Yes, I certainly agree that recruitment has to be continued. Members will be aware — at least, they will if they have been following things in the Justice Committee — that a number of vacancies are being addressed by recruitment. Indeed, last Friday, there was a passing out parade from the college that is now Hydebank Wood of another class graduating for the escorting service. There is ongoing work on that, but I accept that there are issues that tie in with things like overtime and the flexibility that that provides, as opposed to the numbers of mainstream staff in post. Those are continuing issues as we deal with the difficult budget situation that NIPS and, indeed, the whole Justice Department have.

Mr McCrossan: I thank the Minister for his answers so far. I am sure that he would agree that it is very important that the Prison Service reflects the entire community in its workforce. What is the percentage of Catholic and female recruits?

Mr Ford: I do not think that I can give exact figures at this stage. The last figures I saw were from June 2012, and, at that point, 80% of staff were seen as Protestant and 79% were male. There has been a significant turnaround, but I cannot give the figures for the most recent recruitments. By March 2016, the overall percentage of Protestants was 78%, which is still a very high proportion, although the numbers of recruits have changed that slightly. At that stage, the percentage of males was down to 72% from 79%. So there has been modest progress. The intakes have certainly been significantly more representative, but overall, given the limited numbers that have been recruited, it has not made a huge difference.

Mr Hussey: I thank the Minister for his responses so far. I, too, condemn those who terrorised the prison officer recently. Terrorists terrorise in an effort to discourage people from joining the Prison Service or the Police Service, for that matter. How many prison officer posts will be available to be applied for in the coming year?

Mr Ford: I do not have that information at this stage, on the basis that we do not know how many retirements and resignations there will be or, indeed, the precise details of how the budget will apply across the services. Active recruitment is proceeding. If I am in a position to give any more information, I will write to Mr Hussey with the full details.

Animal Welfare Legislation

3. **Mr McQuillan** asked the Minister of Justice to outline the benefits of the inclusion of animal welfare legislation in the Justice (No. 2) Bill [NIA 57/11-16]. (AQO 9854/11-16)

Mr Ford: The Justice (No. 2) Bill, which is before the House, will increase the maximum prison sentence for animal cruelty cases heard in the Crown Court from two years to five years. The maximum sentence in the Magistrates' Court for certain animal cruelty offences will also increase from six months to 12 months, and the maximum fine will increase from £5,000 to £20,000. Increasing the maximum penalties available will act as a significant deterrent, and it sends out a strong message that animal cruelty will not be tolerated in our society. Northern Ireland will have the toughest penalties for animal cruelty of any region of these islands.

Mr McQuillan: I thank the Minister for his answer. Minister, how can you guarantee that those penalties will be used to the maximum when someone is found guilty of committing such a crime?

Mr Ford: Members will be aware that the Minister cannot do anything to guarantee how sentences will be used. The decision in any individual case will be for a judge, but such a significant increase in the maximum penalty is sending out a clear message from the Assembly, as the legislative body, to those who pronounce sentences of the expectation of a significant increase in those that are given.

Mr Dallat: I thank the Minister for his answer, which is very welcome. Does he agree with me that there is an enormous task to be undertaken in educating those people who still believe that it is OK to cause cruelty to animals, whether they are domestic or wild animals? Does he agree with me that we should get on with the task of making it clear, in the widest possible way, that cruelty to animals, wherever it is, is evil and wrong?

Mr Ford: I certainly agree with Mr Dallat that there is an enormous task in dealing with the small number of people who believe that such behaviour is acceptable. The overwhelming public response to the proposals to enhance sentences shows where the vast majority of our people are. I am not sure how much of a role the Department of Justice has to play in educating people except insofar as, through the work being done between the Department Justice and the Department of Agriculture on enhancing sentences, we are sending out a clear message, which I believe will be well

publicised by social media, the press and broadcast media.

3.00 pm

Mr Patterson: Given the case of Cody the dog near Moira and the utterly disgusting attack on Tiger the cat in Hillsborough last week, will the Minister agree that sentences must be handed out by the courts that reflect public revulsion at the people who commit such crimes?

Some Members: Hear, hear.

Mr Ford: I do not think that Mr Patterson was in the Chamber earlier when we were debating the Justice (No. 2) Bill when the issue was touched on by a number of Members.

It is, of course, right that we as the legislature should send out a message by enhancing sentences, but I need to be very careful about suggesting that I would tell any judge the precise sentence that should be awarded in any particular case.

Equal Pay

4. **Mrs Dobson** asked the Minister of Justice what discussions about equal pay he has had with the Minister of Finance and Personnel, or with officials in the Department of Finance and Personnel. (AQO 9855/11-16)

Mr Ford: Although I have written to and corresponded with the Finance Minister, I have not spoken directly to him or his officials on any particular proposal. I have always been, and remain, fully supportive of a centrally driven and centrally funded solution. It is a matter for the Department of Finance and Personnel, not the Department of Justice, as it affects staff across a number of Departments and other bodies.

Mrs Dobson: I thank the Minister for his answer. He will be aware that I have raised the issue with him on a number of occasions, yet those affected are still waiting. I appreciate that the issue affects staff in other Departments. Can he outline, however, what actions he has taken on behalf of those staff in his Department who still contact all of us on the issue?

Mr Ford: As I said, I have corresponded with the Finance Minister, but, fundamentally, the issue is one for the Department of Finance and Personnel, as an issue of Civil Service pay in general. There are staff in the Department of Justice who are affected. Probably by now, there are staff affected in each of the other 11

Departments. Only the Department of Finance and Personnel can set the arrangements. I have responded to the draft Executive paper that the Finance Minister circulated on 19 February, but that paper has not yet been considered by the Executive.

Mr Allister: What does the Minister think it says to those staff that, for five years now probably, the issue has been talked about but not acted on and passed from one Department to another. Yes, the primary responsibility no doubt does lie with DFP, but can the Minister update us on whether the Executive, of which he is a member, have yet discussed and agreed a paper that the Finance Minister claims has been placed before them?

Mr Ford: I thought that I had just made it clear to Mrs Dobson that the Executive have not discussed that. Moreover, the issue has not been passed from one Department to another. The issue is for DFP, and DFP has prepared draft papers that have not yet been discussed by the Executive.

Psychoactive Substances Act 2016

5. **Mr Dunne** asked the Minister of Justice for his assessment of the Psychoactive Substances Act 2016. (AQO 9856/11-16)

6. **Mr Lyttle** asked the Minister of Justice for his assessment of the impact that the Psychoactive Substances Act 2016 will have on the justice system. (AQO 9857/11-16)

Mr Ford: With your permission, Mr Speaker, I will take questions 5 and 6 together.

The Act is not a replacement for the Misuse of Drugs Act; rather, on top of existing legislation, it adds another means of combating the sale and distribution of so-called legal highs. Those substances, which frequently contain completely new chemical compounds with unknown dangerous properties, can and do cause serious harm, and even death. It is often the case that those experimenting with recreational drugs are misled into thinking that such substances are safe.

By making any psychoactive substance automatically illegal — other than a small number of exemptions, such as alcohol, nicotine and caffeine — the new legislation will make it very difficult indeed for the so-called head shops to continue to ply their harmful trade. The legislation will considerably enhance the enforcement powers available to use

against those intent on supplying those harmful substances right across the UK.

The Act focuses on possession with intent to supply and does not create an offence of simple possession, except in a custodial institution.

As for the impact of the Act on the justice system, the main effect will be on the ability of the police to move more quickly and effectively against head shops and other dealers of psychoactive substances. Following Royal Assent on 28 January, my Department and organisations across the criminal justice system have continued to prepare for the coming into force of the Act on 6 April.

Mr Dunne: I thank the Minister for his answers. Following on from the experience of similar legislation in the Irish Republic, can he assure us that the new legislation will be effective and that the police and other agencies, including councils, will have the necessary resources to carry out enforcement? The main issue is that the police now have to scientifically prove that a substance is psychoactive.

Mr Ford: Yes, although, in the first instance, the issue is ensuring that anything that might be psychoactive can be dealt with. I cannot guarantee the resources that will be provided to local councils, but I can tell the House about a recent visit that I paid to Queen's University to see work being done between Queen's and Forensic Science. As part of a particular project, it was possible to identify something like 75% of psychoactive substances with a relatively simple laser-imaging test. The precise details of the physics and chemistry are a bit beyond me, but what was clear was that it was saving significantly on the resources, meaning that only one sample in four would need to be subjected to the full resources of Forensic Science. I think that that is an example of positive partnership. I am delighted that it was funded by the assets recovery community scheme, and I think it is the kind of good work that is helping to keep Northern Ireland at the forefront against new psychoactive substances (NPSs).

Mr Lyttle: I thank the Minister for his answer. Does he agree that the Psychoactive Substances Act is a clear demonstration that we will not allow the lives of people in our community to be put at risk by these dangerous and, at times, fatal psychoactive substances? Does he agree that those who seek to distribute them can expect to be brought to justice?

Mr Ford: I welcome the question and I think, as was highlighted by Mr Dunne, that this is an issue where UK legislation has learned from the Irish experience, which is not always the way in which legislation is made in these islands. It was as a result of good cooperation across a number of agencies, including involvement that the DOJ had in pressing the Home Office to learn the lessons of the Irish. Between ourselves, the Scots and the Home Office, I think that we now have good legislation. Clearly, there is a lot to do to ensure that it is made fully operational, but I believe that it is very beneficial that the Home Office listened to the experience that we highlighted and became aware of the alternative ways of addressing it. A combination of good policy work and good scientific advances will help the fight against these dreadful substances.

Mr Lynch: Go raibh maith agat, a Cheann Comhairle. Can the Minister detail the number of groups and organisations that receive funding to tackle the problem of these substances?

Mr Ford: I thank Mr Lynch for the question. The key issue is the funding for the scientific work being done by Queen's. I know that there are a number of cases where PCSPs are working. We had good examples — pioneering work, almost, for the UK as a whole — from Belfast City Council's environmental health department, so there will be a number of different bodies carrying out that kind of work. The key issue is to get a joined-up approach to ensure that people work together. Clearly, when one looks at some of the work being done by PCSPs in action plans on drug problems, one sees that the issue of NPSs features in quite a few of them.

Mr Maskey: Go raibh maith agat, a Cheann Comhairle. Does the Minister agree that the need to move very efficiently and effectively to ban such harmful substances is very important indeed?

Mr Ford: Yes. I appreciate the point, but the serious issue is that, previously, individual substances had to be banned effectively by name or chemical formula. We are now in the position that the ban is absolute. Until a substance is proven not to have a psychoactive effect, it is illegal unless it falls within the small list of specified substances that I highlighted earlier, including nicotine, alcohol and caffeine, which is, perhaps, a lesson to those of us who had an extra cup of coffee at lunchtime.

Prison Service Reform

7. **Mr McCarthy** asked the Minister of Justice what plans he has to build upon the progress made in reforming the Prison Service since 2011. (AQO 9858/11-16)

Mr Ford: On 1 March, I hosted an event to mark the end of the formal prison reform programme. With 90% of the recommendations signed off, we have seen significant progress, and the prison system today, in Northern Ireland, is very different from the one that I inherited on devolution in April 2010.

For too long, the challenge of prison reform in Northern Ireland was kept by direct rule Ministers in the "too difficult drawer", with prisons focused on the task of containment rather than rehabilitation. Devolution gave me the opportunity to address the issue head on, and, with the prison review team (PRT) report as the catalyst, we were able to make rehabilitation and transformational change the primary focus of our prison system. However, prison reform is not complete. We have merely come to the end of the first phase. The job over the next ten years and beyond is to embed that change and deliver the end-to-end transformational change envisaged by the prison review team in 2011.

Mr McCarthy: I thank the Minister for his response and congratulate him on implementing so many of the reforms. Can I ask, now that the end of phase 1 has been implemented, if the Minister can advise the Assembly what we can expect from phase 2, as we go forward?

Mr Speaker: You can ask a supplementary, Mr McCarthy.

Mr McCarthy: Thank you.

Mr Ford: I am not quite sure that I would describe it as "phase 2", as Mr McCarthy says. In the conclusion of the work of the prison review oversight group, there were five key strategic themes on which the Prison Service will focus to ensure that the reform is embedded. The first theme is leadership; recognising the importance of building a strong and effective leadership, including home-grown leadership, in particular. The second theme is purposeful activity. We have seen progress made around learning and skills, particularly in Hydebank, but much more remains to be done.

The third theme is equality and diversity to ensure a better outcome for prisoners and, as we talked about earlier, a workforce that better represents our society. The fourth theme is that

a fit-for-purpose prison estate, with 21st-century accommodation, is central to all of our plans. The fifth theme is partnership with healthcare and recognising that strong relationships with healthcare colleagues who are working to a common goal are vital to ensuring that we make progress in the prisons.

Mr Milne: Go raibh maith agat, a Cheann Comhairle. Does the Minister agree that progression and regression are easily identified by any critical read of Anne Owers's prison reform review?

Mr Ford: I certainly agree with Mr Milne that not all involved in prisons are seeking to move at the same pace or in the same direction, but, as I said earlier, I think that we have seen significant improvements recently. The fact that we have signed off on 90% of the recommendations of the prison reform programme is a clear indication of the positive work that is being done. Of course, some of it will involve partnership elsewhere around learning and skills and healthcare, and a lot of it will involve the provision of capital funding from the Department of Finance and Personnel, as well as the work that needs to be done within the Prison Service and DOJ. So, there is a considerable amount to be done, but I am confident that we are moving in the right direction.

Mr A Maginness: I welcome the significant progress that has been made in prison reform. It is very, very important, because it was long neglected. Would the Minister consider inviting Anne Owers back to Northern Ireland to review what has been achieved to measure it against her original recommendations? Would that be welcomed?

Mr Ford: It is certainly an interested idea in the sense that the PRT was put together to produce recommendations, and the issue of how those recommendations were handled was left to the oversight group, with specific involvement from CJINI and the Regulation and Quality Improvement Authority (RQIA). I am not sure how bringing back the reform team or Anne Owers, individually, would be the appropriate way to move forward. She seems to be fairly busy with some duties she has in policing across the water. However, it might be an issue for my successor to think about in another year or two, perhaps.

Mr Speaker: Mr Paul Givan for a quick supplementary.

Mr Givan: Thank you, Mr Speaker. When the Minister talks about reform to ensure a workforce that better represents the community, what does he mean?

Mr Ford: I mean just the same as we mean in the context of the reforms that we have seen in recent years around the Police Service, for example, to ensure that the workforce in prisons is broadly representative of the community outside.

It is clear, as I indicated earlier, before, I think, Mr Givan was in the Chamber, that, although there had been improvement in the representative nature of those recruited recently, the overall balance of the workforce in prisons is not as good as we would wish it to be. That said, we have to acknowledge the challenges presented by the threat that is still imposed by terrorism outside that make it particularly difficult for some people to apply to join the Prison Service.

3.15 pm

Mr Speaker: That brings us to the end of the period for listed questions. We now move on to topical questions.

Prison Officers: Terrorist Threat

Mr Givan: Continuing the line of questioning about prisons, I should say that, whatever religion you are, you have properly represented the community when you have been a prison officer irrespective of whether you are Protestant or Catholic; that should not come into it.

T1. **Mr Givan** asked the Minister of Justice for an update on the terrorist threat to prison officers. (AQT 3651/11-16)

Mr Ford: I must just address Mr Givan's first point: in no way was I suggesting that an individual officer could not be a fit officer whatever their background is, but the overall numbers are not as representative of the community as we would wish them to be.

The threat to prison officers, as to police officers, stands at severe, as it has since the point of devolution. We witnessed on Friday a week ago on the streets of Belfast just how significant that threat is.

Mr Givan: In light of the ongoing severe terrorist threat to prison officers, does the Minister regret entering into what was heralded

as the "August agreement" with the republican prisoners of Roe House, given that it has failed and that terrorist activities targeted towards those prison officers have continued day after day and year after year? He entered into an appeasement policy with the prisoners back in August.

Mr Ford: Since I did not enter into an appeasement policy, I do not regret it. There was an honest and genuine attempt to reduce the tensions that existed in Roe House. It was made absolutely clear that progress in making different arrangements for prisoners would be dependent on threats ending, whether they were in the face of officers on the landings or on social media. That has not been the case. There has been no movement in the direction, as has been alleged by some people, of allowing prisoners to run the house. The Prison Service runs Roe House as it runs every other part of Maghaberry prison.

Senior Coroner: Recruitment and Appointment

T2. **Mr Sheehan** asked the Minister of Justice for an update on the recruitment and appointment of a senior coroner and to state whether he can give a degree of certainty about when he expects that person to be in place. (AQT 3652/11-16)

Mr Ford: Members will be aware that there are a number of issues relating to the Coroners Service that are under way, in particular the fact that a High Court judge has been assigned to hear one of the early inquests. There is a County Court judge as well. It is not just an issue of a senior coroner on the traditional pattern; it is a matter of the significant strengthening of the Coroners Service by the movement in of other, more senior judges to take on the more difficult cases, which, I believe, should give us all confidence.

Mr Sheehan: Go raibh maith agat. Gabhaim buíochas leis an Aire as a fhreagra. Will the Minister tell us whether he believes that the coroners office has sufficient resources to deal with all outstanding legacy cases at the moment?

Mr Ford: I thank Mr Sheehan for that point. I have made it fairly clear on a number of occasions publicly and on every occasion, I think, when I have met the Secretary of State since November last year that the Coroners Service requires a significant increase in resources to carry out its work in a way that

would provide a speedy resolution to the number of legacy inquests which are resting. Members will be well aware of the work being done by the Lord Chief Justice to ensure that that work is done as efficiently as possible. Since he assumed the presidency of the court, there has been a lot of engagement around that, but it is absolutely clear that the money for that has to be the money that was offered by the Prime Minister over a year ago, which we have not yet seen forthcoming. I will continue to make that case to the Executive, the Northern Ireland Office and, I hope, ultimately through them to the Treasury.

Mr Speaker: Question 3 has been withdrawn within the appropriate protocols.

Unanswered Questions to the Minister of Justice

T4. **Mr I McCrea** asked the Minister of Justice, given that this is his last Question Time, to outline an occasion when he has not passed the buck to another Department, stating that the answer does not fall within the remit of his Department, and, on this occasion, tell us how many times he received questions that he could have answered but did not answer. (AQT 3654/11-16)

Mr Ford: The answer to the latter is "Zero". If people ask me questions about matters that are operational responsibilities for the police or the PPS or are the responsibilities of other Departments, I will not answer them.

Mr I McCrea: I am not surprised by the Minister's answer, but, surely, given that he has announced that he will not take on the job of Justice Minister after the election — that is dependent on the electorate, of course, but nonetheless — surely he will have to accept that there have been questions that may not have come under his direct responsibility that he could have answered in respect of policing matters or other aspects of justice instead of passing the buck. Surely he has to accept that there have been occasions when he has done that. Will he, at least, admit to that and maybe answer some that he has passed the buck on in the past?

Mr Speaker: It is entirely a matter for the Minister if he wants to address that or not.

Mr Ford: Mr McCrea started off by saying that the decision on whether or not I was Justice Minister was one for the electorate. Actually, it is not; it is one for me. Whether I am an MLA is

an issue for the good people of South Antrim; whether I am Justice Minister I have made fairly clear. The rest of his question merited the same kind of answer as I had just given to the first bit.

Psychoactive Substances Act 2016: PSNI Use

T5. **Mr Beggs** asked the Minister of Justice whether the PSNI has, as of yet, utilised the new Psychoactive Substances Act 2016 to shut down retail operations such as that in East Antrim that was selling bath salts and plant food. (AQT 3655/11-16)

Mr Ford: I am afraid that I can answer that one, even though it is actually an operational issue for the police, on the simple basis that the legislation comes into force on 6 April, so I can assure all Members that the PSNI has not made use of it, though I can report, as I have done previously, that the PSNI and environmental health officers have made good use of consumer safety legislation previously.

Mr Beggs: I thank the Minister for that information. I am aware that, in Larne, young people who congregated and bought such items were involved in shoplifting etc to fund the exercise and often came into Larne from other locations using public transport. My question to the Minister is a bit wider. In Hydebank, young people who may have become addicted to such drugs ultimately entered the criminal justice system. Can the Minister tell me what testing goes on there to ensure that such drugs are not still entering Hydebank and adversely affecting the behaviour, mental health and well-being of many of our young people there?

Mr Ford: That is not just a question relating to new psychoactive substances; that is an issue relating to the way in which prisons deal with drug threats in all circumstances. There is a rigorous programme of drug testing of individuals in prisons, particularly if anybody has been out on home leave, and of searching, as appropriate, visitors and prisoners coming in and leaving. All of that is done to reduce the drug problem, but there is no doubt that there is a widespread drug problem in this society, and prisons are not immune from that. All prisons can do is seek by the use of technology, indicator dogs and searching to ensure that they prevent substances coming in and by ensuring that searching is carried out in a way that deals with them if substances are on the premises.

Mr Speaker: Mr McCausland is not in his place, although I should say that he contacted us outside the approved time frame to attempt to get the question withdrawn.

Colin Worton

T7. **Mr Kennedy** asked the Minister of Justice, given that he is reaching the end of his tenure as Justice Minister, whether he will reconsider the case of the Newry and Armagh constituent Mr Colin Worton and his long-standing campaign to finally clear his name. (AQT 3657/11-16)

Mr Ford: I fully appreciate the number of representations that have been made, not least by Mr Kennedy, about Mr Worton and the manner in which he stood trial and was not convicted of a serious offence some years ago. I understand the comparison that is made with others who were wrongfully convicted and received compensation for serving subsequent sentences. It is not an issue that I believe I can address. It has been through all the appeal mechanisms and has been referred through the appropriate ways in which legal cases can be dealt with, and I regret that I do not think that there is anything I can do to assist Mr Worton.

Mr Kennedy: I thank the Minister for his response. Can he outline any possible options open to Mr Worton in pursuit of his very justified campaign for justice?

Mr Ford: I appreciate Mr Kennedy's use of the term "very justified campaign" and we can all have sympathy for Mr Worton, but, in fact, he is in no different a position to many other people who were charged and then found not guilty. There is no provision under the law of any part of the United Kingdom for compensation payments in those circumstances, and, as far as I can see, he has exhausted all potential legal remedies to deal with it. Whilst one can, at a human level, have great sympathy for Mr Worton — his case has been well made — I do not believe that any further route can be adopted.

Justice Achievements

T8. **Mr Dickson** asked the Minister of Justice to highlight some of his achievements during his time in office, given that he referred to the Justice Department that he inherited at the point of direct rule and, a number of years on, not only has he not passed the buck on very difficult decisions but he has driven the Department of Justice forward, leaving us with

a faster and fairer justice system for everyone.
(AQT 3658/11-16)

Mr Ford: I am sure, Mr Speaker, that it would take me far longer than the two minutes that you would allow to list all the achievements. *[Laughter.]* However, I can think of the very significant reforms to the prison system that have been under way for some time; the significant achievements that were announced around youth justice following on from the youth justice review in my earlier statement today; and, dare I say it, dealing in a reasonably equitable way with the difficult issue of funding legal aid. All those issues were not exactly easy, but I believe that we have seen significant improvements in those areas. I think that a number of the measures in the previous Justice Act and in the Bill that, I trust, will become an Act in a few minutes, plus Royal Assent time, will also continue to make matters much better for this community.

Mr Dickson: Minister, will you agree that, in addition to the issues that you have highlighted as successes since you took office from the point of direct rule, there have been some very dark days in your role when you have had to deal with the families of police officers and prison officers who have lost lives, lost limbs and been injured? There are many others who perhaps are not known to us but are known to you. Minister, would you like to comment to the House on those aspects of the difficulties of being Justice Minister in Northern Ireland today, 18 years on from the Good Friday Agreement?

Mr Ford: We should certainly recognise the very significant progress that has been made since that Good Friday. We should also recognise what I believe has been progress made in the Department that was left as "too difficult" in 1998 and only saw devolution in 2010. In my time as Minister, I attended the funeral of David Black, a murdered prison officer; the funeral of Ronan Kerr, a murdered police officer; the funerals of others who have died in the course of duty; and the funerals of two members of an Garda Síochána, who were murdered by terrorists operating on a cross-border basis. We should fully acknowledge that a significant problem remains with a small number of those who have not accepted that this society has moved on, and we should ensure that we provide support to those who are leading the fight to ensure that we become a normal society, particularly those who wear police and prison officer uniforms.

Mr Speaker: I call Mr Alban Maginness. We may not have time for a supplementary, I am sorry.

3.30 pm

Prison Service Wages

T9. **Mr A Maginness** asked the Minister of Justice whether he is prepared to review the wages paid to prison staff so as to attract and retain people in the Prison Service, in light of the fact that, at the Justice Committee, Monica McWilliams and Patricia Gordon both said that one of the problems with retaining new prison staff was the fact that wages were too low.
(AQT 3659/11-16)

Mr Ford: There is something particularly pleasant about my last question at Justice Minister's Question Time coming from someone who has been a member of the Committee since the beginning and played a significant part on it. It is good not to be discussing legal aid with him.

I take his point about pay rates for new staff in the Prison Service. With retention and recruitment, that has been looked at and will continue to be looked at. I have no doubt that my successor will have decisions to take on that in the next year or so.

Mr Speaker: Thank you, Minister. That concludes your final Question Time.

Executive Committee Business

Justice (No. 2) Bill: Final Stage

Debate resumed on motion:

That the Justice (No. 2) Bill [NIA 57/11-16] do now pass. — [Mr Ford (The Minister of Justice).]

Mr Ford (The Minister of Justice): As ever when you get to the Final Stage of a Justice Bill, you have disposed of the major rows, the Committee has done its work, Committee Stage has been extensive and detailed, and Consideration Stage has dealt with difficult issues and tidying-up issues. We are happy that Further Consideration Stage was a matter of only tidying up the paperwork.

When we came to today's debate, it was hardly a debate. I am not sure that it was a love-in, as somebody described it, but it was certainly a recognition of good work being done. Notably, one representative of each of the five parties on the Committee spoke almost uniformly in exactly the same place.

It was no surprise that Alastair Ross managed to get in his mention of a problem-solving approach at an early stage. I trust that he will keep my successor fully on his or her toes to ensure that we move on that and expand on the good work already done, particularly among young people. Raymond McCartney highlighted the issue of the Prison Ombudsman, in which he has taken an interest for a number of years.

Alban Maginness, backed by Danny Kennedy, suggested that others in this place should take note of the work being done by the Justice Committee and the way it worked together and dealt with difficult issues. That is absolutely right and merited. Stewart Dickson made a point on collaboration on firearms, which was not somewhere where there was easy agreement at an early stage. We should recognise those significant issues.

The only minor point of disagreement, I think, was the suggestion that the Prison Ombudsman was done fairly slowly — it was mentioned in the Hillsborough Castle Agreement of February 2010 — but, when you have a 38-year deficit of legislation to put through, not everything gets done in the first year or two. I am extremely pleased, although I am not sure that the position the Prisoner Ombudsman would have been in over the last few years would have been any different had this legislation gone through. Both Prisoner Ombudsmen whom I worked with as Minister were given their full place and recognition.

I think that everybody said that the Bill came to this stage only because of diligence, hard work and the cohesive efforts of a significant number of people. Some Members, Mr Speaker, praised your Deputy Speaker colleague. I add my thanks to you and all the Deputy Speakers for the work done alongside your staff in ensuring that matters went through cohesively.

If there was anything of a mutual love-in, it was as members of the Committee praised each other. I extend my good wishes to the two members who I know will definitely be leaving: Alban Maginness and Bronwyn McGahan. They may not be the only members who are leaving, but they are the only two who know that they are leaving at this point.

Given the length of time that he has spent on the Committee, I thank Alban Maginness for his kind words. He referred to not approving of the methodology for the election of the Justice Minister. That point of principle — I accept that it is a point of principle for him — did nothing to disrupt his good working relationship with the Minister or the Department, even if, at times, he was a bit like a barrister talking about legal aid. However, we will not make mention of anything negative.

In particular, his reference to his experience on other Committees and how well the Justice Committee has worked merits consideration by people in the Chamber who are not on the Justice Committee.

I repeat my thanks to the Chair and the Deputy Chair. I know that I am not supposed to say words like "Alastair" and "Raymond" and that I am supposed to call them by their titles, but they have been friends in a constructive working relationship. Christine, who comes in with them as Clerk of the Committee, has got on with my officials and me equally well and has made matters a whole lot better than might have been the case. I think that we have seen a significant improvement in the work of the Bill, as with every preceding Bill, by good, constructive, positive engagement and by the willingness of members of the Committee to engage with officials in the Department and vice versa. On this occasion, the amendments that came in did so when it was possible to ensure that they were put right at Consideration Stage, and any minor tweaks were fixed at Further Consideration Stage. That is absolutely the right way to work and has made things extremely positive for all of us.

I have to mention the one issue that Mr Dickson mentioned: my disappointment that we failed to address the tragic issue of fatal foetal abnormality. Various references have been made about this not being the right Bill and so on and so forth. I will not dwell on that, except to say that I fundamentally disagree with a number of the points that were made. I do think that the House will have to return to confront some of these difficult moral issues and work out how we meet those needs. In my remaining week or two, I look forward to working with the Minister of Health, Social Services and Public Safety on the promised working group looking at abortion law. That aside, I think that we have seen positive engagement and compromise producing significantly good legislation, not just in this Bill but in a number of other Bills.

Quite a number of good wishes were passed in my direction as well as those of the mutual

love-in amongst the Committee members. I thank those Members for saying that. It reminded me of the point when I was elected Minister and stepped down from Antrim Council. For the first time ever, six members of the council said nice things about me on the day that I left. Clearly, I should resign more frequently and then more people would say nice things about me.

Mr Allister: Hear, hear.

Mr Ford: The problem is that I am not sure that Mr Allister would say anything nice about me even if I did resign.

I do, however, feel that it is appropriate that I should betray one personal confidence, Mr Speaker, and I trust that I will not embarrass the Member too much. You may recall that Alastair Ross was indicated to be the incoming Chair of the Justice Committee some weeks before he actually took up the post. The day that he took up the post, he sent me a text message that said something along the lines of, "That's me in the Chair now; I shan't call for your resignation for at least a week". I have managed a little longer than a week. Some of his colleagues may think that it is a fault on his part that he did not call for my resignation. I have also not called for his resignation, but I do think that it is an indication of some constructive and some very positive good work.

I should just say on personal basis, if you will indulge me a little, that, given the number of good wishes that referred to whether I might be going somewhere, I should like to make it clear that the Taoiseach has not nominated me to the Seanad, whoever the Taoiseach may be. The last offer that I got of a seat in the House of Lords came from the then leader of the Ulster Unionist Party in 2005. I declined it and have not had one since. As far as I am concerned, subject to the wishes of the good people of South Antrim, I have every intent of going nowhere at all but coming back here after the election to take up a different role in the Assembly. I trust that those Members, particularly the members of the Justice Committee, who have shown such positive engagement with the incredibly difficult issues that the Department of Justice and the Committee have to deal with, will show the same positive support for my successor as they have shown me. With that, I commend the Bill to the House.

Question put and agreed to.

Resolved:

That the Justice (No. 2) Bill [NIA 57/11-16] do now pass.

Welfare Supplementary Payments Regulations (Northern Ireland) 2016

Lord Morrow (The Minister for Social Development): I beg to move

That the draft Welfare Supplementary Payments Regulations (Northern Ireland) 2016 be approved.

I am seeking the Assembly's approval for the Welfare Supplementary Payments Regulations (Northern Ireland) 2016. These regulations are being brought in under article 137 of the Welfare Reform (Northern Ireland) Order 2015 and will make provision for mitigating changes to welfare benefits introduced under articles 57 and 101 of the order. The draft statutory rule was approved by the Social Development Committee on 10 March. The regulations have been made following the publication of the welfare reform working group proposals on how the Executive should help the most vulnerable as a consequence of the introduction of a number of changes to the welfare system. I would like to thank Professor Evason and her colleagues on the working group for the work completed within a limited time frame in bringing forward recommendations to the Executive, which were subsequently endorsed on 21 January.

These regulations will enable the Department to implement mitigation payments to claimants impacted by the benefit cap and employment and support allowance (ESA) time-limiting measures. The benefit cap will restrict the total amount of benefit paid to a household to £26,000, and the cap will be applied through a claimant's housing benefit. The main out-of-work and child-related benefits that are included when calculating the benefit cap are jobseeker's allowance, income support and employment and support allowance, except where the support component has been awarded. A household is exempt from the benefit cap if they are entitled to working tax credits or a range of disability-related benefits.

Mitigation payments will be made to families who are receiving more than £26,000 a year, providing that they have been continuously in receipt of any combination of the welfare benefits that contribute towards the calculation of the cap from 31 May 2016 until the point at which they are impacted by the cap. That will include families who may initially have been exempt but who later lose that exemption and

are impacted by the cap, and families who are initially below the cap level but for whom a change in their circumstances later causes their benefit income to exceed the cap.

Claimants will receive a payment equal to the amount by which their benefit is capped through reduction to their housing benefit, so there will effectively be no loss of benefit. These payments are transitional in nature and are intended to assist claimants with the transition from the current benefit system to the new welfare system. Households will continue to receive welfare supplementary benefits at the same level unless the amount by which their housing benefit is capped is reduced. In cases where there is an increase in the amount by which the housing benefit is capped, claimants will be able to apply for a discretionary housing payment for the restriction in the amount of housing benefit not covered by a mitigation payment. Discretionary housing payments are extra payments to help people to pay their rent.

I now turn to the time-limiting of employment and support allowance. Members will be aware that, if a claimant is receiving contribution-based employment and support allowance and are in the work-related activity group, the amount of time they can receive the benefit will be restricted to 12 months. If a claimant is in the support group, the time-limiting restriction will not apply, and they will continue to receive benefit as long as they remain in this group. Claimants who are no longer entitled to contribution-based employment and support allowance because of the new provision may be eligible for income-related employment and support allowance. In many cases, that will be paid at the same rate, which means that claimants will not experience a reduction in their benefit entitlement as a result of the change.

The amount of the welfare supplementary payment to mitigate employment and support allowance time-limiting will be either: the difference between the amount of the contribution-based employment and support allowance and the new award of income-related employment and support allowance; or a payment equal to the award of contributory employment and support allowance where there is no entitlement or no claim made to income-related employment and support allowance. Entitlement to a payment will be reviewed if a claimant subsequently has a new or increased award of income-related employment and support allowance. Further measures recommended by the working group to mitigate welfare reform are currently being prepared with a view to being those presented

to the incoming Executive following the Assembly elections.

3.45 pm

Mr Maskey (The Chairperson of the Committee for Social Development): Go raibh maith agat, a Cheann Comhairle. I thank the Minister for bringing these regulations to the House.

Members are very aware that the forthcoming reform of our welfare system will be the biggest change to our benefit and tax credit system in over 70 years. From its initial consideration of the Welfare Reform Bill, which concluded in February 2013, the Committee for Social Development, like all Members of the House and numerous stakeholders, was particularly concerned about how such radical reform would impact on the most vulnerable people in our society. It has been a long process to agreeing a way forward on welfare, and, admittedly, there has been much disagreement along the way.

Discussions moved from the policy arena to the political arena, eventually emerging in the Stormont House Agreement and subsequently the Fresh Start Agreement. Following the Fresh Start Agreement, the Committee received a briefing, on 4 February 2016, on the recommendations of the working group on welfare reform mitigations, led by Professor Eileen Evason and her team. It was agreed that the recommendations of the working group would be fully implemented. In order to do this, secondary legislation is, of course, required.

The statutory rules being considered today are the first of a number of packages of such rules, as the Minister mentioned, that will underpin the agreed mitigation measures. The intent of these particular rules is to alleviate the reduction in benefits incurred as a result of the introduction of the benefit cap and time-limiting of contribution-based employment and support allowance, which is due to be introduced here from 31 May 2016. Latest estimates indicate that it will affect around 400 households. That is a very important, necessary and welcome mitigation measure. Similarly, mitigation payments will be available to claimants of contribution-based employment and support allowance on the day on which the new time-limiting provision comes into operation. This, we understand, is expected to be in October/November 2016.

On 3 March 2016, the Committee received a briefing from the Social Security Agency on the proposed regulations, and it was agreed that

the Committee was content for the rule to be made. It subsequently considered the statutory rule at its meeting on 10 March 2016, and there were no objections raised by members of the Committee. Indeed, we had a presentation at the same meeting from the Social Security Agency, which outlined a comprehensive range of measures that it is undertaking, in conjunction with the independent advice sector, to make sure that everyone who may be affected by the changes — as I said, the biggest changes in 70-odd years — is aware.

The Social Security Agency is undertaking a comprehensive range of actions, from advertising on TV and in the local media to briefing advice workers right across the Six Counties. It is working with all the disability advocate organisations to ensure that any transitioning from disability living allowance (DLA) to personal independence payment (PIP) is done in a way that does not further harm, hinder, hurt or traumatise people who have been affected in various ways through particular illnesses or disability. So, a very comprehensive range of measures is absolutely being undertaken by the Social Security Agency to advise the public as to how the changes may impact on them. In the context of these welfare payment measures this afternoon, they are also to make sure that people are fully aware of the mitigation measures — the payments that they will be entitled to — as a result of the Fresh Start Agreement.

Chair, with your indulgence, I will now speak as a member of Sinn Féin and an MLA, having made my earlier remarks as Chairperson of the Social Development Committee. Again, I welcome the measures tabled this afternoon. These measures obviously represent the product of an agreement that was fought for long and hard. Not everybody in the House signed up to it, but I would simply say that a lot of what I have heard so far, over the last year or two, and certainly within the last number of months, is favourable, despite the fact that, just a few months ago, this Assembly was on the point of collapse on one particular key issue. That was failure to reach agreement on the welfare cuts that were being imposed by the British Government, but we reached an agreement. We have the institutions. Critically, in the context of the discussion this afternoon, that agreement reached a mitigation package — "an envelope", as people describe it — of £585 million over four years. That will be formally reviewed within three years, to check whether we are doing the right thing or need to do more. That will be evidence for another day's discussion.

Crucially — I think that it was very important here — a panel of experts, led by Professor Eileen Evason, was established and asked to examine the measures that might be required to ease the burden for people who have a number of children, low-income families, the disabled, the sick and so on and so forth. The expert panel was asked to look at how best they could use the money that we secured for a mitigation package. For me, the most important aspect of this is that the panel are experts in welfare and benefits: they are not party political hacks or people with a view. Whether that view is legitimate is not the point. The point is that we had a panel of experts, which we agreed would, hopefully, depoliticise the argument so that none of the measures being recommended or introduced would be subject to party political haggling.

To the credit of the then First Minister and deputy First Minister they agreed, in advance, to endorse and implement the recommendations produced by the panel led by Eileen Evason. I do not think that anyone could level any criticism against that panel of experts. The panel did a lot of hard work and I want to place on record my commendation to them for taking on the onerous task and coming up with very fair recommendations designed to blunt the worst aspects of the Tory cuts coming from London.

We all accept that these cuts have been imposed by London. Some may choose to ignore that, but the reality is that the British Government are responsible for welfare. We had it transferred here within very narrow confines, and we understand the principle of parity, which, essentially, boils down to the British Government saying that if we want to do anything different in terms of welfare we will have to get their agreement and pay for it ourselves. That is precisely what has been done in this case through the Fresh Start Agreement.

I think it is important that we remind the House that we have secured an additional £500 million of funding which we will put towards front-line public services. We also secured a budget of £585 million from within our own grant, which was set aside for very important mitigation measures. That, of course, will add to the range of flexibilities that we previously secured. Those were flexibilities that we had been asked for, and had been lobbied for, and which many of the parties in the Chamber here agreed to fight for. They included split payments, fortnightly payments, and payments for rent being paid directly to landlords. All of those very important measures will alleviate the

burdens of people facing the cuts and restrictions that the British Government initially wanted to impose on people here. Therefore, it was very important to have secured those mitigations and flexibilities some time ago.

I do not think that any party in the House could deny how difficult a job it was to secure that range of flexibilities in the first instance. I have heard people in the Chamber talking in terms of how they had great friends in Lord Freud and in all the rest, and that he was a great listener. I met Lord Freud in his office in London on more than one occasion, and I can assure anybody that there was no quick fix or easy rollover from him or anybody else, no matter how good a listener they indicated they were or wanted to be. So, none of those flexibilities, which were secured through negotiation, were delivered easily or conceded easily. They were hard fought for and hard won, and I am glad that we have them.

We also secured very important limitations on the sanction regime that the British Government wanted to impose as well. We have taken off the worst of the sanctions that are being imposed in England, Scotland and Wales. We have also made sure that things will be less onerous for single parents who, for example, apply for jobs, due to the fact that our circumstances here are fundamentally different than they are in Britain.

It is on that basis that my party wants to support these measures this afternoon. It is an absolute nonsense to tell people out there that welfare powers have been given over to the British Government. Everybody here knows that the British Government have the ultimate power over welfare issues here. They did threaten to introduce, and were on the point of introducing, a welfare reform Bill just a few months ago. People can choose to ignore that if they wish, but it is a hard reality.

I am pleased to say that I have spoken to the mitigations panel, to trade union representatives and to a lot of people in the community and voluntary sector and no one wants the cuts imposed. Everybody accepts that they are being imposed by London, and most people will welcome the fact that parties here came together in negotiations and fought a long, hard battle to make sure that we blunted the worst excesses of the cuts coming down the track from London.

Further cuts will be brought in by the British Government, as we heard even over the last weekend, and they are still considering new ways of punishing the poor. We know,

regrettably in our view, that the current British Government were elected with a mandate, and they are an unfettered Tory Administration. I am not even arguing that the Lib Dems, who were with them previously, did any blunting.

Mr Douglas: I thank the Member for giving way. He was in Coleraine last week with the Social Development Committee when it talked about the implementation in May and June of this year. Does he agree with me — maybe the Minister will respond on this as well — about the importance of independent advice for those claimants? The advice agencies do great work across Northern Ireland; I am thinking of the East Belfast Independent Advice Centre in my area. Those organisations need support from the Assembly.

Mr Maskey: I totally agree with the Member. It is worth reminding ourselves that the measures recommended by Professor Eileen Evason's panel represent around £8 million, which is no small amount of money in the scheme of things. Five million pounds of that will be directly allocated through district council advice centres, and the independent sector is in there. The remainder will be distributed at a regional level to the bigger organisations. That has to be tailored to meet the need — in other words, to ensure that all that money goes to the front line of advising people who may well be affected by the changes and some of the cuts in the time ahead.

I welcome the regulations. None of us wants to see any of the cuts being imposed on people. A lot of us can be quite satisfied — I would not say "pleased" — that we have done our best to ensure that we have lessened the burden as best we can in the face of an unfettered Tory Government being elected in Britain with, unfortunately, a mandate to cut benefits and public services. That is their mandate, and it is worth reminding ourselves of that. We will all argue that no one in this society in the North — the Six Counties — approved that mandate. I am glad to say that, widespread throughout civic society, people here lobbied the political parties hard to do our best to blunt the worst excesses of the cuts coming from the Tory Government. I am satisfied that we have managed to do that. Rather than making statements that, in my view, are empty rhetoric, I will make it clear that the people who were involved in this recent negotiation have secured important flexibilities in respect of universal credit and so on. They have secured very important financial protections for those who will suffer the bigger loss from some of the cuts being imposed to the tune of half a billion pounds over the next four years. We can be

reasonably satisfied that we have secured that. There is no other similar system or mitigation measure in place in England, Scotland or Wales. To that extent, we can be grateful that we have managed to secure that here. We represent people here; we do not represent people anywhere else. I am pleased that we managed to secure the mitigations, the money for the independent advice centres, as Mr Douglas reminded us, and the flexibilities that have been built into the system to make things much easier. I look forward to the public awareness programme being rolled out by the Social Security Agency in conjunction with the independent advice sector and others in the very short time ahead.

Clearly, as time goes on, we will address, as and when they arise, the further cuts that may well be imposed. Neither I nor anyone else in the Chamber can make any further commitments at this point; we will simply have to see how further cuts are imposed, what their impact may be, who will be worse off and so on. I have no doubt that, having demonstrated our ability to do our level best to mitigate thus far the worst cuts coming from London, we will continue to endeavour to do that in the time ahead. Even if there are no further cuts to be imposed over the next three or four years, we will, within three years, formally review the mitigation package to see how effective it has been and what else we may need to do.

The people who were involved in the Fresh Start Agreement have delivered a package that, I know — it is not a matter of belief — is, quite clearly, second to none in these islands. That is important to state. We would have loved to be able to do more. I have heard a lot of other commentary, but empty rhetoric makes for empty purses. That agreement puts money into the pockets of the most vulnerable. I am pleased that we can stand over that today.

4.00 pm

Mrs D Kelly: The final note from Mr Maskey was about empty rhetoric making for empty purses. One of his latter comments was that they could make no further commitment on any future welfare cuts. That is a far cry from the rhetoric of Mr Adams, his party leader, when he said that no current or future claimant would be adversely affected by welfare cuts. If they want to look for empty rhetoric, they do not have far to look.

In relation to the regulations, we in the SDLP are pleased that many of the recommendations contained in the Evason report reflected the amendments that were tabled by our party and

others to mitigate the worst excesses of the welfare proposals. We are pleased that they have been largely adopted. As you know, Mr Speaker, they were petitioned against by the DUP and Sinn Féin, so one wonders what the last year or so has been about, apart from further delay and uncertainty.

Last week, the Minister's Department gave a very good presentation to the Social Development Committee about how it would inform people. It took on board some of the concerns of members in terms of the communication, the telephone number and how it will communicate, in particular, with people with visual impairments. I look forward to those considered comments being reflected in the final communication strategy. People are already coming to our constituency offices with concerns about discretionary payments and housing benefit. People will pick up on the debate today on the regulations and on the announcement by George Osborne on his future proposals in relation to DLA and PIPs. A lot of people are concerned. I hope that the Minister has plans in place for front-line staff to be trained. When we recently met senior staff at the Housing Executive, there was a great deal of uncertainty and grey areas on just how they were all going to be rolled out. As far as possible, we want to allay people's anxieties and concerns.

One of the big concerns in the news today is the fact that there is to be more strenuous testing in the move to PIPs from DLA. Sinn Féin can make no commitment on any future proposals or reforms that the Tories will introduce because they have been gifted that power by the DUP and Sinn Féin. The legislation does not have to come before this House for detailed scrutiny. Before the Minister leaves office, will he write to the Department for Work and Pensions and Mr Osborne to look for some exemptions from whatever they are going to do? Thousands of people who have to cope with a devastating prognosis and diagnosis around chronic and enduring conditions will never get better. Let us face it: people with MS or Parkinson's disease, those who have been left with debilitating conditions after a stroke, people who have learning disabilities and people who have chronic mental ill health, including psychotic-type illnesses, will never have the full lives that we would hope that they would have. They have to cope with a devastating prognosis for the rest of their life. Those of us who have represented people at appeals know about the stress that affects individuals who have to appear before such appeal panels. They are made to feel as if they have a begging bowl out. They have to prove

before that panel the level of the disability that they have and the pain that they endure.

Will the Minister commit to writing to point out that, at the very least and as a starting point, there should be exemptions for chronic and enduring conditions that are life-limiting and for which there are no miracle cures? I seek that commitment from the Minister.

I thank the Minister and others for the opportunity to speak today, but, again, there is a lot of uncertainty. We are coming to the end of the mandate, and too much time has passed to reassure people that they will be able to continue with the income receipts that they currently enjoy and about how time-limited it will be. These are some of the first questions that people will ask. We all know that the Tories talk about having to make work pay. That is all very well, but, over here in the North, we have not had the same success with our economy as has been enjoyed elsewhere in these islands. We do not have those well-paid jobs, and many people are still trapped in the benefits system. I make a special plea to the Minister in relation to further cuts are coming down the track.

Mr Beggs: As others said, this is part of the biggest change to the welfare system affecting everyone in the United Kingdom in 70 years. Major changes will be undertaken in Northern Ireland within a matter of months. I, too, pay tribute to Professor Eileen Evason and her working group for their welfare reform mitigation suggestions. One of the outcomes of their work are the new regulations to try to protect against the worst aspect of the changes and to allow people additional time to adapt to the new financial situations that will befall them. However, we all have to recognise that there is a limited amount of funds. The mechanism that has been chosen that will best help most people will give assistance for up to one year. I turn to the ESA contribution-based time limit that is in these regulations. Additional support will be given to assist people who may be affected by those changes, and I generally welcome that.

On the benefit cap changes and the mitigation in the regulations, I notice that, at part 2, regulation 4(6) states that the mitigations will end on 31 March 2020. It is important that there is recognition that significant change is afoot and that choices are made when we pay funds into this area. Mitigation is being given to protect, in particular, families with children. Nevertheless, this support is time-limited. We have to recognise that some have been receiving very large amounts of benefits. Information given to the Committee showed that

one household was earning over £47,000 a year. This legislation will give a degree of protection, but everyone needs to recognise that there are no certainties.

On housing benefit assistance, I see that there are proposals that the additional benefit must be paid through a landlord who is registered under the landlord registration scheme or, alternatively, the Housing Executive or a housing association. That is correct. It is important that people who are receiving support should be in bodies or working with landlords who are properly registered and meet the required standards, that public money is limited to those people and, ultimately, that, when landlords do not behave as required, they risk losing their registration and, as such, their tenant.

I also see, under the miscellaneous section of the regulations, that there are other changes to the requirement for individuals to be present in Northern Ireland. Under the heading, "Temporary absence from Northern Ireland", the time limit will be the first four weeks of absence unless there are medical issues or treatment happening. If there are, the period will be extended to 13 weeks. The four-week limit is a sensible proposal.

There is concern that some have been using and abusing benefits in Northern Ireland. The ability to receive funds for four weeks when not present seems reasonably generous. I would not wish for someone to come to Northern Ireland, receive benefits, be here for a very limited period and continue to receive benefits. So, I can see why that change has come in in other parts of the United Kingdom and give general support to the four-week period being introduced here, with the adjustment for those who have to travel outside Northern Ireland because they are receiving medical treatment.

I give general support to the proposals.

Mr Attwood: I concur with all the comments made by other Members about the work undertaken by Professor Eileen Evason and her team. I spoke to her and other members of the team, and they were working to a very tight time frame and in very heated circumstances over the Christmas period. The work undertaken by her in particular and by her colleagues in general was mighty.

In one way it is appropriate that, in the very last hours of this mandate, we go back to the issues that have, in some ways, defined this mandate, namely need, welfare dogma, the authority of the Assembly in those matters, and the

outcomes that we have reached. It is appropriate to come back to those because, and I say this rather guardedly, we have not seen the half of it. Even if that is not the case, there is certainly more to come.

You have only to read the commentaries over the weekend in advance of the Budget this week to get a sense of where London is positioning itself so soon after the Budget statement. The speculation over the weekend was that the Chancellor would propose in this week's Budget to save £1.2 billion by reforming personal independence payments to the detriment of over 600,000 disabled people. So, having been given false reassurances in the autumn statement, five or six months later we learn of the next phase of welfare reform and welfare cuts that may work itself across the Irish Sea and into the lives and homes of people here.

Given that the Chancellor got it so wrong six months ago, is it not possible, indeed likely, that he will get his call wrong this week as well on where the economy in Britain and Northern Ireland is going? Is there not a possibility that, six months from this week, whoever is in the Chamber will be back again, discussing the next measure that the Chancellor wishes to propose in respect of further budgetary cuts?

4.15 pm

For all those reasons, given London Treasury ambitions and where the economy in Britain and Northern Ireland is, we may well have more pain to swallow beyond what is announced this week. Remember that, whilst the Chancellor wants to pretend that it only means a cut of 50p in every £100, he deliberately neglects to tell everybody that, because certain areas of revenue and budget are protected, that 50p works out at a lot more for those areas that are not protected. In all that you can see a sleight of hand by the Chancellor to hide the true intentions behind what we will discover by the end of this week.

It is utterly remarkable that anybody in this Chamber could say, as a consequence of the mitigation:

"we have lessened the burden ... of an unfettered Tory Government".

Inasmuch as there is £500 million-plus going into mitigation, that is true, but it is not true to claim in the House that we have lessened the burden of an unfettered Tory Government when this Assembly, last November, handed to an

unfettered Tory Government the ability to make law on welfare for this part of the world. How dare anyone say to anyone in our community —

Mr Maskey: Will the Member give way?

Mr Attwood: In a second. How dare anyone say to anyone in our community that we have lessened the burden of an unfettered Tory Government when we gave power to an unfettered Tory Government to do their worst? You cannot reconcile those comments. How dare anyone in this Chamber say that no one approved that Tory mandate? No, we did not approve that mandate. We did something worse; we gave the Tories their mandate by handing them the power to legislate on welfare in Northern Ireland. I will give way.

Mr Speaker: I will intervene. I want to remind the House what it is that we are discussing. I do not want to rehearse debates that we have had already. We are discussing a statutory rule. I just point that out. You have yet to address that topic, Mr Attwood, and, unless you do, fairly soon, I will intervene and move on.

Will your intervention bring us back to the topic or are you responding to what I regard as another topic of discussion?

Mr Maskey: I had intended to respond briefly, given the inaccuracy —

Mr Speaker: I would rather you did not. I would rather that this stopped here and now and that we returned to the topic. Thank you.

Mr Attwood: Respecting your ruling, Mr Speaker, this is how what I have just said comes right back to the proposals that are being brought by the Minister to this Chamber. I have a question for the Minister on what he is proposing, given what is happening to people in the work-related activity group on ESA. As the Minister is aware, within the last two weeks, the London Government invoked what they refer to as the rule of financial privilege to block House of Lords proposals to resist the reduction of employment and support allowance for people in the work-related activity group from £103 to £73 a week. On two occasions, the House of Lords — that is what we have to rely upon now — blocked proposals by the London Government in the Welfare Reform and Work Bill that will mean a reduction from £103 to £73 a week for people in the ESA work-related activity group. That will apply from April next year for new claimants.

Will the package that the Minister is proposing this afternoon have any impact on any of those people in the work-related activity group, who, on the far side of this legislation, will see their ESA reduced from £103 to £73 a week? That is my question to the Minister, and very relevant it is to the proposals he is making this afternoon. In that answer from the Minister, which I await with interest, will the narrative on all this become clear? The legislation going through Westminster, which this Chamber signed off on in November without a moment of oversight at that time or since, is going to result in that sort of impact on the people in this part of Ireland who are in the ESA work-related activity group, unless I am completely wrong. I am asking the Minister to confirm these questions: is that going to be the case for that category of claimant? Will that category of claimant, in any shape or form, be given any protection whatsoever through the proposals that are being tabled today and that will continue until 2020?

More than that, if there is a reduction from £103 to £73, which is £30 a week and £120 a month, for those relevant qualifying claimants, will they get a penny of mitigation in the new measure that the London Government forced through Westminster by relying on the principle of financial privilege to block the House of Lords? That is the measure of Tory dogma on welfare, and it is the measure of impact that will be upon our citizens. Against that sort of measure, people will need to know whether there will be any penny of mitigation on the far side of the proposals the Minister is making this afternoon.

My second question goes back to the bedroom tax. I want the Minister to be unambiguous — absolutely certain and clear — about this question. On previous occasions, his predecessor indicated in the House that there might be a category of person who is subject to the bedroom tax and who might not get mitigation in full for that tax. Then it transpired, and I welcomed this, that there appeared to be more certainty in the point that every citizen who was subject to the bedroom tax would get mitigation in full. Some new doubts have arisen about this, so I ask the Minister to be comprehensive and unambiguous in his reply and to confirm: is it or is it not the case that every tenant who is subject to the bedroom tax will get additional funding for each and every penny of the penalty of that tax? Is that or is that not going to be the case, or is there, even at this late stage, some potential that some tenants will not get mitigation in full? I ask the Minister to answer those two questions in his reply. The bedroom tax has been the most punitive of nearly all the measures being

proposed by the British Government. In that regard, having certainty, even at this late stage, would be welcome.

Mr F McCann: I will try to be brief on this. I am someone who, from the very outset —

Mr McQuillan: *[Interruption.]*

Mr F McCann: Thanks, Adrian.

I am someone who, since coming into the Assembly, has argued against the introduction of welfare cuts not only in this place but in many public meetings. That is despite the fact that members of the party that just spoke were behind the first introduction of welfare reform in this Building, which included ATOS coming in to oversee the assessments and the sanctions against the tens of thousands of people who have been penalised because of infringements on benefit, as they see it.

We are here to talk about a statutory rule, but in discussions, and even in what they said today, they did not offer a proposal that would bring one pound extra into people's benefits. As a matter of fact, during all the discussions that took place, they were the complete opposite. It is easy to stand up in here and say that you put forward amendments and proposals, but the time to do that was when the discussions were going on between the political parties.

What we are talking about today is freeing up money to allow people to get the additional mitigations. I would have liked the House to be unanimous in that decision so that people could understand what a panel of experts has put together.

Maybe Dolores, who has just left, was at the meeting — maybe she was not, as she was not at that many — when Eileen Evason of the panel said that the bedroom tax was finished. I take it for granted that what those experts said — those experts who were brought in to look at how we can mitigate effectively the worst excesses of welfare reform — sent us a clear message that, although they might not have been fully happy, because they would have liked more money, they were introducing mitigations, within the confines of the money available, that would work for people and give them some help to overcome those worst excesses.

We obviously need to get the regulations through, as we need to ensure that people get the benefits. The tale will be told by the people

out there who will get the additional help that the regulations will ensure that they get.

Mr Allister: It is worth reminding ourselves and the public that the regulations form part of a package that, far from putting new money into the pocket of NI plc, will in fact, over the next four years, take half a billion pounds out of our block grant — out of our expenditure on schools, health, roads and other vital services — for the exclusive purpose of siphoning that money into welfare mitigation measures.

The public need to be aware that that is what the Assembly is being invited to, and it undoubtedly will, vote through, or start a process of voting through, this afternoon. It is a raid on the block grant for that specific purpose, and it is done by a process from which there was very deliberate and calculated abdication by the proponents of the Fresh Start Agreement. Rather than have the courage of their convictions to see through into regulations and to define the details of the mitigations, they abdicated that responsibility to Professor Evason and her team, and they did so in a manner in which, not knowing what she would come up with, they nonetheless blindly committed themselves to accepting whatever she came up with, such was their desperation not to have their own fingerprints on, or the authorship of, whatever was produced. That, no doubt, was to save the blushes of some who had made rash, unsustainable promises about no one now or in the future suffering as a result of welfare cuts. Therefore, part of the political answer to that was to abdicate to the professor and her colleagues the responsibility for deciding how and where the axe would fall and how and where mitigation would arise.

4.30 pm

So what we are doing today is the remarkable outcome of a process where the Ministers in the Executive, before they knew what was in the mitigation package, had committed themselves to accepting whatever it was. The Social Development Minister is but a surrogate, bringing forward the proposals that he and his colleagues had committed themselves to accepting, whatever they might be. That does not speak of government to me. It certainly does not speak of good government, and it does not speak of due scrutiny by an Administration. Rather, it speaks of face-saving and passing the buck. That is what we are seeing.

In these proposals, there is another element of face-saving, because even though Professor

Evason produced a unified package of proposals, for the purposes of putting them through this House they have been divided up so that, today, we only have part of her package of proposals: those dealing predominantly with the welfare cap. Other aspects of her proposals have, significantly, been pushed down the road beyond the election. Of course, there is a reason for that, because one of the most obnoxious proposals is that there should be special points given to perpetrators of terrorism — to victim-makers, who, in order to protect their benefits, should be gifted an extra four points when they are transferred across to PIP to ensure that they do not suffer.

It is an obnoxious proposal, and one with which the Minister does not want to dirty his hands this side of the election. Therefore, that aspect of the proposals has been carefully and deliberately pushed to beyond the election, when the Minister knows he will be gone, and someone else can dirty their hands with that proposal. He will wash his hands of it today, by bringing forward only that which excludes it. It is perfectly clear to anyone what is going on.

So not only have we had an abdication in bringing us to this point, and a face-saving and a washing of hands, but we have had a very deliberate pushing down the track of that obnoxious part of the proposals which the Minister and his party do not want to be seen in ownership of on this side of the election. They know and I know that they are in ownership of it, because they have already committed themselves to the implementation of it. When this House returns, be it with a different Minister or whatever, there are those who hope that, because the election will be gone, it will be less controversial for them to be seen to be dirtying their hands with it, but their fingerprints are all over it.

Lord Morrow: Mr Speaker, I will endeavour to deal with the issues that have been raised today. We have heard a lot of them before, and a lot of the stuff that we heard did not have much relevance to what we are debating today. I think your own intervention was a very timely one, and it brought some Members back to what we are here to discuss and debate today. Whether we can say there is consensus or not might be stretching it a little bit, but at least some have spoken and could see exactly what was trying to be achieved through these regulations. The Executive Committee and the Social Development Committee have adopted a fairly positive stance in relation to what is on offer and what these proposals are all about.

Mr Maskey said something that needs to be corrected. He spoke of a package of, I think, around £585 million: the package, over the four-year period, is £501 million. It is proper that we put that on record.

When Mrs Kelly — Dolores Kelly — got up to speak, she got into a spat with Sinn Féin. I have no interest in entering that spat, at this time anyway, because how they come down on the issue is a matter for her party and Sinn Féin. However, she raised some issues that merit a reply. Maybe, I should reply to those. She commented on the training of staff. I think she asked directly whether staff would be trained to deliver all welfare supplementary payments. That is a pertinent question, and it merits a response. I can tell her in the positive that the Department is working on a detailed training plan that will be tailored to individual job roles and will ensure that staff are adequately trained to administer the welfare supplementary payments, as well as the new benefits introduced as part of the welfare reform, including personal independence payments. I hope that she takes some comfort from that and that that reassures her to some degree.

I was not sure what Mr Attwood was driving at at times, but I suspect that it had more to do with the election than with what we are discussing today. It was quite unbelievable that, in all of his mutterings and rambling from Dan to Beersheba to try to articulate a case, he said — I think Mrs Kelly said the same thing — that this was very late in coming to the Floor, right in the mouth of an election. You are absolutely right, but we could have had this debate a year or 18 months ago, had your party, in particular, stood up and acknowledged what everybody else seems to be acknowledging today: when it comes to financial matters, London is in charge; London is in control. We have never shied away from saying that; those are the facts of the matter. However, it took until today to get the SDLP, in particular, to acknowledge that fact. During all of his contribution, there was not one mention of the exorbitant fines that were imposed because the SDLP would not stand up and face facts. They are standing up today. Then they accused some of us of holding this off until virtually the last day of the term. We had no alternative. Had Mr Attwood, who takes the lead on the issue, given his party different advice, we could have been over this hurdle 12 months ago, at least, and the millions and millions and millions that were lost because of his inadequacy and his refusal to stand up and be counted would not have been lost. I hope that Mr Attwood takes that on board.

At times, I cannot understand where people are coming from. How many times do they have to be told that the bedroom tax does not apply in Northern Ireland? In fairness to Fra McCann, he was the one who said so, after some people mentioned it. It was Fra McCann who pointed that out, I think, but that seems to have been lost on Mr Attwood. I hope that you have got the message today, at least, that the bedroom tax does not apply in Northern Ireland. Furthermore, he asked if everyone would be mitigated. The answer to that, Mr Attwood, is very clear: the Northern Ireland Executive confirmed in 'A Fresh Start: The Stormont Agreement and Implementation Plan' that underoccupancy or:

"the social sector size criteria – the so called bedroom tax – will not apply"

in Northern Ireland. I hope that that goes on the record. The welfare reform mitigations working group, led by Professor Eileen Evason, welcomed that provision of full mitigation of the social sector size criteria for Northern Ireland Housing Executive and housing association tenants. I am considering options that will deliver the Executive's commitment that current and future claimants will not be impacted by the social sector size criteria. I hope that that is also useful.

The Member also asked about employment and support allowance. The best that I can give you today on that is that I will look at it and write to you with details of when the payments will be made to claimants affected by the removal of work-related activity group payments. You can expect some detail from me on that one to make sure that we have the details right.

Mr Attwood also asked whether all claimants would receive a mitigating payment if affected by the benefit cap. I can tell him that a claimant with children who is affected by the benefit cap will be entitled to a mitigating payment, provided they had been continuously in receipt of a relevant payment from this date. The Member asked specific direct questions, and I have tried to answer the ones that I can today directly to him. On the one that I cannot answer, I will come back to him in writing at a later date.

Roy Beggs generally welcomed what we were trying to do, and we thank him for that. He also acknowledged that changes are afoot and there are no certainties. That is a profound statement. I think that it is true: there are no certainties. I think that it was Mrs Kelly and Mr Attwood who referred to the Chancellor bringing more proposals: how true. That just reinforces

what some of us have been saying for a long, long time: when it comes to matters financial, London is in control. Some of us have acknowledged that for a long time, and others found it difficult to come to that position, but that is the truth of the matter.

Mr Allister said that I was trying to put stuff back until after the election. No, I am not trying to put anything back beyond the election — absolutely not. If the SDLP and Sinn Féin had stood up, we would have had this through a long time ago. There is a time factor that we just cannot get round. Time is not on our side. No, Mr Allister, I am not trying to put something back until after the election — absolutely not. I know that you now agree with me on that, so you do. *[Laughter.]*

Mr Allister: I am laughing at you.

Lord Morrow: Well, you can laugh. It would not be the first time that you have done that. Let me say that I hope that you acknowledge that and at least accept that we make an honest effort to get on with what we are trying to do and get it through the House. It is not of our making that we are standing here today: had the SDLP and Sinn Féin got their house in order, we could have been here 12 or 15 months ago. Some of them have now come to that position and accept that London is in charge when it comes to financial matters.

I hope that I have responded to the issues that were raised on the Floor. However, if I have not, we will take a close look at Hansard to see whether there is any issue that should have been addressed and has not been.

The regulations enable the Department to implement mitigation payments to assist claimants impacted by the benefit cap and employment and support allowance time-limiting measures. The measures mean that claimants will be given time to adjust to the impact of welfare reform by providing financial support for up to one year for claimants affected by employment and support allowance time-limiting measures and support for up to four years for claimants affected by the benefit cap. The measures are unique to Northern Ireland and demonstrate our determination to protect the most vulnerable, putting us ahead of the rest of the UK in efforts to do so. Further measures to mitigate welfare reform are being prepared and will be presented to the incoming Executive following the election due to there being no time to do it before then.

I have already outlined why that is the case.

I take this opportunity to thank Members for their interest in the regulations. I hope that they will support them to enable mitigation payments to be made to those affected by the benefit cap and employment and support allowance time limit measures. I commend the motion to the House.

Question put and agreed to.

Resolved:

That the draft Welfare Supplementary Payments Regulations (Northern Ireland) 2016 be approved.

4.45 pm

(Mr Deputy Speaker [Mr Beggs] in the Chair)

Driver and Vehicle Agency Trading Fund Order (Northern Ireland) 2016

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

That the draft Driver and Vehicle Agency Trading Fund Order (Northern Ireland) 2016 be approved.

The order before you today will rename the Driver and Vehicle Testing Agency (DVTA) Trading Fund as the Driver and Vehicle Agency (DVA) Trading Fund and will extend the current funded operations to cover all the remaining functions of the agency. That will bring within the scope of the trading fund driver licensing, taxi and bus licensing and regulation and compliance and enforcement of the transport industry. The order is made under powers contained in the Financial Provisions (Northern Ireland) Order 1993. I will briefly set out the background to the order.

A vehicle testing trading fund has been in place since 1 April 1996. It is the only trading fund in Northern Ireland and covers, as set out in the Driver and Vehicle Testing Agency Trading Fund Order, all the previous DVTA functions. In 2007, DVTA merged with DVLNI to form the Driver and Vehicle Agency. My Department confirmed at that time that it was not legally necessary to change the scope of the trading fund to include all of DVA, and there was agreement with the Department of Finance and Personnel that DVA would operate as a part-trading fund agency. In effect, there was no change as to how DVA operated with testing functions in the trading fund and licensing functions outwith the fund. However, it was

recognised that there would be practical difficulties to be overcome as regards the ring-fencing of trading fund activity and the accounting arrangements. It was, therefore, agreed that the situation should be reviewed in due course, and, today, the Assembly is presented with the outworking of a review process undertaken by my officials as recommended by internal audit.

On balance, it concluded that the whole of DVA should be considered as within the scope of the trading fund, as it is believed that that change has considerable benefits to DVA from both a strategic and operational perspective. In addition, by expanding the range of functions in the order, it will considerably simplify accounting and operational procedures and bring the business focus that a trading fund is designed to engender to all DVA activities. It also supports the work to address the historical legacies from the merger of DVTA and DVLNI and for the agency to operate as a single cohesive entity making best use of all its available resources.

Given the changes to Northern Ireland Civil Service Departments about to take place, the DVA functions as defined in the schedule to the new trading fund order will allow sufficient flexibility to provide for any additional agency functions falling to the new Department for Infrastructure to be considered for inclusion in the trading fund.

In moving the remaining DVA activities into the trading fund, there are a number of key advantages worth highlighting: it allows DVA to adopt a more business-like funding arrangement; it gives more financial flexibility to manage peaks and troughs in fee income; it allows the accumulation of reserves for investment in future developments, reducing the need for departmental funding; it enables a greater focus on projecting funding requirements to help management in the delivery of demand-led services; and will see a single set of combined annual accounts reporting the results for a single agency.

It is also important to note that my Department has not identified any disadvantages for DVA or its customers in making the change to the current trading fund.

In moving the motion today, I believe that it is important that DVA is fit for purpose as it moves forward in coming years in providing a professional, affordable and responsive service to all its customers in the North, who deserve nothing less. I am in no doubt that, by making this change to its trading fund, we will provide

the means for that goal to be achieved. I commend the motion to the Assembly and ask that it affirm the order.

Ms Lo (The Chairperson of the Committee for the Environment): I welcome the opportunity to outline the work that the Committee has undertaken on this statutory rule. The Committee considered the consultation for the draft regulation at its meeting on 2 July 2015. It requested that the Department provide it with a synopsis of responses when that became available. The Committee considered the synopsis of responses at its meeting on 5 November and noted that only two responses were received, which were broadly supportive of the proposals.

The Committee formally considered the rule at its meeting on 29 February. As the Minister outlined, the rule renames the DVTA trading fund as the Driver and Vehicle Agency trading fund and extends its scope to the whole of the DVA, bringing in driver licensing, taxi and bus licensing and regulation, and compliance and enforcement of the transport industry. The Committee noted that the Department laid the synopsis of responses in the Business Office as required by article 10(4) of the Financial Provisions (Northern Ireland) Order 1993, and the Department of Finance and Personnel is required to approve the rule. As no concerns were raised during the Committee's considerations, it recommends that the draft regulation is approved by the Assembly.

Mr Durkan: I thank the Chair of the Committee. I ask the Assembly to affirm the order.

Question put and agreed to.

Resolved:

That the draft Driver and Vehicle Agency Trading Fund Order (Northern Ireland) 2016 be approved.

Local Government (Community Planning Partners) Order (Northern Ireland) 2016

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

That the draft Local Government (Community Planning Partners) Order (Northern Ireland) 2016 be approved.

The draft Local Government (Community Planning Partners) Order (Northern Ireland)

2016 is being made under section 67(1) of the Local Government Act (Northern Ireland) 2014. Section 67(2) of the 2014 Act provides that a draft of the order must be laid before and approved by a resolution of the Assembly. The draft order makes provision for the Department to specify certain persons and bodies, the functions of which are exercisable in the district of a council, as community planning partners of that council. The named community planning partners will work with the 11 councils in the operation of their duty of community planning. From 1 April 2015, councils are required to make arrangements for community planning in their areas, and the Local Government (Community Planning Partners) Order (Northern Ireland) 2016 will ensure that key organisations are statutorily part of the process.

While the council has responsibility for facilitating and managing the community planning process, the development of and delivery on the community plan is a shared task between all partners and the council. Community planning partners will be members of the council's community planning partnership and will attend the partnership meetings. Those attending the meetings will be expected to work to agree a community plan. All partners, statutory and non-statutory, will be expected to fully participate in developing community plans and, in doing so, to take a broad view of the needs of the district. It will be a matter for each council to decide upon an appropriate governance structure for its area.

The draft order was subject to an eight-week consultation during late 2014. As a result of the consultation, three organisations were, at their request and with the agreement of their parent Departments, added to the order. They were the Sports Council for Northern Ireland, Libraries NI and the Council for Catholic Maintained Schools (CCMS).

While it would have been preferable to have the order in place for April 2015, I am pleased to advise Members that its delay has not affected the successful introduction of community planning. The extensive pre-consultation and engagement work carried out by the Department and councils as part of the community planning foundation programme, coupled with the statutory and voluntary bodies' constructive response to the introduction of community planning, has resulted in the building of positive relationships. The proposed statutory partners and Departments continue to cooperate with councils in establishing community planning partnerships on a voluntary basis in anticipation of the legislation now before the Assembly for affirmation.

I am grateful to the Environment Committee for its scrutiny of the draft order. I understand that there have been reservations about the absence of Departments as statutory partners and the new role of CCMS as a statutory partner, given its membership of the Education Authority, which is also a statutory partner.

Mr Weir: Will the Minister give way?

Mr Durkan: Certainly.

Mr Weir: I appreciate and have some sympathy for the concerns raised about CCMS. However, if this legislation were to pass, would that preclude any council from including other bodies involved in the Education Authority? As I understand it, and it was an issue that we dealt with in a different way on the shared education side, CCMS was a body in statute and some of the other representative bodies were not. Would the Minister indicate whether, for example, if a council wanted as one of its planning partners the likes of the Northern Ireland Council for Integrated Education (NICIE), the Controlled Schools' Support Council or any other body of that nature, there is anything to preclude them from doing that? I suppose the only issue is that it is not named in the legislation.

Mr Durkan: I can assure the Member that councils can add to that list. It is a statutory list of people who have to be in the process, but different councils are going to have different organisations with influence in those council areas that they can also name as partners in the community planning process. My view is that the inclusion of a range of education bodies in the development and delivery of community plans, whether as statutory partners, such as those we are dealing with today, or as support partners, will help to ensure that the widest possible range of views are represented, leading to the best possible outcomes for local people and communities.

Making this order is necessary because community planning is about building effective partnerships that make a real difference to people's lives. Councils are required to establish community planning partnerships and to work collaboratively with statutory bodies and communities to develop and implement a shared vision for districts. The community planning partnerships are to provide leadership to the community planning process. A council and its designated statutory partners will identify the voluntary organisations, private sector organisations and other bodies operating in their area that they will need to help them

plan and provide services for their citizens, as well as contribute to achieving relevant regional objectives in the Northern Ireland Executive's Programme for Government. The order will support the relationships between the sectors and is, I believe, an important factor in sustaining local economic growth, social and environmental well-being, and community cohesion.

I ask the Assembly to approve the draft order.

Ms Lo (The Chairperson of the Committee for the Environment): I welcome the opportunity to outline the work that the Committee has undertaken in respect of this statutory rule.

The Committee first considered the outcome of the consultation on the proposed legislation at its meeting on 4 June 2015, when it received an oral briefing from officials. The Committee was provided with a copy of the draft regulation setting out those organisations that would be statutory partners in the community planning process. The Committee is aware that three organisations were added as a result of the consultation process, as the Minister mentioned previously. These were Libraries NI, Sport NI and the Catholic Council for Maintained Schools. The Committee raised concerns at that time that Departments were not named in the order. The Committee wrote to the Department to highlight its concerns about getting buy-in if Departments are not included in the order as statutory bodies. The Committee was concerned that this may make it difficult to deliver and implement community planning actions and objectives; for example, with no Executive targets and supporting budgets.

5.00 pm

The Committee was advised that the Minister intended to discuss the matter at the Executive with a view to gaining colleagues' agreement to develop a community planning engagement protocol that clearly establishes the nature of the relationship between Departments and local government.

Throughout its consideration of the rule, the Committee consistently sought updates from officials on the progress of the development and content of an engagement protocol. In January, officials advised that the Department had been working with other Departments to help to clarify how this requirement will be given practical expression. The Committee was also assured that all Departments have indicated consistently their commitment to community

planning, and many have underlined that commitment through proactive engagement with councils. In addition, the Committee was advised that the partnership panel's agreed work plan identifies the need to develop an engagement protocol that will formalise the local/central government relationship and help to create a positive environment. The Committee is aware that a final draft community planning protocol for Northern Ireland Departments and local government is being developed.

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

Another issue raised during the Committee's consideration of the draft order was the rationale for the inclusion of the CCMS as a statutory partner, given its membership on the board of the Education Authority, which is also named as a statutory partner. Some members expressed concern that this represented an inequality, as other educational sectors such as the integrated sector are not named as statutory bodies. The Committee was advised that some chose to pursue representation through being a support partner. The Committee asked the Department to explore whether the controlled schools support council (CSSC) could be added as a statutory partner. The body is expected to become operational during the 2016-17 financial year. However, as the CSSC will not be a statutory body and will operate within an advocacy role, it is not possible to name it as a statutory partner in the order, but it can operate as a support partner. The Committee sought clarification on the roles of statutory and support partners. Assurances were provided by the Department that the role of a support partner is no less important than that of a statutory partner in the community planning process and that statutory partners do not have bigger weighting in the decision-making process.

The Committee formally considered the draft rule at its meeting on 3 March. While the reservations of some members of the Committee in respect of these issues were recorded, the Committee agreed to recommend that the rule be approved by the Assembly.

Mrs Cameron: I rise as the DUP lead on the Environment Committee to speak on the Draft Local Government (Community Planning Partners) Order (Northern Ireland) 2016.

First of all, I thank the Chair for outlining in detail how the proposed order has been dealt with at Committee. She outlined that very

thoroughly — and I thank her for that — so I will not prolong this debate today.

The Committee was concerned that the Departments are not to be named in the order. There was certainly worry expressed about not having buy-in from the other Departments and what that might mean by way of delivery for community planning, although it was noted that all Departments are committed to the community planning principle.

Mrs Overend, in her time on the Committee, had raised a question about the rationale for CCMS being included, at its request, as a statutory partner, given that it is already represented through the Education Authority. There was certainly concern expressed about the fairness of that situation, and Mrs Overend rightly expressed her concern that CCMS may be at an advantage and possibly have two bites of the cherry. I am content, however, with the clarification provided by the Department that the role of a support partner is not of less importance than that of a statutory partner. Whilst parts of this order are not ideal, the DUP does not have a desire to stop it going through at this stage, but we will listen to the full debate today before making a final decision.

Mr Patterson: As a relatively new Member, I am told that this order came up before the Committee quite regularly over the last 12 months. I believe that it was my predecessor on the Committee, Sandra Overend, who first, rightly, highlighted the problem with the list of bodies. It was not only the omission of major bodies such as the Departments but the specific inclusion of CCMS that concerned my party. Whilst I fully recognise that the Council for Catholic Maintained Schools is a very important body in the provision and future planning of education in Northern Ireland, the difficulty that many people have with today's order is the fact that the Education Authority is also listed in the order. Following the Education Act (Northern Ireland) 2014, CCMS was awarded an integral role on the Education Authority, having four members on the board. Indeed, the Minister's own description of those positions is that they:

"represent the interests of trustees of maintained schools".

This is the fundamental point: CCMS will already have ample opportunity to engage with the community planning process through its prominent position on the local Education Authority, yet it is still to be specifically listed as a stand-alone body in the order as well. If today's order is made, it will be fundamentally

unfair, as it will give the CCMS a second bite of the cherry, whilst all other sectors are expected to engage with the process through the means of the Education Authority. The controlled sector will have to work within the authority, and I believe that the integrated sector even turned down the offer of being listed.

Let me be crystal clear: this is not some petty attack on CCMS. This is about ensuring parity in our local education system so that one system does not unwittingly develop a further advantage over another. I am disappointed that the Minister and his officials, for whatever reason, so belligerently refused to genuinely engage with my party on these concerns. I suspect that party political ideology may have once again prevented the Minister from carrying out his role in the most sensible manner. I am equally disappointed that some other parties also did not support our concerns. I want to make it clear that I oppose today's order, and I urge others to do likewise. If this order is made, it will be setting a very dangerous precedent.

Mr Durkan: First of all, I will just address the point mentioned by Mrs Cameron and expanded upon by Mr Patterson around the role or the naming of CCMS as a statutory partner. The new Education Authority, as we have heard, and the Council for Catholic Maintained Schools are among the statutory organisations named in this draft order. CCMS has been included as a statutory partner at its own request; we did not have requests from other organisations involved in education. The Department of Education is in agreement with this approach.

As an organisation, CCMS has specific responsibility for representing the educational interests within its own sector. However, its role as a community planning partner is to work in partnership with others, including the Education Authority, to produce a consensually agreed community plan, assist with monitoring and review of the plan, and seek the participation of the community in carrying out its community planning duties.

I am glad that Mr Patterson told us that this was not a petty attack on CCMS. I do not know who could have dreamt that it was such a thing, but I am disappointed to find that he and his party cannot support this order, which will enable councils to fulfil their community planning duties. The order will support the establishment and continued effectiveness of community planning partnerships and will benefit communities.

I thank the Chair and other members of the Committee who have and will be able to support this motion.

Mr Boylan: Will the Minister give way?

Mr Durkan: Certainly.

Mr Boylan: Will the Minister clarify whether there is a mechanism for review of the community planning partners within a year? Is there any mechanism to review that?

Mr Durkan: I thank the Member for that question. This order puts in statute statutory partners. As I indicated to Mr Weir when he asked a question earlier on this, councils will be able to add partners themselves as support partners. So, other organisations, who maybe do similar work to CCMS but in their own sector, will be able to be added by councils as this process continues.

Question put.

The Assembly divided:

Ayes 69; Noes 11.

AYES

Mr Agnew, Mr Anderson, Mr Attwood, Mr Boylan, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Campbell, Mr Clarke, Mrs Cochrane, Mr Craig, Mr Dickson, Mr Diver, Mr Douglas, Mr Dunne, Mr Durkan, Mr Easton, Mr Flanagan, Mr Ford, Mr Frew, Mr Girvan, Mr Givan, Mrs Hale, Mr Hamilton, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr G Kelly, Ms Lo, Mr Lunn, Mr Lynch, Mr Lyons, Mr Lyttle, Mr F McCann, Mr McCarthy, Mr McCartney, Ms McCorley, Mr I McCreagh, Mr McCrossan, Mr McElduff, Ms McGahan, Mr D McIlveen, Miss M McIlveen, Mr McKay, Mrs McKeivitt, Ms Maeve McLaughlin, Mr McQuillan, Mr A Maginness, Mr Maskey, Mr Middleton, Mr Milne, Lord Morrow, Mr Moutray, Mr Murphy, Ms Ní Chuilín, Mr Ó hOisín, Mr Ó Muilleoir, Mr O'Dowd, Mrs O'Neill, Mr Poots, Mr G Robinson, Mr Rogers, Mr Ross, Mr Sheehan, Mr Storey, Ms Sugden, Mr Weir.

Tellers for the Ayes: Mr Diver and Mr Milne

NOES

Mr Allen, Mr Allister, Mr Cree, Mrs Dobson, Mr Gardiner, Mr Hussey, Mr Kennedy, Mr McCallister, Mrs Overend, Mr Patterson, Mr Swann.

Tellers for the Noes: Mr Kennedy and Mr Patterson

Question accordingly agreed to.

Resolved:

That the draft Local Government (Community Planning Partners) Order (Northern Ireland) 2016 be approved.

Local Government (Standing Orders) Regulations (Northern Ireland) 2016

Mr Deputy Speaker (Mr Dallat): As a valid petition of concern was presented on Friday 11 March in relation to the motion, the vote will be on a cross-community basis.

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

That the draft Local Government (Standing Orders) Regulations (Northern Ireland) 2016 be approved.

The regulations are being made under section 38 of the Local Government Act (Northern Ireland) 2014. Section 127(3) of that Act provides that the draft regulations must be laid before and approved by a resolution of the Assembly. The purpose of the regulations is to set out provisions that must be incorporated in a council's standing orders for the regulation of its proceedings and business; in other words, the regulations provide for the specification of mandatory standing orders. Those add to the governance provisions already contained in the 2014 Act.

Members will be aware that the original draft of the regulations was negatived following a debate on 24 February last year. Concerns were raised during that debate, and I have given them careful consideration. My officials have revisited the content of the draft over the past year, giving detailed examination to the legal issues arising from changes to the original draft of the regulations. As a result, the regulations that I am bringing before the Assembly today include a number of amendments that I will highlight as I go.

The 2014 Act introduced as an integral aspect of the new governance arrangements for district councils mechanisms to provide protections for the interests of minority communities in council decision-making. I wish to underline the fact that the call-in of a decision is already provided for in primary legislation through the 2014 Act.

It is therefore important that councils are now provided with a consistent methodology for operating call-in. Doing otherwise could result in processes being adopted by individual councils that may not provide the appropriate protections.

The Act makes provision that a council's standing orders must specify decisions that are required to be taken by a qualified majority. A qualified majority means 80% of the votes of members present and voting on a decision. In support of that, the regulations specify decisions that must be taken by a qualified majority in addition to those already provided for in the Act.

A key mechanism for providing a protection for the interests of minority communities in council decision-making is the introduction of a call-in process. Provision for that process is made in section 41 of the Act. It provides that a council's standing orders must make provision requiring the reconsideration of a decision if 15% of the members of a council present to the clerk of the council requisition on either or both of the following grounds: that the decision was not arrived at after a proper consideration of the relevant facts and issues or that the decision would disproportionately affect adversely any section of the inhabitants of the district.

5.30 pm

The main provision in the regulations specifies the process to be adopted by a council for the reconsideration of a decision. The process covers decisions taken by a council, a committee of a council and decisions taken under executive arrangements. A minor amendment has been made to paragraph 4(1)(b) of the schedule to the regulations to specify the timescales within which a key decision taken by an officer of a council must be called in.

The initial draft of the regulations debated by the Assembly provided that a decision on a call-in made under section 41(1)(b) of the 2014 Act — in other words, a call-in on the grounds of a disproportionate adverse effect on any section of the inhabitants of the district — must be taken by a qualified majority. The main change to the initial draft of the regulations is in relation to a call-in on those grounds. In response to concerns raised during the debate, an amendment has been included to provide for a filter mechanism for called-in decisions, which must be taken by a qualified majority. Schedule 1 to the draft regulations has been revised to enable the opinion of a practising barrister or

solicitor to act as a filter mechanism to decide which called-in decisions must be taken by a qualified majority. The draft regulations now specify that, where this opinion indicates a risk that the decision is outside the powers of the council, is incompatible with EU law or convention rights or is not in compliance with the council's equality scheme in so far as it relates to equality of opportunity within the meaning of section 75(1) of the Northern Ireland Act 1998, a qualified majority is required.

A consequential amendment has also been made to paragraph 4 of the schedule to the draft regulations to take account of the proposed amendment to paragraph 1 of the schedule. In paragraph 4(8)(b), the words:

"at which it must be taken by a qualified majority"

have therefore been omitted.

A decision to suspend a council's standing orders would also require a qualified majority as specified in the regulations. A council may not, however, suspend the mandatory standing orders prescribed by the regulations in any circumstances. The specification of these additional decisions will provide further support for the protection of the interests of minority communities in council decision-making.

I wish to underline that the call-in of a decision is already provided for in primary legislation. It is therefore important, as I said, that councils are now provided with a consistent methodology for operating call-in. The regulations provide that a small number of categories of decision will not be subject to the reconsideration process. They include decisions where there is already statutory provision for an appeal against the decision of the council; for example, the granting of an entertainments licence or a planning application. Decisions where an undue delay would result in the breach of a statutory duty by a council or where such a delay would be prejudicial to either the council's or the public interest are also excluded from the reconsideration process, as are decisions that simply note a report from or the actions of an officer. The final category of decisions that will not be subject to the reconsideration process are those that must be taken by a special resolution of the council, as such decisions are required to be approved by more than a simple majority.

The third aspect of the new governance arrangements for which provision is made in the

regulations relates to the operation of either the d'Hondt or Sainte-Laguë method for filling positions of responsibility. The regulations provide the timescales for the relevant steps in the process specified in the 2014 Act. These provisions should ensure that the process for filling positions of responsibility by one of these methods at the first meeting of a council following a local election is not prolonged unnecessarily. The provision of the ability of a council to extend this time frame ensures that there is the flexibility necessary to accommodate exceptional circumstances, should the need arise.

When the 2014 Act was being considered by the Assembly, Members agreed that provision should be made for the procedure for appointing councillors to committees. This is to ensure that the membership of a committee reflects the political balance of the council. It was agreed that that should apply across all committees if a council appoints more than one committee at the same meeting.

Such an approach ensures that political parties with lower levels of representation on a council and independents have the opportunity to serve on a committee. Part 4 of the schedule to the regulations specifies the procedure that must operate in these circumstances. The procedure closely follows the provisions in the Assembly's Standing Orders for membership of Statutory Committees.

I ask the Assembly to approve the draft regulations.

Ms Lo (The Chairperson of the Committee for the Environment): I welcome the opportunity to speak in today's debate to outline the work that the Committee for the Environment has undertaken in respect of the statutory rule.

Following the Assembly's decision in February to not approve the rule, officials wrote to the Committee to outline the revisions it had made following concerns raised during that debate. The Committee considered that correspondence at its meeting on 1 October and invited officials to brief it on 8 October and 5 November.

Officials outlined to the Committee the Department's efforts to address the concern raised that the opinion of a practising barrister or solicitor did not act as a filter for decisions requiring a qualified majority when one was obtained after a request for reconsideration was made on the grounds that the decision would disproportionately affect adversely any section

of the inhabitants of the district. To address the issue, the Department revised the draft regulations to take account of circumstances where the opinion of the barrister or solicitor indicates that there is a risk that the decision is outside the powers of the council, is incompatible with EU law or convention rights or is not in compliance with the council's equality scheme. Under the revised draft regulations, a qualified majority is required, thereby providing a filter mechanism.

Some members of the Committee expressed concerns that the test for legitimacy included compliance with the council's equality scheme but not whether the decision would disproportionately affect adversely any section of inhabitants. Officials advised that they had sought legal advice on whether provision could be made to require a qualified majority on a council's decision on a call-in where the opinion obtained indicated that the members had demonstrated that the decision would disproportionately affect adversely a section of the inhabitants of the district. The legal advice concluded that that would be ultra vires.

Another issue explored by some members of the Committee was the differences and variations of equality schemes across the 11 council areas. Officials have further revised the draft regulations to provide that a qualified majority would be required where the legal opinion indicated that there was a risk that the decision would not be in compliance with the council's equality scheme, in so far as it relates to equality of opportunity within the meaning of section 75(1) of the Northern Ireland Act 1998.

Other concerns expressed by members of the Committee included the fact that the opinion of only one barrister or solicitor would be sought, because their view may differ significantly from that of another barrister or solicitor. Also, the opinion might come from someone who does not live within the council area affected by the decision. Therefore, the Committee explored with the officials the option of setting up a panel of solicitors to provide the legal opinions. At that time, officials advised the Committee that they were preparing a paper for the Minister on options for setting up such a panel. The Committee agreed to defer consideration of the statutory rule until the Minister considered this issue. On 26 February, the Committee considered further correspondence from the Department providing an update on the Minister's considerations. The Committee was advised that the setting up of a panel of solicitors could place additional financial burdens on councils and have HR implications for councils with in-house legal teams.

Therefore, the Minister concluded that it would not be appropriate to further revise the draft regulations at this stage to provide for a panel.

Officials advised that, as the policy would take some time to consider and develop, as consultation would be required on its establishment and operation, it would not be possible to reach a way forward in this mandate. The Department wanted to proceed with the making of the regulations while the work in relation to a panel was ongoing, as these elements were not dependent on each other. The Department advised that it would be beneficial to see the call-in procedure in operation for a period in order that a full assessment of the requirements could be completed and to provide a statutory link between the process of reconsidering a decision and qualified majority voting.

The Committee formally considered the draft regulations at its meeting on 10 March, noting that the rule is subject to the approval of the Assembly. Some members expressed concerns and reservations about the proposals. While the Committee recommended that the rule be approved, some members abstained.

That concludes my remarks as Chairman of the Environment Committee. I would now like to add some comments as a member of the Alliance Party. I supported the draft regulations in Committee, but it was not clear to me what the other parties' reservations were when they abstained. I will listen carefully to their deliberations during this debate. I understand the rationale for the three criteria on which a solicitor or barrister must base his or her opinion when determining whether a council decision may adversely impact on a section of the inhabitants of the district. I would hope that the councils' equality schemes would be robust enough to ensure equality and fairness to any section of the community, and that any council decision with the potential to breach conditions in the scheme would be seen by the solicitor as eligible for qualified majority voting.

I agree with the Minister that having a panel of solicitors could lead to unnecessary costs and HR implications for those councils with in-house solicitors.

Mrs Cameron: I thank the Chair for outlining the Committee's deliberations on this regulation at Committee. It is important to state at the outset that my party is concerned with this regulation — so much so that it tabled a petition of concern on the matter. The DUP would have preferred to have seen the original wording from the Bill replicated in the regulations, so as

not to move away from the intention of the Bill in relation to the call-in procedure. I understand that the revised regulation was drafted on the back of legal opinion, but the DUP is not satisfied with the move away from the wording to test the legitimacy of the call-in where it would:

"disproportionately affect adversely any section of the inhabitants".

That was the wording of the Act, which talks about:

"compliance with the council's equality scheme".

Let us not forget the real potential that we could have 11 variations of equality schemes across Northern Ireland.

I also note that the Minister has not felt able to draft regulations on the setting up of a panel of solicitors at this stage.

I regret that our party is unable to support the motion.

5.45 pm

Mr Boylan: Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom labhairt i bhfabhar na rialach reachtúla seo. I will speak in favour of this rule and the order.

It is with some disappointment, I have to say, that we had to put it to the vote in the Committee. I thought we made some progress, and I want to put on the record that, over the last five years, those in the Environment Committee have worked very well together to bring forward a number of pieces of legislation to the Assembly. I am a wee bit disappointed. After all, we are transferring powers down to local authorities and are trying to give them the best opportunities to make the right decisions for all our constituents and all in our community. It should be regarded as one community, and I think that, in bringing this forward, we had a good opportunity to do that.

To speak on the matter at hand, the purpose of the standing orders is to provide the basic operating rules that our councils should work from. It is now coming up to a year since the formation of the new councils and almost two years since the formation of the shadow councils. It is incredible that we still do not have basic standing order operating rules in place.

Standing orders for any of the councils are meant to give expression to the operational technicalities on the important safeguarding measures for minority groupings. Sinn Féin views as critically important the need for robust safeguards and checks and balances for the protection of minority groupings as envisaged under the Local Government Act 2014. The standing orders provide the detail of how exactly the powers to require councils to have decisions reconsidered will be used.

The petition of concern is opposing an amendment that was made to the Local Government (Standing Orders) Regulations to consider when a call-in is not in compliance with the council's equality scheme. This is how it reads:

"The proposed wording of paragraph 1 of the schedule to the draft regulations has now been further revised to provide that a qualified majority would be required where the legal opinion indicates a risk that the decision is outside the powers of the council, is incompatible with EU law or Convention rights" —

— this is the key issue:

"is not in compliance with the council's equality scheme in so far as it relates to equality of opportunity within the meaning of section 75(1) of the NI Act 1998".

I want to put this to the parties that are going to oppose this: I am interested in knowing why this petition of concern has been brought to the House on equality. How does ensuring equality of opportunity threaten any of us? That is the question. I have not heard anything about that so far, but I will listen to the debate. That is the key point: how does it threaten anybody?

I welcome the amendment. I think it is forward-looking and inclusive. I also welcome that, as part of the discussions, a Sinn Féin delegation and I met the Minister on 16 February and presented a paper to him on this issue. We emphasised to him that the primacy had to be afforded to the duty on equality schemes when any call-in decision was being reconsidered. On that day at that meeting, we reached what I thought was a consensus that the amendment needed to be included. I welcome the cooperation with the Minister on that.

The amendment is included to safeguard equality as defined in section 75(1) and to ensure the primacy of the equality of opportunity in all matters relating to community planning. The key part of section 75(1) talks

about protecting all members of our society regardless of age, gender, religious background, political affiliation, race, sexual orientation, marital status, disability status or, indeed, dependency status.

Mrs D Kelly: I thank the Member for giving way.

This really goes to the heart of why some of us were quite reluctant to give additional powers to local councils. We have seen the abuse of power so often in the past on local authorities — for example, on funding for some groups. It was Arlene Foster, in fact, who said that these protections were critical to the review of public administration legislation when she was Minister of the Environment. Is the Member, like me, at a loss to understand why the DUP would not only vote against the regulations but put down a petition of concern?

Mr Boylan: I thank the Member for her intervention. I totally agree. As I said, I cannot understand it.

I want to say this again, because it is important. I want to know, from those Members who are opposing the regulations today, how ensuring equality of opportunity threatens any of us. I will listen when they rise to speak to hear why. I read out the section 75 groups, and I would like to hear some answers from Members that explain to me how the regulations threaten any of us. If we look at the make-up of councils right across the North, what might suit one might not suit another, and we could be setting precedents here. The Minister has taken the time to try to deal with the matter effectively, so I will listen to Members to hear how they answer my question and deal with the issue in respect of constituents and minority rights.

The amendment is to ensure that measures to promote equality of opportunity are not diluted, discontinued or otherwise prejudiced on the basis of concerns that they will impact on good relations.

This is the second time that there has been a petition of concern on the matter, and that is very disappointing. I support the Minister in bringing forward the regulations.

I take this opportunity to thank the Chair for the way in which she has chaired the Committee for the Environment over the past number of years and wish her every success in whatever she desires to do in the future. I also thank Alban Maginness for his contribution to the Committee and to society in the North of Ireland. I wish him the very best for the future.

Mr Deputy Speaker (Mr Dallat): I call Mr Alban Maginness. In doing so, I plead with Members to afford the Member speaking the courtesy of being listened to.

Mr A Maginness: Thank you very much, Mr Deputy Speaker. I thank Mr Boylan for his kind words to my good self.

The Environment Committee works extremely well under the very capable leadership of Anna Lo, and I have adverted to that before. Pam Cameron as Deputy Chair has played a significant role in the work of the Committee.

It is regrettable that we have this political disagreement over the regulations that the Minister has reintroduced. I know that they were defeated last February. On foot of the motion on the regulations being negatived then, the Minister and the Department worked assiduously to try to remedy the problems that were highlighted during the debate. It is a tribute to the Minister that he was big enough — tall enough — to deal with the issue, show political flexibility and try to be conciliatory in his approach to the political problem. I understand that colleagues in the DUP have a problem with the new draft regulations presented to the House, but, along with other colleagues throughout the Chamber, I am at a loss to understand at this point the nature of their objections.

I think that there is an onus on those who object to the regulations to come to the House, and, in a straightforward, intelligible fashion — I am not trying to impugn Mrs Cameron's presentation — outline what the problem is with the revisited regulations. I do not know what could be more exhaustive than the regulations as expressed in the draft today, because you are dealing with a situation where the council would be acting *ultra vires*, that is, outside its powers, and outside European Union law. Perhaps we might have to remedy that in the near future if there is a Brexit. I will leave that aside; perhaps this is too serious a matter for me to joke about.

The other aspect is where the council contravenes human rights in relation to the European Convention on Human Rights (ECHR) and even if we have a Brexit, the ECHR will still be there. The main point is where a council would be acting outside the equality scheme that it had agreed to, and that is consistent with section 75 of the Northern Ireland Act 1998. I cannot think of anything beyond that that can be considered, because it is, to my mind, an exhaustive list of things that should be considered, which are pertinent to a decision, and which could impact in a

disproportionate and adverse manner on the inhabitants of a council. It seems to me that the Minister has honestly, and in a spirit of conciliation, addressed the issues that were originally raised about these regulations. I am genuinely at a loss to understand the attitude of colleagues across the Floor.

Mrs D Kelly: I thank the Member for giving way. Does he agree that, in the absence of the regulations, there is a real risk that each council will interpret the legislation differently? What we will have are councils operating their own structure and inequalities, and a postcode lottery for minority groups right across the North.

Mr A Maginness: I thank the Member for her intervention. I think that she has put her finger on it. This will become, literally, a postcode lottery in the interpretation of how qualified-majority voting should take place and in dealing with, or addressing, problems of minorities in council areas. It is a serious issue and one that should be remedied now. Unfortunately, it will not be remedied because of the petition of concern, and the only way to remedy it is to vote for these regulations. I am leaving the petition of concern aside, but that is probably a futile hope. There could have been a more mature approach. I am sure that these matters could be revisited at some time in the future; now, however, is, I think, the operative time, because we have had the councils operating for two years. I know that one of them is in preliminary shadow mode, and the other is in full operation.

It seems to me that we need to get on with it. Mrs Cameron has said that she wants to see section 41, I presume, reflected in the standing orders. In my view, this gives full expression to section 41. I cannot see how you could readjust the regulations to express the standing orders differently. As Dolores Kelly quite rightly said, you want a uniform application of this throughout the 11 councils; you do not want a deviation, particularly at this early stage of the political development of councils. For those reasons, I am happy to support the Minister in relation to the regulations.

6.00 pm

Mr Patterson: I welcome the opportunity to speak on the regulations as the Ulster Unionist Party environment spokesperson. However, I have read the transcript of the debate from last February, and it certainly seems to be a case of *déjà vu* all over again. Of course, not only is the Department trying to push through

effectively the same regulation under the smokescreen of slightly tightened wording, but we have the DUP using and abusing a mechanism designed to protect communities to block a mechanism designed to protect communities. You really could not make it up. What a depressing debate on the penultimate day of what many consider to have been a pretty uninspiring Assembly term.

As has been said, the 2014 Act stipulated that councils' standing orders must include issues such as specifying the decisions that would require a qualified majority, and provision for reconsideration or call-in of a decision if requested by 15% of the members of a council. That could be done on grounds of the decision not being made after proper consideration of the relevant facts and issues, or where it would disproportionately affect in an adverse way inhabitants of the district.

I am aware that concerns were raised previously that the provision no longer allowed the opinion of the barrister or solicitor to act as a filter for those decisions that would require a qualified majority. In reality, however, given the likelihood of differing legal opinions on the same issue, I suspect that it will not have been the safeguard that the DUP initially thought it would. Other concerns raised during the progression of the Bill are still valid to this day. For instance, the Act and today's regulations talk about a disproportionate adverse impact, without giving even the slightest indication of what would constitute such an impact. Maybe the Minister could provide some long overdue clarity.

Some weeks ago, the officials were before the Committee again to explain these regulations. What struck me most in their evidence was the reference to how they could not proceed with a panel of legal advisers because there was no time. The issue was first mooted over two years ago. There would have been time then. It was talked about again last February. There would have been time then. In fact, there would have been time to consult and implement such a panel when the Department spoke to the Committee last November. Yet, in reality, they spent so long saying that they did not have time to set it up that they actually squandered more than ample opportunity to do so. Frankly, the whole thing is farcical.

The revised regulations now specify that, where the legal opinion indicates a risk that the decision is outside the powers of the council, is incompatible with EU law or convention rights or is not in compliance with a council's equality scheme, a qualified majority would be required.

Of course, it took only the most basic research to realise that all the councils across Northern Ireland have slightly differing equality schemes.

Whilst I am glad that the Department eventually fixed its wording, it was indicative of a wider lapse of attention. Instead, what we have before us is just a fig leaf; a smokescreen to save the blushes of the Department, which has really bungled the roll-out of these standing orders.

That having been said, regulations are needed for local government at council level right across Northern Ireland. Councils require uniformity of practice, and they need to receive guidance from the Department of the Environment. As I said, I am disappointed that the necessary progress was not made on the matter, but we are content to support the Department, as most councils are largely already acting in the manner that is proposed. We will support the matter.

I want to conclude my remarks by paying tribute to our Committee Chair on her chairing of the Committee. In my short time on the Committee, I have seen that there is no doubt that she is indeed a very special lady. I want to wish her well as she retires. I also want to mention my fellow Committee member Alban Maginness, who also retires at the end of the Assembly term. In the short time that I have been here, I have found Alban to be a very honourable and sincere man. I wish him well in his retirement.

Mr Weir: First of all, I would like to associate myself with the latter remarks of the Member who spoke previously. Some time ago, I managed to find an escape route out of the Committee for the Environment, but, for many years, I served under the chairmanship of Ms Lo and alongside Mr Maginness. While today, as on other occasions, I do not find myself in the same position as them on the debate, I certainly pay tribute to the efforts that they have made, particularly on environmental issues down the years. I suppose that this may be the closest that either of them will be able to get to going to their own funeral without the inconvenience of dying beforehand. From that point of view, I wish them well in whatever path the rest of their lives take. The Assembly will be the poorer place for the loss of both of them.

Having set out that spirit of comradeship across the Chamber, I will now devalue all of it by obviously opposing the Minister's position, really on two grounds. As a degree of background, I was not quite sure where the previous Member who spoke would end up. He ended up eventually supporting it. It does seem

as though he could just as easily have gone against it. Nevertheless, he does at least make one valid point on the issue of timing. I have two particular concerns with these regulations. I should say in deference to a previous Member who spoke that these are regulations, not amendments. Nevertheless, I have two particular problems with the Minister's position.

First of all, there is an absence and missed opportunity to provide something a little bit more objective by way of a panel. I think that the previous Member who spoke mentioned how this was brought in November. It was mentioned two years ago. It actually goes back quite a number of years. For my sins, in a previous existence, I served on the policy development panel A, which dealt with many of these issues. At that stage, it was flagged up that we needed some form of objective measurement and indeed somebody to objectively take the decision. At that stage, it was not going to be simply referral to an individual, but perhaps looking at some form of panel. This is actually something that has been discussed for quite a number of years, yet it is disappointing that we have this missed opportunity. That however might be the more minor complaint.

The issue does arise around the test of whether something is a legitimate call-in or non-legitimate call-in. Here I would take exception to some of Mr Maginness's remarks that this is, if you like, as close as you will get to section 41. My concern is that this moves too far away from section 41. I appreciate that the Minister has created a level of tweaking that has moved it at least a little in the right direction, but it does not go far enough. I am a little bit at a loss to understand why the language of section 41 cannot be imputed into the regulations, if indeed the issue is, in some way, that this would be ultra vires. I find that very difficult to accept because that is the exact wording that was used in the legislation. Either we are in the position that the 2014 legislation was completely flawed and should have been thrown out at that stage or alternatively it is wrong now.

However it is circumscribed by way of equality of opportunity, Mrs Kelly and Mr Maginness make a point that we do not want a postcode lottery on equality to tie in, ultimately, with a range of council equality schemes. Concern has been raised on a number of occasions, for example on issues such as McCreesh Park, where equality seems to mean different things in different parts of the country. To tie in specifically what counts as a breach of equality of opportunity with 11 different equality

schemes seems, to me, to go in the wrong direction. This moves further away from equality than what is in the 2014 Act. At least, in that Act, we have a guide to standing orders. I think that it is important —

Mrs D Kelly: Will the Member give way?

Mr Weir: Yes, I will give way.

Mrs D Kelly: On the very subject of McCreesh Park and that bad and flawed decision, does the Member agree that these very regulations would prevent such a situation from happening?

Mr Weir: Unfortunately, apart from anything else, it may be shutting the stable door after the horse has bolted, in the same way as the Member's party initially allowed it to go through and then had a change of heart but found that it was too late. The problem is that, on McCreesh Park, if the test is against the judgement of section 41, which is that it disproportionately disadvantages a community, then that would block McCreesh Park. I do not know precisely what the council equality scheme of Newry and Down council is, and, in fact, that may allow McCreesh Park, or it may not. That is the problem. It creates a lot more of a subjective test than the objective test of the legislation. That is the flaw.

Like others, I am disappointed that we have come to this situation, and I hope that when we resume the issue we will manage to crack it and get it right. I think that it is more important to get it right than push something through today that is fundamentally flawed and that, in the words of the party opposite, will create a postcode lottery as regards equality. That is the fundamental flaw, and that is why we have been forced to take the position that we have taken.

Mrs D Kelly: I have to come back to the point about the equality schemes. It is not just equality schemes; they are informed by equality legislation and guidance on a plethora of responsibilities that fall to local councils. So, they are not that diverse. Therefore, one in particular in relation to McCreesh Park, which Mr Weir has conceded could have been protected against if the regulations had been in place —

Mr Weir: Will the Member give way?

Mrs D Kelly: If I could just finish.

Mr Weir: I thank the Member for giving way. I am a bit concerned that the Member is misquoting me. I said that if it was based on section 41, then it would have prevented that happening. I have actually said the opposite as regards these; it may or may not be the case. That is the problem. We are moving to a position that gives less protection than would have been there under section 41.

Mrs D Kelly: I have a different interpretation. I was going on to say that all councils have a statutory responsibility to promote good community relations. Therefore, I think that that ought to have been the protection that could and ought to have been used in relation to the naming of McCreesh Park. Furthermore, I think that I am right in saying that, in the media last week, there was a call-in from Antrim and Newtownabbey council around funding bonfires. What is happening around some of them is disenfranchising one part of the community because some of the activities around bonfires are clearly not designed to promote good community relations. So, I believe that there ought to be a real sense of responsibility by local authorities around that particular statutory obligation. This strengthens the hand of those who wish to implement good community relations across all 11 council areas.

Members, particularly those on the Benches opposite, may recall the then party leader Mr Robinson saying to his party conference in November 2011:

"If we want a better society it can't be them and us".

I think that, in the same year, he made a speech in this very Chamber and said that this mandate ought to be about delivery. It is absolutely mind-boggling how, in an extended year of this mandate, we are having to deal with all the regulations around the review of public administration, which was a feature of the portfolio of the party opposite's Environment Minister for many years. Indeed, as I said earlier, the then Environment Minister, Arlene Foster, said that the regulations, in terms of protecting minority communities, were an essential part of the review of public administration.

6.15 pm

We tend to describe the communities in the North as the two main communities, but, thankfully, we have an increasingly diverse population right across the North, and these protections would protect them as much as any

other minority community. The last thing that this party wants to see is a Balkanisation of the local authorities across the North. We warned that RPA was shaping up to draw an orange and green map of Northern Ireland. It is not necessarily just a protection of minorities meaning Catholic and Protestant or nationalist and unionist, but, in some councils, I suggest, it is about protecting those whose communities are seen to mostly favour one party or the other. It tends to be the parties in the ascendant and those that have the main reins of power on those councils.

I do not know what people have to fear from equality. I served for over 17 and a half years in Craigavon. Mind you, it was no good example of how —

Mr Wells: They made you mayor. Will the Member give way?

Mrs D Kelly: No, I will not give way.

Mr Wells: They made you mayor.

Mr Deputy Speaker (Mr Dallat): Order, please. I call on the Member to please respect the House in its last couple of days and to not make remarks from a sedentary position. Mrs Kelly, continue.

Mrs D Kelly: I will answer. He says they made me mayor: my party was one of the main parties in Craigavon for over 40 years and, in two years, we got mayor. It was not the DUP but the Ulster Unionist Party that reached an agreement and a compromise and supported that. In fact, the then member of the Ulster Unionist Party who is now a Minister, Jonathan Bell, resigned when I got to be deputy mayor of Craigavon and went as an independent. I will take no lectures on the historical background of how I became mayor or deputy mayor of Craigavon. Mind you, the DUP should not chirp in so much about it: they did not get it very often either at one time.

It is those very things. There was a report last week about the cost of division in the North: £833 million. Earlier, we were treated to a response from Minister Morrow on welfare regulations, and he said that the financial reins were not within our grasp. If we were to resolve the issue of a divided society and build a truly shared future, which we have spectacularly failed to do over the last five years, we would have an awful lot more money to put into the front-line public services that we want to see and more money to mitigate the worst excesses of Tory welfare reform.

I do not get it. I really do not get it, and I do not believe that Ms Cameron was truly passionate about her contribution at the start of the debate when she referred to the petition of concern. We have seen abuse after abuse of petitions of concern, and it is probably fitting that, in the last days of this Assembly, we see yet another petition of concern that works against equality and against regulation to protect minorities' rights. It says a lot about what Mr Robinson said in November 2011:

"If we want a better society it can't be them and us".

It shows a spectacular failure to deliver on that promise and that commitment. Let us hope that the next mandate will see parties who truly want to build a reconciled future being given a stronger hand. Some people stay at home and think that they cannot make a difference: the people who are staying at home are putting a lot of people in power here who want to vote against equality. I hope that people will be mindful of that when they go to the ballot box on 5 May.

Mr Deputy Speaker (Mr Dallat): I will be extremely generous and pretend I have not had a challenge from my right, and I will call the Minister, Mr Mark Durkan, to conclude and wind up the debate on the motion.

Mr Durkan: Thank you, Mr Deputy Speaker. The regulations will add detail to the new governance arrangements for councils provided in the 2014 Act and ensure that a consistent approach is adopted by councils to protecting the interests of minority communities in their decision-making and to the sharing of membership of committees across the political parties and independents. They make the important link between call-in and qualified majority voting in order to give practical effect to the arrangements for the protection of the interests of minorities in council decision-making. Opposition to the regulations, therefore, clearly demonstrates not only a lack of regard for minorities but a blatant lack of recognition of who would be afforded the protections and where. The irony that a petition of concern — a mechanism designed to protect minorities — is being misused today to deny minorities protections should not be lost on anyone.

Mr Patterson wanted clarification around —

Mr Deputy Speaker (Mr Dallat): Could I, please, ask the Minister to resume his seat? Because of people incessantly talking on my

right, I am having difficulty following what the Minister says. Could I ask those Members please to take their conversations outside if they are going to be prolonged? Continue.

Mr Durkan: Do you want me to start again? *[Laughter.]* You did not miss much, Mr Deputy Speaker. I was just addressing a question that Mr Patterson asked. He wanted clarification of what would constitute a disproportionate adverse impact. I was going to say that is probably where there is an impact that could be adverse and disproportionate. *[Laughter.]* The Member described this Assembly term as fairly uninspiring: I would like to congratulate the Member on how well he has fitted in. *[Laughter.]* I would, however, echo Mr Patterson's words of praise and gratitude to the Chair of the Environment Committee, Ms Lo. I would like to think that I, as Minister, have worked closely and, usually, effectively not just with the Chair but with the Committee as a whole. Unfortunately, we are not seeing that today in this final debate of the session.

The regulations are the final piece of subordinate legislation remaining to be made under the 2014 Act. It would have been desirable to put this final piece of the jigsaw in place before the end of the Assembly mandate, but today, thanks to the DUP, that jigsaw will not be completed. However, I take some comfort from Mr Weir's pledge that the DUP will be prepared to come back, sit down and look at how we will finish the jigsaw after the elections.

I thank Members for their contributions.

Mr Deputy Speaker (Mr Dallat): Members, before we proceed to the Question, I remind you that a valid petition of concern has been presented. The vote on this motion requires cross-community support.

Question put.

The Assembly divided:

Ayes 48; Noes 33.

AYES

NATIONALIST:

Mr Boylan, Mr Diver, Mr Durkan, Mr Flanagan, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Mr Lynch, Mr F McCann, Mr McCartney, Ms McCorley, Mr McCrossan, Mr McElduff, Ms McGahan, Mr McKay, Mrs McKeivitt, Ms Maeve McLaughlin, Mr A Maginness, Mr Maskey, Mr Milne, Mr

Murphy, Ms Ní Chuilín, Mr Ó hOisín, Mr Ó Muilleoir, Mrs O'Neill, Mr Rogers, Mr Sheehan.

UNIONIST:

Mr Allen, Mr Beggs, Mr Cree, Mrs Dobson, Mr Douglas, Mr Gardiner, Mr Hussey, Mr Kennedy, Mr McCallister, Mrs Overend, Mr Patterson, Ms Sugden, Mr Swann.

OTHER:

Mr Agnew, Mrs Cochrane, Mr Dickson, Mr Ford, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCarthy.

Tellers for the Ayes: Mr Diver and Mr Milne.

NOES

UNIONIST:

Mr Allister, Mr Anderson, Mr Bell, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Campbell, Mr Clarke, Mr Craig, Mr Dunne, Mr Easton, Mr Frew, Mr Girvan, Mr Givan, Mrs Hale, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Lyons, Mr I McCrea, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Mr Middleton, Lord Morrow, Mr Moutray, Mr Poots, Mr G Robinson, Mr Ross, Mr Storey, Mr Weir, Mr Wells.

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

<i>Total Votes</i>	<i>81</i>	<i>Total Ayes</i>	<i>48</i>	<i>[59.3%]</i>
<i>Nationalist Votes</i>	<i>27</i>	<i>Nationalist Ayes</i>	<i>27</i>	<i>[100.0%]</i>
<i>Unionist Votes</i>	<i>46</i>	<i>Unionist Ayes</i>	<i>13</i>	<i>[28.3%]</i>
<i>Other Votes</i>	<i>8</i>	<i>Other Ayes</i>	<i>8</i>	<i>[100.0%]</i>

Question accordingly negatived (cross-community vote).

(Mr Deputy Speaker [Mr Beggs] in the Chair)

Local Government Auditor's Draft Code of Audit Practice 2016

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

That the Local Government Auditor's draft Code of Audit Practice 2016 be approved.

Article 5(1) of the Local Government (Northern Ireland) Order 2005 requires the Local Government Auditor to prepare and keep under review a code of audit practice that prescribes the way in which local government auditors carry out their functions in relation to district

councils and other local government bodies. Article 5(2) of the 2005 Order provides that such a code shall embody what appears to the Local Government Auditor to be the best professional practice with respect to the standards, procedures and techniques to be adopted by auditors.

Article 5(3) of the 2005 Order provides that a code will not come into force until approved by a resolution of the Assembly and that its continuation in force is subject to its being so approved at intervals of not more than five years. The existing code of audit practice came into force on 1 April 2011. The Local Government Auditor consulted interested parties about the proposed draft code of audit practice 2016. The 12-week consultation period ended on 1 December 2015. Ten responses were received as part of the consultation. I am therefore seeking the Assembly's approval for the Local Government Auditor's draft code of audit practice 2016 to come into force on 1 April 2016.

Ms Lo (The Chairperson of the Committee for the Environment): I welcome the opportunity to outline the work that the Committee has undertaken in respect of the Local Government Auditor's draft code of audit practice.

The Committee first considered the consultation on the code at its meeting on 17 September 2015. It agreed at that time to request a synopsis of responses to the consultation when it became available. The Committee noted the synopsis of responses at its meeting on 3 March 2016 and also considered the draft code of audit practice, which had been formally laid in the Business Office. The Committee was content and agreed formally, on 10 March, to recommend that it be approved by the Assembly.

As this is the last time that I will speak as Chair of the Environment Committee, I would like to take the opportunity to thank, most sincerely, all the officials from each of the Department's business areas for their engagement with Committee members over the mandate. I thank the Minister for making himself and his staff available and for keeping the Committee informed, allowing it to undertake its scrutiny role effectively.

I would also like to thank all members of the Committee, past and present, for their invaluable insight and contributions. I think that we have worked really well as a Committee. In particular, I thank Mr Alban Maginness. I have always found him to be very reasonable and

balanced in his deliberations, and I wish him a very happy retirement. I also want to thank Members for their kind words as regards my role as Chair. Last, but not least, I pay tribute to all of our Committee staff, past and present, for their hard work in support of the Committee over the last five years. Without them, we could not have worked as efficiently as we have done.

Mr Deputy Speaker (Mr Beggs): I now call the Minister of the Environment to conclude and wind up the debate on the motion.

Mr Durkan: Moved. [*Laughter.*]

Mr Deputy Speaker (Mr Beggs): Order.

Question put and agreed to.

Resolved:

That the Local Government Auditor's draft Code of Audit Practice 2016 be approved.

Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2016

Mr Storey (The Minister of Finance and Personnel): I beg to move

That the draft Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2016 be approved.

Section 9 of the Public Service Pensions Act (Northern Ireland) 2014 requires that this revaluation order is made. It specifies the annual change in the level of prices as tracked by the consumer price index (CPI). A similar order has been laid in Westminster that will apply for the equivalent pension schemes in Great Britain, which will be revalued in an identical manner.

In background to this order, Members will be aware that the Public Service Pensions Act (Northern Ireland) 2014 sets out requirements for new and reformed pension schemes for public service employees with effect from 1 April 2015. Under the Act, the default design for these new schemes is a career average revalued earnings (CARE) model. In a CARE scheme, each member builds up a fraction of their average annual earnings as pension for each year of membership of the scheme. This fraction is known as the accrual rate. At the end of each year, the pension built up by each member is also revalued.

Different schemes revalue members' benefits in different ways, as specified in each scheme's regulations. These regulations have been subject to consultation between Departments with responsibility for the main schemes and their employee representatives, during policy development and consultation for each CARE scheme. In all cases, the revaluation process will include reference to a cost of living index, which tracks annual changes in the level of prices or earnings.

In Northern Ireland, as is the case for the equivalent schemes in Great Britain, a reference to the change in prices is used for the purpose of revaluation by each of the main public service pension schemes for the following: Civil Service; local government; teachers; health service; police; and the devolved judiciary.

The prices revaluation order will be used by these main public service pension schemes as part of the scheme's process for annually revaluing pension benefits accrued by active members for the scheme year from 1 April 2015 to 31 March 2016.

The current measure used to track changes in prices is the CPI. The order specifies the published CPI figure that is relevant for 2015-16, which is minimis of 0.1%.

6.45 pm

As I pointed out, the order will be used by schemes in line with the individual revaluation process put in place in their regulations at the inception of the new CARE schemes, and the effects will vary accordingly. Where scheme regulations specify a revaluation with reference to a flat rate of CPI only — for the Civil Service, local government and the devolved judiciary — scheme members will see a slight negative revaluation in their 2015-16 CARE annual pension earned. For example, revaluation for local government and Civil Service workers on a salary of £21,000 will see a negative revaluation of their accrued pension by less than 50p. Those who are on a salary of £36,000 will see a negative revaluation of their accrued pension by less than £1. In all other cases where the schemes themselves have undertaken to augment the revaluation factor in scheme regulations by an additional percentage amount, the overall revaluation will be a positive figure. For example, a health service worker on a salary of £21,000 will see their accrued pension revalued by around £5.44 and a health service worker on a salary of £36,000 will see their accrued pension revalued by £9.33.

The level of revaluation is predicated on the prevailing economic conditions. The overarching provisions for revaluation contained in the Public Service Pensions Act (Northern Ireland) 2014 are necessarily and purposely designed to track changes in prices or earnings, whether positive or negative. If the reality of negative growth were overlooked, scheme costs would rise and these additional costs would be loaded onto schemes and taxpayers.

Revaluation is just one element which determines how a public service pension increases each year. The other key element is the accrual rate — the percentage by which pension pots build up on an annual basis. Accrual factors also vary with each scheme, and where a scheme design includes a CPI-only linked revaluation this may be offset by a faster accrual rate in the scheme, depending on the scheme design put in place by the individual responsible Departments at the policy development stage of that scheme. The indexation factor combined with the accrual rate factor means that pension pots are still continuing to grow. These pensions remain a good deal for members and a valuable component of the public service remuneration package.

I thank the Committee for Finance and Personnel for its consideration of the proposed order. I note that the Committee is content and has not raised any issues in relation to the order. The Examiner of Statutory Rules has raised no issues on the technical competence of the order. There is no direct equality impact associated with the making of the order. As I have stated already, it is a statutory requirement of the Public Service Pensions Act (Northern Ireland) 2014 that the order is made each year to specify the annual change in prices relevant to those schemes whose regulations require a revaluation with reference to prices. Equality screening of individual scheme regulations was completed by responsible Departments during the policy development for each scheme.

In conclusion, the Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2016 fulfils the obligation set out in the Public Service Pensions Act (Northern Ireland) 2014, requiring the Department of Finance and Personnel to make an annual order that specifies the annual change in prices where this is relevant to the revaluation process contained in regulations for a public service pension scheme. I, therefore, commend the order to the House.

Mr McKay (The Chairperson of the Committee for Finance and Personnel): Go raibh maith agat, a LeasCheann Comhairle. As the Minister has outlined, the order will make provisions to specify the annual percentage changes in prices in order to effect a revaluation of pension benefits for members of CARE public service pension schemes. The revaluation process will include a reference to a cost of living index, which tracks annual changes in the level of prices or earnings as measured in the CPI.

The policy proposals contained in the rule were formally considered by the Committee on 17 February. After consideration, the Committee confirmed that it had no comment to make on the policy proposals at that stage. The rule was laid before the Assembly on 18 February and is subject to the affirmative resolution procedure.

The Committee formally considered the SR before the Assembly today at its meeting on 2 March, together with an accompanying report from the Assembly's Examiner of Statutory Rules, who, as the Minister has already said, had no observation to make about the technical scrutiny of the rule. The Committee therefore agreed to recommend that the order be affirmed by the Assembly.

I am aware that, since the Committee's consideration of the rule, NIPSA has written to MLAs expressing its concern about the impact of the rule. Whilst acknowledging the union's concerns on behalf of its members, I note that those concerns were not brought to the attention of the Committee in advance of the rule being formally considered. That being the case, as Chairperson of the Committee, I am unable to respond on the Committee's behalf in that regard. That is regrettable, since the Committee has always sought to engage with the relevant trade unions on issues under consideration that affect their members.

On behalf of the Finance and Personnel Committee, I support the motion.

Mr Lunn: Following on from the Chair's comments about NIPSA having been in touch with MLAs about this, as have other individual members of the community, a 0.1% revaluation does not sound that serious. In itself, perhaps it is not. However, I am thinking of pensions already in payment, which will, theoretically, be slightly reduced by this. We do not know, as we move forward, what the next CPI will show. It has highlighted a difference across the various public service schemes here. The teachers' scheme allows for a revaluation of, I think, CPI plus 1.6%. One of the other

schemes — I cannot remember which one — allows for a revaluation of 1.5% plus CPI. That would make them 1.4% and 1.5% respectively; you would still have an increase in your pension. If this trend continues, NIPSA, the unions and others can be rightly slightly concerned about the situation where people will see their pension being reduced in payment.

I believe that I am right in saying that the Northern Ireland Civil Service scheme has a provision in it to ignore a negative trend in CPI; in other words, it will not apply that 0.1% revaluation to the scheme for pensions already in payment. I do not know what authority the Minister has in that regard. I think that he said that we mirror what the situation is across the water. If we have any discretion in the matter, I would like him to let us know his thoughts about the possibility of not applying the 0.1% or any other negative CPI reduction in the future to people's pensions that are already in payment.

Mr Storey: I will just make a few comments. I thank the Committee for its scrutiny of this on two separate occasions. As the Chair rightly said, since that took place, we have been in receipt of correspondence from NIPSA. It is right and proper that we have a record in the House of the issues raised. Obviously, we note the lateness of the correspondence that was received and which Members are in possession of. I will try to deal with the main points in relation to that correspondence.

First, in regards to CPI versus RPI, the scope to use RPI has been raised. The 2014 Act does not prohibit the use of RPI in a prices revaluation order, but it requires the index used to be that which the Department considers to be appropriate. CPI is an established measure that has been used to track changes in prices for the indexation of public service pensions and most benefits since 2011.

When use of CPI has been challenged in the past, both the High Court and the Court of Appeal have ruled that it is appropriate for benefits and pensions uprating.

Negative growth is rare. However, RPI is not immune to its effects when it does occur. It has also historically experienced periods of negative year-on-year change, as was the case in 2009. It can be noted also that, at the policy development stage for the reformed pension schemes, the coalition Government's original scheme design proposal was for scheme revaluation with reference to earnings, which for 2015-16 provides +2%. Therefore, CPI-linked revaluation is a scheme design feature that, at that time, was favoured by employee

representatives in return for faster pension accruals in the schemes. It is important that that is underscored.

The other issue that was raised in the correspondence is in regard to the scheme's sustainability. I share the concerns that have been expressed about the sustainability of our public service pension schemes. The point is that the provisions of the Public Service Pensions Act (Northern Ireland) 2014 already agreed by the Assembly, which include the revaluation provisions and can track both positive and negative growth, are purposely designed to increase that sustainability. That is an important line to underscore in this regard.

Although it appears that some workers with flat CPI will lose less than 50 pence from their accrued pension, in many cases, those public servants will have earned more pension in total this year due to the faster in-year accrual of those pension schemes. Those pension pots are still increasing. This order maintains their buying power in line with revaluation processes in scheme regulations and within the broader context of the requirement to manage future costs and ensure sustainability, which the 2014 Act is designed to address.

It is important, therefore, that devaluation is managed effectively from the outset. If negative growth were overlooked, scheme costs would rise and these additional costs would be loaded onto schemes and taxpayers. I think that this is the point that the Member was trying to get to in asking why we are doing this. It is important that devaluation is managed effectively. To disregard the reality of negative revaluation on even one occasion would set a precedent for an arbitrary approach to how benefits are revalued across the schemes. In the long term, that would pose much greater risks for scheme sustainability. We need to underscore that sustainability is an important issue for us all.

This question is asked: will the Public Service Pensions Revaluation (Prices) Order 2016 have any impact on pensions in payment, and are those pensions being increased this year? The answer is no. The Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2016 will have no impact on the pensions in payment. Public service pensions in payment are indexed annually under different legislation that requires them to be increased by the same percentage as the additional state earnings-related pension. Both the additional state earnings-related pension and the public service pensions in payment will also not be increased this year. I trust that that gives some clarity on

both the question raised by my colleague and friend Mr Lunn and the correspondence from NIPSA.

It is important that the Assembly agrees today to make this Public Service Pensions Revaluation (Prices) Order to ensure that active public service members' pension accruals can be revalued in line with the agreed principles of the 2014 Act and the processes set out in the regulations for each scheme. The position in the rest of the United Kingdom is exactly the same as it is in Northern Ireland.

7.00 pm

This is probably the last time that I will be before the House in this mandate. We look forward to the election campaign getting under way. I thank the Chair, the Committee and my staff in DFP. Even though I have been there for a very short time, I have thoroughly enjoyed the opportunity to see how our public finances are managed. I thank Members for the courtesy that they have shown me during that time.

As we face an election campaign, we face challenges. That is the nature of the political process, whether it is here or any other jurisdiction. Those in the Republic of Ireland know all too well to their own cost the challenges that the political process can bring. However, in Northern Ireland, I am confident that we will continue to make progress. I look forward to the wishes of the electorate, whatever they are, being fulfilled and mandated in the new Assembly. I thank everyone for their help during my time as Minister of Finance and Personnel.

Question put and agreed to.

Resolved:

That the draft Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2016 be approved.

Health Service Workers (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016

Mr Hamilton (The Minister of Health, Social Services and Public Safety): I beg to move

That the draft Health Service Workers (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016 be approved.

The Health Service Workers (Consequential Provisions) Regulations (Northern Ireland) 2015 were introduced in March 2015 following instruction by the Department of Finance and Personnel and Her Majesty's Treasury to amend the Pension Schemes (Northern Ireland) Act 1993. Those regulations were affirmed without issue.

During the drafting of that legislation, the Department of Finance and Personnel instructed the removal of a clause relating to the protection of increases in guaranteed minimum pensions to happen after the abolition of contracting out, which had yet to be provided for in Northern Ireland legislation.

Schedule 13 to the Pensions Act (Northern Ireland) 2015, introduced in June 2015, makes provision for the abolition of contracting out from 6 April 2016 by way of amendment to the Pension Schemes (Northern Ireland) Act 1993.

The changes in the draft statutory rule are technical and ensure the continued protection of increases in guaranteed minimum pension benefits for members who were contracted out of the second state earnings-related pension scheme between 6 April 1978 and 5 April 1997.

The draft regulations before us have been the subject of a targeted consultation. The consultation ran from 26 October last year to 23 November, and no comments were received. The regulations have been subject to an equality screening exercise, and no equality issues were identified.

On 10 February 2016, the Health Committee agreed that it was content with the draft regulations, and it is with its support that I bring these draft regulations. Subject to affirmative resolution, the regulations will become effective from 6 April. I commend the draft regulations to the House.

Ms Maeve McLaughlin (The Chairperson of the Committee for Health, Social Services and Public Safety): Go raibh maith agat, a LeasCheann Comhairle. On behalf of the Committee for Health, Social Services and Public Safety, I support the motion.

The statutory rule, as was outlined, seeks to make consequential modifications to primary legislation to comply with the Treasury's requirement for the Department to introduce a further consequential modification to the Pension Schemes Act 1993 to ensure that the new 2015 Health and Social Care pension scheme operates as intended in terms of its

interaction with the wider framework of pensions and tax legislation.

As the Minister pointed out, the Committee considered the proposal for the statutory rule on 3 February 2016, and we approved the subsequent rule on 10 February 2016. No issues were raised by the Committee.

Mr Hamilton: I thank the Chair and, indeed, the Committee for their constructive and positive comments and for the scrutiny that they gave the regulations.

The Department of Finance and Personnel has instructed that the relevant primary legislation be amended to give effect to the required change via statutory rules, to be taken forward by each of the responsible authorities for the main pension schemes in Northern Ireland. As responsible authority for the HSC pension scheme, I am complying with that instruction. These consequential amendments will provide protection to members of the HSC pension scheme after the abolition of contracting-out on 6 April. I ask Members to support the motion.

Mr Deputy Speaker (Mr Beggs): As we do not currently have quorum, I ask — We now have quorum.

Question put and agreed to.

Resolved:

That the draft Health Service Workers (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016 be approved.

Tobacco Retailer (Fixed Penalty) (Amount) Regulations (Northern Ireland) 2016

Mr Hamilton (The Minister of Health, Social Services and Public Safety): I beg to move

That the draft Tobacco Retailer (Fixed Penalty) (Amount) Regulations (Northern Ireland) 2016 be approved.

Subject to Assembly approval, these regulations will outline the amount of fixed penalties to be applied for a number of tobacco-related offences, as set out in section 12 of the Tobacco Retailers Act (Northern Ireland) 2014. The aim of the Tobacco Retailers Act is to reduce smoking uptake by children and young people by making it more difficult for them to access tobacco products. The Act had a

positive response from, and a smooth passage through, the Assembly, receiving Royal Assent on 25 March 2014.

In summary, the Act requires all retailers of tobacco products to register; provides that retailers can be banned from selling tobacco for up to three years if they have committed three relevant offences in a five-year period; allows for an offence of proxy purchasing to be introduced; increases the maximum fine on summary conviction for underage sales to £5,000; and provides for the introduction of fixed penalty notices for a number of tobacco-related offences.

Three sets of regulations are required to enable the effective implementation of the Tobacco Retailers Act. The Tobacco Retailer (Fixed Penalty) (Amount) Regulations, which we are debating today, are the only set that requires the endorsement of the Assembly before they can be made.

Previously, the only tobacco-related offences that could be discharged by paying a fixed penalty notice were those relating to smoke-free legislation. The Tobacco Retailers Act allows for an authorised officer of a district council to issue a fixed penalty notice for a number of additional tobacco-related offences. The offences do not include those created in this Act but extend to those established in earlier legislation, such as selling tobacco to under-18s, either by retail or by vending machine.

The regulations for which I seek Members' endorsement outline the amounts of those fixed penalties. The advantages of introducing fixed penalty notices are twofold. In the first instance, they provide authorised officers with an additional enforcement tool. Secondly, they reduce the burden on the Northern Ireland Courts and Tribunals Service by reducing the number of prosecutions. It therefore follows that the amount of the fixed penalty notices applied must be at a level sufficient to deter people from committing the offence but not so high as to encourage offenders to aim for a more favourable outcome from a court hearing.

With a few exceptions, fixed penalty notices have been set at one tenth of the maximum fine that could be applied for the offence on summary conviction. The first exception relates to underage sales of tobacco from retail outlets. From 6 April the maximum fine for that offence will be £5,000. The fixed penalty notice, however, has been set at £250. That is to take into account cases where tobacco has been sold to a child by a sales assistant, despite the

owner or manager of the business having taken all reasonable steps to prevent such an occurrence.

A fine of £250 is a significant sum for an employee to pay. Where enforcement officers feel that a stronger penalty is suitable, they will retain the option of prosecuting the offender, who would then be liable for a fine of up to £5,000. Similarly, the maximum fine for proxy purchasing is £5,000, but we are proposing a fixed penalty of £250 for this offence. For the offence of selling cigarettes other than in their original pre-packaged state, and by that I mean retailers selling singles, we have taken the decision to apply a fixed penalty notice of £250, despite the maximum fine being only £1,000.

Singles are generally sold to those who cannot afford to buy a full packet of cigarettes, and those people are normally children. Therefore, retailers taking the decision to sell cigarettes in that way would be doing so knowing that the vast majority of those customers would not be of the legal age to purchase tobacco. A higher fixed penalty is being applied in the order to deter that practice.

A consultation was carried out on the draft regulations between July and September last year, and the majority of respondents agreed with the amounts proposed. Furthermore, at its meeting on 27 January, the Health Committee agreed that it was content for my Department to make the proposed regulations, and it is with its support that I am bringing these draft regulations before us today. Subject to affirmative resolution, the regulations will come into effect on 1 July. I therefore commend the draft regulations to the House.

Ms Maeve McLaughlin (The Chairperson of the Committee for Health, Social Services and Public Safety): Go raibh maith agat, a LeasCheann Comhairle. On behalf of the Committee for Health, Social Services and Public Safety, I support the motion.

As outlined, the primary objective of the Tobacco Retailers Act is to prevent young people from taking up smoking by making it more difficult for those under the age of 18 to access tobacco products. The Act is intended to assist authorised officers of councils in carrying out their duties on tobacco control by providing them with a complete register of tobacco retailers. The statutory rule prescribes the amount of fixed penalties for certain tobacco-related offences under the Act. The Committee considered the proposal for this statutory rule on 27 January 2016, and we approved the subsequent rule on 2 March

2016. Again, no issues were raised by the Committee.

Mr Hamilton: Again, I thank the Chair of the Committee and, indeed, the Committee as a whole for its scrutiny of the legislation.

Preventing young people from taking up tobacco is the single most effective way we can reduce smoking prevalence in the long term. The results of the young persons behaviour and attitudes survey 2013 show that we are making some progress on that, with smoking amongst 11- to 16-year-olds down to 5% from 8% in 2010. It is important that we continue to build on that success, and I believe that the implementation of measures in the Tobacco Retailers Act, including the introduction of fixed penalty notices, will assist in achieving that. I therefore commend the draft regulations to the Assembly.

Question put and agreed to.

Resolved:

That the draft Tobacco Retailer (Fixed Penalty) (Amount) Regulations (Northern Ireland) 2016 be approved.

Firefighters' Pension Scheme (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016

Mr Hamilton (The Minister of Health, Social Services and Public Safety): I beg to move

That the draft Firefighters' Pension Scheme (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016 be approved.

The regulations were introduced in April 2015 following instruction by the Department of Finance and Personnel, further to that by Her Majesty's Treasury, to amend the Pension Schemes (Northern Ireland) Act 1993. Those regulations were affirmed without any issue.

However, during the drafting of that legislation, the Department of Finance and Personnel issued an instruction for the removal of a clause relating to the protection of increases in guaranteed minimum pensions after the abolition of contracting out, which, as I mentioned, had not yet been provided for in Northern Ireland legislation. Schedule 13 to the Pensions Act (Northern Ireland) 2015, which was introduced in June 2015, now makes

provision for the abolition of contracting out from 6 April this year by way of amendment to the Pension Schemes (Northern Ireland) Act 1993.

The changes in the draft statutory rule are technical and ensure the continued protection of increases in guaranteed minimum pension benefits for members who were contracted out of the second state earnings related pension scheme. The draft regulations have been the subject of a targeted consultation that ran from 30 November to 18 December. There were no objections to the changes, as they are beneficial to members and the impact is similar to all other pension schemes that have contracted out, for example the Civil Service pension scheme and the teachers' pension scheme.

The regulations have been subject to an equality screening exercise, and no equality issues were identified. The Health Committee agreed on 10 February that it was content with the draft regulations, and it is with its support that I bring these regulations before the House. If passed today, they will become effective from 6 April. I commend the draft regulations to the House.

7.15 pm

Ms Maeve McLaughlin (The Chairperson of the Committee for Health, Social Services and Public Safety): Go raibh maith agat, a LeasCheann Comhairle. On behalf of the Committee for Health, Social Services and Public Safety, I support the motion. As the Minister outlined, the statutory rule seeks to make consequential amendments to the primary legislation, resulting from the abolition of contracting-out from 6 April 2016. The proposed amendments are minor and technical in nature. The Committee considered the proposal for the statutory rule on 27 January 2016 and approved the subsequent rule on 10 February. There were no issues raised by the Committee.

Mr Hamilton: I again thank the Chair of the Committee. As I mentioned previously, the Department of Finance and Personnel has instructed that the relevant primary legislation be amended to give effect to the required change via a statutory rule taken forward by each of the responsible authorities for the main pension schemes in Northern Ireland. As the responsible authority for the firefighters' pension scheme, I am complying with that instruction. The consequential amendments will provide protection to members of the firefighters'

pension scheme after the abolition of contracting-out on 6 April. I ask Members to support the motion.

Question put and agreed to.

Resolved:

That the draft Firefighters' Pension Scheme (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016 be approved.

Committee Business

Standing Orders: Amendments

Mr Deputy Speaker (Mr Beggs): The next eight motions relate to amendments to Standing Orders, so I propose to group them as detailed in the Order Paper and conduct a single debate.

The Business Committee has agreed to allow up to two hours for the debate. The proposer will have 15 minutes in which to propose the lead motion and 10 minutes in which to wind. All other Members who are called to speak will have five minutes.

When all who wish to speak have done so, I will put the Question on the motion relating to Standing Order 10(1). I will then ask the Chairperson of the Committee on Procedures to move formally the motions relating to Standing Order 20A; Standing Order 44(2); Standing Order 44A(1); new Standing Order 45A; Standing Order 58(1); Standing Order 69; and Standing Order 81. I will then put the Question on each of those motions without further debate.

I remind the House that cross-community support will be required for each. If that is clear, we shall proceed.

Mr Kennedy: On a point of order, Mr Deputy Speaker. It will not have escaped your notice that we are inquorate.

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 G Kelly (The Chairperson of the Committee on Procedures): I beg to move

In Standing Order 10(1) leave out subparagraphs (a) to (i) and insert

- "(a) Assembly Business;
- (b) Executive Committee Business;
- (c) Committee Business;
- (d) Questions;
- (e) Opposition Business;
- (f) Private Members' Business;
- (g) Private Business;
- (h) Adjournment Debates;
- (i) Party Business; and
- (j) Matters of the Day."

The following motions stood in the Order Paper:

Leave out Standing Order 20A and insert

"20A. Topical Questions

(1) *Topical questions for a Minister shall be taken during the last 15 minutes of the time allocated for questions for oral answer by that Minister.*

(2) *No topical questions shall be asked of the Assembly Commission.*

(3) *A member who wishes to ask a topical question of a Minister at a particular sitting shall submit his or her name in advance to the Speaker.*

(4) *The Speaker shall allow up to 10 members to ask a topical question.*

(5) *Except where paragraphs 6-8 apply, the Speaker shall determine, by means of a random selection, the order in which members may ask a topical question.*

(6) *Where—*

(a) *there is an official opposition;*

and

(b) *at least one member of the official opposition has submitted his or her name to the Speaker under paragraph (3),*

the first topical question must be asked by a member of the official opposition.

(7) *Where more than one member of the official opposition has submitted his or her name to the Speaker under paragraph (3), the Speaker shall determine by which member of the official opposition the first topical question is to be asked.*

(8) *Where the first topical question is to be asked by a member of the official opposition, the Speaker shall determine, by means of a random selection, the order in which subsequent questions are taken.*

(9) *The first topical question may not be from a member of the same party as the*

Minister to whom it is addressed, unless all the topical questions are from members of that party.

(10) *The Speaker shall inform –*

(a) *members; and*

(b) *the Ministers to whom the*

questions will be addressed at the sitting; in advance, of the names and order in which questions are to be taken.

(11) *Answers may not be debated, but the member asking the question may ask a supplementary question. A supplementary question may contain no more than one enquiry.*

(12) *Where a member is not present to ask a topical question, the Speaker shall move to the next member in accordance with the order determined under paragraph (5).*

(13) *Paragraphs (1)(a) and (2) of Standing Order 19 and paragraphs (2), (8A), (10) and (11) of Standing Order 20 shall apply to topical questions as they apply to questions for oral answer." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]*

Leave out Standing Order 44(2) and insert

"(2) *Where section 18(1) of the Northern Ireland Act 1998 applies, Ministerial offices must be filled by applying the procedures set out in section 18(2) to (6) within a period of seven days beginning with the day on which -*

(a) *the determination mentioned in section 18(1)(b) takes effect;*

(b) *the resolution mentioned in section 18(1)(c) is passed;*

(c) *the direction mentioned in section 18(1)(d) is given; or*

(d) *the period of exclusion mentioned in section 18(1)(da) comes to an end." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]*

Leave out Standing Order 44A(1) and insert

"(1) *Where paragraph 3D(1) and (2)(a) of Schedule 4A of the Northern Ireland Act 1998 applies, the office of Minister of Justice must be filled by applying the procedures set out in paragraph 3D(4) to (8) in Part 1A of Schedule 4A within a period of seven days beginning with the day on which –*

(a) *the determination mentioned in paragraph 3D(2)(a) takes effect;*

(b) *the resolution mentioned in paragraph 3D(2)(b) is passed;*

(c) the direction mentioned in paragraph 3D(2)(c) is given;

(d) the period of exclusion mentioned in paragraph 3D(2)(d) comes to an end as so mentioned; or

(e) the Minister of Justice ceases to hold office as mentioned in paragraph 3D(14), otherwise than by virtue of an Assembly election." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

After Standing Order 45 insert

"45A. The Official Opposition

(1) Subject to paragraph (2), where a party is entitled to nominate a person to hold Ministerial office under section 18 (2) to (6) of the Northern Ireland Act 1998; and declines to do so, that party may choose to be recognised as part of the official opposition.

(2) A party is not to be recognised as part of the official opposition if any member of that party holds a Ministerial office, or held a Ministerial office and ceased to hold that office otherwise than at a time when all Northern Ireland Ministers ceased to hold office.

(3) Where only one party chooses to be recognised in accordance with paragraph (1) that party is to be regarded as the official opposition." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

Leave out Standing Order 58(1) and insert

"(1) There shall be a standing committee of the Assembly to be known as the Audit Committee to exercise the functions mentioned in section 66(1) of the Northern Ireland Act 1998, and sub-paragraphs 18(2) to (4) of Schedule 1 to the Public Services Ombudsman Act (Northern Ireland) 2016. In accordance with section 66(2) of the Northern Ireland Act 1998, no more than one member of the committee shall at the same time be a member of the Public Accounts Committee." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

Leave out Standing Order 69 and insert

"69. Members' Interests

(1) There is to be a register of interests of members of the Assembly ('the Register of Interests').

(2) The Register of Interests must set out the registrable interests of members.

(3) The Clerk of Standards—
(a) must compile, and may from time to time revise, the Register of Interests; and
(b) must publish, and make available for public inspection, the Register of Interests.

(4) A member must—
(a) within 28 days of taking his or her seat, inform the Clerk of Standards of his or her registrable interests; and
(b) within 28 days of any change to those registrable interests, inform the Clerk of Standards of that change.

(5) A member who has
(a) a financial interest in any matter; or
(b) a relevant interest in any matter,
must declare that interest before taking part in any proceedings of the Assembly relating to that matter.

(6) A member must not, in consideration of any payment or benefit in kind specified in Chapter 3 of the Guide to the Rules, advocate or initiate any cause or matter on behalf of any person in any proceedings of the Assembly, or urge any other member to do so.

(7) In this order –
"financial interest" means an interest specified in Chapter 1 of the Guide to the Rules, other than an interest specified in category 8 or category 9 of Chapter 1;
"registrable interest" means an interest specified in Chapter 1 of the Guide to the Rules;

"relevant interest" means an interest to which Chapter 2 of the Guide to the Rules applies." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

In Standing Order 81, leave out "'Code of Conduct' means any code of conduct for members together with any guide to the rules relating to the conduct of members agreed to by the Assembly;

"day" means calendar day;'

and insert –

"'Code of Conduct' means any code of conduct for members and the Guide to the Rules agreed to by the Assembly;

'day' means calendar day;

'Guide to the Rules' means any guide to the rules relating to the conduct of members agreed

to by the Assembly." — [Mr G Kelly (*The Chairperson of the Committee on Procedures*.)]

Mr G Kelly: Go raibh maith agat, a LeasCheann Comhairle. The House will already be familiar with the Committee on Procedures's approach of bringing forward amendments to Standing Orders together to simplify the disposal of business. Today is such an instance. Although there are eight amendments to Standing Orders, they relate to three different areas of business, which are the Fresh Start Agreement, the code of conduct and the new Public Services Ombudsman Act 2016.

I think that the Standing Orders relating to the Fresh Start Agreement will attract most attention, so I will start with them. This group includes five Standing Orders on today's Order Paper. Three of them put provisions in place for an opposition and I would like to talk about those first. They came to the Committee from the Speaker. It is a slightly unusual approach, but the Speaker was given a clear mandate to do this by agreement of the Assembly on 8 February. In his letter, the Speaker advised the Committee that most of the provisions for an opposition required under the Fresh Start Agreement would be implemented administratively. However, there were three changes to Standing Orders envisaged and draft proposals were included. The Committee examined the Standing Orders in light of the agreement itself and against specific aspects of the opposition Bill which passed its Final Stage in the Assembly on 29 February.

The first amendment and the one which generated most discussion was the new Standing Order 45A. This introduces a provision and context for an official opposition. It also sets out how and when such an opposition will be formed. The Committee was clear that the draft amendment proposed by the Speaker in no way precluded changes being brought forward to action the Bill in the new mandate. It was also clear that it was within the Committee's remit to introduce changes in advance of the Bill receiving Royal Assent if it saw fit. The Committee examined the new draft Standing Order with specific focus on the provisions of clauses 2 and 3 of the Bill. These relate to setting up an opposition in the new mandate, which would be done before Committees are formed. The clauses extend the definition of a qualifying party further than the Fresh Start Agreement does. They provide for a party whose members comprise 8% or more of the total number of Members of the Assembly to form an opposition or part of an

opposition. This is in addition to those who are entitled to, but who decline, a ministerial post. There was a lot of discussion around this. However, even though the Committee recognised the potential to include this provision, the time left to make the amendments to Standing Orders was instrumental in its decision not to include it at this time.

The Committee recognised that although the Bill had passed its Final Stage, indicating the Assembly's support for it, this had been done on a simple majority basis. Standing Orders, on the other hand, require cross-community support. The Committee was not convinced that cross-community support has been demonstrated in respect of the opposition Bill but was content that it had been demonstrated in respect of the agreement. The Standing Orders were scheduled for consideration in the last week of the mandate and while not passing them would normally be a simple matter of revisiting and reworking them before bringing them back to the Assembly, at this stage in the mandate it posed a risk, since failure to do so would leave the Assembly with no provision in Standing Orders to form an official opposition at the start of the new mandate. For these reasons, it was ultimately agreed to bring forward the new Standing Order 45A, based solely on the provisions of the Fresh Start Agreement.

This was by far the most contentious of the amendments that we see before us today. There was discussion around the order of items in the list of business included in Standing Order 10(1), but this was very low key and centred around the Committee's wish to ensure the new category "Opposition Business" is given due recognition by its position in the list. Two options of where to insert the heading "Opposition Business" were considered: one above, and one below "Committee Business". The Committee confirmed that there was no legal reason for the order of the list and it confirmed that the order of the list had no impact on the passage of business through the Assembly. Having reassured itself on both of these points, the Committee agreed to bring forward the version of Standing Order 10(1) that is before us today.

The only other amendment relating to the provision for an opposition is Standing Order 20A. This puts a facility in place to allow the first topical question to be put from a member of the opposition. There was no issue around the construction of this Standing Order and the Committee was content to bring it to the Assembly in its original form.

I will now move to the second group of Fresh Start amendments. As I said earlier, they relate to provisions in the agreement that do not relate to the opposition. The amendments are extremely simple. However, the reason for them and their effect is a bit more convoluted. The need for the amendments arises out of the unusual combination of circumstances taking effect at one time and at the start of the new mandate. What are they? Obviously, we will be establishing the formal structures of the new Assembly following the election, but we also need to facilitate a reduction in the number of Departments and their Ministers. In addition to both of these requirements, we will have changes that come about because of the Fresh Start Agreement.

They require that time is made available for an opposition to be established and a Programme for Government agreed before ministerial posts are filled. They also introduce a requirement for Ministers to give an undertaking before taking their seats. Many of the changes can be brought about only by changes to the Northern Ireland Act 1998, and they have been made by Westminster legislation that has recently completed its passage.

A key effect of the changes in respect of Standing Orders is that they allow two different time limits before d'Hondt must be run to appoint Ministers. In the case of the formation of the opposition and Programme for Government, it now allows 14 days, but, following the presentation of the determination to change the number of Departments and ministerial posts, it allows seven days. Clearly, when the two sets of circumstances occur at the same time, one must take precedence over the other. The revisions brought about by the Westminster legislation correct that, but Standing Orders, as crafted, do not make it clear. It is in order to avoid ambiguity that the amendments before us are being proposed. As I said, while the background is somewhat convoluted, the solution can be achieved very simply by inserting:

"Where section 18(1) of the Northern Ireland Act applies"

in Standing Order 44(2).

The second amendment has the same effect but in relation to the Minister of Justice. As the appointment of that ministerial post is set out in a different part of the Act and in a different Standing Order, a separate amendment is required.

The Committee has taken legal advice and been given assurance that the amendments that I have outlined are necessary and fit for purpose. On that basis, I am content to commend them to the House.

Members will be relieved to hear that the last two groups of amendments are far less convoluted. The first offers an amendment to Standing Order 58(1). It is needed to reflect the provisions of the new Public Services Ombudsman Act 2016, which sets out the additional role of the Audit Committee. That has been reflected by including a reference to the relevant parts of the Act in Standing Order 58(1). I can confirm that the Audit Committee has seen and is content with the proposed amendment.

The last amendment relates to a new Standing Order 69 and a consequential amendment to Standing Order 81. They reflect the provisions and requirements of the Assembly's new code of conduct. I can confirm that the Committee on Standards and Privileges has seen and is content with the proposed amendments. I will not go into a lot of detail about the provisions of the amendments, but I will outline how they affect the Standing Orders. The new Standing Order 69 details requirements in respect of the registration of Members' interests. It also points to where definitions of the interests that Members must register can be found in the new code. The amendment proposed to Standing Order 81 simply clarifies the term "Guide to the Rules".

I will leave my remarks there, a LeasCheann Comhairle, but, before closing, I thank the Committee staff for all of the work that they have done to facilitate the Committee in bringing the amendments to the Assembly before the end of the mandate. It has involved increasingly frequent meetings and brought added pressure in turning round business, but it has all been done seamlessly and professionally. Since this is the last time that I will stand up as Chair of the Procedures Committee, I thank the Committee staff for all of their work during the mandate. I also thank the members of the Committee for their courtesy and cooperation throughout all of that.

In closing, I will simply say that the Committee has given a great deal of consideration to each of the amendments and is content that each amendment accurately reflects the provisions in the source documents that it seeks to interpret. Therefore, on behalf of the Committee on Procedures, I commend the motions to the House.

Bear with me a moment before I sit: speaking for myself and on behalf of Sinn Féin, we will support the changes to the Standing Orders that I have just outlined.

7.30 pm

Mr A Maginness: I thank the Chair for his speech outlining the details of the proposed amendments to Standing Orders. He skilfully avoided the convolutions contained in the amendments to Standing Order 44(2) and, possibly, Standing Order 44A(1), but I am grateful to him for outlining the proposed changes. As a party, we would support all the changes save for what is proposed as Standing Order 45A.

Very briefly, I will outline why we have reservations in relation to Standing Order 45A. It is really that it encompasses the Fresh Start Agreement. That agreement was of course an agreement between two parties, not a multi-party agreement. That should be emphasised, although I have to say that contained therein were elements with which my party would be in agreement. Leaving that aside, with regard to the Fresh Start Agreement in relation to the creation of an official opposition or at least a vehicle by which an official opposition could in fact be expressed within Standing Orders and in the Assembly, it is our view that the present draft of Standing Order 45A falls short of what is also contained in the John McCallister Bill, which, as yet, has not received Royal Assent but has been passed by the House. In essence, the McCallister Bill contains a provision whereby members of a party that comprises 8% or more of the total number of Members of the Assembly could be recognised as part of the official opposition. That is the will of the House. I know that at least one party opposed that; nonetheless, it is the will of the House. It is not yet an Act of the House in the fullest sense of the word, because it has not received Royal Assent, but, as we all know, that is a formality. That will take place in due course and possibly very quickly, possibly before the next election.

What we and other parties in the Committee on Procedures would say is that it would be right and proper for the House to recognise the McCallister Bill now and put that 8% element into Standing Orders. Of course, we know that it is relatively easy to express that in Standing Orders; indeed, we had a draft proposal before the Committee on Procedures, and it could, in fact, have been quite easily adopted by that Committee. We say that there is no reason why, in fact, that should not be part of Standing Orders now. It seems a little ridiculous for the

House to adopt a Standing Order based on Fresh Start now, with all its limitations and, in the aftermath of the election, change Standing Orders again to reflect the provisions of the John McCallister Bill.

It seems to me that the preference is for this draft not to be accepted and that another draft be substituted. Now, at this late stage, the problem is that we have a position where the Committee, principally Sinn Féin and the DUP

Mr Deputy Speaker (Mr Beggs): Would the Member draw his remarks to a close?

Mr A Maginness: Am I time-limited?

Mr Deputy Speaker (Mr Beggs): You have five minutes.

Mr A Maginness: I was not aware of that. I conclude and simply say that it is unfortunate and, I believe, not right that Standing Order 45A as drafted should be adopted by the House.

Mr Deputy Speaker (Mr Beggs): The Member's time is up.

Mr Kennedy: I am conscious that there is but one sleep until the final plenary sitting of this mandate. It is exciting, isn't it? In respect of the motions to amend Standing Orders, the Ulster Unionist Party has long supported the concept of an official opposition. After years of arguing and lobbying for that, with seemingly little success, we now have two proposals on the table: the changes to Standing Orders stemming from a combination of the Stormont House and Fresh Start Agreements, and John McCallister's private Member's Bill.

We should always seek to improve these institutions and make sure that they are fit for purpose and fit to serve our society. It is clear that the public want an official opposition in place to allow them the basic democratic right of being able to vote a party into government and reject them should they become dissatisfied. I am not sure that these amendments create all those conditions, but at least it is clear that some changes are being made, which can be welcomed.

The Ulster Unionist Party has also been clear that it is our preference that the official opposition structures would be better enshrined in primary legislation to secure them for the future. It is unfortunate that that is not the case, and it is being done instead through Standing Orders. It is vital that the rights of the

opposition are protected into the future, and setting out entitlements in legislation would have been the better way to do that.

I hope that the perception of Stormont can be improved as a result of what is being put in place this evening. This place is often characterised by lack of delivery and stalemate, but I hope that the message coming out that parties will be able to take up position in official opposition will not just revitalise the Assembly but, potentially, start to turn the tide of public apathy.

We now have two packages of measures. I am not sure whether any party in the House would have chosen them in the manner in which they have come, but, nevertheless, it is important to recognise that some progress has been made.

Mr Deputy Speaker (Mr Beggs): I call Barry McElduff.

Mr McElduff: I did not anticipate being on the list.

Mr Deputy Speaker (Mr Beggs): I call Jim Allister.

Mr Allister: I will take you up on that, Mr Deputy Speaker.

I wish to address draft Standing Order 45A, which is wholly deficient, in that it closes its eyes to the fact that, whatever 'Fresh Start' said, it never obtained and does not have legislative authority, but John McCallister's Bill does. It is the reflective desire of the House, and, by the time the House comes back, it will be, in every form, the law of the land. Yet this Standing Order denies that reality for no logical reason but for the obvious political reason of wishing to stymie the provision in John McCallister's Bill, which would enable a party with 8% support to claim the rights of an opposition. That will be the law of the land by the time we come back, and yet, by the will of the House tonight, courtesy of the agreement between Sinn Féin and the DUP, it will not be provided for in Standing Orders, with the veiled threat that it may never be provided for in Standing Orders, judging from what the Chairman said when he pointed out that Standing Orders require cross-community support. If the Chairman was suggesting that his party will ensure that Standing Orders to implement John McCallister's Bill are not to be permitted —

Mr G Kelly: Will the Member give way?

Mr Allister: Yes.

Mr G Kelly: I will answer your question. That is not the intent. The Standing Order will come through in the new mandate. This is a mechanism to get this through on the basis of John McCallister's opposition Bill coming through. There is no intent in the way that the Member says.

Mr Allister: If there is no intent, it could have gone through tonight. If no one is saying that they will block a Standing Order that reflects the content of John McCallister's Bill, why is it not before us tonight? It was suggested to us in the Procedures Committee that it is not before us tonight because it would not obtain cross-community support. So, who was going to block it? Once it becomes the law of the land, if the Assembly does seek to block a Standing Order to implement it, and if there is a party in the position of having 8%, the Assembly will find itself in the High Court, where the matter will be resolved. The law of the land says that a party in that position has the entitlement to the status of opposition, but if the Assembly fails to implement Standing Orders to that effect, it will be in breach of the law of the land, and someone else will have to tell it that and ensure that it comes into line.

I really do not understand why it would have been blocked tonight if, on foot of what the Chairman said, there will be no blocking of a Standing Order of that nature. Unless it is the Deputy Chairman's party that will block it. When the matter first arose, the Deputy Chairman was supportive of embracing Mr McCallister's Bill in the Standing Order but, by the next meeting, had changed his mind.

Who thinks that it is inappropriate to have a Standing Order that reflects what will be the law of the land based on John McCallister's Bill? If no one thinks that, why are we not doing it tonight? Why are we not coming back to a new Assembly with Standing Orders in place that reflect the law of the land? I have heard no answer, and it really does beg the question why some people think it appropriate to stall on the issue. The House should consider tonight why it is doing this and why it thinks it necessary to put up an obstacle to something that it could do tonight but chose not to do. Choosing not to do it suggests that it is not minded to allow John McCallister's Bill the full rein that —

Mr Deputy Speaker (Mr Beggs): Will the Member draw his remarks to a close?

Mr Allister: — has been given to it and will be given to it by Royal Assent. For those reasons, I think that that draft Standing Order is flawed and deficient.

Mr McCallister: Several things about the debate surprised me slightly. I find it slightly strange that Sinn Féin is setting so much stay in getting Royal Assent. I suppose that we should be encouraged that it deems the Queen's signature as important as that. I am led to believe that the Bill will probably get Royal Assent some time next week. We are that close to getting Royal Assent and to the Bill officially becoming an Act of the Assembly, so it seems strange that we are not making those provisions. Throughout my engagement with members of Sinn Féin during the debate, their argument against the Bill was that we could do it all by Standing Orders anyway. I would like something to give me, and colleagues, confidence, and, given that we are not doing this, I am maybe not seeing that tonight.

Look at the history of the debate on opposition; it has been much talked about for many years.

The Stormont House Agreement at the end of 2014 promised changes to Standing Orders by March 2015. My Bill was being drafted and worked on throughout that time and I certainly think that, by the time it came round to Stormont House II or Fresh Start, the Bill had an impact on progressing some issues.

7.45 pm

We seem to be making these changes mainly so that the Assembly can say to the public, "Well, we agreed this in Fresh Start in November, and here is March 2016, and we have delivered on it". So, we are technically going to change Standing Orders for one sitting day of this mandate. Whoever is returned here after 5 May will have to deal with that.

I hope that what was said in the intervention between Mr Kelly and Mr Allister is right and that the Chair and Deputy Chair in their reply give reassurance not only to me but to the House that this is not some type of blocking mechanism or that the Assembly and Standing Orders are at variance with the Bill. The 8% threshold was bought into by many parties. It was approved, it is the collective will of the Assembly, was passed and is about to be signed into law by Her Majesty The Queen.

I would not like to think that anyone would try to block primary legislation. It comes back to why I was so passionate about continuing to push

the private Member's Bill on reforming the Assembly, because I knew that that was a key way of making sure that these things actually happen.

It would have been better had the Committee on Procedures looked at drafting Standing Orders very much in line with the Bill and in anticipation of it. I hope that the Committee works on that and has something very much ready for a new Committee on Procedures so that those changes in line with the Bill, if it receives Royal Assent next week, can be quickly worked on and put in place.

This is a missed opportunity. It is slightly pointless that we are changing Standing Orders for one day. It would appear that it is very much for the optics but I hope there is reassurance from the Chair or Deputy Chair that, when Royal Assent is given, Standing Orders will be amended to reflect the Bill in its entirety.

Mr Clarke (The Deputy Chairperson of the Committee on Procedures): I welcome the opportunity to conclude today's debate on the motions to amend Standing Orders. I thank the Committee Chairperson for opening the debate and all Members who contributed.

Proposed new Standing Order 45A will make provision for an official opposition. As we heard, there are differing views on how we arrived at that point. The Chairperson explained very clearly the rationale for the Committee's decision, highlighting the significant risks if the opposition Bill aspects were included. I reiterate that the amendment to Standing Orders does not preclude changes from being brought forward to implement the provisions of the Bill in the new mandate, and we fully expect that the next Committee on Procedures — whoever that may be — will examine the full impact of the Bill as a matter of priority at the start of the next mandate. In fact, that issue is highlighted in the Committee's legacy report.

With regard to the other amendments relating to the Fresh Start Agreement, the Chairperson clearly explained the reasons for them, so I do not propose to comment any further on those. The amendments relating to Standing Orders 69 and 81 are straightforward and will bring Standing Orders into line with the Assembly's new code of conduct.

Members will be aware that, when amendments to Standing Orders are agreed in plenary, they become effective immediately. The updated version of Standing Orders is published on the

Assembly website immediately, and, a couple of weeks later, Members will receive the revised printed inserts for inserting into their copy of Standing Orders. With Easter recess and dissolution almost upon us — as some Members indicated, tomorrow is the last sitting — it is proposed that the revised printed inserts be sent to Members at the start of the new mandate, while Members who are new to the Assembly will receive a complete set of Standing Orders.

I will summarise where some of the Members were tonight, starting with Mr Maginness. The biggest contention in all of these changes was the proposal to insert new Standing Order 45A. There was a theme between him, Danny Kennedy, Jim Allister and John McCallister. I will take Jim's contribution first. Jim made a point — and I did change my opinion on this, and I did so because I listened to some of the officials who actually understand the process. It was clear to me that, whilst some of these four gentlemen want to see opposition, there was an opportunity that could have been missed in this mandate. If there had been a reason to block — Jim is nodding his head —

Mr Allister: Will the Member give way?

Mr Clarke: I am not giving way because I have listened enough to you, Jim.

Mr Deputy Speaker (Mr Beggs): Order.

Mr Clarke: You have talked nonsense. You come in and continue to talk nonsense. The reality is that a cross-community vote is required to get this Standing Order through.

Mr Allister: Who was going to block it?

Mr Clarke: When it was debated, I voted in support of John McCallister's Bill. All of our party went through John's Lobby at that time and voted for all aspects of it. Jim is asking who was going to block it. It certainly was not anyone on these Benches, but the reality is that there was a possibility that that could have happened. Who in this Chamber does not want opposition? Is Jim Allister sitting here tonight and saying that he does not want opposition? Does he want to miss this opportunity at the start of the next mandate, where we would have an official opposition? The answer is no. None of the rest of us want to do that, but Jim has wanted official opposition since he started and now —

Mr Deputy Speaker (Mr Beggs): Order. I ask that all remarks be made through the Chair and that no pointing at Members occurs. Continue.

Mr Clarke: As I said, Jim was supposed to be the champion of opposition since he started. I am quite happy to repeat that. It took John McCallister, and I thank John McCallister for the work that he has done. John McCallister has a Bill, which this party supported and was pleased to support. There was a danger that, if we could not get the revision of Standing Orders, we could go into a new mandate without an official opposition. We are in the position where, at the start of the mandate, we will have it.

It has already been said by the Chairperson of the Committee that there is an opportunity in the next mandate. It will be the first piece of business for whoever takes that Committee to look at the Standing Orders in relation to John McCallister's Bill. When John was summing up today, he said that he hopes to get Royal Assent next week. I think that anyone who is listening to this today will say that, if we go ahead and do something before the Bill gets its Royal Assent, we could look foolish. We have heard an indication from the party opposite that it was not using a blocking mechanism. I can only take it at its word and that this will be dealt at the start of the next mandate. Not everyone signed up to the Fresh Start Agreement of course, but we signed up to the Fresh Start Agreement, which allows for official opposition. This mechanism, adjusting the Standing Orders, allows that to go ahead. For that reason, we will be supporting the motions on the amendments.

Mr Deputy Speaker (Mr Beggs): Before we proceed to the Question, I remind Members that all eight motions require cross-community support.

Question put and agreed to.

Resolved (with cross-community support):

In Standing Order 10(1) leave out subparagraphs (a) to (i) and insert

- "(a) Assembly Business;*
- (b) Executive Committee Business;*
- (c) Committee Business;*
- (d) Questions;*
- (e) Opposition Business;*
- (f) Private Members' Business;*
- (g) Private Business;*
- (h) Adjournment Debates;*
- (i) Party Business; and*

(j) Matters of the Day."

Mr Deputy Speaker (Mr Beggs): The remaining motions in the group will now be moved in turn and voted on without further debate.

Resolved (with cross-community support):

Leave out Standing Order 20A and insert

"20A. Topical Questions

(1) Topical questions for a Minister shall be taken during the last 15 minutes of the time allocated for questions for oral answer by that Minister.

(2) No topical questions shall be asked of the Assembly Commission.

(3) A member who wishes to ask a topical question of a Minister at a particular sitting shall submit his or her name in advance to the Speaker.

(4) The Speaker shall allow up to 10 members to ask a topical question.

(5) Except where paragraphs 6-8 apply, the Speaker shall determine, by means of a random selection, the order in which members may ask a topical question.

(6) Where—

(a) there is an official opposition;

and

(b) at least one member of the official opposition has submitted his or her name to the Speaker under paragraph (3),

the first topical question must be asked by a member of the official opposition.

(7) Where more than one member of the official opposition has submitted his or her name to the Speaker under paragraph (3), the Speaker shall determine by which member of the official opposition the first topical question is to be asked.

(8) Where the first topical question is to be asked by a member of the official opposition, the Speaker shall determine, by means of a random selection, the order in which subsequent questions are taken.

(9) The first topical question may not be from a member of the same party as the Minister to whom it is addressed, unless all the topical questions are from members of that party.

(10) The Speaker shall inform –

(a) members; and

(b) the Ministers to whom the questions will be addressed at the sitting; in advance, of the names and order in which questions are to be taken.

(11) Answers may not be debated, but the member asking the question may ask a supplementary question. A supplementary question may contain no more than one enquiry.

(12) Where a member is not present to ask a topical question, the Speaker shall move to the next member in accordance with the order determined under paragraph (5).

(13) Paragraphs (1)(a) and (2) of Standing Order 19 and paragraphs (2), (8A), (10) and (11) of Standing Order 20 shall apply to topical questions as they apply to questions for oral answer." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

Mr Deputy Speaker (Mr Beggs): We will now move on to the next motion in the group.

Resolved (with cross-community support):

Leave out Standing Order 44(2) and insert

"(2) Where section 18(1) of the Northern Ireland Act 1998 applies, Ministerial offices must be filled by applying the procedures set out in section 18(2) to (6) within a period of seven days beginning with the day on which -

(a) the determination mentioned in section 18(1)(b) takes effect;

(b) the resolution mentioned in section 18(1)(c) is passed;

(c) the direction mentioned in section 18(1)(d) is given; or

(d) the period of exclusion mentioned in section 18(1)(da) comes to an end." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

Mr Deputy Speaker (Mr Beggs): We now move on to the next motion in the group.

Resolved (with cross-community support):

Leave out Standing Order 44A(1) and insert

"(1) Where paragraph 3D(1) and (2)(a) of Schedule 4A of the Northern Ireland Act 1998 applies, the office of Minister of Justice must be filled by applying the procedures set out in paragraph 3D(4) to (8) in Part 1A of Schedule 4A within a period of seven days beginning with the day on which –

(a) the determination mentioned in paragraph 3D(2)(a) takes effect;

(b) the resolution mentioned in paragraph 3D(2)(b) is passed;

(c) the direction mentioned in paragraph 3D(2)(c) is given;

(d) the period of exclusion mentioned in paragraph 3D(2)(d) comes to an end as so mentioned; or

(e) the Minister of Justice ceases to hold office as mentioned in paragraph 3D(14), otherwise than by virtue of an Assembly election."

Mr Deputy Speaker (Mr Beggs): We will now move on to the next motion in the group, on new Standing Order 45(A).

Question put.

The Assembly divided:

Ayes 39; Noes 16.

AYES

NATIONALIST:

Mr Boylan, Mr Flanagan, Mr G Kelly, Mr Lynch, Mr F McCann, Mr McCartney, Ms McCorley, Mr McElduff, Ms McGahan, Mr McKay, Ms Maeve McLaughlin, Mr Maskey, Mr Milne, Mr Murphy, Ms Ní Chuilín, Mr Ó hOisín, Mr Ó Muilleoir, Mrs O'Neill, Mr Sheehan.

UNIONIST:

Mr Anderson, Ms P Bradley, Mrs Cameron, Mr Clarke, Mr Douglas, Mr Dunne, Mr Easton, Mr Frew, Mr Girvan, Mr Hamilton, Mr Lyons, Mr I McCrea, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Mr Middleton, Mr G Robinson, Mr Ross, Mr Weir, Mr Wells.

Tellers for the Ayes: Mr McElduff and Mr G Robinson.

NOES

NATIONALIST:

Mr Dallat, Mrs D Kelly, Mrs McKeivitt, Mr A Maginness, Mr Rogers.

UNIONIST:

Mr Allister, Mr Gardiner, Mr Kennedy, Mr McCallister, Mr Patterson, Mr Swann.

OTHER:

Mr Agnew, Mrs Cochrane, Mr Dickson, Mr Lyttle, Mr McCarthy.

Tellers for the Noes: Mr A Maginness and Mrs McKeivitt.

Total Votes 55 Total Ayes 39 [70.9%]

Nationalist Votes 24 Nationalist Ayes 19 [79.2%]

Unionist Votes 26 Unionist Ayes 20 [76.9%]

Other Votes 5 Other Ayes 0 [0.0%]

Question accordingly agreed to.

Resolved (with cross-community support):

After Standing Order 45 insert

"45A. The Official Opposition

(1) Subject to paragraph (2), where a party is entitled to nominate a person to hold Ministerial office under section 18 (2) to (6) of the Northern Ireland Act 1998; and declines to do so, that party may choose to be recognised as part of the official opposition.

(2) A party is not to be recognised as part of the official opposition if any member of that party holds a Ministerial office, or held a Ministerial office and ceased to hold that office otherwise than at a time when all Northern Ireland Ministers ceased to hold office.

(3) Where only one party chooses to be recognised in accordance with paragraph (1) that party is to be regarded as the official opposition."

Resolved (with cross-community support):

Leave out Standing Order 58(1) and insert

"(1) There shall be a standing committee of the Assembly to be known as the Audit Committee to exercise the functions mentioned in section 66(1) of the Northern Ireland Act 1998, and sub-paragraphs 18(2) to (4) of Schedule 1 to the Public Services Ombudsman Act (Northern Ireland) 2016. In accordance with section 66(2) of the Northern Ireland Act 1998, no more than one member of the committee shall at the same time be a member of the Public Accounts Committee." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

Resolved (with cross-community support):

Leave out Standing Order 69 and insert

"69. Members' Interests

- (1) There is to be a register of interests of members of the Assembly ('the Register of Interests').
- (2) The Register of Interests must set out the registrable interests of members.
- (3) The Clerk of Standards—
(a) must compile, and may from time to time revise, the Register of Interests; and
(b) must publish, and make available for public inspection, the Register of Interests.
- (4) A member must—
(a) within 28 days of taking his or her seat, inform the Clerk of Standards of his or her registrable interests; and
(b) within 28 days of any change to those registrable interests, inform the Clerk of Standards of that change.
- (5) A member who has
(a) a financial interest in any matter; or
(b) a relevant interest in any matter,
must declare that interest before taking part in any proceedings of the Assembly relating to that matter.
- (6) A member must not, in consideration of any payment or benefit in kind specified in Chapter 3 of the Guide to the Rules, advocate or initiate any cause or matter on behalf of any person in any proceedings of the Assembly, or urge any other member to do so.
- (7) In this order –
"financial interest" means an interest specified in Chapter 1 of the Guide to the Rules, other than an interest specified in category 8 or category 9 of Chapter 1;
"registrable interest" means an interest specified in Chapter 1 of the Guide to the Rules;
"relevant interest" means an interest to which Chapter 2 of the Guide to the Rules applies." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

Resolved (with cross-community support):

In Standing Order 81, leave out "'Code of Conduct' means any code of conduct for members together with any guide to the rules relating to the conduct of members agreed to by the Assembly;

"day" means calendar day;'

and insert –

"Code of Conduct' means any code of conduct for members and the Guide to the Rules agreed to by the Assembly;

'day' means calendar day;

'Guide to the Rules' means any guide to the rules relating to the conduct of members agreed to by the Assembly." — [Mr G Kelly (The Chairperson of the Committee on Procedures).]

Adjourned at 8.11 pm.

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